

A G E N D A

A regular meeting of the Mayor and City Council of the City of Waxahachie to be held at the Waxahachie Civic Center, 2000 Civic Center Lane, Meeting Rooms A and B, Waxahachie, Texas, on ***Monday, December 4, 2023 at 7:00 p.m.***

Council Members: David Hill, Mayor, Council Member Place 1
Chris Wright, Mayor Pro Tem, Council Member Place 3
Patrick Souter, Council Member Place 2
Billie Wallace, Council Member Place 4
Travis Smith, Council Member Place 5

1. Call to Order
2. Invocation
3. Pledge of Allegiance and Texas Pledge of Allegiance
4. ***Public Comments:*** Persons may address the City Council on any issues. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meetings Act, the Council may not comment or deliberate such statements during this period, except as authorized by Section 551.042, Texas Government Code. ***Speakers must observe the five (5) minute time limit.***

5. ***Consent Agenda***

All matters listed under Item 5, Consent Agenda, are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. Approval of the Consent Agenda authorizes the Mayor/City Manager to execute all matters necessary to implement each item. Any item may be removed from the Consent Agenda for separate discussion and consideration by any member of the City Council.

- a. Minutes of the City Council meeting of November 20, 2023
- b. Ratify the City Manager's execution of Affidavits opting out of the PFAS class actions relative to 3M and DuPont

6. ***Introduce*** Honorary Council Member
7. ***Present*** Proclamation recognizing November 26, 2023 as "Waxahachie Rebekah Lodge No. 381 Day"
8. ***Public Hearing*** on a request by Jared Ruffin, Ruffin Holdings LLC for a Zoning Change from a General Retail (GR) zoning district to Planned Development-General Retail (PD-GR) zoning district, located at 115 Dean Box Drive (Property ID 291054) - Owner: Ruffin Holdings LLC (ZDC-31-2023)
9. ***Consider*** proposed Ordinance approving ZDC-31-2023
10. ***Consider*** Development Agreement for ZDC-31-2023

11. **Consider** a request by a majority of the qualified voters of approximately 263.60 acres annexed by the City in 2005 to disannex the property from the City pursuant to Texas Local Government Code Section 43.141 (ANX-DNX-76-2023)
12. **Consider** proposed ordinance for a disannexation request for approximately 9.952 acres, located at 611 Wilson Road, pursuant to Texas Local Government Code Section 43.141. (ANX-DNX-154-2023)
13. **Consider** proposed Ordinance for a disannexation request for approximately 45.096 acres, generally located East of East Haven Road and South of Hunter Pass (Property ID: 180774, 183003, 257627) – Owner: GRBK Edgewood LLC (ANX-DNX-184-2023)
14. **Consider** approving a contract for ambulance services with Allegiance Mobile Health and related supplemental appropriation
15. **Consider** proposed Ordinance amending Chapter 4 ½ “Ambulances and Emergency Medical Service” of the City of Waxahachie Code of Ordinances
16. **Consider** award of a construction contract to J & L Construction, LLC. for the 2021 Water and Sanitary Sewer Replacement Project
17. **Consider** proposed Paving Plan for the Waxahachie 287 Retail development, located directly south of 131 Village Parkway
18. **Consider** proposed Resolution authorizing an Advance Funding Agreement with the Texas Department of Transportation
19. Comments by Mayor, City Council, City Attorney and City Manager
20. Adjourn

The City Council reserves the right to go into Executive Session as authorized by Section 551.071(2) of the Texas Government Code, for the purpose of seeking confidential legal advice from legal counsel on any agenda item listed herein. 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 469-309-4006 or (TDD) 1-800-RELAY TX

A regular meeting of the Mayor and City Council of the City of Waxahachie was held at the Waxahachie Civic Center, 2000 Civic Center Lane, Meeting Rooms A and B, Waxahachie, Texas, on Monday, November 20, 2023 at 7:00 p.m.

Council Members Present: David Hill, Mayor, Council Member Place 1
Chris Wright, Mayor Pro Tem, Council Member Place 3
Patrick Souter, Council Member Place 2
Billie Wallace, Council Member Place 4
Travis Smith, Council Member Place 5

Others Present: Michael Scott, City Manager
Albert Lawrence, Deputy City Manager
Robert Brown, City Attorney
Jami Bonner, Assistant City Secretary

1. Call to Order

Mayor David Hill called the meeting to order.

2. Invocation

3. Pledge of Allegiance and Texas Pledge of Allegiance

Reverend Dr. Fred Thrower, Central Presbyterian Church, gave the invocation. Mayor Hill led the Pledge of Allegiance and the Texas Pledge of Allegiance.

