

**NOTICE OF CITY COUNCIL BRIEFING SESSION  
MAY 6, 2019  
CITY COUNCIL CONFERENCE ROOM  
401 S. ROGERS  
WAXAHACHIE TEXAS  
6:00 P.M.**

**Agenda**

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

1. Call to Order
2. Conduct a briefing to discuss agenda items for the 7:00 p.m. regular meeting
3. Adjourn

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

# **A G E N D A**

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas to be held in the Council Chamber at City Hall, 401 S. Rogers on ***Monday, May 6, 2019 at 7:00 p.m.***

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

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

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

- a. Minutes of the City Council meeting of April 15, 2019
  - b. Minutes of the City Council briefing of April 15, 2019
  - c. Event Application for Salvation Army Boys and Girls Club of Ellis County 5k race
  - d. Event Application for Lions Club State Convention Kick-Off
  - e. Budget amendment request from Downtown Development Department
  - f. Contribution request to the Miracle League of Ellis County
  - g. Haven Road Waterline Advanced Funding
5. ***Introduce*** Honorary Councilmember
6. ***Present*** Proclamation proclaiming May as “Preservation Month”
7. ***Continue Public Hearing*** on a request by Barb Hall, Ervin USA, for a Specific Use Permit (SUP) for Trailer, Truck Sales or Rental use within a Light Industrial-2 and Future Development zoning district, located at 4675 N Interstate 35, being 790 EC NEWTON 29.74 ACRES (Property ID 188460) - Owner: LUIS ESTRADA (SU-18-0180)
8. ***Consider*** proposed Ordinance approving Zoning Change No. SU-18-0180
9. ***Continue Public Hearing*** on a request by Scott Johnson, Palladium USA International, Inc., for a Zoning Change from a Light Industrial-1 and Commercial zoning district to Planned Development-Multiple-Family Residential-2, with Concept Plan, located on the West side of N Highway 77, just North of the Life School (Property ID 193933) – Owner: FUSCOM PROPERTY COMPANY NO. 1 LLC (PD-19-0022)

10. **Consider** proposed ordinance approving Zoning Change No. PD-19-0022
11. **Consider** proposed Resolution of Candidate Nomination for the Ellis Appraisal District Board of Directors vacancy for the year 2019
12. **Consider** Local Project Advance Funding Agreement with Texas Department of Transportation for Voluntary Local Government Contributions to Transportation Improvement Projects with No Required Match of System
13. **Consider** Agreement with Texas Department of Transportation for the Preservation and Adaptive Use of a Historic On-State System Bridge for an Environmental Mitigation Program
14. **Consider** Advance Funding Agreement with Texas Department of Transportation for Voluntary Utility Relocation Contributions on State Highway Improvement Projects Project
15. **Consider** resolution authorizing the reimbursement of Water and Wastewater Operating Funds from the proceeds of future debt for the advance funding agreement with Texas Department of Transportation for Voluntary Utility Relocation Contributions on State Highway Improvement Projects
16. **Consider** award of a bid to Schofield Civic Construction for the Lower Mustang Creek Lift Station Improvements
17. **Consider** award of a bid to Rey-Mar Construction for the Grove Creek Lift Station Expansion
18. **Consider** resolution authorizing the reimbursement of Wastewater Operating Funds from the proceeds of future debt for the Grove Creek Lift Station Expansion
19. **Consider** award of a contract with Insituform, through the BuyBoard Cooperative Pricing Agreement, for the rehabilitation of a portion the Richmond Street sewer line
20. **Consider** authorization of a budget adjustment to increase appropriations in the Wastewater Fund for the rehabilitation of a portion of the Richmond Street sewer line
21. **Consider** Professional Services Contract for the Rock Branch Floodplain Study
22. **Public Hearing** amending the Subdivision Ordinance to modify the use requirements of the Park Dedication Fees
23. **Consider** proposed Ordinance amending the Subdivision Ordinance to modify the use requirements of the Park Dedication Fees
24. **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

25. ***Convene*** into Executive Session to discuss the purchase or lease and value of real estate as permitted under Section 551.072 of the Texas Government Code
26. ***Reconvene*** and take any necessary action
27. Comments by Mayor, City Council, City Attorney and City Manager
28. Adjourn

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

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City Council  
April 15, 2019

(42)

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas was held in the Council Chamber at City Hall, 401 S. Rogers on Monday, April 15, 2019 at 7:00 p.m.

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

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

**1. Call to Order**

Mayor Kevin Strength called the meeting to order.

**2. Invocation**

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

Senior Planner Colby Collins gave the invocation and led the Pledge of Allegiance and the Texas Pledge of Allegiance.

**4. Consent Agenda**

- a. Minutes of the City Council meeting of April 1, 2019
- b. Minutes of the City Council briefing of April 1, 2019
- c. Minutes of the City Council retreat of April 4, 2019
- d. Minutes of the City Council retreat of April 5, 2019
- e. Funding for landscaping at MKT Depot
- f. Funding contribution for rehabilitation of police station building at 216 N. College Street
- g. Antique Alley on the Square on April 20, 2019
- h. Application for seasonal vendor permit at Lake Waxahachie

**Action:**

*Mayor Pro Tem David Hill moved to approve items a. through h. on the Consent Agenda. Councilmember Mary Lou Shipley seconded, All Ayes.*

**5. Introduce Honorary Councilmember**

Councilmember Mary Lou Shipley introduced Andi Katelyn Wallace as the Honorary Councilmember for the month of April and presented her with a Certificate of Appreciation. Ms. Wallace is an 18 year old senior at Waxahachie High School. She is active in Student Council, the Interact Club, and a member of the National Honor Society. She lettered in softball as well as played on the golf team during her time at Waxahachie. She is an active member of The Oaks

(Ha)

Fellowship and volunteers at the Little Chief's Academy daycare located at Turner Elementary School. Her volunteering extends to the Rotary Flag Program, The Community Garden, and the Salvation Army bell ringer program. She has worked part time while in high school, including as an undercover minor with the Texas Alcoholic Beverage Commission. Andi has received honors including AB Honor Roll, two Navarro Brilliance Scholarships, The University of Oklahoma Legacy Scholars Award and Academic Award. She will be attending the University of Oklahoma this fall as a premed major. She is the daughter of retired Waxahachie Police Lieutenant Billie Wallace and District Judge William Wallace.

**6. Present Proclamation proclaiming April as "Child Abuse Awareness and Prevention Month"**

Mayor Strength read a Proclamation proclaiming April as "Child Abuse Awareness and Prevention Month." Ms. Leslie Deen, Ellis County Children's Advocacy Center, thanked council for their support.

**7. Consider request by Dennis Little for a Preliminary Plat of Hidden Falls Addition for 4 lots, being 20.944 acres situated in the I. Glaze Survey, Abstract 397, the BBB & CRR Survey, Abstract 175, and the S. Wilson Survey, Abstract 1141 (Property ID 180909) in the Extra Territorial Jurisdiction – Owner: DENNIS LITTLE (PP-19-0020)**

Mr. Collins presented PP-19-0020 noting staff recommended approval per the following comments:

1. Before the plat is filed, the applicant shall add a County Approval Block to the plat sheet.

**Action:**

*Mayor Pro Tem David Hill moved to approve a request by Dennis Little for a Preliminary Plat of Hidden Falls Addition for 4 lots, being 20.944 acres situated in the I. Glaze Survey, Abstract 397, the BBB & CRR Survey, Abstract 175, and the S. Wilson Survey, Abstract 1141 (Property ID 180909) in the Extra Territorial Jurisdiction – Owner: DENNIS LITTLE (PP-19-0020) subject staff comments. Councilmember Mary Lou Shipley seconded, All Ayes.*

**8. Consider request by Dennis Little for a Final Plat of Hidden Falls Addition for 4 lots, being 20.944 acres situated in the I. Glaze Survey, Abstract 397, the BBB & CRR Survey, Abstract 175, and the S. Wilson Survey, Abstract 1141 (Property ID 180909) in the Extra Territorial Jurisdiction – Owner: DENNIS LITTLE (FP-19-0021)**

Mr. Collins presented FP-19-0021 noting staff recommended approval per the following staff comments:

1. A 45' ROW dedication needs to be added to Youngblood Road instead of the 30' that is currently shown on the plat.

**Action:**

(4a)

*Councilmember Mary Lou Shipley moved to approve a request by Dennis Little for a Final Plat of Hidden Falls Addition for 4 lots, being 20.944 acres situated in the I. Glaze Survey, Abstract 397, the BBB & CRR Survey, Abstract 175, and the S. Wilson Survey, Abstract 1141 (Property ID 180909) in the Extra Territorial Jurisdiction – Owner: DENNIS LITTLE (FP-19-0021). Councilmember Chuck Beatty seconded, All Ayes.*

- 9. Consider request by Todd Wintters, Engineering Concepts & Design, LP, for a Final Plat of Settler's Glen Addition, Phase 6 for 100 lots, being 18.912 acres situated in the William Paine Survey, Abstract 835 (Property ID 189178) – Owner: SETTLER'S GLEN LTD (FP-19-0030)**

Mr. Collins presented FP-19-0030 noting staff recommended approval as presented.

Councilmember Melissa Olson inquired about additional flooding along Marshall Road with this development. City Engineer James Gaertner explained the drainage for this development will go across Patrick Road and not Marshall Road.

**Action:**

*Councilmember Chuck Beatty moved to approve a request by Todd Wintters, Engineering Concepts & Design, LP, for a Final Plat of Settler's Glen Addition, Phase 6 for 100 lots, being 18.912 acres situated in the William Paine Survey, Abstract 835 (Property ID 189178) – Owner: SETTLER'S GLEN LTD (FP-19-0030). Councilmember Melissa Olson seconded, All Ayes.*

- 10. Consider request by Dalton Bradbury, Acker Construction, for a Final Plat of Crossroads Business Park for 1 lot, being 3.512 acres out of the John B. Bounds Survey, Abstract 99 (Property ID 180414) – Owner: COREY & JULIE SANCHEZ (FP-19-0038)**

Mr. Collins presented FP-19-0038 noting staff recommended approval as presented.

**Action:**

*Councilmember Chuck Beatty moved to approve a request by Dalton Bradbury, Acker Construction, for a Final Plat of Crossroads Business Park for 1 lot, being 3.512 acres out of the John B. Bounds Survey, Abstract 99 (Property ID 180414) – Owner: COREY & JULIE SANCHEZ (FP-19-0038). Councilmember Melissa Olson seconded, All Ayes.*

- 11. Consider request by Jeff Whanger, RLG, Inc., for a Preliminary Plat of CSP1 Addition for 2 lots, being 2.531 acres situated in the A.W. Brown Survey, Abstract 102 (Property ID 180374) – Owner: CONNELL STORAGE PARTNERS #1 LLC (PP-19-0037)**

Mr. Collins presented PP-19-0037 noting staff recommended approval as presented.

**Action:**

*Councilmember Mary Lou Shipley moved to approve a request by Jeff Whanger, RLG, Inc., for a Preliminary Plat of CSP1 Addition for 2 lots, being 2.531 acres situated in the A.W. Brown Survey,*

(4a)

*Abstract 102 (Property ID 180374) – Owner: CONNELL STORAGE PARTNERS #1 LLC (PP-19-0037). Mayor Pro Tem David Hill seconded, All Ayes.*

12. **Consider request by Tim Cummings, 122 Ike Rd LLC, for a Final Plat of Ike Farms for 16 lots, being 19.290 acres situated in the T. Jackson Survey, Abstract 574 (Property ID 186239) in the Extra Territorial Jurisdiction – Owner: 122 IKE RD LLC (FP-19-0041)**

Mr. Collins presented FP-19-0041 noting staff recommended approval per the following staff comments:

1. A new plat shall be submitted to staff detailing a resolution to the drainage easement before the plat is filed with the County.

**Action:**

*Councilmember Chuck Beatty moved to approve a request by Tim Cummings, 122 Ike Rd LLC, for a Final Plat of Ike Farms for 16 lots, being 19.290 acres situated in the T. Jackson Survey, Abstract 574 (Property ID 186239) in the Extra Territorial Jurisdiction – Owner: 122 IKE RD LLC (FP-19-0041). Councilmember Melissa Olson seconded, All Ayes.*

13. **Public Hearing on a request by Chris Acker, Acker Construction, for a Replat of part of Lot 1 and Lot 2, Block 7, Nora Alexander's Subdivision to create Lot 1R, Block 7, Nora Alexander's Subdivision, 0.415 acres (Property ID 172037) – Owner: JUAN P & MARISOL TAVERA RICO (RP-19-0034)**

Mayor Strength opened the Public Hearing.

Mr. Collins presented RP-19-0034 noting staff recommended approval per the following staff comments:

1. The phrase on the plat, "Apparent abandoned alley", needs to be revised to "Abandoned Alley."

There being no others to speak for or against RP-19-0034, Mayor Strength closed the Public Hearing.

14. **Consider approving RP-19-0034**

**Action:**

*Councilmember Chuck Beatty moved to approve a request by Chris Acker, Acker Construction, for a Replat of part of Lot 1 and Lot 2, Block 7, Nora Alexander's Subdivision to create Lot 1R, Block 7, Nora Alexander's Subdivision, 0.415 acres (Property ID 172037) – Owner: JUAN P & MARISOL TAVERA RICO (RP-19-0034) subject to staff comments. Councilmember Melissa Olson seconded, All Ayes.*

15. **Public Hearing on a request by Harlan Lowrance for a Replat of a part of Lots 1, 2 and 5, Block 5, and parts of Lots 3 and 4, Block 5, Park Hill Addition to create Lots**

(4a)

**1R and 5R, Block 5, Park Hill Addition, 0.868 acres (Property ID 175221 and 175222)  
– Owner: DOROTHY ANN CURRY and HARLAN R AND MICHELLE LOWRANCE (RP-19-0032)**

Mayor Strength opened the Public Hearing.

Mr. Collins presented RP-19-0032 noting staff recommended approval per the following staff comment:

1. At the April 9, 2019 Planning and Zoning Commission meeting, the Commission voted 6-0 to recommend no ROW requirement for the proposed Replat. A 15-foot utility easement is required, however, the Commission recommends the applicant to provide a 10-foot utility easement for the property.

Mr. Collins noted in addition to the letter of support there were also two letters of opposition; however, after speaking with the property owners and explaining the case, both property owners withdrew their letters of opposition.

Mr. Harlan Lowrance, 1101 E. Marvin, explained his request for relief on the dedication and ROW easement. Mayor Strength asked if the applicant is in agreement with the ten-foot utility easement and Mr. Lowrance noted he was.

There being no others to speak for or against RP-19-0032, Mayor Strength closed the Public Hearing.

**16. Consider approving RP-19-0032**

**Action:**

*Mayor Pro Tem David Hill moved to approve a request by Harlan Lowrance for a Replat of a part of Lots 1, 2 and 5, Block 5, and parts of Lots 3 and 4, Block 5, Park Hill Addition to create Lots 1R and 5R, Block 5, Park Hill Addition, 0.868 acres (Property ID 175221 and 175222) – Owner: DOROTHY ANN CURRY and HARLAN R AND MICHELLE LOWRANCE (RP-19-0032) subject to staff comments. Councilmember Mary Lou Shipley seconded, All Ayes.*

17. **Consider request by Joshua Trees, Cross Fence Development, LLC, for a Preliminary Plat of The Cross Fence at Oak Vista for 173 lots, being 248.575 acres situated in the S.B. Orton Survey, Abstract 813, J. Fifer Survey, Abstract 352, and the D.M. McNeil Survey, Abstract 717 (Property ID 188040 and 183375) in the Extra Territorial Jurisdiction – Owner: CROSS FENCE DEVELOPMENT LLC (PP-19-0036)**

Mr. Collins presented PP-19-0036 noting staff recommended approval per the following staff comments:

1. Applicant still needs to provide detail about how the detention pond will be handled for the previous development.

(4a)

2. There are remaining outstanding comments with Ellis County that still needs to be addressed by the applicant before the plat is filed.

**Action:**

*Councilmember Chuck Beatty moved to approve a request by Joshua Trees, Cross Fence Development, LLC, for a Preliminary Plat of The Cross Fence at Oak Vista for 173 lots, being 248.575 acres situated in the S.B. Orton Survey, Abstract 813, J. Fifer Survey, Abstract 352, and the D.M. McNeil Survey, Abstract 717 (Property ID 188040 and 183375) in the Extra Territorial Jurisdiction – Owner: CROSS FENCE DEVELOPMENT LLC (PP-19-0036) subject to staff comments. Councilmember Melissa Olson seconded, All Ayes.*

18. **Public Hearing on a request by Dusty Autrey for a Zoning Change from a Light Industrial-2 zoning district to Planned Development-Central Area, with Concept Plan, located at 421 S. College Street (Property ID 220752) - Owner: DAJP Holdings, LLC (PD-19-0029)**

Mayor Strength opened the Public Hearing.

Mr. Collins presented PD-19-0029 noting staff recommended approval per the following staff comment:

1. The Planning and Zoning Commission suggested that the applicant work with the Heritage Preservation Commission.

He explained the applicant is requesting approval of a zoning change and concept plan for a proposed restaurant at 421 S. College Street.

There being no others to speak for or against PD-19-0029, Mayor Strength closed the Public Hearing.

19. **Consider proposed ordinance approving Zoning Change No. PD-19-0029**

**ORDINANCE NO. 3108**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM LIGHT INDUSTRIAL-2 (LI2) TO PLANNED DEVELOPMENT-CENTRAL AREA (PD-CA), WITH CONCEPT PLAN LOCATED AT 421 S. COLLEGE STREET IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.158 ACRES KNOWN AS A PORTION OF PROPERTY ID 220752 OF THE TOWN ADDITION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Councilmember Mary Lou Shipley moved to approve Ordinance No. 3108. Councilmember Chuck Beatty seconded, All Ayes.*

20. **Public Hearing on a request by Mike Siefert, Lookout Development Group, for a Planned Development Amendment for the purpose of removing the height restriction**

(4a)

**for hotels located adjacent to the Waxahachie Civic Center (Property ID 208655, 208656, and 227433) – Owner: LOOKOUT PARTNERS LP (PD-19-0039)**

Mayor Strength opened the Public Hearing.

Mr. Collins presented PD-19-0039 noting staff recommended approval per the following staff comment:

1. The Planning and Zoning Commission recommended approval for the PD Amendment proposal pending that a six (6) story maximum height requirement be allowed for hotels. The Commission also recommended that all Site Plans for hotels within the Planned Development district be reviewed by the Planning and Zoning Commission and City Council.

Mr. Collins explained the applicant requested to remove all height restrictions and staff was in favor of increasing the height, but not leave it without a restriction. Staff considered the area and surrounding building heights and that is how they arrived at the six-story recommendation.

Mayor Strength explained the height restriction on past buildings was due to the lack of fire ladder reach. He noted the reach has now increased.

Councilmember Olson spoke in support of requiring a Specific Use Permit for a request higher than six-stories.

Mr. Brian Brooks, 735 Rainbow Drive, Dallas, noted the applicant requested no restriction, but is okay with the six-story recommendation from staff.

There being no others to speak for or against PD-19-0039, Mayor Strength closed the Public Hearing.

**21. Consider proposed ordinance approving Zoning Change No. PD-19-0039**

**ORDINANCE NO. 3109**

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM PLANNED DEVELOPMENT-MULTI FAMILY-GENERAL RETAIL (PD-MF-GR) TO PLANNED DEVELOPMENT AMENDMENT LOCATED IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 10.210 ACRES KNOWN AS A PORTION OF PROPERTY ID 208655, 208656, AND 227433 OF THE WAXAHACHIE CIVIC CENTER REV., AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Mayor Kevin Strength moved to approve Ordinance No. 3109 approving a maximum of six stories without a Specific Use Permit and a request for anything higher will require a Specific Use Permit and subject to staff comments. Councilmember Melissa Olson seconded, All Ayes.*

(4a)

- 22. Continue Public Hearing on a request by Ron Barson, Ledbetter Real Estate, Ltd., for a Specific Use Permit (SUP) for Mini-Warehouse or Self-Storage Facility use within a Commercial zoning district, located at 2050 Corporate Parkway (Property ID 273979) – Owner: LEDBETTER REAL ESTATE LTD (SU-19-0026)**

Mayor Strength continued the Public Hearing.

Mr. Collins presented SU-19-0026 noting staff recommended approval per the following staff comments:

1. Provides an 8-foot chain link fence along the rear of the property adjacent to the railroad. No barbed wire shall be allowed along the fence.
2. A 6-foot masonry wall shall be constructed around the front and sides of the property.

Mayor Pro Tem David Hill asked if there will be outside storage or anyone living on site for security. Mr. Collins noted everything will be kept in the storage units and the applicant noted there would not be anyone living on site.

Mr. Brett Hess, 327 Blue Ribbon Road, explained the applicant is requesting to add a chain link fence along the south side of the property in lieu of the masonry wall since the south side will only face a line of trees.

Assistant City Manager Tommy Ludwig noted the applicant's request for fencing on the south side of the property was not discussed at the Planning and Zoning Commission meeting but City Council can allow for that exception in their motion.

There being no others to speak for or against SU-19-0026, Mayor Strength closed the Public Hearing.

- 23. Consider proposed ordinance approving Zoning Change No. SU-19-0026**

**ORDINANCE NO. 3110**

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A STORAGE FACILITY USE WITHIN A COMMERCIAL (C) ZONING DISTRICT, LOCATED AT 2050 CORPORATE PARKWAY, BEING PROPERTY ID 273979, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 4, BLOCK C IN THE NORTH GROVE BUSINESS PARK PHASE 2 & 4 SUBDIVISION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.**

**Action:**

*Mayor Pro Tem David Hill moved to approve Ordinance No. 3110 subject to staff comments and allowing chain link fencing on the south and west side of property. Councilmember Chuck Beatty seconded, All Ayes.*

(4a)

- 24. Public Hearing on a request by Josh Spoerl, Arrive Architecture Group, for a Zoning Change from a Planned Development-General Retail-Mixed Use Residential zoning district to Planned Development-Multiple Family Residential-2 and Planned Development-General Retail, with Concept Plan, located at the NE corner of US 287 Bypass Service Road at FM 813, being 911 R RUSSELL 7.121 ACRES and 911 R RUSSELL 10.6200 ACRES (Property ID 227073 and 138302) - Owner: LYONS AMERICAN SECURITIES INC (PD-19-0031)**

Mayor Strength opened the Public Hearing and Mr. Collins announced the applicant requested to continue the public hearing to the May 20, 2019 City Council meeting.

Those who spoke in opposition:

Josh Balthrop, 212 Cheyenne Drive

**Action:**

*Councilmember Melissa Olson moved to continue a request by Josh Spoerl, Arrive Architecture Group, for a Zoning Change from a Planned Development-General Retail-Mixed Use Residential zoning district to Planned Development-Multiple Family Residential-2 and Planned Development-General Retail, with Concept Plan, located at the NE corner of US 287 Bypass Service Road at FM 813, being 911 R RUSSELL 7.121 ACRES and 911 R RUSSELL 10.6200 ACRES (Property ID 227073 and 138302) - Owner: LYONS AMERICAN SECURITIES INC (PD-19-0031) to the May 20, 2019 City Council meeting. Councilmember Mary Lou Shipley seconded, All Ayes.*

- 25. Consider proposed ordinance approving Zoning Change No. PD-19-0031**

No action taken.

- 26. Discuss candidate nomination for the Ellis Appraisal District Board of Directors vacancy for the year 2019**

Mayor Strength announced the council is seeking nominations for the Ellis Appraisal District Board of Directors vacancy for the year 2019.

- 27. Consider Interlocal Agreement with Ellis County Jail**

Assistant Police Chief Dale Sigler requested approval of an Interlocal Agreement with Ellis County for prisoner care for inmates arrested on class "C" misdemeanors. He explained the cost in the original agreement was \$35 per day, per inmate and the proposed agreement is \$60 per day, per inmate. He noted the county has not increased its rate in approximately 15 years. He reported the city was made aware of the possible increase a few months ago and the Police Department budgeted for the increase for FY 19.

**Action:**

*Councilmember Mary Lou Shipley moved to approve an Interlocal Agreement with Ellis County for prisoner care. Councilmember Chuck Beatty seconded, All Ayes.*

(4a)

**28. Consider award of bid to Circle H Contractors LP for the rehabilitation of South Jackson and East Ross sewer lines**

Utilities Director David Bailey requested approval to award bid to Circle H Contractors LP in the amount of \$107,770.00 for the construction/rehabilitation of sanitary sewer lines in the 200 Block of South Jackson and 500 Block of East Ross Streets. He explained these locations have reported several sanitary sewer overflows and the rehabilitation of these lines will relieve the overflow conditions.

**Action:**

*Councilmember Melissa Olson moved to approve bid to Circle H Contractors LP for the rehabilitation of South Jackson and East Ross sewer lines in the amount of \$107,770.00. Councilmember Chuck Beatty seconded, All Ayes.*

**29. Public Comments**

Mr. Chris Wright, 808 W. Marvin, thanked the City Manager Michael Scott, City Council, and Rotary Club for the repairs to the Boy Scouts Building on Brown Street.

Mr. Alan Fox, 327 University, inquired about alley maintenance. Mr. Scott noted dedicated alleys are maintained by the city.

Ms. Andi Wallace thanked City Council for their service to the community and showed her appreciation for her opportunity to serve as Honorary Councilmember for the month of April.

**30. Convene into Executive Session for deliberation regarding real property as permitted under Section 551.072 of the Texas Government Code**

Mayor Strength announced at 8:06 p.m. the City Council would convene into Executive Session for deliberation regarding real property as permitted under Section 551.072 of the Texas Government Code.

**31. Reconvene and take any necessary action**

The meeting reconvened at 8:18 p.m.

**Action:**

*Councilmember Mary Lou Shipley moved to authorize staff to proceed with the purchase of 407 MLK in the amount of \$147,500 plus closing costs. Mayor Pro Tem David Hill seconded, All Ayes.*

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

None

**33. Adjourn**

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(4a)

*There being no further business, Mayor Pro Tem David Hill moved the meeting adjourn at 8:17 p.m. Councilmember Chuck Beatty seconded, All Ayes.*

Respectfully submitted,

Amber Villarreal  
Assistant City Secretary

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, April 15, 2019 at 6:00 p.m.

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

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

**1. Call to Order**

Mayor Kevin Strength called the meeting to order.

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

City Manager Michael Scott reviewed the following items:

- Item 4a, correcting the motion to reflect Councilmember Melissa Olson made the motion for item 32.
- Item 4e, the TIRZ board authorized up to \$15,000 for landscaping at MKT Depot. TIRZ recommended staff obtain additional bids before proceeding. After doing so, Lantana was still the lowest bid.
- Item 4f, TIRZ authorized up to \$100,000 for rehab of old Police Department building at 216 N. College. The building will need interior demo as well as HVAC replacement, and roof evaluation to prepare for any new tenant. Mayor Strength noted a dumpster enclosure is needed as well as a restroom facility at George Brown Plaza. Councilmember Mary Lou Shipley asked if the City Attorney will review the lease agreement and Mr. Scott noted it would be.
- Item 4h, was recommended for approval by the Park Board for the seasonal vendor at Lake Waxahachie.

Senior Planner Colby Collins reviewed the following cases:

- PP-19-0020, staff recommended approval per staff comments.
- FP-19-0021, staff recommended approval per staff comments.
- FP-19-0030, staff recommended approval as presented.
- FP-19-0038, staff recommended approval as presented.
- PP-19-0037, staff recommended approval as presented.
- FP-19-0041, staff recommended approval per staff comments.
- FP-19-0034, staff recommended approval per staff comments.

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- RP-19-0034, staff recommended approval per staff comments. Councilmember Olson asked about the alley abandonment process and Assistant City Manager Tommy Ludwig noted the alley abandonment will be reflected on the plat and not by separate instrument.
- RP-19-0032, staff recommended approval per staff comments. Mr. Collins explained the Planning & Zoning Commission recommended no right-of-way requirement for the proposed replat, but recommended the applicant provide a 10 foot utility easement for the property.
- PP-19-0036, staff recommended approval per staff comments.
- PD-19-0029, staff recommended approval as presented. The Planning and Zoning Commission recommended the applicant work with the Heritage Preservation Commission for renovations.
- PD-19-0039, applicant requested no height restriction on the proposed property. In looking with the surrounding area, staff and the Planning and Zoning Commission recommended a six story height restriction. Council discussed limiting the height restriction and City Attorney Robert Brown noted the motion could include requiring a Specific Use Permit for any request more than six stories.
- SU-19-0026, staff recommended approval per staff comments. The Planning and Zoning Commission recommended using an eight foot chain link fence on the rear of the property as opposed to a six foot chain link fence with barbed wire.
- PD-19-0031, applicant requested to continue the public hearing to allow time to address concerns from staff and the Planning and Zoning Commission.

Mr. Scott explained City Council will need to fill the vacancy of Ellis Appraisal District Board of Directors Member Tommy Hamilton. He explained City Council will need to have a nominee by the May 6, 2019 meeting. He provided the council with a list of qualifications.

Assistant Police Chief Dale Sigler explained the Interlocal Agreement with Ellis County for prisoner care has not increased in quite some time. He requested council approve the agreement with Ellis County to increase prisoner care fee from \$35 per day to \$60 per day. He noted the city does not own and operate its own jail and this is a great service for our city.

Mr. Ludwig noted the bid award for the Sanitary Sewer Rehabilitation is the first project the city's engineering department was able to engineer in house. He thanked City Engineer James Gaertner and Graduate Engineer Macey Martinez. Utilities Director David Bailey explained city staff reviewed the bid from Circle H Contractors, LP and recommended awarding it to them in the amount of \$107,770.00

### **3. Adjourn**

There being no further business, the meeting adjourned at 6:53 p.m.

Respectfully submitted,

Amber Villarreal  
Assistant City Secretary

(4c)

## Application for a Festival or Event Permit

Event Name and Description: Salvation Army Boys & Girls Club of Ellis County 5K Race

### Applicant Information

Name: Robert Coriston

Address: 201 Sioux Dr.

City, State, Zip: Waxahachie, TX 75165 Phone: 469 658 2234

E-mail Address: Robert.Coriston@uss.salvationarmy.org

### Organization Information

Organization Name: Salvation Army

Address: 620 Farley Waxahachie, TX 75165

Authorized Head of Organization: Robert Coriston

Phone: 972 937 7727 E-mail Address: Robert.Coriston@uss.salvationarmy.org

### Event Chairperson/Contact

Name: John Smith

Address: 401 S. Rogers St.

City, State, Zip: Wax TX 75165 Phone: 469 309 4271

E-mail Address: jsmith@waxahachie.com

### Event Information

Event Location/Address: Downtown

Purpose: Salvation Army Boys & Girls Club Fund Raiser

Event Start Date and Time: 11-2-19 7:30 am

Received in  
City Secretary's Office  
4-16-19 W  
City of Waxahachie, Texas

(40)

Event End Date and Time: 12:00 pm 11-2-19

Approximate Number of Persons Attending Event Per Day: 400

Site Preparation and Set-Up Date and Time: 6am 11-2-19

Clean-Up Completion Date and Time: 12:30 pm 11-2-19

List all activities that will be conducted as a part of this event including street closures, traffic control, vendor booths, etc.

Fun Run will travel from downtown on Franklin to Getz Park and return along hike & bike trail. College St. is requested closed from Jefferson to Franklin. Franklin is requested closed between College and Rogers. Vendor Booths and Start/Finish lines will be in this area. Police assistance is requested for crossing Hwy 77.

Will food and/or beverages be available and/or sold? YES/NO

Will alcohol be available and/or sold? YES/NO

If food will be prepared on-site, a Temporary Food Permit must be obtained by the Environmental Health Department.

Will dumpsters be needed? No

Please submit a site plan showing the layout of the event including equipment, stages, and street locations

I THE UNDERSIGNED APPLICANT, AGREE TO INDEMNIFY AND HOLD HARMLESS THE CITY OF WAXAHACHIE, ITS OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES AGAINST ALL CLAIMS OF LIABILITY AND CAUSES OF ACTION RESULTING FROM INJURY OR DAMAGE TO PERSONS OR PROPERTY ARISING OUT OF THE SPECIAL EVENT.

John Smith  
Signature of Applicant

4-16-19  
Date

(4c)

**Villarreal, Amber**

---

**From:** Brown, Anita  
**Sent:** Tuesday, April 16, 2019 10:51 AM  
**To:** Villarreal, Amber; Smith, John; Ricky Boyd; Wade Goolsbey; Borders, Amy; Mosley, Laurie; Robert Best  
**Cc:** Scott, Michael  
**Subject:** RE: Event Application-Salvation Army 5k run

This is the same day as the Farm to Table dinner but the events have been able to coincide in the past. None of the closures will affect the area needed to set up for the dinner and it's actually kind of nice having the energy and music while we are setting up for our event. 😊

Anita

---

**From:** Villarreal, Amber <avillarreal@waxahachie.com>  
**Sent:** Tuesday, April 16, 2019 10:32 AM  
**To:** Smith, John <jsmith@waxahachie.com>; Ricky Boyd <rboyd@waxahachiefire.org>; Wade Goolsbey <wgoolsby@waxahachiepd.org>; Borders, Amy <aborders@waxahachie.com>; Brown, Anita <abrown@waxahachie.com>; Mosley, Laurie <lmosley@waxahachiecvb.com>; Robert Best <rbest@waxahachiepd.org>  
**Cc:** Scott, Michael <msscott@waxahachie.com>  
**Subject:** Event Application-Salvation Army 5k run

For your review/comments.

Thank you,

Amber Villarreal, TRMC, CMC  
Assistant City Secretary  
City of Waxahachie  
Direct (469) 309-4006 | Fax (469) 309-4003 | PO Box 757, Waxahachie, Texas 75168  
[www.waxahachie.com](http://www.waxahachie.com)

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(4c)

**Villarreal, Amber**

---

**From:** Boyd, Ricky <RBoyd@waxahachiefire.org>  
**Sent:** Tuesday, April 16, 2019 11:11 AM  
**To:** Villarreal, Amber  
**Subject:** RE: Event Application-Salvation Army 5k run

I have no concerns with this request.

**Ricky Boyd, Fire Chief**

**Waxahachie Fire-Rescue**

**214-463-9335**

---

**From:** Villarreal, Amber <avillarreal@waxahachie.com>  
**Sent:** Tuesday, April 16, 2019 10:32 AM  
**To:** Smith, John <jsmith@waxahachie.com>; Boyd, Ricky <RBoyd@waxahachiefire.org>; Wade Goolsbey <wgoolsby@waxahachiepd.org>; Borders, Amy <aborders@waxahachie.com>; Brown, Anita <abrown@waxahachie.com>; Mosley, Laurie <lmosley@waxahachiecvb.com>; Robert Best <rbest@waxahachiepd.org>  
**Cc:** Scott, Michael <msscott@waxahachie.com>  
**Subject:** Event Application-Salvation Army 5k run

For your review/comments.

Thank you,

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**Assistant City Secretary**  
**City of Waxahachie**  
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(42)

**Villarreal, Amber**

---

**From:** Wade Goolsby <wgoolsby@waxahachiepd.org>  
**Sent:** Monday, April 22, 2019 8:32 AM  
**To:** Villarreal, Amber  
**Subject:** RE: Event Application-Salvation Army 5k run

No Issues

---

**From:** Villarreal, Amber [mailto:avillarreal@waxahachie.com]  
**Sent:** Tuesday, April 16, 2019 10:32 AM  
**To:** John Smith <jsmith@waxahachie.com>; Ricky Boyd <rboyd@waxahachiefire.org>; Wade Goolsby <wgoolsby@waxahachiepd.org>; Amy Borders <aborders@waxahachie.com>; Brown, Anita <abrown@waxahachie.com>; Mosley, Laurie <Imosley@waxahachiecvb.com>; Robert Best <rbest@waxahachiepd.org>  
**Cc:** Michael Scott <msscott@waxahachie.com>  
**Subject:** Event Application-Salvation Army 5k run

For your review/comments.

Thank you,

**Amber Villarreal, TRMC, CMC**  
**Assistant City Secretary**  
**City of Waxahachie**  
Direct (469) 309-4006 | Fax (469) 309-4003 | PO Box 757, Waxahachie, Texas 75168  
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(42)

**Villarreal, Amber**

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**From:** Smith, John  
**Sent:** Tuesday, April 16, 2019 2:07 PM  
**To:** Villarreal, Amber; Ricky Boyd; Wade Goolsbey; Borders, Amy; Brown, Anita; Mosley, Laurie; Robert Best  
**Cc:** Scott, Michael  
**Subject:** RE: Event Application-Salvation Army 5k run

Approved.

Thanks,  
John

---

**From:** Villarreal, Amber <avillarreal@waxahachie.com>  
**Sent:** Tuesday, April 16, 2019 10:32 AM  
**To:** Smith, John <jsmith@waxahachie.com>; Ricky Boyd <rboyd@waxahachiefire.org>; Wade Goolsbey <wgoolsby@waxahachiepd.org>; Borders, Amy <aborders@waxahachie.com>; Brown, Anita <abrown@waxahachie.com>; Mosley, Laurie <lmosley@waxahachiecvb.com>; Robert Best <rbest@waxahachiepd.org>  
**Cc:** Scott, Michael <msscott@waxahachie.com>  
**Subject:** Event Application-Salvation Army 5k run

For your review/comments.

Thank you,

**Amber Villarreal, TRMC, CMC**  
Assistant City Secretary  
City of Waxahachie  
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(4d)

RECEIVED IN  
CITY SECRETARY'S OFFICE  
4-18-19  
CITY OF WAXAHACHIE, TEXAS

### Application for a Festival or Event Permit

Event Name and Description: Lions Club State Convention  
Kick-off Event

#### Applicant Information

Name: Lions Club International District 2-X1  
Address: 110 John Landrum - PO Box 2838  
City, State, Zip: Waxahachie TX 75168 Phone: 972-937-6848  
E-mail Address: waxlionjohn@gmail.com

#### Organization Information

Organization Name: Lions Clubs International District  
Address: PO Box 2838, Waxahachie, TX 2-X1  
Authorized Head of Organization: John Landrum  
Phone: 972-937-6848 E-mail Address: waxlionjohn@gmail.com

#### Event Chairperson/Contact

Name: Laurie Mosley - Waxahachie CVB  
Address: 2000 Civic Center Lane  
City, State, Zip: Waxahachie, TX 75165 Phone: 469-309-4046  
E-mail Address: lmosley@waxahachiecvb.com

#### Event Information

Event Location/Address: Chautaugua Auditorium  
Purpose: Convention Kick-off event - Lions Club  
Event Start Date and Time: May 30, 2019 - 5pm <sup>State Convention</sup>

(4d)  
Event End Date and Time:

May 30, 2019 - 9pm

Approximate Number of Persons Attending Event Per Day:

250

Site Preparation and Set-Up Date and Time:

May 30, 2019 - 10am

Clean-Up Completion Date and Time:

May 30, 2019 - 11pm

List all activities that will be conducted as a part of this event including street closures, traffic control, vendor booths, etc. Include any requests for city services.