4. Public Comments

David Bible, 305 W. University, Waxahachie, Texas, expressed gratitude to the City Council and Parks and Recreation Department for providing pickle ball courts for the community.

5. Consent Agenda

- a. Minutes of the City Council meeting of November 6, 2023
- b. Minutes of the Waxahachie City Council, Midlothian City Council, and Mid-Way Airport Board Joint Work Session of November 8, 2023
- c. Consider proposed Ordinance approving a request by Go Hard Properties LLC for a Petition for ETJ Release for approximately 1.47 acres, located at 1201 Lone Elm Road (Property ID 194920) – Owner: Go Hard Properties LLC (ETJ-PTN-164-2023)
- d. Consider proposed Ordinance approving a request by Jose Herrera for a Petition for ETJ Release for approximately 11.14 acres, located at 279 Mustang Road (Property ID 275564) – Owner: Jose Herrera (ETJ-PTN-165-2023)
- e. Consider proposed Ordinance approving a request by Boomerang Waxahachie LLC for a Petition for ETJ Release for approximately 191.776 acres, located at 2750 FM 878 (Property ID: 179007 and 280264) – Owner: Boomerang Waxahachie LLC (ETJ-PTN-166-2023)
- f. Consider proposed Ordinance approving a request by Turnerville Holdings LLC, for a Petition for ETJ Release for approximately 10.249 acres, located directly east

(5a)

- of 1500 FM 387 (Property ID 289944) – Owner: Turnerville Holdings LLC (ETJ-PTN-167-2023)
- g. Consider proposed Ordinance approving a request by Nathan & Katherine Wilson for a Petition for ETJ Release for approximately 1.970 acres, located at 537 Youngblood Road (Property ID 208949) – Owners: Nathan & Katherine Wilson (ETJ-PTN-168-2023)
 - h. Consider proposed Ordinance approving a request by Jesus & Johanna Sigala for a Petition for ETJ Release for approximately 5.39 acres located at 411 FM 879, situated in the Extra Territorial Jurisdiction of the City of Waxahachie (Property ID 283721 & 283722) – Owner: Jesus H. Sigala-Mendoza & Johanna H. Sigala (ETJ-PTN-172-2023)
 - i. Consider proposed Ordinance approving a request by GRBK Edgewood LLC for a Petition for ETJ Release for approximately 3.004 acres, located at 1041, 1231, and 1415 Gibson Road (Property ID: 215706, 219099, and 219182) – Owner: GRBK Edgewood LLC (ETJ-PTN-177-2023)
 - j. Receive and accept the FY 2022-2023 Impact Fee Revenue and Expenditure Activity Report
 - k. Bid award for the Synthetic Turf Improvements Project Phase IV at the Sports Complex in the amount of \$647,743
 - l. Approve contract with A.C.E.S. Art LLC for downtown mural program and authorize funding from the Waxahachie Community Development Corporation (WCDC) unrestricted reserves up to \$100,000
 - m. Set City Council meeting dates of January 2, 2024 and January 22, 2024

ORDINANCE NO. 3423

AN ORDINANCE AUTHORIZING THE RELEASE FROM THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION OF AN APPROXIMATELY 1.47 ACRE TRACT OF LAND, LOCATED AT 1201 LONE ELM ROAD, KNOWN AS PROPERTY ID 194920, AND ORDERING THE CHANGING OF THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION BOUNDARY MAP IN ACCORDANCE WITH SAID CHANGE.

ORDINANCE NO. 3424

AN ORDINANCE AUTHORIZING THE RELEASE FROM THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION OF A 11.14 ACRE TRACT OF LAND, LOCATED AT 279 MUSTANG ROAD, KNOWN AS PROPERTY ID 275564, AND ORDERING THE CHANGING OF THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION BOUNDARY MAP IN ACCORDANCE WITH SAID CHANGE.

(5a)

ORDINANCE NO. 3425

AN ORDINANCE AUTHORIZING THE RELEASE FROM THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION OF A 191.776 ACRE TRACT OF LAND, LOCATED AT 2750 FM 878, KNOWN AS PROPERTY ID 179007 and 280264, AND ORDERING THE CHANGING OF THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION BOUNDARY MAP IN ACCORDANCE WITH SAID CHANGE.

ORDINANCE NO. 3426

AN ORDINANCE AUTHORIZING THE RELEASE FROM THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION OF A 10.249 ACRE TRACT OF LAND, LOCATED DIRECTLY EAST OF 1500 FM 387, KNOWN AS PROPERTY ID 289944, AND ORDERING THE CHANGING OF THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION BOUNDARY MAP IN ACCORDANCE WITH SAID CHANGE.