A tent will be set up outside of the Chautaugua to provide a place to eat dinner. The auditorium will be used to listen to a band and dancing. Alcohol will be served by TABC licensed bartenders.

Will food and/or beverages be available and/or sold? YES/NO

\*Will alcohol be available and/or sold? YES/NO

If yes, will the event be in the Historic Overlay District? YES/NO

If food will be prepared on-site, a Temporary Food Permit must be obtained by the Environmental Health Department.

Will dumpsters be needed?

Yes

Will an Unmanned Aircraft Systems Unit (drone) be used? YES/NO If so, provide a copy of the current FAA License.

Please submit a site plan showing the layout of the event including equipment, stages, and street locations

I THE UNDERSIGNED APPLICANT, AGREE TO INDEMNIFY AND HOLD HARMLESS THE CITY OF WAXAHACHIE, ITS OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES AGAINST ALL CLAIMS OF LIABILITY AND CAUSES OF ACTION RESULTING FROM INJURY OR DAMAGE TO PERSONS OR PROPERTY ARISING OUT OF THE SPECIAL EVENT.

Signature of Applicant

Date

\* Please note that approval of this permit does not replace/modify compliance with all applicable state laws as specified by the Texas Alcoholic Beverage Commission (TABC).

(4d)

**Villarreal, Amber**

---

**From:** Boyd, Ricky <RBoyd@waxahachiefire.org>  
**Sent:** Tuesday, April 23, 2019 9:08 AM  
**To:** Villarreal, Amber  
**Subject:** RE: Application for Event Permit: Lions Club State Convention Kick-Off Event

I have no concerns with this application.

Ricky Boyd, Fire Chief  
Waxahachie Fire-Rescue  
214-463-9335

-----Original Message-----

**From:** Villarreal, Amber <avillarreal@waxahachie.com>  
**Sent:** Tuesday, April 23, 2019 8:46 AM  
**To:** Smith, John <jsmith@waxahachie.com>; Boyd, Ricky <RBoyd@waxahachiefire.org>; Wade Goolsbey <wgoolsby@waxahachiepd.org>  
**Cc:** Scott, Michael <msscott@waxahachie.com>  
**Subject:** FW: Application for Event Permit: Lions Club State Convention Kick-Off Event

Please review the attached event application and send me your comments/concerns.

Thank you,

Amber Villarreal, TRMC, CMC  
Assistant City Secretary  
City of Waxahachie  
Direct (469) 309-4006 | Fax (469) 309-4003 | PO Box 757, Waxahachie, Texas 75168  
www.waxahachie.com

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-----Original Message-----

**From:** Mosley, Laurie <lmosley@waxahachiecvb.com>  
**Sent:** Thursday, April 18, 2019 2:11 PM  
**To:** Villarreal, Amber <avillarreal@waxahachie.com>; Crocker, Clarice <ccrocker@waxahachie.com>  
**Cc:** John Landrum <waxlionjohn@gmail.com>  
**Subject:** Application for Event Permit: Lions Club State Convention Kick-Off Event

Good Afternoon!

(4d)

**Villarreal, Amber**

---

**From:** Wade Goolsby <wgoolsby@waxahachiepd.org>  
**Sent:** Friday, April 26, 2019 8:12 AM  
**To:** Villarreal, Amber  
**Subject:** RE: Application for Event Permit: Lions Club State Convention Kick-Off Event

I don't have any issues.

-----Original Message-----

**From:** Villarreal, Amber [mailto:avillarreal@waxahachie.com]  
**Sent:** Tuesday, April 23, 2019 8:46 AM  
**To:** John Smith <jsmith@waxahachie.com>; Ricky Boyd <rboyd@waxahachiefire.org>; Wade Goolsby <wgoolsby@waxahachiepd.org>  
**Cc:** Michael Scott <mscott@waxahachie.com>  
**Subject:** FW: Application for Event Permit: Lions Club State Convention Kick-Off Event

Please review the attached event application and send me your comments/concerns.

Thank you,

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**From:** Mosley, Laurie <lmosley@waxahachiecvb.com>  
**Sent:** Thursday, April 18, 2019 2:11 PM  
**To:** Villarreal, Amber <avillarreal@waxahachie.com>; Crocker, Clarice <ccrocker@waxahachie.com>  
**Cc:** John Landrum <waxlionjohn@gmail.com>  
**Subject:** Application for Event Permit: Lions Club State Convention Kick-Off Event

Good Afternoon!

Please find the application for event permit attached for the Lions Club State Convention Kick-Off Event at the Chautauqua Auditorium. The layout will be similar to what we do for the Crossroads of Texas Film & Music Festival.

Thank you so much for your help!

Laurie Mosley, CTE

(4d)

**Villarreal, Amber**

---

**From:** Smith, John  
**Sent:** Tuesday, April 23, 2019 9:14 AM  
**To:** Villarreal, Amber; Ricky Boyd; Wade Goolsbey  
**Cc:** Scott, Michael  
**Subject:** RE: Application for Event Permit: Lions Club State Convention Kick-Off Event

Approved.

Thanks,  
John

-----Original Message-----

**From:** Villarreal, Amber <avillarreal@waxahachie.com>  
**Sent:** Tuesday, April 23, 2019 8:46 AM  
**To:** Smith, John <jsmith@waxahachie.com>; Ricky Boyd <rboyd@waxahachiefire.org>; Wade Goolsbey <wgoolsby@waxahachiepd.org>  
**Cc:** Scott, Michael <msscott@waxahachie.com>  
**Subject:** FW: Application for Event Permit: Lions Club State Convention Kick-Off Event

Please review the attached event application and send me your comments/concerns.

Thank you,

Amber Villarreal, TRMC, CMC  
Assistant City Secretary  
City of Waxahachie  
Direct (469) 309-4006 | Fax (469) 309-4003 | PO Box 757, Waxahachie, Texas 75168  
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-----Original Message-----

**From:** Mosley, Laurie <lmosley@waxahachiecvb.com>  
**Sent:** Thursday, April 18, 2019 2:11 PM  
**To:** Villarreal, Amber <avillarreal@waxahachie.com>; Crocker, Clarice <ccrocker@waxahachie.com>  
**Cc:** John Landrum <waxlionjohn@gmail.com>  
**Subject:** Application for Event Permit: Lions Club State Convention Kick-Off Event

Good Afternoon!

Please find the application for event permit attached for the Lions Club State Convention Kick-Off Event at the Chautauqua Auditorium. The layout will be similar to what we do for the Crossroads of Texas Film & Music Festival.

(4e)



## Memorandum

To: Honorable Mayor and City Council *as*  
From: Anita Brown, Downtown Development Director/HPO  
Thru: Michael Scott, City Manager *MB*  
Date: May 1, 2019  
Re: Consider Budget Amendment - Downtown Properties

---

**Item Description:** Consider approving a budget amendment increasing the 2018-2019 Downtown Development budget by \$4,675.

**Item Summary:** The city owns several buildings downtown and a few of them have been in transition this year. This request is to cover expenses for testing at 216 N. College and for utility expenses at 410 S. Rogers through the end of this fiscal year. The former PD building required some annual maintenance tests to be performed and with FRESH vacating 410 S. Rogers, the city will now be responsible for the utilities (water and electricity) at that building. The restrooms that serve the Farmers Market are inside the building and the vacated space can now be used for special demonstrations and activities that will enhance the market.

**Fiscal Impact:** The proposed budget amendment would increase the Downtown Development department budget by \$4,675. These additional funds would come from the General Fund unrestrictive reserve balance. The reserve balance has sufficient funds available to absorb the additional expenditure with no significant impact.

(4f)



## Memorandum

To: Honorable Mayor and City Council

From: Michael Scott, City Manager

CC:

Date: May 2, 2019

Re: Miracle League Contribution

---

As many of you are aware, The Miracle League of Ellis County has recently completed a fully accessible ADA baseball field located at the Optimist Fields. Several of you have mentioned to me the desire for the City to support/participate in this exciting project. The City has been requested to assist with some of the flat work (specifically sidewalks to access the field from the parking lot) and the paving of a portion of the parking lot. To memorialize this commitment of the City, I am requesting approval of a \$50,000 contribution for this purpose. These funds are available from within existing budgeted funds.

If you have not yet seen the improvements to this field, please make a point to visit it and see for yourself.

(49)



## Memorandum

To: Honorable Mayor and City Council

From: Michael Scott, City Manager

CC:

Date: May 3, 2019

Re: Haven Road Waterline Advanced Funding

As you know WISD is working towards the opening of the new Max Simpson Elementary School to be located within the North Grove community. The land was provided for this project by JH Development ahead of the development of this phase of residential construction.

At this point, the school is need of water to the site to facilitate construction and ultimately, the opening of this campus. Waterlines are typically installed by the developer as they are preparing the development for vertical construction—so timing in this case is the issue.

The request before you is for the City to advance \$72,000 for the construction of this needed waterline to JH Development. JH has agreed to provide the design and construction services ahead of their original timeline in an effort to assist the school district. These funds will be paid back to the City by JH Development when they final plat this phase of their project (in an estimated 18-24 month timeframe).

In sum, this is another great example of multiple entities, both public and private, working together for the good of the community. In this case, the City is simply advancing funding of \$72,000 to provide for the timely opening of Max Simpson Elementary.

(6)



## Memorandum

To: Honorable Mayor and City Council

From: Anita Brown *AB*

Thru: Michael Scott, City Manager *MS*

Date: April 17, 2019

Re: Preservation Month Proclamation

---

May is Preservation Month as sponsored by the National Trust for Historic Preservation. Preservation has been an important program in Waxahachie since the mid 1970's when Historic Waxahachie, Inc. was founded. Since then our slate of preservation groups and activities has grown and contributed significantly to the economic health of our city.

The Waxahachie Heritage Preservation Commission requests the City Council adopt the attached proclamation declaring May as Preservation Month in Waxahachie.

(6)

## ***PROCLAMATION***

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

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

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

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

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

***WHEREAS***, "This Place Matters" is the theme for National Preservation Month 2019, sponsored by the National Trust for Historic Preservation; and

**NOW, THEREFORE**, I, Kevin Strength, Mayor of the City of Waxahachie, Texas, along with the entire City Council, do hereby proclaim May 2019 as

### ***"NATIONAL PRESERVATION MONTH"***

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

Proclaimed this 6<sup>th</sup> day of May, 2019.

---

MAYOR

ATTEST:

---

CITY SECRETARY

(7)

## Planning & Zoning Department

### Zoning Staff Report

Case: SU-18-0180



#### MEETING DATE(S)

Planning & Zoning Commission: January 8, 2019

City Council: May 6, 2019 (continued from April 1, 2019)

#### CAPTION

**Public Hearing** on a request by Barb Hall, Ervin USA, for a Specific Use Permit (SUP) for Trailer, Truck Sales or Rental use within a Light Industrial-2 and Future Development zoning district, located at 4675 N Interstate 35, being 790 EC NEWTON 29.74 ACRES (Property ID 188460) - Owner: LUIS ESTRADA (SU-18-0180)

#### Update Since April 1<sup>st</sup> Council Meeting

At the April 1, 2019 City Council meeting, Council provided landscape requirements to be completed before the May 6, 2019 City Council meeting. Landscape requirements include:

- Submitting a signed and sealed plan from a Landscape Architect to staff. The landscape plan must be fully vetted before the May 6, 2019 City Council meeting. **(Applicant Completed)**
- The applicant shall increase the planting size for the purpose of screening the site. The applicant shall also provide mulch to serve as a function of ensuring the plants survival, as well as covering any rocky areas that remain. A Landscape Architect shall provide guidance for this requirement as well. **(Applicant Completed)**

At the time of this report, the applicant has submitted a signed and sealed plan from a Landscape Architect, and has installed additional landscaping for the property. Due to the applicant addressing the stipulations set by City Council, staff recommends approval for the requested Specific Use Permit.

#### CITY COUNCIL ACTION

At the City Council meeting, held January 22, 2019, the Council voted 5-0 to continue case no. SU-18-0180 to the February 18, 2019 City Council meeting.

At the February 18, 2019 City Council meeting, the Council voted 5-0 to continue case no. SU-18-0180 to the March 18, 2019 City Council meeting.

At the March 18, 2019 City Council meeting, the Council voted 5-0 to continue case no. SU-18-0180 to the April 1, 2019 City Council meeting.

At the April 1, 2019 City Council meeting, the Council voted 5-0 to continue case no. SU-18-0180 to the May 6, 2019 City Council meeting.

#### PLANNING AND ZONING ACTION

At the Planning & Zoning Commission meeting, held January 8, 2019, the Commission voted 5-0 to recommend **denial** for case no. SU-18-0180 as presented by staff.

(7)

**CASE INFORMATION**

**Applicant:** Barb J. Hall

**Property Owner(s):** Luis Estrada

**Site Acreage:** 29.74 acres

**Current Zoning:** Light Industrial-2 and Future Development

**Requested Zoning:** Light Industrial-2 and Future Development with SUP

**SUBJECT PROPERTY**

**General Location:** 4675 N Interstate 35

**Parcel ID Number(s):** 188460

**Existing Use:** Ervin Trucks and Trailer Rentals

**Development History:** The site is unplatted, however, the current SUP for the property, Ordinance No. 2808 expired January 1, 2019.

Case No.	Direction from Site	Request	Result
ZA2015-15	Site	SUP for use	Approved, Ord. No. 2808

**Adjoining Zoning & Uses:**

Direction	Zoning	Current Use
North	LI1	Currently undeveloped
East	LI2	Nutri Ag.
South	LI1	Austin Industrial Park
West	LI1	Austin Industrial Park

**Future Land Use Plan:** Highway Commercial

**Comprehensive Plan:** Highway Commercial areas are intended to allow for traditional commercial land uses, but such uses should be developed to a higher standard. For example, outside storage may be permitted, but would have to be screened and not visible from the road. In addition, a more limited array of commercial uses would be permitted. Hotels, motels, and car dealerships would be permitted, for example, but manufactured home sales and self-storage buildings would not. The idea is for these areas to show a positive image of Waxahachie and make visitors want to travel into the main part of the City.

**Thoroughfare Plan:** The site is accessed via Interstate 35 Service Road.

(7)

Site Images:



(7)

### **PLANNING ANALYSIS**

The applicant operates a trailer and truck rental and sales business at this site. The SUP to continue the use expired on January 1, 2019. The applicant would like to continue the usage at the site, however the use and the maintenance of the site are not in compliance with the City's future land use plan for the site. Additionally, the parking lot at the site is unpaved, trailers are parked on gravel, dirt and grass, and has existing illegal signage along the property. The requirements of the SUP in 2015 required landscaping and ornamental rail fencing be installed along the I-35 frontage to enhance the property. At the September 8, 2015 City Council meeting, City Council informed the applicant of the need to beautify the site through increased landscaping and improving the fencing as a condition for the SUP. At the January 8, 2019 Planning and Zoning meeting, the Commission voted 5-0 to recommend denial for case no. SU-18-0180 due to the applicant only partially addressing staff concerns over a three year period. At the City Council meeting, held January 22, 2019, the Council voted 5-0 to continue the case to the February 18, 2019 City Council meeting to allow the applicant time to complete and address all of staff's concerns, as well as the council stipulations (*see below*) from the September 8, 2015 meeting.

At the April 1, 2019 City Council meeting, the Council voted 5-0 to continue case no. SU-18-0180 to the May 6, 2019 City Council meeting.

### **COUNCIL STIPULATIONS FROM SEPTEMBER 8, 2015 MEETING**

- 1) Applicant is requesting approval of a Specific Use Permit (SUP) for the used tractor sales.
- 2) They are required to utilize pavement along Interstate 35 for 400 ft. and 80 ft. deep, for the display of the tractors, while allowing the storage of trailers on gravel at the back of the lot.
- 3) The storage of the trailers on the back part of the lot is a legal non-conforming use that is not affected by this application.
- 4) The 2007 Future Land Use Plan has this area being Highway Commercial. This calls for traditional commercial land uses that are developed to higher standards due to higher visibility. The Highway Commercial designation allows for some commercial uses while maintaining a positive image of Waxahachie along the Interstate 35 corridor.
- 5) Floodplain limits must be shown on the site plan. Any work within the floodplain must be determined by engineering methods, performed by a Professional Engineer, which creates no rise to the floodplain.
- 6) There will be landscaped clusters of ornamental trees and shrubs placed within the landscaped frontage. The requirement for street trees has now been met.
- 7) A 6 ft. high wrought iron fence is proposed.
- 8) Generally, undeveloped lands surround this site; any residential is greater than 500 ft. away.

### **PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 4 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Daily Light and a sign was visibly posted at the property on 12/21/18.

(7)

#### **STAFF CONCERNS**

1. Staff is concerned about continuing this use along one of the main entryways into the City of Waxahachie.
2. Trailers are parked on gravel, dirt, and grass instead of the required concrete.
3. Trailers and trucks are parked in the floodplain.
4. There is illegal pole sign as well as illegal signage located along the fence of the property.
5. Staff would like for the applicant to "beautify" the property (increase landscaping and improve fencing for the SUP).
6. No existing irrigation for the property.

#### **APPLICANT'S RESPONSE**

1. At the time of this report (4/24/2019), the applicant has completed the required fencing, landscaping, and irrigation for 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.

#### **ATTACHED EXHIBITS**

1. Location Exhibit
2. Site Plan Layout
3. Ordinance No. 2808

#### **APPLICANT REQUIREMENTS**

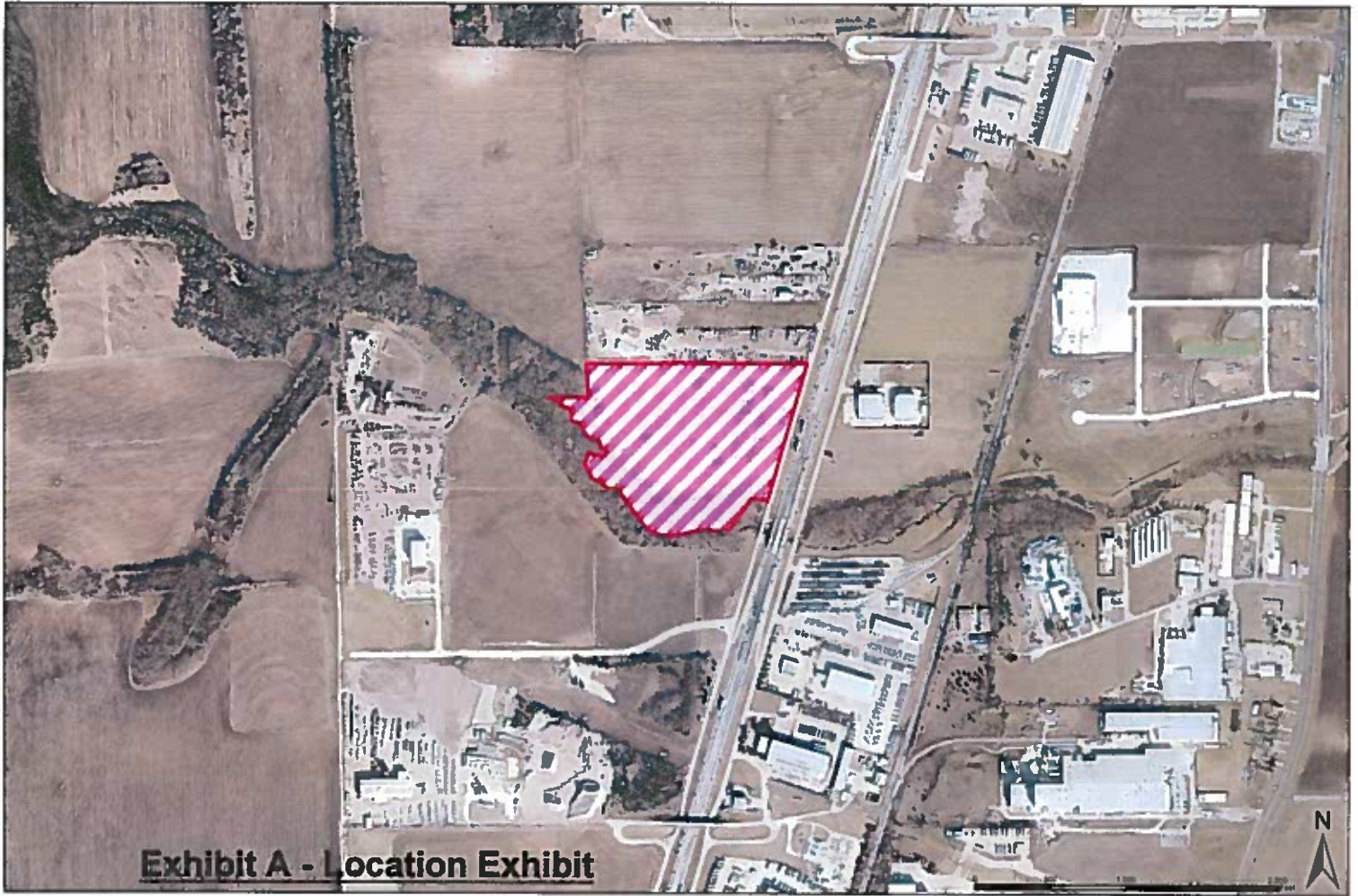
1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

#### **STAFF CONTACT INFORMATION**

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

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

(7)



**Exhibit A - Location Exhibit**



**SU-18-0180 4675 N Interstate 35E  
Trailer, Truck Sales, or Rental  
Location Exhibit**

**Legend**

 SU-18-0180

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. This product has been produced by the City of Waxahachie for the sole purpose of geographic reference. No warranty is made by the City of Waxahachie regarding specific accuracy or completeness.



(8)

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

**AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A TRAILER, TRUCK SALES OR RENTAL USE WITHIN A LIGHT INDUSTRIAL-2 AND FUTURE DEVELOPMENT (LI-2 AND FD) ZONING DISTRICT, LOCATED AT 4675 N INTERSTATE 35, BEING PROPERTY ID 188460, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 790 EC NEWTON ABSTRACT, 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 LI-2 and FD; 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 SU-18-0180. 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 LI-2 and FD to LI-2 and FD, with an SUP in order to permit a Trailer, Truck Sales or Rental use on the following property: 790 EC Newton Abstract, which is shown on Exhibit A, in accordance with the Site Layout/Landscape Plan attached as Exhibit B.

**Specific Use Permit**

**FOR OPERATION OF A SPECIFIC USE PERMIT FOR TRAILER, TRUCK SALES, AND RENTAL USE IN THE LIGHT INDUSTRIAL-2 (LI-2) AND FUTURE DEVELOPMENT (FD) 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 SU-18-0180.
2. The development shall adhere to the City Council approved Exhibit A – Location Exhibit

(8)

and Exhibit B – Site Layout/Landscape Plan.

**Standards and Conditions**

1. All trailers and trucks for the property shall be parked on concrete.
2. All trailers and trucks shall be removed from the floodplain.
3. All signage for the property shall be approved by the City of Waxahachie Building Inspections and Planning Department. If such signage has not been approved by either department, then the signage is considered illegal and shall be removed.
4. A landscaping materials, and Landscape Plan, shall be approved by city staff, and signed and sealed by a Landscape Architect. Mulch shall serve as a function of ensuring the plants survival, as well as covering any rocky areas that remain. This should be evaluated by the Landscape Architect and indicated on the Landscape Plan.

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 6<sup>th</sup> day of May, 2019.

\_\_\_\_\_  
MAYOR

ATTEST:

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

(9)

## Planning & Zoning Department

### Zoning Staff Report

Case: PD-19-0022



#### MEETING DATE(S)

Planning & Zoning Commission: March 26, 2019

City Council: May 6, 2019 (continued from April 1, 2019)

#### CAPTION

**Public Hearing** on a request by Scott Johnson, Palladium USA International, Inc., for a Zoning Change from a Light Industrial-1 and Commercial zoning district to **Planned Development-Multiple-Family Residential-2, with Concept Plan**, located on the West side of N Highway 77, just North of the Life School (Property ID 193933) – Owner: FUSCOM PROPERTY COMPANY NO. 1 LLC (PD-19-0022)

#### ACTION SINCE INITIAL STAFF REPORT

At the City Council meeting, held April 1, 2019, the City Council voted 5-0 to continue the case to the May 6, 2019 City Council meeting.

At the Planning & Zoning Commission meeting, held March 26, 2019, the Commission voted 4-3 to recommend denial of case no. PD-19-0022.

#### CASE INFORMATION

**Applicant:** Scott Johnson, Palladium USA International, Inc.

**Property Owner(s):** Fuscom Property Company No. 1 LLC

**Site Acreage:** 6.67 acres

**Current Zoning:** Light Industrial-1 and Commercial

**Requested Zoning:** Planned Development-Multiple Family Residential-2

#### SUBJECT PROPERTY

**General Location:** West side of N Highway 77, just North of the Life School

**Parcel ID Number(s):** 193933

**Existing Use:** Undeveloped Land

**Development History:** N/A

**Adjoining Zoning & Uses:**

Direction	Zoning	Current Use
North	HI	Industrial Warehouses
East	C	Atmos Energy Corp.
South	PD-GR	Residential
West	LI-1	Life Middle School

(9)

**Future Land Use Plan:**

Retail

**Comprehensive Plan:**

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

**Thoroughfare Plan:**

The subject site is accessible via US Highway 77.

**Site Image:**



### **PLANNING ANALYSIS**

The applicant is proposing a Zoning Change from a Light Industrial-1 and Commercial zoning district to Planned Development-Multiple-Family Residential-2, with Concept Plan to allow a senior family living facility. The Concept Plan illustrates one apartment building with approximately 120 units along with a leasing office and clubhouse. Key features of the Concept Plan include:

- Access point from US Highway 77
- 3-story building with 60% one bedroom units and 40% two bedroom units.
- 180 spaces (16 garage spaces, 99 surface spaces (3 accessible spaces), 65 carport spaces (3 accessible spaces))
- Unit Amenities (*not limited to; see "Amenities List"*):
  - Porches and patios
  - Granite counters in kitchen and bath
  - Walk in showers and tubs
- Clubhouse Amenities (*not limited to; see "Amenities List"*):
  - Game Room
  - Movie Theatre
  - Fitness Center
- Jogging/Walking Trail
- Dog Park
- Gazebo/with seating and BBQ area
- Courtyard
- Pool

(9)

**DENSITY AND DIMENSIONAL STANDARDS****Table 1: Proposed Residential Development Standards (PD with MF-2 uses)**

<b>Standard</b>	<b>Multi-Family-2 (MF-2)</b>	<b>Proposed</b>
Min DU Size (Sq. Ft)	600/unit + 100/bedroom. 450/efficiency	1 bedroom = 750 sf. (60%) 2 bedroom = 950 sf (40%)
Front Yard Setback	25 (75>2) SF 25 (100>2)	100 ft
Rear Yard Setback	50 (75>2) SF	75 ft
Side Yard Setback	50 (75>2) SF 25 (100>2)	50 ft
Max Building Height	3 Stories	3 Stories
Parking	1 space per dwelling unit (Housing for the elderly/Senior Apartments)	1.5 spaces per dwelling

**AMENITIES LIST**

<b><u>UNIT AMENITIES</u></b>	<b><u>DEVELOPMENT AMENITIES</u></b>
Granite counters in kitchens and bath.	Fitness center
Walk in showers and tubs.	Yoga / Dance Room
Stainless appliance package (refrig. and microwave) Black stove (smooth top) and Dishwasher. EnergyStar refrig. and DW.	Indoor mail center
Ceiling fans in bedrooms and living areas.	Cyber Lounge with CPU's and printer
All LED lighting.	Walking/Jogging trail with Fitness Stations
42" upper cabinets	Outdoor recreation station provided.
Vinyl plank flooring.	Resort style pool
Wood closet shelving	Gazebos
True 14 SEER HVAC (not a reduced system with pancake air handlers).	Covered Club Porch (900sf)
Interior corridor entries.	Porte Cochere at main entrance.
	Theater Room
	Game Room / Card Room
	Laundry Facility.
	Community Gathering Area/Social Area
	2 building elevators

**REQUESTED EXCEPTION(S)**

- The proposed porte-cochere will extend into the front yard setback. Any structure encroaching the setback line shall receive an approved exception from the Planning and Zoning Commission and City Council.
- According to the ordinance, buildings in Multi-Family zoning shall not exceed 200 ft. in length.
- The applicant is providing perimeter screening of a 6' painted picket fence with 6 masonry columns on frontage fence. *Staff requires that a minimum 6 ft. (maximum 8 ft.) masonry fence be provided to help provide a visual and protective barrier between surrounding properties.*
- Per the ordinance, "At least one half of the required minimum off-street spaces shall be provided in attached fully enclosed garages". The applicant is currently proposing less than the required amount.

**PON RESPONSES**

Staff has received 1 letter of support within the 200 ft. notification area for the proposed Planned Development.

**PUBLIC NOTIFICATIONS**

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, **18** notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Daily Light and a sign was visibly posted at the property on 03/08/19.

**STAFF CONCERNS**

1. The applicant is providing perimeter screening of a 6' painted picket fence with 6 masonry columns on frontage fence. Due to the surrounding of the property, staff requires that a minimum 6 ft. (maximum 8 ft.) masonry fence be provided to help provide a visual and protective barrier between surrounding properties.
2. Accessibility to the subject property.
3. Lack of attached garage spaces
4. Length of the building (According to the ordinance, buildings in Multi-Family zoning shall not exceed 200 ft. in length.)

**APPLICANT RESPONSE TO CONCERNS**

1. While the applicant understands staff's concerns, the applicant intends to state his reasoning why staff should approve the case.

**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:

- ☐ Approval, as presented  
☒ Denial

**ATTACHED EXHIBITS**

1. Site Plan Packet
2. Concept Plan Provisions

(9)

**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.
2. Once the revised plans are provided, staff will verify all outstanding comments were satisfied.
  - a. If comments were not satisfied, then applicant will be notified to make corrections.
  - b. If all comments satisfied, applicant shall provide a set of drawings that incorporate all comments.

**STAFF CONTACT INFORMATION**

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Senior Planner  
[ccollins@waxahachie.com](mailto:ccollins@waxahachie.com)

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

(9)



**Exhibit A - Location Exhibit**



**PD-19-0022 Palladium Waxahachie  
Senior Living  
Location Exhibit**

**Legend**

 SelectedParcel\_0

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. This product has been produced by the City of Waxahachie for the sole purpose of geographic reference. No warranty is made by the City of Waxahachie regarding specific accuracy or completeness.

(9)

**EXHIBIT B**  
**PD-19-0022**  
**CONCEPT PLAN PROVISIONS**

**Purpose and Intent**

The purpose and intent of this Planned Development (PD) is to facilitate proper design of a senior active lifestyle MF development. Any conditions found within the BASE ZONING DISTRICT MF2 zoning district or Zoning Ordinance that are not written herein, shall default to the City of Waxahachie's Code of Ordinances, as amended.

**Compliance with the City's Comprehensive Plan**

Zoning District MF2 is the intended base zoning classification underlying this PD. The MF2 zoning district is as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the public health, safety, morals and general welfare, convenience, and protecting and preserving places and areas of historical, cultural or architectural importance and significance in the City. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to ensure adequate light and air; to prevent the over-crowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, wastewater treatment, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

**General purpose and description:**

The Multiple-Family Residential-2 (MF2) Zoning District is an attached residential district intended to provide the highest residential density of eighteen (18) dwelling units per acre. The principal permitted land uses will include low-rise multiple family dwellings, and apartments. Recreational, religious, health and educational uses normally located to service residential areas are also permitted in this District. This District should be located adjacent to a major thoroughfare and serve as a buffer between retail/commercial development or heavy automobile traffic, and medium or low density residential development. Any multi-family development permissible within another zoning district, other than MF1, shall follow the MF2 guidelines and standards.

**Height Regulations**

3 stories for the main building.

All accessory buildings (excluding recreational buildings) shall be limited to 1 story in height

**Area Regulations**

- Minimum Lot Area 2,420 SF per dwelling unit, not to exceed 18 dwelling units per acre (calculated on gross acreage).
- The minimum lot size shall be 7,260 SF
- Minimum Lot Width 60'

(9)

- Minimum Lot Depth 120'
- Minimum Front Yard Adjacent to SF - 25'. 75' if over two stories.
- Adjacent to MF or Nonresidential - 25'. 100' if over 2 stories
- Minimum Side Yard Adjacent to SF - 50'. 75' if over two stories.
- Adjacent to MF or Nonresidential - 25'. 100' if over 2 stories
- Minimum Rear Yard Adjacent to a residential; 50', over two story is 75'
- Maximum Lot Coverage 40% by main and accessory buildings
- Parking Regulations 1.5 spaces per efficiency, 1-bed or 2-bed units;
- 2.5 spaces per 3-bed unit;
- 3 spaces per 4-bed or other unit
- Minimum DUA 600 SF per unit (plus 100 SF for each additional bedroom over one)
- 450 SF for efficiency apartment units, with a 25% maximum of the total units.

#### PD District Development Standards

##### ***Description of Request***

- To Change current zoning LI to PD allowing a senior housing development

##### ***Proposed Use of Property***

- Development will be a senior age MF community.

##### ***General Development Requirements***

- 120 units.
- 1 bedroom units are 750 sf, 2 bedroom units are 950 sf.
- Porte-Cochere will extend into front setback. Clearance on the porte cochere is 15'.
- 180 Parking spaces are provided (1.5 spaces per unit). This is considered industry standard for a senior community.
- Minimum 80 parking spaces covered. Carports will be improved with gable roof and masonry columns. This is 66% of all units.
- Building will be 3 stories and have 2 elevators.
- Minimum 76% masonry provided for all facades.
- Roof pitch will be 7:12.
- Roof shingles are 30 yrs. laminated with enhanced appearance.
- Total building length will approach 292 ft. in length, but will be separated by firewalls, thus reducing the length per building.
- Perimeter screening will be 6' painted mtl. picket fence with 6 masonry columns on frontage fence.
- Security gate will be located to provide stacking of 4 vehicles entering the development off of Hwy 77.
- All drives and entrances will be 24' wide with 28' radius at turns.
- Development will have Awnings, Balconies, Patios, Dormers, and a Porte Cochere.

(9)

- Development will have a Fitness center, Gazebos, Walking/Jogging trail, Swimming Pool, Theater Room, Business Center, Community Room, Laundry Facility, Game Room, and a Dance/Yoga Room.
- Landscape will include: Minimum 35ea. Canopy Trees, Minimum 40ea. Understory Trees (Crepe Myrtles/Yaupons), 15% ground cover, Minimum 2% seasonal color, Minimum 200 shrubs and 100% sod on balance of the area. Detention pond will be seeded.
- Paving will add an inch of thickness in lieu of lime stabilization.
- Building will have a monument sign on frontage entrance and signage on façade to assist life safety personnel.
- Parking lighting will be dark sky / LED.
- Property will be managed by Omnium Management, a Palladium USA International, Inc company.
- Property will be opened in phases, which will be determined by construction schedule and Fire Department.
- Construction duration will be 16 - 18 months.
- Density is 18 units to the acre.



[illegible]

LANDSCAPE PLANT LEGEND			
Landscape Inventory Types		Accessories Types	
	<b>Lake Box</b> Shrubbery landscape p = 0 g = 0 pft = 0		<b>Shrubbery landscape</b> Shrubbery landscape p = 0 g = 0 pft = 0
	<b>Shrubbery landscape</b> Shrubbery landscape p = 0 g = 0 pft = 0		<b>Shrubbery landscape</b> Shrubbery landscape p = 0 g = 0 pft = 0
	<b>Shrubbery landscape</b> Shrubbery landscape p = 0 g = 0 pft = 0		<b>Shrubbery landscape</b> Shrubbery landscape p = 0 g = 0 pft = 0
	<b>Shrubbery landscape</b> Shrubbery landscape p = 0 g = 0 pft = 0		<b>Shrubbery landscape</b> Shrubbery landscape p = 0 g = 0 pft = 0

## ① LANDSCAPE PLAN

1999



**PALLADIUM WAXAHACHIE**  
**WAXAHACHIE, TEXAS**



### ISSUE FOR FORUM

**LABOR PRODUCTIVITY**

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

LANDSCAPE PLAN

---

LP0.01

(9)



FRONT ELEVATION

MASONRY 70% BRICK 6% STUCCO 10%  
FIBER CEMENT 34%  
REQUIRED MASONRY 70% OTHER 30%  
PROVIDED MASONRY 70% OTHER 34%

## Exhibit E - Elevations

SCALE: 1/8" = 1'-0" (24x36" SHEET)

0 10 20 30 40

HUMPHREYS & PARTNERS ARCHITECTS, L.P.  
5228 Alpha Rd., Suite 200, Dallas, TX 75240 | 972.791.8800 | www.humphreys.com

PALLADIUM USA

FRONT ELEVATION

March 28, 2018

PALLADIUM WAXAHACHIE SENIOR LIVING  
WAXAHACHIE, TX  
1996 1000

A413

(9)

## Exhibit E - Elevations



FRONT ELEVATION



RIGHT ELEVATION



REAR ELEVATION



LEFT ELEVATION

SCALE: 1/16" = 1'-0" (24"x36" SHEET)

**HUMPHREYS & PARTNERS ARCHITECTS, L.P.**  
5320 Alpha Rd., Suite 200, Dallas, TX 75240 | (972) 791-9556 | www.humphreys.com

PALLADIUM USA

ELEVATIONS

April 15, 2019

**PALLADIUM WAXAHACHIE SENIOR LIVING**  
WAXAHACHIE, TX  
HUPA11884

A413

(9)

## Exhibit E - Elevations



SCALE: 1/16" = 1'-0" (27x36" SHEET)  
0' 10' 20' 40'

**HUMPHREYS & PARTNERS ARCHITECTS, L.P.**  
1320 Alpha Rd., Suite 200, Dallas, TX 75240 | (214) 751-0000 | [www.humphreys.com](http://www.humphreys.com)

PALLADIUM USA

ELEVATIONS

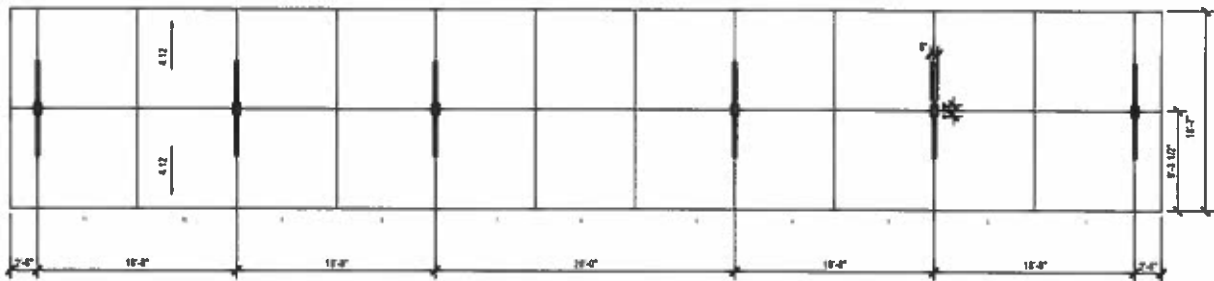
April 15, 2010

**PALLADIUM WAXAHACHIE SENIOR LIVING**  
WAXAHACHIE, TX  
H&P 10004

A414

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(19)



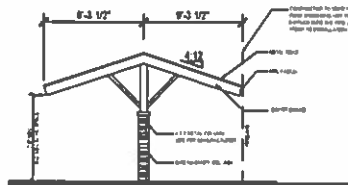
CARPORT - ROOF & COLUMN PLAN  
SCALE 1/4" = 1'-0"

- 1. CARPORT ROOF SHALL BE 12'-0" WIDE AT THE EAVES AND 10'-0" WIDE AT THE RIDGE.
- 2. 4" X 8" STUDS SHALL BE SPACED @ 16" O.C. AND 2" X 4" STUDS SHALL BE SPACED @ 16" O.C.
- 3. CARPORT ROOF SHALL BE 12'-0" WIDE AT THE EAVES AND 10'-0" WIDE AT THE RIDGE.