ORDINANCE NO. 3427

AN ORDINANCE AUTHORIZING THE RELEASE FROM THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION OF A 1.970ACRE TRACT OF LAND, LOCATED AT 537 YOUNGBLOOD ROAD, KNOWN AS PROPERTY ID 208949, AND ORDERING THE CHANGING OF THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION BOUNDARY MAP IN ACCORDANCE WITH SAID CHANGE.

ORDINANCE NO. 3428

AN ORDINANCE AUTHORIZING THE RELEASE FROM THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION OF A 5.39 ACRE TRACT OF LAND, LOCATED AT 411 FM 879, KNOWN AS PROPERTY ID 283721 & 283722, AND ORDERING THE CHANGING OF THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION BOUNDARY MAP IN ACCORDANCE WITH SAID CHANGE.

ORDINANCE NO. 3429

AN ORDINANCE AUTHORIZING THE RELEASE FROM THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION OF 3.004 ACRES OF LAND, LOCATED AT 1041, 1231, AND 1415 GIBSON ROAD, KNOWN AS PROPERTY ID 215706, 219099, AND 219182, AND ORDERING THE CHANGING OF THE CITY OF WAXAHACHIE'S EXTRATERRITORIAL JURISDICTION BOUNDARY MAP IN ACCORDANCE WITH SAID CHANGE.

(5a)

Action:

Billie Wallace moved to approve items a. through k. and item m. on the Consent Agenda as presented and authorize the City Manager and/or Mayor to execute all associated documents as necessary. Motion was seconded by Chris Wright and carried unanimously (5-0).

Action:

Chris Wright moved to approve a contract with A.C.E.S. Art LLC for downtown mural program and authorize funding from the Waxahachie Community Development Corporation (WCDC) unrestricted reserves up to \$100,000 with final approval to be considered by City Council. Motion was seconded by Patrick Souter and carried unanimously (5-0).

6. Present Proclamation recognizing November 15, 2023 as “GIS Day”

Mayor Hill presented a Proclamation recognizing November 15, 2023 as “GIS Day.”

7. Present Proclamation recognizing the Salvation Army's 15th Annual Mayoral Challenge from early November-December 24th

Mayor Hill presented a Proclamation recognizing the Salvation Army's 15th Annual Mayoral Challenge from early November-December 24th.

8. Public Hearing on a request by Maxwell Fisher, ZoneDev, for an Amendment to Ordinance 2281 to allow for revised development standards and a detailed site plan within an approved Planned Development located southwest of the intersection of FM 878 and FM 879 (Property ID: 290675) – Owner: ASD Waxi Fee Owner LLC (ZDC-69-2023)

Mayor Hill announced the applicant requested to continue the public hearing for ZDC-69-2023 indefinitely.

Action:

Chris Wright moved to continue the Public Hearing on a request by Maxwell Fisher, ZoneDev, for an Amendment to Ordinance 2281 to allow for revised development standards and a detailed site plan within an approved Planned Development located southwest of the intersection of FM 878 and FM 879 (Property ID: 290675) indefinitely. Motion was seconded by Billie Wallace and carried unanimously (5-0).

9. Consider proposed Ordinance approving ZDC-69-2023

No action taken.

10. Public Hearing on a request by Katy Dockery, HKS Inc., for a Site Plan for the Baylor Scott & White Hospital Tower Expansion II, located at 2400 N Interstate 35E (Property ID: 180334) – Owner: Baylor Health Care System (SP-141-2023)

The item was presented by Senior Planning Director Jennifer Pruitt.

Mayor Hill opened the Public Hearing at approximately 7:37.

(5a)

There being no others to speak for or against SP-141-2023, Mayor Hill closed the Public Hearing at approximately 7:37 p.m.

11. Consider approval of SP-141-2023

Action:

Patrick Souter moved to approve SP-141-2023, a Site Plan for Baylor Scott & White Hospital Tower Expansion II, subject to the conditions of the staff report and authorize the Mayor and/or City Manager to execute all necessary documents. Motion was seconded by Travis Smith and carried unanimously (5-0).

12. Consider Development Agreement for SP-141-2023

Action:

Billie Wallace moved to approve the Development Agreement for SP-141-2023. Motion was seconded by Travis Smith and carried unanimously (5-0).

13. Consider the award of a construction contract to Mann Robinson & Son, Inc. for the South Prong Dam Miscellaneous Repairs Project

The item was presented by Senior Director of Utilities Kumar Gali.

Action:

Billie Wallace moved to award a construction contract with Mann Robinson & Son, Inc. for \$325,662.50 and additional construction contingency in the amount of \$17,000 for the South Prong Dam Miscellaneous Repairs Project and authorize the City Manager to execute all necessary documents. Motion was seconded by Chris Wright and carried unanimously (5-0).

14. Consider proposed Ordinance amending Chapter 4 - Alcoholic Beverages of the Waxahachie Code of Ordinances

The item was presented by Executive Director of Parks and Leisure Services Gumaro Martinez.

ORDINANCE NO. 3430

AN ORDINANCE AMENDING CHAPTER 4 – ALCOHOLIC BEVERAGES TO THE CODE OF ORDINANCES OF THE CITY OF WAXAHACHIE, AMENDING SUBSECTION 4.2 – CONSUMPTION ON STREETS, SIDEWALKS TO REMOVE REFERENCE TO THE HISTORIC OVERLAY AND REPEAL LANGUAGE RESTRICTING ALCOHOL CONSUMPTION TO SPECIFIC HOURS; AMENDING SUBSECTION 4.6 – POSSESSION OR CONSUMPTION IN CITY PARKS TO ALLOW FOR POSSESSION OR CONSUMPTION UPON APPROVAL OF AUTHORIZED FESTIVAL OR EVENT; AMENDING SUBSECTION 4.7 – ALCOHOL AT APPROVED FESTIVALS AND EVENTS TO REMOVE RESTRICTIONS FOR RESIDENTIALLY ZONED AREAS, PROVIDING CLARIFICATION ON DEFINING BOUNDARIES FOR ALCOHOL SALE AND CONSUMPTION DURING FESTIVALS AND EVENTS, REMOVING CONTROLLED ACCESS REQUIREMENTS, PROVIDING FURTHER REGULATORY MEASURES; AND SETTING AN EFFECTIVE DATE.

(5a)

Action:

Chris Wright moved to approve the textual amendments to the City of Waxahachie Code of Ordinances, Chapter 4 – Alcoholic Beverages as presented and authorize the Mayor and/or City Manager to execute all documents as necessary. Motion was seconded by Patrick Souter and was approved and carried 3-0 with Billie Wallace and Travis Smith abstaining.

15. Consider proposed Resolution of votes cast to elect Directors for the Ellis Appraisal District for the years 2024-2025

The item was presented by City Manager Michael Scott.

RESOLUTION 1355

RESOLUTION OF VOTES CAST TO ELECT DIRECTORS FOR THE ELLIS APPRAISAL DISTRICT FOR THE YEARS 2024-2025

Action:

Billie Wallace moved to approve a Resolution of votes cast to elect Directors for the Ellis County Appraisal District for the years 2024-2025. Motion was seconded by Patrick Souter and carried unanimously (5-0).

16. Convene into Executive Session for:

- a. **Consultation with City Attorney regarding pending or contemplated litigation as permitted under Section 551.071, Texas Government Code**
- b. **Deliberation regarding Economic Development Negotiations as permitted by the Texas Government Code, Section 551.087**

Mayor Hill announced at 7:59 p.m. the City Council would convene into Executive Session for:

- a. Consultation with City Attorney regarding pending or contemplated litigation as permitted under Section 551.071, Texas Government Code
- b. Deliberation regarding Economic Development Negotiations as permitted by the Texas Government Code, Section 551.087

17. Reconvene and take any necessary action

The meeting reconvened at 8:38 p.m.

Action:

Billie Wallace moved to approve a settlement in cause # 104615 in the 40th District Court of Ellis County, Texas pursuant to the terms and conditions in option two (2) discussed in executive session and authorize the City Manager to execute all documents necessary to give effect to the settlement. Motion was seconded by Travis Smith and carried unanimously (5-0).

Action:

Patrick Souter moved to approve a Memorandum of Understanding as presented for economic development negotiations related to property located at 1601 W. US HWY 287, Waxahachie, TX and authorize the City Manager to execute all documents as necessary. Motion was seconded by Travis Smith and carried unanimously (5-0).

(5a)

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November 20, 2023
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18. Comments by Mayor, City Council, City Attorney and City Manager

Mayor Pro Tem Chris Wright thanked Mr. Bible for utilizing the pickle ball courts and recognized the need for additional courts. Mr. Wright announced the birth of his granddaughter, Margaret Mary.

Mayor Hill wished everyone a Happy Thanksgiving and expressed appreciation to the Waxahachie Police Department and Waxahachie Fire Department.

19. Adjourn

There being no further business, the meeting adjourned at 8:40 p.m.

Respectfully submitted,
Jami Bonner, Assistant City Secretary

(5b)



Memorandum

To: Honorable Mayor and City Council

From: Terrence S. Welch, City Attorney's Office

Thru: Michael Scott, City Manager

Date: December 4, 2023

Re: Consider Ratifying City Manager's Execution of Documentation Related to PFAS National Class Action Litigation

Item Description: Consider Ratifying the City Manager's Execution of Documentation Related to PFAS National Class Action Litigation.