CARPORT - FRONT AND REAR ELEVATION  
SCALE 1/4" = 1'-0"

## Exhibit E - Elevations (Carport)



CARPORT - SIDE ELEVATION  
SCALE 1/4" = 1'-0"



HUMPHREYS & PARTNERS ARCHITECTS, L.P.  
3309 N. Loop W., Suite 200, Dallas, TX 75240 | 214.791.9558 | www.humphreys.com

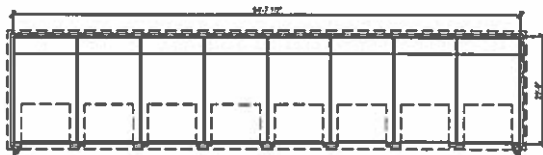
PALLADIUM USA

CARPORT

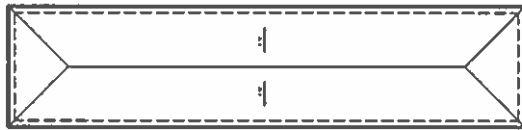
April 15, 2010

PALLADIUM WAXAHACHIE SENIOR LIVING  
WAXAHACHIE, TX  
A902

(19)



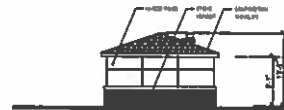
DETACHED GARAGE PLAN



ROOF PLAN



FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION

## Exhibit E - Elevations (Garage)

MASONRY 76% (BRICK 30%, STUCCO 46%)  
FIBER CEMENT 24%  
REQUIRED MASONRY 73% OTHER 27%  
PROVIDED MASONRY 76% OTHER 24%

SCALE: 1/8" = 1'-0" (24" X 36" SHEET)



HUMPHREYS & PARTNERS ARCHITECTS, L.P.  
5200 Alpha Rd., Suite 200, Dallas, TX 75240 | 972.791.8030 | www.humphreys.com

PALLADIUM USA

DETACHED GARAGES

April 15, 2013

PALLADIUM WAXAHACHIE SENIOR LIVING  
WAXAHACHIE, TX  
HPS-1303A

A903

(9)

**AMENITIES LIST**

<b><u>UNIT AMENITIES</u></b>	<b><u>DEVELOPMENT AMENITIES</u></b>
Granite counters in kitchens and bath.	Fitness center
Walk in showers and tubs.	Yoga / Dance Room
Stainless appliance package (refrig. and microwave) Black stove (smooth top) and Dishwasher. EnergyStar refrig. and DW.	Indoor mail center
Ceiling fans in bedrooms and living areas.	Cyber Lounge with CPU's and printer
All LED lighting.	Walking/Jogging trail with Fitness Stations
42" upper cabinets	Outdoor recreation station provided.
Vinyl plank flooring.	Resort style pool
Wood closet shelving	Gazebos
True 14 SEER HVAC (not a reduced system with pancake air handlers).	Covered Club Porch (900sf)
Interior corridor entries.	Porte Cochere at main entrance.
	Theater Room

**Exhibit F - Amenities List**

(9)

	Game Room / Card Room
	Laundry Facility.
	Community Gathering Area/Social Area
	2 building elevators

## **Exhibit F - Amenities List**

(9)

## **CASE PD-19-0022**

Request by Scott Johnson, Palladium USA International, Inc., for a Zoning Change from a Light Industrial-1 and Commercial zoning district to **Planned Development-Multiple-Family Residential-2, with Concept Plan**, located on the West side of N Highway 77, just North of the Life School (Property ID 193933) – Owner: FUSCOM PROPERTY COMPANY NO. 1 LLC (PD-19-0022)

### **INSIDE REQUIRED 200' NOTIFICATION AREA**

- 2 Support
- 0 Oppose

### **SUPPORT**

1. Terry Nay, 711 Brookside Road, Waxahachie, TX 75167
2. Brent Wilson, Superintendent at Life School, 3295 N Highway 77, Waxahachie TX 75165

### **OPPOSE**

(9)

RECEIVED  
3/14/19



City of Waxahachie, Texas  
Notice of Public Hearing  
Case Number: PD-19-0022



AGRICULTURAL MACHINERY PRODUCTS INC  
711 BROOKSIDE RD  
WAXAHACHIE, TX 75167

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, March 26, 2019 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, April 1, 2019 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Scott Johnson, Palladium USA International, Inc., for a Zoning Change from a Light Industrial-1 and Commercial zoning district to Planned Development-Multiple-Family Residential-2, with Concept Plan, located on the West side of N Highway 77, just North of the Life School (Property ID 193933) – Owner: FUSCOM PROPERTY COMPANY NO. 1 LLC (PD-19-0022)

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

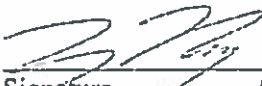
Case Number: PD-19-0022

☒ SUPPORT

☐ OPPOSE

Comments: \_\_\_\_\_

Your response to this notification is **OPTIONAL**. If you choose to respond, please return this form by 5:00 P.M. on WEDNESDAY, MARCH 20, 2019 to ensure inclusion in the Agenda Packet. Forms can be e-mailed to [planningandzoning@waxahachie.com](mailto:planningandzoning@waxahachie.com).

  
Signature DBH One Fine Day Spa Date 3/11/19  
if Power Clean II  
Terry New, President  
Printed Name and Title 711 Brookside Rd., Wax  
Address Waxahachie, TX

(9)



# Life School

www.lifeschools.net

RECEIVED  
3/29/19  
3:32 pm

**Superintendent**  
Brent Wilson

March 29, 2019

**Life School Central Office**  
132 East Oxilla Road, Suite A  
Red Oak, TX 75154  
469 850 LIFE (5433)  
469 850 5434 (fax)

**Life School Cedar Hill**  
129 West Wintergreen  
Cedar Hill, TX 75104

**Life School Lancaster**  
950 South Interstate 35 East  
Lancaster, TX 75146

**Life School Mountain Creek**  
5525 West Illinois Ave  
Dallas, TX 75211

**Life School Oak Cliff**  
4400 South R. L. Thornton Freeway  
Dallas, TX 75224

**Life School Red Oak**  
777 South Interstate 35 East  
Red Oak, TX 75154

**Life Middle School Waxahachie**  
3295 US North Highway 77  
Waxahachie, TX 75165

**Life High School Waxahachie**  
170 West Butcher Road  
Waxahachie, TX 75165

Re: Palladium Senior Living Development

Life School believes the Palladium Senior Living Development would be a great addition to the City of Waxahachie. We also believe they would be great neighbors.

At Life School we desire our students to be *Ready to Learn*, *Ready to Lead*, and *Ready for Life*. This development would provide an excellent opportunity for our middle school and high school students to serve and build relationships with older adults as well as provide opportunities for the residents to share their life experience to our students.

Thank you for considering the Palladium Senior Living Development request.

Sincerely,

Brent Wilson  
Superintendent

(10)

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

**AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM LIGHT INDUSTRIAL-1 (LI-1) AND COMMERCIAL (C) TO PLANNED DEVELOPMENT-MULTI-FAMILY DISTRICT 2 (PD-MF2), WITH CONCEPT PLAN LOCATED AT THE WEST SIDE OF NORTH HIGHWAY 77 IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 6.67 ACRES KNOWN AS A PORTION OF PROPERTY ID 193933 OF THE T SELBY WILLOWBROOK LAND ABSTRACT, 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**, a proper application for a PD, with Concept Plan has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number PD-19-0022. Said application, having been referred to the Planning and Zoning (P&Z) Commission for their final report, was recommended by the P&Z Commission for zoning change denial of the subject property from LI1 and C to PD-MF2, with Concept Plan; 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 zoning amendment;

**NOW, THEREFORE**, this property is rezoned from LI1 and C to PD-MF2, with Concept Plan in order to facilitate development of the subject property in a manner that allows Senior Family Living apartments on the following property: a portion of Property ID 193933 of the T Selby Willowbrook Land Abstract, which is shown on Exhibit A, in accordance with the Concept Plan provisions attached as Exhibit B, Site Plan attached as Exhibit C, Landscape Plan attached as Exhibit D, Elevations attached as Exhibit E, and Amenities List attached as Exhibit F.

#### **PLANNED DEVELOPMENT**

The purpose of this Planned Development to create a multi-family residential development and to establish appropriate restrictions and development controls necessary to ensure predictable land development, safe and efficient vehicular and pedestrian circulation, compatible uses of land and compliance with appropriate design standards.

#### **Development Standards**

All development on land located within the boundaries of this Planned Development District shall adhere to the rules and regulations set forth in this ordinance. The locations of buildings, driveways, parking areas, amenity areas, trails, fencing, and other common areas shall substantially conform to the locations shown on the approved Site Plan (Exhibit C).

(10)

1. Any zoning, land use requirement or restriction not contained within this zoning ordinance shall conform to those requirements and/or standards prescribed in Exhibit C (Site Plan) and Exhibit B (Concept Plan Provisions). Where regulations are not specified in Exhibit C or in this ordinance, the regulations of the Multi-Family Two (MF2) district of the City of Waxahachie Zoning Ordinance shall apply to this development.
2. Final building elevations shall conform to the character of the schematic elevation attached as Exhibit E.
3. Amenities for the property shall be constructed as described in the Amenities List (Exhibit F), and as shown on the approved Site Plan (Exhibit C).

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 6<sup>th</sup> day of May, 2019.

---

MAYOR

ATTEST:

---

City Secretary

(11)

TAXING UNIT: CITY OF WAXAHACHIE

Resolution No. \_\_\_\_\_

RESOLUTION OF **CANDIDATE NOMINATION** FOR THE ELLIS APPRAISAL  
DISTRICT BOARD OF DIRECTORS VACANCY FOR THE YEAR 2019

WHEREAS, Section 6.03 (l) of the Texas Property Tax Code, requires that each taxing unit entitled to vote may nominate by Resolution one candidate to fill the vacancy and submit those nominations to the Chief Appraiser of the Ellis Appraisal District by May 20<sup>th</sup>, 2019.

THEREFORE, the City of Waxahachie submits the following nomination for the vacancy on the Board of Directors of the Ellis Appraisal District for 2019:

\*\*\*\*\*

ACTION TAKEN this 6<sup>th</sup> day of May, 2019, in Regular Session of the governing body of the above mentioned taxing unit; as authorized under Section 6.03 of the Texas Property Tax Code, for the purpose of nominating candidates to the Board of Directors of the Ellis Appraisal District.

\_\_\_\_\_  
Mayor

ATTEST:

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

(12, 13, & 14)



## Memorandum

To: Honorable Mayor and City Council

From: Lori Cartwright, City Secretary

Thru: Michael Scott, City Manager

Date: May 2, 2019

Re: TXDOT Viaduct Agreements

As you all know, the TXDOT "Viaduct Project" has been in the works for many years. And as briefed during the Midyear City Council Retreat, there are a number of agreements that are required to be executed between the State and the City of Waxahachie before this project can commence. Specifically, the three agreements that are before you for discussion and approval are:

- Bridge Aesthetic Improvements
- Environmental (Historic) Mitigation
- Utility Relocations

The Bridge Aesthetic Improvements include the City requesting "betterments" to the design of the replacement bridge as well as the new couplet bridge to be erected. These improvements include an enhanced bridge railing that is keeping with the existing bridge railing look, use of a wrought iron look for required safety fencing above railroad right of way, and the installation of historic styled lighting across the bridge structures. These enhancement selections were vetted through a viaduct working group and have been incorporated into the TXDOT bridge designs for bidding. The total cost to the City for these betterments is \$206,271. Staff has identified a savings in an existing bond fund to provide for this expenditure.

(12, 13, & 14)

The Environmental Mitigation agreement addresses the State's requirement to "offset" the removal of a recognized historic asset (the Viaduct Bridge). After many years in attempting to save the aging structure, it was determined that the bridge needed to be demolished and replaced. In such a project, TXDOT, in coordination with both the Texas Historic Commission and their in-house Section 106 review team, determine an appropriate element to include in the project to "offset" the loss of the asset. In this case, informational panels are being designed that will pay respect to the history of the bridge and the broader transportation significance Waxahachie's history boasts of. These panels will be fabricated for inclusion in a designated location within the new Railyard Park (Amphitheater). The mitigation also includes preserving a portion of the historic railings from the bridge that will be displayed alongside the informational panels. The estimated cost is \$60,000, which is fully reimbursed to the City from the State (including reasonable overages). These funds will be budgeted for within the City's 2020 budget.

The third agreement relates to the relocation of City utilities (water and wastewater lines) from within the identified project area. The City only pays for the portion of the utility relocations that are within TXDOT rights of way. Those utilities to be relocated, but located within City rights of way, are not at the expense of the City and are deemed to be TXDOT's responsibility. The estimated cost for this portion of the project, inclusive of mobilization and contingency estimates, is \$1,429,802.10. As actual project costs are determined, the City will be responsible for the difference (or be given a reimbursement if actual costs are less). These funds have been anticipated within the City's 5-year Capital Improvement Plan.

All three agreements have been reviewed by legal and are in conformity with standard TXDOT agreement language and requirements. Staff has worked diligently with TXDOT representatives to review and refine the included scopes and related costs. As such, staff does recommend the approval of all three agreements and associated funding.

(12)

CSJ #: 0048-03-050; 0048-03-055  
District #: 18-Dallas  
Code Chart 64 #: 44550  
Project: US 77  
Limits: at BNSF and Waxahachie Creek;  
from South of FM 66 to North of  
McMillan Street  
County: Ellis

STATE OF TEXAS §

COUNTY OF TRAVIS §

**LOCAL PROJECT ADVANCE FUNDING AGREEMENT FOR  
VOLUNTARY LOCAL GOVERNMENT CONTRIBUTIONS  
TO TRANSPORTATION IMPROVEMENT  
PROJECTS WITH NO REQUIRED MATCH  
ON SYSTEM**

**THIS AGREEMENT** is made by and between the State of Texas, acting through the Texas Department of Transportation, called the "State", and the City of Waxahachie, acting by and through its duly authorized officials, called the "Local Government."

**WITNESSETH**

**WHEREAS**, Texas Transportation Code, Chapter 201 and 222 authorizes the State to lay out, construct, maintain, and operate a system of streets, roads, and highways that comprise the State Highway System; and,

**WHEREAS**, Texas Government Code Chapter 791 and Texas Transportation Code §201.209 and Chapter 221, authorizes the State to contract with municipalities and political subdivisions; and,

**WHEREAS**, Texas Transportation Commission Minute Order Number 115291 authorizes the State to undertake and complete a highway improvement generally described as bridge replacement and approaches on US 77 at BNSF and Waxahachie Creek and reconstruction and conversion of a 2-lane undivided roadway to a 4-lane one-way couplet on US 77 from South of FM 66 to North of McMillan Street in Ellis County; and,

**WHEREAS**, the Local Government has requested that the State allow the Local Government to participate in said improvement by funding that portion of the improvement described as the installation of aesthetic illumination and aesthetic bridge fencing on US 77 at BNSF and Waxahachie Creek and on US 77 from South of FM 66 to North of McMillan Street in the City of Waxahachie, called the "Project"; and,

**WHEREAS**, the State has determined that such participation is in the best interest of the citizens of the State;

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, the State and the Local Government do agree as follows:

**AGREEMENT**

**1. Time Period Covered**

The period of this Local Project Advance Funding Agreement (LPAFA) is as stated in the Master Agreement Governing Local Transportation Project Advance Funding Agreements (MAFA), without exception.

(12)

CSJ #: 0048-03-050; 0048-03-055

District #: 18-Dallas

Code Chart 64 #: 44550

Project: US 77

Limits: at BNSF and Waxahachie Creek;  
from South of FM 66 to North of  
McMillan Street

County: Ellis

## **2. Project Funding and Work Responsibilities**

The State will authorize the performance of only those Project items of work which the Local Government has requested and has agreed to pay for as described in Attachment A, Payment Provision and Work Responsibilities which is attached to and made a part of this contract. In addition to identifying those items of work paid for by payments to the State, Attachment A, Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of the Local Government and will be carried out and completed by the Local Government, at no cost to the State.

## **3. Payment of Funds**

Whenever funds are paid by the Local Government to the State under this agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation." The check or warrant shall be deposited by the State and managed by the State. The funds may only be applied by the State to the Project. If after final Project accounting excess funds remain, those funds may be applied by the State to the Local Government's contractual obligations to the State under another advance funding agreement with approval by appropriate personnel of the Local Government.

## **4. Right of Access**

If the Local Government is the owner of any part of the Project site, the Local Government shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

## **5. Adjustments Outside the Project Site**

The Local Government will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

## **6. Responsibilities of the Parties**

Responsibilities of the Parties will be under the conditions as provided for in the MAFA, without exception.

## **7. Document and Information Exchange**

The Local Government agrees to electronically deliver to the State all general notes, specifications, contract provision requirements and related documentation in a Microsoft® Word or similar document. If requested by the State, the Local Government will use the State's document template. The Local Government shall also provide a detailed construction time estimate including types of activities and month in the format required by the State. This requirement applies whether the local entity creates the documents with its own forces or by hiring a consultant or professional provider. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

## **8. Inspection and Conduct of Work**

Unless otherwise specifically stated in Attachment A, Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges adopted by the State and incorporated in this agreement by reference, or special specifications approved by the State.

(12)

CSJ #: 0048-03-050; 0048-03-055  
District #: 18-Dallas  
Code Chart 64 #: 44550  
Project: US 77  
Limits: at BNSF and Waxahachie Creek;  
from South of FM 66 to North of  
McMillan Street  
County: Ellis

**9. Increased Cost**

Increased cost will be under the conditions as provided for in the MAFA, without exception.

**10. Maintenance**

Upon completion of the Project by the State, the Local Government shall assume responsibility for the maintenance and operation to include the repair, replacement, repainting, removal and any other required or needed work on the Project's for (1) the installation of aesthetic pedestrian illumination; and (2) construction of aesthetic bridge fencing on US 77 at BNSF and Waxahachie Creek and on US 77 from South of FM 66 to North of McMillan Street in the City of Waxahachie. Upon written notification and approval by the State, the Local Government shall maintain the Project in accordance with applicable State roadway maintenance manuals and standards.

As provided in Attachment A, Payment Provision and Work Activities, the Local Government is responsible for the maintenance cost of the project bridge railing.

**11. Termination**

Termination of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

**12. Notices**

Notices of this LPAFA shall be under the conditions as stated in the MAFA, without exception.

Local Government:	State:
City Manager City of Waxahachie 401 S. Rogers Waxahachie, Texas 75165	Director of Contract Services Texas Department of Transportation 125 E. 11 <sup>th</sup> Street Austin, Texas 78701

**13. Successors and Assigns**

The State and the Local Government each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

**14. Amendments**

Amendments to this LPAFA shall be made as described in the MAFA, without exception.

**15. Incorporation of Master Agreement Provisions**

This LPAFA incorporates all relevant provisions of the MAFA in effect on the date of final execution of this LPAFA, unless such MAFA provision is specifically excepted in this agreement. Any conflict between the terms of the MAFA and this LPAFA shall be governed and controlled by this LPAFA.

**16. State Auditor**

The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must

(12)

CSJ #: 0048-03-050; 0048-03-055  
District #: 18-Dallas  
Code Chart 64 #: 44550  
Project: US 77  
Limits: at BNSF and Waxahachie Creek;  
from South of FM 66 to North of  
McMillan Street  
County: Ellis

provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

**17. Insurance**

If this agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

**18. Signatory Warranty**

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

Each party is signing this agreement on the date stated under that party's signature.

**THE LOCAL GOVERNMENT – CITY OF WAXAHACHIE**

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

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

**THE STATE OF TEXAS**

By: \_\_\_\_\_  
Mohamed K. Bur, P.E.  
Dallas District Engineer,  
Texas Department of Transportation

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

(12)

CSJ #: 0048-03-050; 0048-03-055

District #: 18-Dallas

Code Chart 64 #: 44550

Project: US 77

Limits: at BNSF and Waxahachie Creek;  
from South of FM 66 to North of  
McMillan Street

County: Ellis

## Attachment A

### PAYMENT PROVISION AND WORK RESPONSIBILITIES

The Local Government will be responsible for 100% of only the construction costs, direct state costs and indirect state costs and overruns for (1) the aesthetic bridge fencing, and (2) installation of aesthetic pedestrian illumination on US 77 at BNSF and Waxahachie Creek and on US 77 from South of FM 66 to North of McMillan Street in the City of Waxahachie, Ellis County.

The Project cost is to be as follows:

Description	Total Estimated Amount	Federal Participation		State Participation		Local Participation	
Construction – Bridge Fence (by State)	\$108,135	0%	\$0	0%	\$0	100%	\$108,135
Construction – Illumination (by State)	\$73,500	0%	\$0	0%	\$0	100%	\$73,500
<b>Subtotal</b>	<b>\$181,635</b>		<b>\$0</b>		<b>\$0</b>		<b>\$181,635</b>
Direct State Cost - Bridge Fence @ 9.03%	\$9,765	0%	\$0	0%	\$0	100%	\$9,765
Direct State Cost - Illumination @ 12.39%	\$9,107	0%	\$0	0%	\$0	100%	\$9,107
<b>Subtotal</b>	<b>\$18,872</b>		<b>\$0</b>		<b>\$0</b>		<b>\$18,872</b>
Indirect State Costs @ 5.33%	\$5,764	0%	\$0	0%	\$0	100%	\$5,764
<b>TOTAL</b>	<b>\$206,271</b>		<b>\$0</b>		<b>\$0</b>		<b>\$206,271</b>

Total Estimated Local Government Participation = \$206,271

Total Estimated Payment by the Local Government to the State on full execution of this Agreement = \$206,271

This is an estimate only. The final amount of the Local Government participation will be based on actual costs.

#### Maintenance Cost by the Local Government

Upon completion of the Project, the Local Government shall be responsible for 100% of the cost and overruns for the State to maintain any required or needed maintenance work on the Project's upgraded bridge railings, that is, the difference between the State's standard bridge railings and the upgraded bridge railings (C411) along US 77 at BNSF and Waxahachie Creek and along US 77 from South of FM 66 to North of McMillan Street in the City of Waxahachie, Ellis County.

(13)

CSJ #: 0048-03-050; 0048-03-055  
District #: 18-Dallas  
Code Chart 64 #: 44550  
Project: US 77  
Limits: at BNSF and Waxahachie Creek;  
South of FM 66 to North of McMillan Street  
County: Ellis

STATE OF TEXAS     §

COUNTY OF TRAVIS   §

**AGREEMENT FOR THE PRESERVATION  
AND ADAPTIVE USE OF A HISTORIC  
ON-STATE SYSTEM BRIDGE  
For a  
Environmental Mitigation Program Project  
  
ON SYSTEM**

**THIS AGREEMENT** is made by and between the State of Texas, acting by and through the Texas Department of Transportation, called the "State"; and the City of Waxahachie, called the "Recipient", acting by and through its duly authorized officials.

**W I T N E S S E T H**

**WHEREAS**, the State owns a bridge on a public highway located on US 77 at BNSF and Waxahachie Creek; and,

**WHEREAS**, the State has programmed and plans to effectuate a project to replace the bridge under the on-state system federal-aid Highway Bridge Replacement and Rehabilitation Program (HBRRP); and

**WHEREAS**, the date for letting the highway bridge replacement project to contract construction is tentatively scheduled for June, 2019; and

**WHEREAS**, the existing bridge (the "Historic Bridge") being replaced has salvageable materials of historic value; and

**WHEREAS**, Title 23 United States Code Section 144(n) established the Historic Bridge Program to provide for the rehabilitation, reuse, and preservation of historic bridges; and

**WHEREAS**, the Historic Bridge Program provides that any State which proposes to demolish a historic bridge for a replacement project under the HBRRP shall make the historic bridge available for donation to recipients which may be public or private entities; and

**WHEREAS**, transportation projects require comprehensive assessment of environmental impacts and mitigation requirements prior to construction; and

(13)

CSJ #: 0048-03-050; 0048-03-055  
District #: 18-Dallas  
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Project: US 77  
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South of FM 66 to North of McMillan Street  
County: Ellis

**WHEREAS**, on November 10, 2016, the Recipient participated as a consulting party to the proposed mitigation activity outlined by the State and approved by the State Historic Preservation Officer on December 19, 2016, which is incorporated by reference to this agreement; and

**WHEREAS**, through the coordination process to mitigate the environmental impact caused by replacing the Historic Bridge, the Recipient expressed a desire to preserve Salvageable Concrete Bridge Railing from the Historic Bridge for placement and use on the property of the Recipient; and

**WHEREAS**, through the coordination process to mitigate the environmental impact caused by replacing the Historic Bridge, the State agrees to design and the Recipient agrees to fabricate and install on Recipient property display panels depicting the cultural values of the area, as described in Attachment A, Recipient Proposal and Attachment B, Work to be Performed by the State; and

**WHEREAS**, the Recipient's participation is acceptable to the State and further concurs with the State's mitigation efforts and the Recipient agrees to assume ownership of and the preservation of the Historic Bridge Salvageable Concrete Bridge Railing and the display panels under the provisions of the Historic Bridge Program; and

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as set forth, it is agreed as follows:

## **A G R E E M E N T**

### **Article 1. Assignment of Ownership of the Historic Bridge Salvageable Elements**

- A.** Ownership of the Historic Bridge Salvageable Concrete Bridge Railing is relinquished by the State and assumed by the Recipient at a time mutually agreed upon in writing by all the parties, or when the work performed by the State as outlined in Attachment B is completed and the Historic Bridge Salvageable Concrete Bridge Railing is in the care, custody, and control of the Recipient.
- B.** Ownership by the Recipient includes full and immediate responsibility for all future legal and financial matters relating to the Historic Bridge Salvageable Concrete Bridge Railing, including compliance with applicable federal, state, and local government laws, rules, and regulations.

### **Article 2. Adaptive Use of the Historic Bridge Salvageable Elements**

- A.** The Historic Bridge shall not be used on a public road as a vehicular traffic facility-**Not Applicable**.
- B.** The Recipient shall preserve and maintain the Historic Bridge Salvageable Concrete Bridge Railing and the features that give it its historical significance, adhering to the provisions of the U.S. Secretary of Interior's Standards for Rehabilitation (36 CFR 67.7)

(13)

CSJ #: 0048-03-050; 0048-03-055  
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South of FM 66 to North of McMillan Street  
County: Ellis

incorporated by reference and made a part of this agreement as though fully set forth within it.

- C. The Recipient shall consult with the State Historic Preservation Officer (SHPO) prior to altering, renovating, or transferring ownership of the Historic Bridge Salvageable Concrete Bridge Railing.
- D. The Recipient shall permit the State or its authorized representative access to any temporary or permanent relocation site to perform any activities required to execute the work. The Recipient shall provide for all necessary real property and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.
- E. After completion of the modification, restoration, or preservation work on the Historic Bridge Salvageable Concrete Bridge Railing as described by the Recipient contained in the approved proposal (Attachment A), the State will visit the site for the purpose of confirming that the work has been accomplished.

#### **Article 3. Scope of Work and Funding - Salvageable Concrete Bridge Railing**

- A. The work to be performed by the State is described in Attachment B. The work to be performed by the Recipient is described in Attachment C. Attachments B and C and Exhibit 1, Probable Cost for Mitigation Panels, etc. are attached hereto and made part of this agreement. Funding obligations for the State and funding obligations for the Recipient are described in Attachments B and C, and Exhibit 1 respectively.
- B. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

#### **Article 4. Indemnification**

- A. If the Recipient is a non-governmental entity, the Recipient shall indemnify and hold harmless the State and its officers and employees from all damages, claims, and liabilities, including those arising from injury to or death of persons or loss of or damage to property, arising out of, incident to, or in any manner connected with the relocation, maintenance, or operation of the Historic Bridge Salvageable Concrete Bridge Railing, which indemnification shall extend to and include any and all court costs, attorney's fees, and expenses related to or connected with any claims or suits for damages and shall, if requested in writing by the State to do so, assist with or relieve the State from defending any suit brought against it.
- B. If the Recipient is a governmental entity, the parties to this agreement agree that no party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

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#### **Article 5. Termination**

- A. This agreement may be terminated by any of the following conditions:
1. By mutual agreement and consent of both parties or by either party, upon thirty (30) days written notice to the other party.
  2. By the State giving written notice to the Recipient as a consequence of the Recipient's failure to satisfactorily perform the responsibilities and obligations set forth in this agreement. Reasonable allowance will be made for circumstances beyond the control of the Recipient, as determined by the State. The Recipient will be afforded thirty (30) days to remedy the breach as outlined by the State.
  3. By the State if the project is inactive for thirty-six (36) months or longer and no expenditures have been charged against federal funds.
- B. Where termination is required due to failure of the Recipient to perform its agreed to responsibilities and obligations, the State may move the Historic Bridge Salvageable Concrete Bridge Railing to a temporary site or take other action without further consultation with the Recipient. Subject to consultation with the SHPO, such actions may include demolition.
- C. Termination of this agreement shall extinguish all duties, obligations, and liabilities of the State under this agreement. Additionally, the Recipient shall not perform any actions to take over and/or remove the Historic Bridge Salvageable Concrete Bridge Railing from the existing location. The Recipient shall reimburse the State for any costs incurred by the State on behalf of the Recipient up to the time of termination.

#### **Article 6. Office of Management and Budget (OMB) Cost Principles**

In order to be reimbursed with federal funds, the parties shall comply with the Cost Principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

#### **Article 7. Civil Rights Compliance**

- A. Compliance with Regulations: The Recipient will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this agreement.
- B. Nondiscrimination: The Recipient, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Recipient will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 45 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Recipient for work to be performed under a subcontract, including procurement of materials or

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leases of equipment, each potential subcontractor or supplier will be notified by the Recipient of the Recipient's obligations under this contract and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

- D. Information and Reports: The Recipient will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Recipient is in the exclusive possession of another who fails or refuses to furnish this information, the Recipient will so certify to the State or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Recipient's noncompliance with the Nondiscrimination provisions of this contract, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - 1. withholding of payments to the Recipient under the contract until the Recipient complies and/or
  - 2. cancelling, terminating, or suspending of the contract, in whole or in part.
- F. Incorporation of Provisions: The Recipient will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Recipient will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Recipient becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Recipient may request the State to enter into such litigation to protect the interests of the State. In addition, the Recipient may request the United States to enter into such litigation to protect the interests of the United States.

#### **Article 8. Disputes**

Should disputes arise as to the parties' obligations or responsibilities established in this agreement, the State's decision shall be final and binding.

#### **Article 9. Amendments**

Any changes in the character, responsibilities, or obligations established in this agreement shall be enacted by written amendment executed by both parties to this agreement.

#### **Article 10. Gratuities**

Texas Transportation Commission policy mandates that employees of the Texas Department of Transportation (TxDOT) shall not accept any benefit, gifts, favors or gratuities from any person or business doing business with TxDOT under this agreement.

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Any person or organization doing business with TxDOT may not make any offer of benefits, gifts, favors, or gratuities to TxDOT employees. Failure on the part of the Recipient to adhere to this policy may result in termination of this agreement.

#### **Article 11. Legal Construction**

In case one or more provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision and this shall be construed as if such invalid, illegal, or unenforceable provision had never been contained within it.

#### **Article 12. Sole Agreement**

This agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreements between the parties respecting the subject matter of this agreement.

#### **Article 13. Debarment Certifications**

The parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension." By executing this agreement, the recipient certifies that it is not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this contract shall require any party to a subcontract or purchase order awarded under this contract to certify its eligibility to receive Federal funds and, when requested by the State, to furnish a copy of the certification.

#### **Article 14. Disadvantaged Business Enterprise (DBE) Program Requirements – Not Applicable**

- A. The parties shall comply with the DBE Program requirements established in 49 CFR Part 26.
- B. The Recipient shall adopt, in its totality, the State's federally-approved DBE program.
- C. The Recipient shall set an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Recipient shall have final decision-making authority regarding the DBE goal and shall be responsible for documenting its actions.
- D. The Recipient shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved DBE by Entity, and attachments found at web address [http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou\\_attachments.pdf](http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf).
- E. The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted

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contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- F. Each contract the Recipient signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

#### **Article 15. Federal Funding Accountability and Transparency Act Requirements**

- A. Any recipient of funds under this agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This agreement is subject to the following award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.
- B. The Recipient agrees that it shall:
1. Obtain and provide to the State a Central Contracting Registry (CCR) number (Federal Acquisition Regulation, Part 4, Sub-part 4.1100) if this award provides for more than \$25,000 in Federal funding. The CCR number may be obtained by visiting the CCR website whose address is: <https://www.sam.gov/portal/public/SAM/>
  2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows the Federal Government to track the distribution of federal money. The DUNS number may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
  3. Report the total compensation and names of its top five (5) executives to the State if:
    - i. More than eighty percent (80%) of annual gross revenues are from the Federal Government and those revenues are greater than \$25,000,000; and
    - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

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#### **Article 16. Single Audit Report**

- A. The parties shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in 2 CFR 200.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Recipient must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division at [singleaudits@txdot.gov](mailto:singleaudits@txdot.gov).
- C. If expenditures are less than the threshold during the Recipient's fiscal year, the Recipient must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$\_\_\_\_\_ expenditure threshold and therefore, are not required to have a single audit performed for FY\_\_\_\_\_."
- D. For each year the project remains open for federal funding expenditures, the Recipient will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the agreement, unless otherwise amended or the project has been formally closed out and no charges have been incurred within the current fiscal year.

#### **Article 17. Pertinent Non-Discrimination Authorities**

During the performance of this contract, the Recipient, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not).

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- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

#### **Article 18. Signatory Warranty**

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

Each party is signing this agreement on the date stated under that party's signature.

#### **THE RECIPIENT – CITY OF WAXAHACHIE**

#### **THE STATE OF TEXAS**

By: \_\_\_\_\_  
Michael Scott  
City Manager  
City of Waxahachie

By: \_\_\_\_\_  
Kenneth Stewart  
Director of Contract Services  
Texas Department of Transportation

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

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

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## **ATTACHMENT A RECIPIENT'S PROPOSAL**

The Recipient proposed that the Salvageable Concrete Bridge Railing on the bridge located on US 77 at BNSF and Waxahachie Creek be removed and relocated on Recipient property for the purpose of preserving the bridge railing for display as exhibit objects. The State contractor will cut and remove Salvageable Concrete Bridge Railing and place the railing at a location designated by the Recipient for storage and ultimate placement. The Salvageable Concrete Bridge Railing may not be modified for any other purpose.

The State, to mitigate the environmental impact of replacing the bridge, will design display panels depicting the cultural values of the area for the Recipient.

The Recipient will fabricate the display panels and construct appropriate housing for the display panels at the Recipient amphitheater property. The Recipient shall choose appropriate composition for the display panels that meet the following requirements:

1. Minimize Ultraviolet fading
2. Prevent/deter vandalism
3. Allow for ADA accessibility of the display panels
4. Allow for nighttime visibility

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## **ATTACHMENT B**

### **WORK TO BE PERFORMED BY THE STATE**

The State is responsible for performing the following activities:

1. The State's contractor will cut and remove Salvageable Concrete Bridge Railing and place the railing at a location designated by the Recipient for storage and ultimate placement at no cost to the Recipient.
2. The State, to mitigate the environmental impact of replacing the bridge, will design the display panels depicting the cultural values of the area for fabrication and installation by the Recipient.
3. The State will design the display panels at no cost to the Recipient.
4. The State, in an amount of \$60,000, will reimburse the Recipient for the Recipient cost to fabricate and install the display panels upon the submittal of itemized invoice(s) in a form acceptable by the State and containing all authorized cost items required by the State no more frequently than monthly and no later than ninety days after the costs are incurred.
5. Prior to incurring any costs in excess of the budgeted amount of \$60,000, the State must review and approve the costs.
6. The State will conduct final inspection services and notify the Recipient to cure any and all defects and deficiencies prior to final acceptance and the issuance of the "Notification of Completion" to the Recipient by the State.
7. The State will coordinate Project activities with authorized Recipient staff.