Item Summary: The City was recently made aware of two national class action lawsuits, currently pending in federal district court in South Carolina, regarding chemicals [specifically, Per- and Polyfluoroalkyl Substances (PFAS)] previously utilized in water treatment processes around the nation. The two chemical providers involved in the litigation are DuPont and 3M. Since there is a potential settlement of the litigation, national water suppliers as well as customers of water suppliers, were to provide documentation to the federal district court relative to each supplier's participation in the litigation by early December. Due to the short court-imposed deadlines, it was necessary for the City Manager to respond on November 30, 2023. The purpose of this item is to ratify the City Manager's execution of documentation to the federal district court.

(1)

PROCLAMATION

WHEREAS, November 26, 2023, marked the one hundred and tenth anniversary of the Waxahachie Rebekah Lodge No. 381; and

WHEREAS, the Lodge has faithfully and fraternally served the community of Waxahachie, as most of its members reside locally and take pride in participating in area activities and projects; and

WHEREAS, the Lodge provides a scholarship every year to a graduating high school student to further their education, and is an avid supporter of other nonprofit organizations in Ellis County; and

WHEREAS, the Waxahachie Rebekah Lodge remains an active and growing group constituting the largest Rebekah Lodge in the great State of Texas providing fraternity and support to its members; and

WHEREAS, the Lodge has shown by its actions and good works for the past 110 years that it is a significant asset to the community, providing leadership and funding projects that have benefited the area and its citizens through its principles of friendship, love, and truth.

NOW, THEREFORE, be it resolved that I, David Hill, Mayor of the City of Waxahachie, along with the entire City Council, do hereby proclaim November 26, 2023 as

“WAXAHACHIE REBEKAH LODGE NO. 381 DAY”

in Waxahachie, Texas, and urge all citizens to join in celebrating this anniversary and encourage giving back to the community in observance of this historic event in honor of those women who have served in the Rebekah Lodge over the last 110 years.

Dated this 4th day of December 2023.

Mayor

ATTEST:

City Secretary

Planning & Zoning Department

Zoning Staff Report

Case: ZDC-31-2023



MEETING DATE(S)

Planning & Zoning Commission:
City Council:

November 29, 2023
December 4, 2023

CAPTION

Public Hearing on a request by Jared Ruffin, Ruffin Holdings LLC for a **Zoning Change** from a General Retail (GR) zoning district to **Planned Development-General Retail (PD-GR)** zoning district, located at 115 Dean Box Drive (Property ID 291054) - Owner: Ruffin Holdings LLC (ZDC-31-2023)

RECOMMENDED MOTION

"I move to approve ZDC-31-2023, a Zoning Change from a General Retail zoning district to a Planned Development-General Retail zoning district, Lot 1, Block A, subject to the conditions the staff report."

ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting held on November 29, 2023, the Commission voted 6-0 to recommend approval of case number ZDC-31-2023, subject to the conditions of the staff report.

APPLICANT REQUEST

The applicant requests to rezone the subject property to a Planned Development-General Retail zoning district to allow for an off-site dry-cleaning establishment with a drive-through lane.

CASE INFORMATION

Applicant: Jared Ruffin, Ruffin Holdings LLC

Property Owner(s): Ruffin Holdings LLC

Site Acreage: 0.374 acres

Current Zoning: General Retail (GR)

Requested Zoning: Planned Development-General Retail (PD-GR)

SUBJECT PROPERTY

General Location: 115 Dean Box Drive

Parcel ID Number(s): 291054

Existing Use: The subject property is currently undeveloped.

Development History: The subject property was originally platted as part of Lot 1 of the Wiley's Retail addition in 2006. The property was subsequently replatted in 2018 as part of Lot 1R-A of the Wiley's Retail addition. The subject property was replatted into its current configuration in 2021 as Lot 1R-A1 of the Wiley's Retail addition.

Adjoining Zoning & Uses:

| Direction | Zoning | Current Use |
|-----------|--|--------------------------------|
| North | Planned Development-Mixed Use Residential (PD-MUR) | Undeveloped |
| East | General Retail (GR) | Social Security Administration |
| South | General Retail (GR) | Wiley's Fine Jewelry |
| West | General Retail (GR) | Undeveloped |

Future Land Use Plan: Residential Neighborhood

Comprehensive Plan: This placetype serves to create neighborhoods built with a traditional walkable block/street grid network that allows some variation in housing typologies. Although this placetype will predominantly consist of traditional single family detached housing, denser housing types are encouraged such duplex, cottage courts, and townhomes. Both residential and commercial uses need to be context sensitive. Commercial uses in this placetype may be a small pop up facility or a home converted to a small store front. Walkability is key for neighborhood commercial uses so that they are accessible from surrounding neighborhoods.