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## **ATTACHMENT C WORK TO BE PERFORMED BY THE RECIPIENT**

The Recipient is responsible for performing the following activities:

1. All site preparation at the receiving site for the Salvageable Concrete Bridge Railing
2. All site preparation at the receiving site for the display panels.
3. Fabrication and installation of the display panels.
4. Submitting authorized and itemized invoice(s) for the reimbursable cost of fabricating and installing the display panels. Prior to incurring any costs in excess of the budgeted amount of \$60,000, the Local Government must first notify and seek approval from the State.
5. Maintaining the Salvageable Concrete Bridge Railing and display panels to include, but not limited to:
  - a. Minimize UV damage by shading the Salvageable Concrete Bridge Railing and display panels (vegetative cover, etc.)
  - b. Use best practices to minimize the potential for vandalism
  - c. Maintain accessibility of the panels and railings during park visitation hours
  - d. Maintain a clean viewing area, free of debris and obstruction for maximum visibility of the Salvageable Concrete Bridge Railing and display panels during designated operating hours
  - e. Repair damage to panels and affiliated structures upon occurrence.
6. Seeking concurrence from the State on the lower bid selection for the fabrication and installation of the display panels.
7. Curing all and any defects and deficiencies when notified by the State prior to final project acceptance and the issuance of the "Notification of Completion" to the Recipient by the State.
8. Coordinate Project activities with State staff.

### **Maintenance Cost by the Local Government**

Upon completion of the Project, the Local Government shall be responsible for 100% of the cost and overruns for the State to maintain any required or needed maintenance work on the Project's upgraded bridge railings, that is, the difference between the State's standard bridge railings and the upgraded bridge railings (C411) along US 77 at BSNF and Waxahachie Creek and along US 77 from South of FM 66 to North of McMillan Street in the City of Waxahachie, Ellis County.

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## EXHIBIT 1

### PROBABLE COST FOR MITIGATION PANELS, ETC.

The Local Government must notify and receive approval from the State prior to incurring cost in excess of the budgeted \$60,000 amount.

The Project cost is to be as follows:

Item	Quantity	Unit	Unit Cost	Cost
1. Salvage Rails	6	Rail Section	\$1,000	\$6,000
2. Salvaged Rails Install	6	Rail Section	\$150	\$900
3. Exhibit Panels	6	EA	\$2,000	\$12,000
4. Exhibit Pedestals	6	EA	\$1,000	\$6,000
5. Exhibit Shipping	6	EA	\$500	\$3,000
6. Landscape and Irrigation	1	LS	\$20,000	\$20,000
<b>Subtotal</b>				<b>\$47,900</b>
Contingency				\$12,100
<b>TOTAL</b>				<b>\$60,000</b>

1. Cost for saw-cutting and careful removal, then hauling from bridge to Local Government's stated location. In reference to meeting notes, 5-6 pieces of salvageable bridge rail, 13-14 ft. long will be required.
2. Cost for installation at Local Government's Exhibit area.
3. Cost for fabrication of porcelain enameled steel panels with color graphics
4. Cost for support structures for each panel.
5. Cost for shipping from Fabricator to Local Government stated city-limits location.
6. Cost for landscaping and irrigation associated with the Exhibit.
7. Cost for contingency in the event of circumstances beyond the control of the State and Local Government.

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ROWCSJ #: 0048-03-082; U#: 15707  
District #: 18-Dallas  
Code Chart 64 #: 44550  
Project: US 77  
Limits: From South of FM 66 to North  
of McMillan Street  
County: Ellis

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT FOR VOLUNTARY UTILITY RELOCATION  
CONTRIBUTIONS ON STATE HIGHWAY IMPROVEMENT PROJECTS**

**THIS AGREEMENT** is made by and between the State of Texas, acting through the Texas Department of Transportation ("State") and the City of Waxahachie ("Utility"),

**WITNESSETH**

**WHEREAS**, Transportation Code, Chapters 201, 221, and 361, authorize the State to lay out, construct, maintain, and operate a system of streets, roads and highways that comprise the State Highway System; and,

**WHEREAS**, Transportation Code, Chapter 203, Subchapter E, Transportation Code §203.092 authorizes the State to regulate the placement of public utility facilities along a state highway; and,

**WHEREAS**, Texas Transportation Commission Minute Order Number 115291 authorizes the State to undertake and complete a highway improvement generally described as the reconstruction and conversion of a 2-lane undivided roadway to a 4-lane one-way couplet on US 77 from South of FM 66 to North of McMillan Street in Ellis County ("Project"); and,

**WHEREAS**, Utility possesses facilities that are affected by the above mentioned highway improvement and Utility, and the State agrees that it is more economical or efficient for such relocation to be effected by including said agreement in the State's highway construction contract;

**NOW THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them kept and performed as hereafter set forth, the State and Utility do agree as follows:

**AGREEMENT**

**1. Time Period Covered**

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed, and the State and Utility will consider it to be in full force and effect until the Project described in this agreement has been completed and accepted by all parties or unless terminated, as provided.

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## 2. Project Funding and Work Responsibilities

- A. The State will authorize the performance of only those Project items of work which are eligible for relocation reimbursements or for which Utility has requested and has agreed to pay for as described in Attachment A - Payment Provision and Work Responsibilities, which is attached to and made a part of this **agreement**. In addition to identifying those items of work to be paid for by payments to the State, Attachment A - Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of Utility and will be carried out and completed by Utility, at no cost to the State. The Utility shall be responsible for costs that are shown on Attachment B, Estimated Utility Costs, which is attached to and made a part of this agreement.
- B. If the Utility will perform any work under this **agreement** for which reimbursement will be provided by or through the State, the Utility must complete training before a letter of authority is issued. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures and Qualification for the Texas Department of Transportation*. The Utility shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Utility or an employee of a firm that has been contracted by the Utility to perform oversight of the Project. The State in its discretion may deny reimbursement if the Utility has not designated a qualified individual to oversee the Project.
- C. Payment under this **agreement** beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this **agreement** shall be terminated immediately with no liability to either party.

## 3. Termination

- A. This agreement may be terminated in the following manner:
  - 1. By mutual written agreement and consent of both parties;
  - 2. By either party upon the failure of the other party to fulfill the obligations set forth in this agreement; or
  - 3. By the State if it determines that the performance of the Project or utility work is not in the best interest of the State.
- B. If the agreement is terminated in accordance with the above provisions, Utility will be responsible for the payment of Project costs incurred by the State on behalf of Utility up to the time of termination.

## 4. Right of Access

If Utility is the owner of any part of the Project site, Utility shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

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County: Ellis

## **5. Adjustments Outside the Project Site**

Utility will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

## **6. Responsibilities of the Parties and Indemnity**

Utility acknowledges that it is not an agent, servant, employee of the State, nor is it engaged in a joint enterprise, and it is responsible for its own acts and deeds and for those of its agents or employees during the performance of the work on the Project. To the extent permitted by law, Utility agrees to indemnify and hold harmless the State, its agents and employees, from all suits, actions, or claims and from all liability and damages for any and all injuries or damages sustained by any person or property in consequence with the performance of design, construction, maintenance, or operation of the Utility facility. Such indemnity includes but is not limited to any claims or amounts arising or recovered under the "Worker's Compensation Law", the Texas Tort Claims Act, Chapter 101, Texas Civil Practice and Remedies Code; or any other applicable laws or regulations, all as time to time may be amended.

## **7. Sole Agreement**

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between Utility and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

## **8. Successors and Assigns**

The State and Utility each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

## **9. Amendments**

By mutual written consent of the parties, the scope of work and payment provisions of this agreement may be amended prior to its expiration.

## **10. Inspection and Conduct of Work**

Unless otherwise specifically stated in Attachment A - Payment Provision and Work Responsibilities, to this **agreement**, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this **agreement**, all work will be performed in accordance with the Utility Accommodation Rules as set forth in 43 Texas Administrative Code §21.31 et. seq. adopted

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CSJ #: 0048-03-055  
ROWCSJ #: 0048-03-082; U#: 15707  
District #: 18-Dallas  
Code Chart 64 #: 44550  
Project: US 77  
Limits: From South of FM 66 to North  
of McMillan Street  
County: Ellis

by the State and incorporated in this agreement by reference, or special specifications approved by the State.

#### 11. Maintenance

Upon completion of the Project, Utility will assume responsibility for the maintenance of the completed Utility facility unless otherwise specified in Attachment A to this agreement.

#### 12. Notices

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following addresses:

Utility:	State:
City Manager City of Waxahachie 401 S. Rogers Waxahachie, Texas 75165	Director of Contract Services Texas Department of Transportation 125 E. 11 <sup>th</sup> Street Austin, Texas 78701

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided in this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

#### 13. State Auditor

The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this **agreement** or indirectly through a subcontract under this **agreement**. Acceptance of funds directly under this **agreement** or indirectly through a subcontract under this **agreement** acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

#### 14. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

#### 15. Access to Information

The Utility is required to make any information created or exchanged with the state pursuant to this **agreement**, and not otherwise excepted from disclosure under the Texas Public

(14)

CSJ #: 0048-03-055  
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of McMillan Street  
County: Ellis

Information Act, available in a format that is accessible by the public at no additional charge to the state.

Each party is signing this agreement on the date stated under that party's signature.

**THE UTILITY – CITY OF WAXAHACHIE**

By: \_\_\_\_\_  
Michael Scott  
City Manager  
City of Waxahachie

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

**THE STATE OF TEXAS**

By: \_\_\_\_\_  
Mohamed K. Bur, P.E.  
Dallas District Engineer  
Texas Department of Transportation

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

(14)

CSJ #: 0048-03-055  
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## **ATTACHMENT A**

### **PAYMENT PROVISION AND WORK RESPONSIBILITIES**

#### **1. Description of the Work Items**

The parties agree that the existing water mains, wastewater mains and associated appurtenances shall be relocated and adjustments shall be made along US 77 from South of FM 66 to North of McMillan Street in the City of Waxahachie. The water mains, wastewater mains and associated appurtenances facilities shall be owned, operated, and maintained by Utility from and after completion and final acceptance by the State and Utility. The estimated total construction cost for the relocated and adjusted facilities is \$1,429,802.10. The parties agree that it is their intent to complete the relocation improvements within this estimate of cost.

#### **2. Actual Cost Agreement**

Utility will be responsible for paying all costs associated with the planning, specification, and estimate (PS&E) development, and construction of the proposed utility work to the extent such is not reimbursed pursuant to state law. All the costs associated with construction of the water mains, wastewater mains and associated appurtenances items for the Project shall be provided as defined under the Standard Utility Agreement, Utility Joint Use Agreement, and/or the Agreement to Contribute Funds executed between the State and Utility.

#### **3. Schedule of Payments**

- A. At least forty-five (45) days prior to the date set for receipt of the construction bids, the Utility shall remit its remaining financial share for the State's estimated construction oversight and construction costs. Utility must advance to the State one hundred percent (100%) of its share of the estimated Project utility construction costs. The amount to be advanced for the utility improvements is estimated to be \$1,429,802.10. (See Attachment B – Estimated Utility Costs)
- B. In the event the State determines that additional funding is required by the Utility at any time during the Project, the State will notify the Utility in writing. The Utility is responsible for one hundred percent (100%) of the authorized project cost and any overruns. The Utility will make payment to the State within thirty (30) days from receipt of the State's written notification.
- C. Whenever funds are paid by the Utility to the State under this agreement, the Utility will remit a warrant made payable to the "Texas Department of Transportation." The warrant will be deposited by the State and managed by the State. Until the final Project accounting, funds may only be applied by the State to the Project.
- D. Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due by the Utility, the State, or the Federal Government will be promptly paid by the owing party.

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County: Ellis

#### 4. Work Responsibilities

##### A. The Utility shall provide the following services under this Agreement:

- i. Responsible for **providing funds to the State for the State to engage** the services of a Texas Registered Professional Engineer to prepare drawings and technical specifications for waterline relocations and adjustments along **US 77 from South of FM 66 to North of McMillan Street in the City of Waxahachie**.
- ii. Secure all necessary permitting as may be required for the installation of the water mains, wastewater mains and associated appurtenances.
- iii. Arrange and coordinate with the contractor, through the State, materials and equipment testing, rejection of all work not conforming to minimum requirements of the construction contract documents, maintenance of the proposed water mains, wastewater mains and associated appurtenances during construction, and the relocation of water mains, wastewater mains and associated appurtenances and connection of services to customers.
- iv. Advise the State of work that Utility determines should be corrected or rejected.
- v. Arrange, observe, and inspect all acceptance testing and notify the State of the results of these activities.
- vi. Provide inspection services for the construction, notify the State of defects and deficiencies in the work, and observe actions of the contractor to correct such defects and deficiencies.
- vii. Assume all responsibility for the maintenance of the existing water mains, wastewater mains and associated appurtenances during and upon completion of the construction contract.
- viii. Ensure all Texas Commission on Environmental Quality and all other regulatory rules, regulations and laws are strictly adhered to.
- ix. Prepare and submit both a certificate of substantial completion and a list of observed items requiring completion or correction for the relocations and adjustments to the Project Engineer for concurrence.
- x. Coordinate all construction activities performed by Utility's staff for the relocations and adjustments through the Project Engineer.

##### B. The State shall provide the following services under this agreement:

- i. **Responsible, as requested and funded by the Utility, for engaging the services of a Texas Registered Professional Engineer to prepare drawings and technical specifications for waterline and wastewater line relocations and adjustments along US 77 from South of FM 66 to North of McMillan Street in the City of Waxahachie, Ellis County.**
- ii. Combine the water mains, wastewater mains and associated appurtenances relocation and adjustments plans with the plans being prepared for the Project.

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County: Ellis

- iii. Review and approve the final construction plans prior to any construction-related activities. In order to ensure federal and/or state funding eligibility, projects must be authorized by the State prior to advertising for construction.
- iv. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project.
- v. Negotiate and administer all field changes and change orders required for the Project. All change orders increasing construction costs for Utility's Project shall be submitted to Utility for review and approval together with an evaluation. Utility agrees to review and either approve or disapprove all change orders within five (5) business days after receipt of such order unless **Utility's City Council** approval is necessary in which case Utility shall bring the item to **Utility's City Council** as soon as reasonably possible.
- vi. Provide overall project management to supervise the day-to-day activities of the construction and monitor the activities of the contractor to promote the timely and efficient completion of the Project in accordance with the approved Plans and Specifications and construction schedule.
- vii. Conduct field observations and coordinate with Utility's inspectors and the contractor to cure defects and deficiencies in the construction prior to final acceptance.
- viii. Make timely payment to the contractor for work performed in connection with the Project.
- ix. Ensure access and permit Utility's inspectors and other authorized representatives to inspect the waterline construction at all times.
- x. Conduct and coordinate final inspection of the Project in the presence of Utility's Engineer and Inspector, transmit final list of items to be completed or repaired and observe contractor correction of same.
- xi. Maintain job file.

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## ATTACHMENT B ESTIMATED UTILITY COSTS

Based on various calculations, following are those amounts due and payable for Utility's costs associated with this project:

Description	Amount
<b>Total Estimated Costs</b>	<b>\$2,622,089.00</b>
Less Betterment Amount Due from Utility = 7.63%	\$200,120.00
<b>Amount of Total Utility Relocation Costs</b>	<b>\$2,421,969.00</b>
Estimated Amount Eligible for Reimbursement - (calculated eligibility ratio = 57.69%)	\$1,397,233.92
<b>Amount of Utility Adjustment Due from Utility</b>	<b>\$1,024,735.08</b>
Mobilization = 10%	\$102,473.51
Contingency = 10%	\$102,473.51
<b>Amount of Utility Adjustment Due from Utility</b>	<b>\$1,229,682.10</b>
<b>Right of Way – Contribution of Funds to the State – N/A</b> (Participation – Estimated % of Estimated Amount Eligible for Reimbursement – n/a)	<b>\$0</b>
<b>Estimated Amount to be included in Construction Agreement :</b>	
A. Betterment	\$200,120.00
B. Utility Adjustment – (non-reimbursable items)	\$1,229,682
<b>GRAND TOTAL DUE TO STATE FROM UTILITY</b>	<b>\$1,429,802.10</b>
<b>Betterment Ratio Calculation – %</b> <b>Estimated Betterment Costs – %</b> <u>1.</u> <u>2.</u>  <b>Betterment Calculation:</b> Total Cost of Betterment (Estimated) Total Cost of Project (Estimated)  <b>Betterment Percentage for Final Cost determination:</b> N/A % of Final Cost of relocation  <i>Determination of Betterment: Comparison of estimated cost to            replace "as is" versus estimated costs associated with the betterment</i> Item A: N/A_ Item B: N/A_	

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**RESOLUTION NO.**

**A RESOLUTION DECLARING INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR THE PURPOSE OF THE ADVANCE FUNDING AGREEMENT WITH TEXAS DEPARTMENT OF TRANSPORTATION FOR VOLUNTARY UTILITY RELOCATION CONTRIBUTIONS ON STATE HIGHWAY IMPROVEMENT PROJECTS**

**WHEREAS**, the City of Waxahachie (the “City”) intends to issue debt to finance cost to be incurred for the engineering design services for the advance funding agreement with Texas Department of Transportation for voluntary utility relocation contributions on State highway improvement projects and related expenses prior to the issuance of such debt with the expectation that such expenditures are to be reimbursed with proceeds of such debt; and

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

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

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

**SECTION 1**

That the City reasonable expects to reimburse the Water and Wastewater Operating Funds with proceeds of debt hereafter to be issued by the City, and this resolution shall constitute a declaration of official intend under the Regulation.

**SECTION 2**

That the City Manager is authorized to take those steps reasonable and necessary to comply with the intent of this resolution including a loan from the Operating Fund in an amount not to exceed \$792,000 from the Water Operating Fund and \$638,000 from the Wastewater Operating Fund

**SECTION 3**

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

ADOPTED THIS 6<sup>th</sup> day of May, 2019.

\_\_\_\_\_  
MAYOR

ATTEST:

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

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## Memorandum

To: Honorable Mayor and City Council

From: Tommy Ludwig, Assistant City Manager

Thru: Michael Scott, City Manager

Date: May 6, 2019

Re: Bid Award – Mustang Creek Lift Station Improvements Project

---

On Monday May 6, 2019 a bid award associated with construction of the Lower Mustang Creek Lift Station Improvement Project will appear before the City Council in an amount of \$1,275,275. Schofield Civil Construction was the lowest responsive bidder of three proposers. This project is a planned expense in which \$2,000,000 was budgeted in Utilities FY 2018-19 Operations and Maintenance Budget collectively for both the Lower Mustang Creek Lift Station Improvement and the Grove Creek Lift Station Expansion Projects.

In January 2019 the Lower Mustang Creek and Grove Creek Lift Station Projects were bid together, with one project being a base bid and the second being an added alternate. Only one bid was received, by Gracon Construction, Inc., with a total bid in the amount of \$4,815,970. Due to the lack of participation and the bid far exceeding the total budget for the project the Gracon Construction, Inc. was rejected and the individual lift stations were bid as separate projects. This rebid resulted in the Schofield Civil Construction award recommendation, referenced above, for the Lower Mustang Creek Lift Station Improvements. This award will leave \$724,725 in Operation and Maintenance budget to go toward funding the Grove Creek Lift Station Expansion Project.

As a reminder, the Lower Mustang Creek Project includes the installation of

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three (3) new 185HP pump/motors capable of providing approximately 10.5 MGD firm pumping capacity and a new electrical control center. This project will help handle wastewater flows conveyed by the Cole Creek Gravity Trunk Line, currently under construction, from the expanded Grove Creek Lift Station Project. Collectively the Cole Creek, Lower Mustang Creek and Grove Creek sewer improvements will provide capacity for approximately an additional 7,900 homes in the City.

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

Tommy Ludwig

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50  
Years  
(1969 – 2019)

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

11910 Greenville Ave., Suite 600

Dallas, Texas 75243

Phone (214) 361-7900

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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 D. CHANEY, P.E., R.P.L.S.  
CRAIG M. KIRKHOFF, P.E.  
JUSTIN R. IVY, P.E.

April 8, 2019

**TRANSMITTED VIA EMAIL**

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

Re: Lower Mustang Creek Lift Station Improvements  
Recommendation for Council Award

Dear Mr. Gaertner:

We have checked the bids received at 10:30 a.m., Tuesday, March 26, 2019, for the Lower Mustang Creek Lift Station Improvements project. Three contractors submitted bids on this project, and we are enclosing one (1) copy of the Bid Summary and itemized Bid Tabulation for the City's reference and files.

Schofield Construction, LLC., of Dallas, Texas submitted the low bid in the amount of \$1,275,275.00. We have checked the references that Schofield Construction provided and found no irregularities on the Contractor from the references. We also reviewed the Contractor's statement of qualifications and equipment list provided with the bidding documents. It appears that Schofield Construction has successfully completed other construction type projects in the City of Flagstaff, AZ, Prescott, AZ, Town of Gilbert, AZ, Cottonwood, AZ, and the Lakeside Sanitation District in Arizona. The contractor's references provided overall positive feedback on the projects listed and completed.

Based on our review of the low bidder's references, statement of qualifications and performance record provided by the references, it is our opinion Schofield Construction, LLC., has the equipment and experience to properly pursue this project. We recommend the City accept the bid from Schofield Construction, LLC., and award them a contract in the total amount bid of \$1,275,275.00 for the construction of the Lower Mustang Creek Lift Station Improvements project.

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

Sincerely yours,



Andrew Mata Jr., P.E.

Enclosures

cc: Mr. Tommy Ludwig  
Mr. David Bailey

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**CITY OF WAXAHACHIE, TEXAS**  
**Lower Mustang Creek Lift Station Improvements**

**BID SUMMARY**

**Bids Received at 10:30 a.m., Tuesday, March 26, 2019**

<b><u>Contractor</u></b>	<b><u>Total Amount Bid</u></b>
1. Schofield Civil Construction, LLC 6510 Abrams Rd., Ste 640 Dallas, Texas 75231	<u>\$ 1,275,275.00</u>
2. Rey-Mar Construction 3416 Reed Street Fort Worth, Texas 76119	<u>\$ 1,307,300.00</u>
3. Dake Construction 2200 Smith Barry Road, Suite 150 Pantego, Texas 76013	<u>\$ 1,732,375.00</u>

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## Memorandum

To: Honorable Mayor and City Council  
From: Tommy Ludwig, Assistant City Manager  
Thru: Michael Scott, City Manager  
Date: May 6, 2019  
Re: Bid Award – Grove Creek Lift Station Expansion Project

---

On Monday, May 6, 2019 a bid award associated with construction of the Grove Creek Lift Station Expansion Project will appear before the City Council in the amount of \$2,011,700. Rey-Mar Construction was the lowest responsive bidder of three proposers. This project is a planned expense in which \$2,000,000 was budgeted in Utilities FY 2018-19 Operations and Maintenance Budget collectively for both the Lower Mustang Creek Lift Station Improvement and the Grove Creek Lift Station Expansion Projects.

Following the award of the Lower Mustang Creek Lift Station Improvement Project, there is \$725,724 remaining in the Operations and Maintenance Budget to partially fund the award of the Grove Creek Lift Station Expansion Project. Staff, upon consulting with the Finance Department, recommends funding the remainder of this project with Certificate of Obligation Bonds which will be sold later in the FY18-19 budget year in the amount of \$1,286,000. The Utilities Department will fund any expenses associated with this project from their budget until bonds are issued. As a result there is a companion resolution to this agenda item authorizing a reimbursement to the Wastewater Operating Fund from the proceeds of future debt. As a reminder, this project will upgrade the capacity of the Grove Creek Lift Station and will expand pumping capacity from 3.6 MGD to 7 MGD.

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

Tommy Ludwig

(17)

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Years  
(1969 – 2019)

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

April 8, 2019

**TRANSMITTED VIA EMAIL**

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

Re: Grove Creek Lift Station Expansion  
Recommendation for Council Award

Dear Mr. Gaertner:

We have checked the bids received at 10:00 a.m., Tuesday, March 26, 2019, for the Grove Creek Lift Station Expansion project. Three contractors submitted bids on this project, and we are enclosing one (1) copy of the Bid Summary and itemized Bid Tabulation for the City's reference and files.

Rey-Mar Construction of Fort Worth, Texas submitted the low bid in the amount of \$2,011,700.00. We have checked the references that Rey-Mar Construction provided and found no irregularities on the Contractor from the references. We also reviewed the Contractor's statement of qualifications and equipment list provided with the bidding documents. It appears that Rey-Mar Construction has successfully completed similar construction type projects in the City of Frisco, Northlake, Southlake, and Denton, TX. The contractor's references for municipal and private development provided overall positive feedback on the projects listed and completed.

Based on our review of the low bidder's references, statement of qualifications and performance record provided by the references, it is our opinion that Rey-Mar Construction has the equipment and experience to properly pursue this project. We recommend the City accept the bid from Rey-Mar Construction and award them a contract in the total amount bid of \$2,011,700.00 for the construction of the Grove Creek Lift Station Expansion project.

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

Sincerely yours,



Andrew Mata Jr., P.E.

Enclosures

cc: Mr. Tommy Ludwig  
Mr. David Bailey

(17)

**CITY OF WAXAHACHIE, TEXAS**  
**Grove Creek Lift Station Expansion**

**BID SUMMARY**

**Bids Received at 10:00 a.m., Tuesday, March 26, 2019**

<b><u>Contractor</u></b>	<b><u>Total Amount Bid</u></b>
1. Rey-Mar Construction 3416 Reed Street Fort Worth, Texas 76119	<u>\$ 2,011,700.00</u>
2. Fort Worth Civil Constructors, LLC PO Box 164513 Fort Worth, Texas 76161	<u>\$ 2,082,830.00</u>
3. Dake Construction 2200 Smith Barry Road, Suite 150 Pantego, Texas 76013	<u>\$ 3,452,470.00</u>

**RESOLUTION NO.****A RESOLUTION DECLARING INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT FOR THE CONSTRUCTION OF THE GROVE CREEK LIFT STATION EXPANSION**

**WHEREAS**, the City of Waxahachie (the "City") intends to issue debt to finance cost to be incurred for the construction of the Grove Creek Lift Station Expansion and related expenses prior to the issuance of such debt with the expectation that such expenditures are to be reimbursed with proceeds of such debt; and

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

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

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

**SECTION 1**

That the City reasonable expects to reimburse Wastewater Operating Fund with proceeds of debt hereafter to be issued by the City, and this resolution shall constitute a declaration of official intend under the Regulation.

**SECTION 2**

That the City Manager is authorized to take those steps reasonable and necessary to comply with the intent of this resolution including a loan from the Wastewater Operating Fund in an amount not to exceed \$1,286,000

**SECTION 3**

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

ADOPTED THIS 6<sup>th</sup> day of May, 2019.

\_\_\_\_\_  
MAYOR

ATTEST:

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



## Memorandum

To: Honorable Mayor and City Council  
From: Tommy Ludwig, Assistant City Manager  
Thru: Michael Scott, City Manager  
Date: May 3, 2019  
Re: Richmond Street Sewer Line Pipe Bursting Rehabilitation Project

---

On Monday May 6, 2019 a contract award with Insituform, through the BuyBoard cooperative pricing agreement, will appear before City Council for consideration for a sewer line rehabilitation at the 600 block of Richmond Street in the amount of \$120,480. Specifically this contract will utilize an interior pipe bursting process and replace approximately 800 linear feet of the existing 6" diameter pipe by pulling an 8" diameter pipe in its place with no joints at Richmond Street, from Williams Street east toward Farley Street. This section of line experiences a large amount of inflow and infiltration and sections of line have collapsed, which has resulted in this location becoming one of the most repetitive sanitary sewer overflow sights in the City. These repairs will address the section of line in need of replacement and assist with reducing the total number of sanitary sewer overflows in heavy rain events.

To date, staff has expended the total line maintenance budget for the FY18-19 budget year, and the award of this contract will require the approval of a supplemental appropriation in the full amount of the contract award. As a result, there is a companion item to this agenda item authorizing a supplemental appropriation to the Wastewater Fund (Department 770). As the pricing provided by the contractor is in line with recent rehabilitation projects of a similar size and the need to quickly make these repairs, staff is recommending awarding this contract through the BuyBoard cooperative pricing agreement rather than formally opening this project to the competitive bidding process.

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

Tommy Ludwig



## Memorandum

To: Honorable Mayor and City Council

From: Tommy Ludwig, Assistant City Manager

Thru: Michael Scott, City Manager

Date: May 3, 2019

Re: Professional Services for the Rock Branch Creek Floodplain Study

---

On Monday May 6, 2019 a professional services contract with Kimley-Horn and Associates, Inc. for a hydrologic and hydraulic floodplain study of the Rock Branch Creek will appear before City Council for consideration in the amount of \$34,500.00. Specifically this contract will establish the location of the floodplain from the railroad tracks north of Gardner Street to the Waxahachie Creek. This project will be funded through savings in the City Engineer's budget. These savings were realized as a result of staff performing the digitization of files for the GIS database internally, rather than hiring a third party consultant to perform the work as originally planned in the budget.

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

Tommy Ludwig



## Memorandum

To: Honorable Mayor and City Council  
From: Albert Lawrence, Assistant City Manager *AL*  
Thru: Michael Scott, City Manager *MS*  
Date: May 2, 2019  
Re: Consider Amending Appendix C by Repealing Section 4.4e and Replacing with a New Section 4.4e Applicable to the Use of Park Dedication Fees.

---

**Item Description:** Consider amending Section 4.4e of the Subdivision Ordinance to remove the requirement of utilizing park dedication fees within one mile of the subdivision that dedicated the fees, as well as, the requirement to use those fees within ten years of collection.

**Item Summary:** In order to meet park land dedication requirements of the Subdivision Ordinance, a subdivider responsible for land dedication may meet this requirement in whole or in part by a cash payment in lieu of land, at the City Council's approval. Currently, Section 4.4e restricts the use of these funds for park land and park development within one mile of the subdivision from which the fees were collected. Often times it is not practical to use the funds within the one mile restricted area. Therefore, the proposed amendment removes this one mile restriction to allow the funds to be used for the purchase of park land and park improvements throughout the City. Removing the one mile restriction, will also be useful for developing and making improvements to parks that are typically used by the entire community and/or City Council priority park projects.

The proposed amendment also removes the current restriction of using the park dedication fees within ten years of collection. Based on the amount of fees and timing of collection, it is not unreasonable for the time to collect sufficient funds that will provide a substantial impact on the purchase, development or improvement of park land to exceed ten years.

The City Attorney has reviewed and approved the proposed changes to the Subdivision Ordinance.

**Fiscal Impact:** The proposed amendment would not change the current park dedication fees rate or influence the amount of fees collected, but will offer more flexibility in the use of these funds.

#### Section 4.4: - Park Land and Public Facility Dedication.

a. *Purpose.* The City Council of the City of Waxahachie hereby finds as follows:

1. Recreational areas, in the form of neighborhood parks, are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and developing property as a residential subdivision in the City of Waxahachie, whether such development consists of new construction on previously vacant land or rebuilding and redeveloping existing residential areas.
2. Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby, the standards for which are set forth in the Waxahachie Parks, Recreation and Open Space Master Plan.
3. The cost of neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities.

b. *Authority.*

1. This section is enacted in accordance with the Home Rule powers of the City of Waxahachie, granted under the Texas Constitution and statutes of the State of Texas.
2. Any provision for parks and public open space areas shall be indicated on the preliminary and final plat, and shall be subject to approval by the City's Park Board, Planning and Zoning Commission and City Council.
3. The purpose of this section is to provide for neighborhood parks as a condition of subdivision development in the City of Waxahachie.

c. *Park Land Dedication.*

1. Prior to a plat being filed with the County Clerk of Ellis County, Texas for a development of a residential area within the City of Waxahachie, such plat shall contain a clear fee simple dedication at a pro rata rate of two acres of land for each 100 proposed dwelling units. As used in this section, a "dwelling unit" means each individual residence, including individual residences in a multi-family structure, designed and/or intended for inhabitation by a single family. In the event platting is not required, the requirements of this Ordinance must be met at the time of the site plan approved.
2. Any proposed plat submitted to the City of Waxahachie for approval shall show the area proposed to be dedicated under this section.
3. The City Council shall determine the suitability of land proposed to be dedicated as a neighborhood park, upon the recommendation of the Parks Board, and taking into consideration the following factors:
  - (A) Unsuitability of the land for park purposes, including the following:
    - (i) Any area primarily located in the 100-year flood plain.
    - (ii) Any areas of unusual topography or slope which renders same unusable for organized recreational activities.
    - (iii) Drainage areas may be accepted as part of a park if the channel is to remain predominantly in its natural state or constructed in accordance with City engineering standards, if no significant area of the park is cut off from access by such channel, if not less than five (5) acres of the site is above the one-hundred-year flood plain, or if the dedication is in excess of ten (10) acres, not more than fifty (50) percent of the site should be included in the one-hundred-year flood plain.

- (B) Size of park. For purpose of this section an area of land less than five (5) acres presumptively is impractical for neighborhood park purposes.
  - (C) Access. Each park shall have pedestrian and vehicular access from one or more public streets. Street frontage shall be required to assure public access to park land.
  - (D) Proximity of existing park land. Land dedication may be unsuitable if there are sufficient parks already in the public domain for the area of the proposed development, or if the recreation potential for that area would be better served by expanding or existing neighborhood parks.
  - (E) Drainage. The park land shall have adequate drainage, as determined by the City Public Works Director, who shall review all construction plans for any detention or retention proposed to be built on the land to be dedicated.
  - (F) Trash removal. The subdivider shall remove all trash, effuse and waste materials from the dedicated park land prior to acceptance by the City.
4. If the City Council determines that land proposed for neighborhood park dedication is unsuitable in whole or part, it may require payment of park fees in lieu of land dedication, as set forth in subsection d., require a combination of land dedication and payment of fees, or condition plat approval on a different configuration of park land within the proposed development.
- d. *Cash in lieu of land.*
- 1. A subdivider responsible for land dedication under this Ordinance shall be required, at the City Council's option, to meet the dedication requirements in whole or in part by a cash payment in lieu of land. The cash payment in lieu of land dedication shall be met by the payment of a fee set from time to time by ordinance of the City Council sufficient to acquire neighborhood park land. Unless and until changed by the City Council such fee shall be \$400.00 per dwelling, and on non-residential property, \$600.00 per acre of land in the dedication, with a \$600.00 minimum on non-residential property for property under one acre.
  - 2. Such payment in lieu of land shall be made prior to final plat approval.
  - 3. The City of Waxahachie may from time to time decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land in a park service area, subsequent park land dedications for that zone shall be in cash only, the calculation of which is set forth above. Such cash payment is in addition to the payment of the required park development fee.
- e. *Special Fund, ~~Right to Refund.~~*
- 1. All fees in lieu of dedication collected under this section shall be deposited in the City of Waxahachie's Neighborhood Park Land Fund and used solely for the purchase, lease or other acquisition of ~~neighborhood~~ park land, site preparation, installation of infrastructure and other park improvements and installation of utilities. All expenditures from the said Fund shall be authorized by the City Council. ~~Funds must be spent within one mile of the subdivision from which the fees are collected. In the event the City subsequently designates neighborhood park benefit areas, existing funds may be reasonably allocated among such service areas proportional to the benefits received and thereafter shall be earmarked for expenditure within such benefit areas.~~
  - 2. The City of Waxahachie shall account for all fees paid into the Neighborhood Park Land Fund. ~~Any monies paid into the Fund must be expended by the City of Waxahachie within ten (10) years from the date collected by the City. Such funds shall be considered to be spent on a first in, first out basis in a particular park service area. If not so expended within the ten-year period, the owners of the property will, on the last day of such period, be entitled to a refund of the remaining fees. The current owners of the property within the subdivision must request such a refund within one year of entitlement, in writing, or such right is waived.~~
- f. *Exemptions.*

(22)

1. This section shall not apply to a final plat that has been recorded prior to the effective date hereof.
2. If a replat is filed that increases the number of dwelling units from the previous plat, the park dedication requirement shall apply to the additional dwelling units.

(Ord. No. 2350, 12-5-05; Ord. No. 2445, 1-7-08)

(83)

**AN ORDINANCE OF THE CITY OF WAXAHACHIE**

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF WAXAHACHIE, TEXAS, AMENDING APPENDIX C, "SUBDIVISIONS", BY REPEALING SECTION 4.4.E, "SPECIAL FUND, RIGHT TO REFUND" BY REPLACING WITH A NEW SECTION 4.4E, "SPECIAL FUND" APPLICABLE TO THE USE OF PARK DEDICATION FEES; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Waxahachie, Texas is a Home-Rule Municipality located in Ellis County created in accordance with provisions of the Texas Local Government Code and operating pursuant to the legislation of the State of Texas ("City"); and

**WHEREAS**, the of the City of Waxahachie City Council ("City Council") has determined the availability of parks and open space is crucial to maintaining the City's high quality of life; and

**WHEREAS**, the City Council has determined the regulations concerning the use of park dedication fees should be amended to reflect the desire to utilize the funds for purchase of park land and park improvements throughout Waxahachie; and

**WHEREAS**, the City Council has considered the provisions contained herein, and determined that the amendments hereinafter set out will serve the public purpose and fit public needs in making reasonable requirements for parks and open space; and

**WHEREAS**, the City Council has considered the provisions contained herein, and determined that the amendments hereinafter set out will serve the public purpose and fit public needs in making reasonable requirements for parks and open space; and

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

**SECTION 1.** That Appendix C "Subdivisions", be amended by repealing Section 4.4.e "Special Fund, Right to Refund" in its entirety and replacing by a new Section 4.4.e "Special Fund" which reads as follows:

**"APPENDIX C - SUBDIVISIONS**

.....

**IV. PUBLIC SITES AND OPEN SPACES**

.....

**Section 4.4: Park Land and Public Facility Dedication.**

(23)

.....

*e. Special Fund.*

1. All fees in lieu of dedication collected under this section shall be deposited in the City of Waxahachie's Park Land Fund and used solely for the purchase, lease, or other acquisition of park land; site preparation; installation of infrastructure; and other park improvements. All expenditures from the said Fund shall be authorized by the City Council.
2. The City of Waxahachie shall account for all fees paid into the Park Land Fund.

....."

**SECTION 2.** That all provisions of the Ordinances of the City of Waxahachie, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.** That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

**SECTION 4.** That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED** by the City Council of the City of Waxahachie, Texas, this the 6<sup>th</sup> day of May, 2019.

CITY OF WAXAHACHIE, TEXAS

\_\_\_\_\_  
KEVIN STRENGTH, MAYOR

ATTEST:

\_\_\_\_\_  
LORI CARTWRIGHT, CITY SECRETARY

APPROVED AS TO FORM

\_\_\_\_\_  
ROBERT F. BROWN, CITY ATTORNEY