Thoroughfare Plan: The subject property is accessible via Dean Box Drive and a mutual access easement for an existing drive aisle connecting to Brown Street directly south of the site.

Site Image:**PLANNING ANALYSIS**

The applicant proposes to rezone the subject property from a General Retail (GR) zoning district to a Planned Development-General Retail (PD-GR) zoning district to allow for the development of an off-site dry-cleaning establishment with a drive-through lane. Per the City of Waxahachie zoning Ordinance, off-site dry-cleaning establishments are prohibited within the General Retail (GR) zoning district and drive-through establishments are only permissible via a Specific Use Permit (SUP).

Proposed Use: The applicant proposes to specifically allow for an off-site dry-cleaning establishment use and a drive-through use with this PD request; while maintaining all other requirements of the existing General Retail zoning district. The proposed 1,902 sf single-story building will also contain a coin-operated laundromat, which is allowed by right in the existing General Retail zoning district. The site plan proposed by the applicant provides for a sufficient number of parking and drive-through stacking spaces to support the development. The applicant is proposing to construct a new dumpster enclosure for the property that will be shared by the subject property and the adjacent retail center to the south.

Access: The southern portion of the subject property extends into an existing private drive. This private drive is covered by a mutual access easement that will allow the proposed facility to gain direct access to Dean Box Drive and Brown Street.

Landscaping: The applicant is proposing to meet all landscaping requirements for the development and has notably included four (4) crape myrtles in the attached Landscape Plan (Exhibit C).

Architectural Elevation Options: The applicant proposes to construct the building utilizing a combination of stucco veneer, timbertech siding, and red brick veneer. The tables below can be referenced for a look at exterior material percentages for the front, sides and rear of the building.

Front:

| EXTERIOR FINISHING MATERIAL | SURFACE AREA | PERCENTAGE |
|---------------------------------|---------------|-------------|
| STUCCO VENEER | 288 SF | 37% |
| TIMBERTECH CLADDING (CYPRESS) | 145 SF | 18% |
| TIMBERTECH CLADDING (COASTLINE) | 240 SF | 30% |
| BRICK VENEER | 114 SF | 15% |
| TOTAL SURFACE AREA | 787 SF | 100% |

* CALCULATIONS EXCLUDE WINDOWS, DOORS, AND TRIM

Rear:

| EXTERIOR FINISHING MATERIAL | SURFACE AREA | PERCENTAGE |
|---------------------------------|---------------|-------------|
| STUCCO VENEER | 202 SF | 18% |
| TIMBERTECH CLADDING (COASTLINE) | 26 SF | 2% |
| BRICK VENEER | 909 SF | 80% |
| TOTAL SURFACE AREA | 787 SF | 100% |

* CALCULATIONS EXCLUDE WINDOWS, DOORS, AND TRIM

Side (north):

| EXTERIOR FINISHING MATERIAL | SURFACE AREA | PERCENTAGE |
|---------------------------------|---------------|-------------|
| STUCCO VENEER | 242 SF | 32% |
| TIMBERTECH CLADDING (CYPRESS) | 12 SF | 2% |
| TIMBERTECH CLADDING (COASTLINE) | 132 SF | 17% |
| BRICK VENEER | 372 SF | 49% |
| TOTAL SURFACE AREA | 787 SF | 100% |

* CALCULATIONS EXCLUDE WINDOWS, DOORS, AND TRIM

Side (south):

| EXTERIOR FINISHING MATERIAL | SURFACE AREA | PERCENTAGE |
|---------------------------------|---------------|-------------|
| STUCCO VENEER | 242 SF | 32% |
| TIMBERTECH CLADDING (CYPRESS) | 12 SF | 2% |
| TIMBERTECH CLADDING (COASTLINE) | 132 SF | 17% |
| BRICK VENEER | 372 SF | 49% |
| TOTAL SURFACE AREA | 787 SF | 100% |

* CALCULATIONS EXCLUDE WINDOWS, DOORS, AND TRIM

PUBLIC NOTIFICATIONS

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 10 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Sun and a sign was visibly posted at the property.

PUBLIC NOTIFICATION RESPONSES

Staff has received one (1) letter of support for the proposed zoning change.

RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, staff recommends approval of the Zoning Change request subject to the conditions noted below.

Conditions:

1. A mutually agreed upon Development Agreement shall be required for the development.
2. The Owner shall provide a permanent irrigation system for all required landscape areas shown on Exhibit C – Landscape Plan and maintain the landscaping required for screening at all times.
3. The Developer and Owner for the subject property shall be responsible for obtaining building permits per the City's applicable rules and regulations governing such permits.

ATTACHED EXHIBITS

1. Letter of Support
2. Development Agreement
3. PD Ordinance
4. Exhibit A – Location Map
5. Exhibit B – Site Plan
6. Exhibit C – Landscape Plan
7. Exhibit D – Architectural Elevations

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 any additional requirements by City Council.
2. Once the revised plans are provided, staff will verify all outstanding requirements were satisfied.
 - a. If requirements were not satisfied, then the applicant will be notified to make corrections.
 - b. If all requirements were satisfied, staff will proceed to execute the PD Ordinance and Development Agreement.

STAFF CONTACT INFORMATION*Prepared by:*

Zack King, AICP

Senior Planner

zking@waxahachie.com

Reviewed by:

Jennifer Pruitt, AICP, LEED-AP, CNU-A

Senior Director of Planning

jennifer.pruitt@waxahachie.com

(9)



City of Waxahachie, Texas
Notice of Public Hearing
Case Number: ZDC-31-2023

RUFFIN HOLDINGS LLC
904 S Kaufman St
Ennis, TX 75119-6024

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Wednesday, November 29, 2023 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, December 4, 2023 at 7:00 p.m. in Meeting Rooms A & B at the Waxahachie Civic Center, 2000 Civic Center Ln, Waxahachie, Texas to consider the following:

Request by Jared Ruffin, Ruffin Holdings LLC for a **Zoning Change** from a General Retail (GR) zoning district to **Planned Development-General Retail (PD-GR)** zoning district, located at 115 Dean Box Drive (Property ID 291054) - Owner: Ruffin Holdings LLC (ZDC-31-2023) Staff: Zack King

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

Case Number: ZDC-31-2023

City Reference: 291054

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on November 22, 2023 to ensure inclusion in the Agenda Packet. Forms can be e-mailed to Planning@Waxahachie.com or you may drop off/mail your form to City of Waxahachie, Attention: Planning, 408 South Rogers Street, Waxahachie, TX 75165.

☒ SUPPORT

☐ OPPOSE

Comments:

Signature

Jared Ruffin
Printed Name and Title

Date

11-13-23
115 Dean Box
Address

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

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

(9)

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM GENERAL RETAIL DISTRICT (GR) TO PLANNED DEVELOPMENT DISTRICT - GENERAL RETAIL (PD-GR) LOCATED AT 115 DEAN BOX DRIVE IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 0.37 ACRES KNOWN AS PROPERTY ID 291054, 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 adopted a zoning ordinance and map showing the classification of the property located within the city limits of said City; and

WHEREAS, a proper application for a Zoning Change has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number ZDC-31-2022. 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 approval of the subject property from PD to PD-GR; 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 PD to PD-GR in order to facilitate development of the subject property in a manner that allows a dry-cleaning establishment (off-site) on the following property: Property ID 291054, which is shown on the location map (Exhibit A), site plan (Exhibit B), landscape plan (Exhibit C), and architectural elevations (Exhibit D).

PLANNED DEVELOPMENT

The subject property shall develop in accordance with the "PD-GR" Planned Development District- General Retail District as follows:

1. The subject property shall comply with the zoning district standards for Section 3.16 (General Retail) of the Waxahachie Zoning Ordinance.

(9)

2. A dry-cleaning establishment (off-site) is permitted by right on the subject property.
 - a. The dry-cleaning establishment (off-site) shall develop in accordance with the site plan (Exhibit B), landscape plan (Exhibit C), and architectural elevations (Exhibit D) contained herein.
3. The subject property shall comply with the City of Waxahachie Municipal Code and Zoning Ordinance when any zoning, land use requirement, or restriction is not addressed or disclosed in Exhibits B, C, and D.
4. The Developer and Owner for the subject property shall be responsible for obtaining building permits per the City's applicable rules and regulations governing such permits.
5. The Owner shall provide a permanent irrigation system for all required landscape areas shown on Exhibit C – Landscape Plan and maintain the landscaping required for screening at all times.
6. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Code of Ordinances.

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 4th day of December, 2023.

MAYOR

ATTEST:

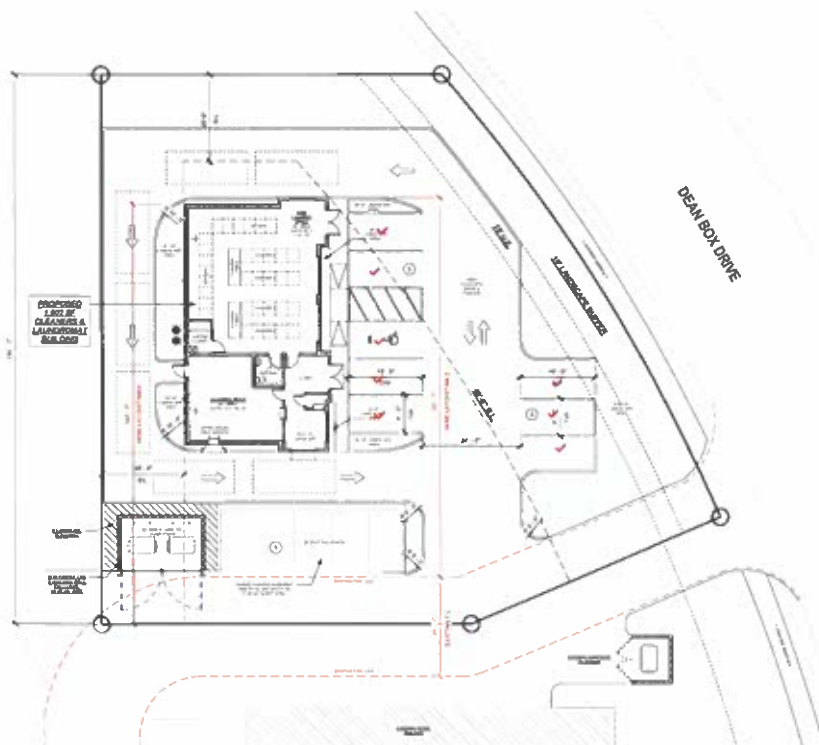
City Secretary

(9)

EXHIBIT A - LOCATION MAP



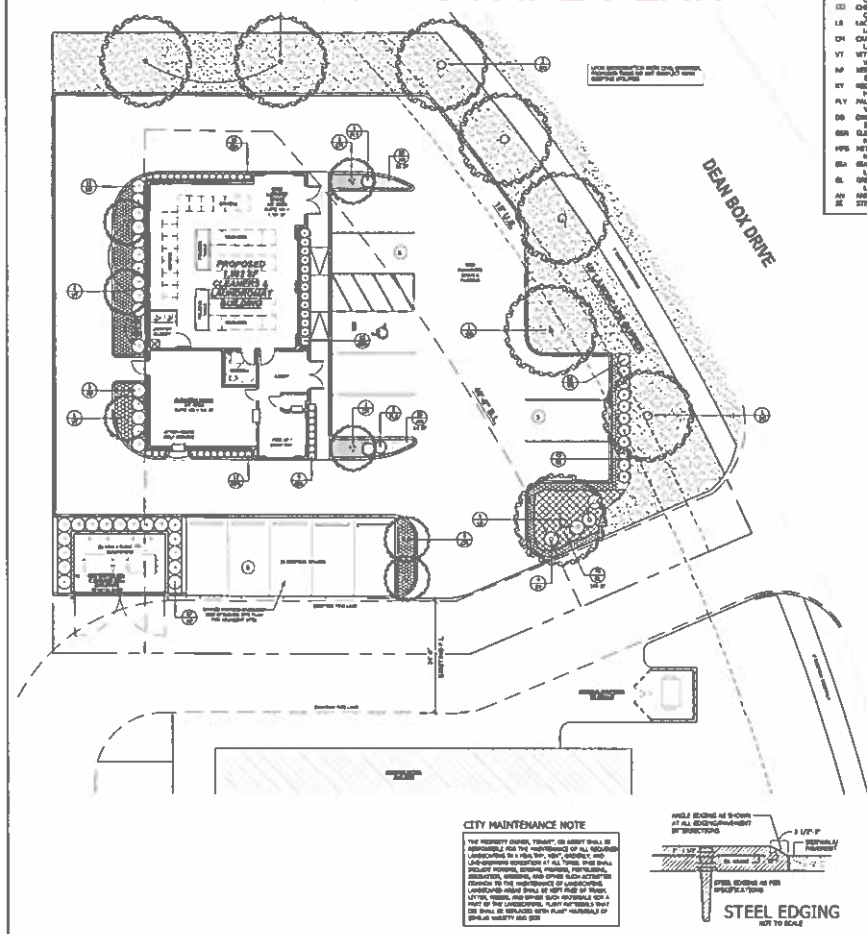
EXHIBIT B - SITE PLAN



| HIGH SCHOOL MINIMUMS TABLE | |
|-----------------------------------|--|
| SCHOOL | CALIFORNIA TESTING SCORE |
| IMPROVED USE | LAMP GRADE 7 / CIVIC CLEAN MAP / CIVIC |
| LOT AREA | 16,000 SF OR 0.374 AC |
| TOTAL BUILDING AREA | 1 BED ROOM |
| BUILDING HEIGHT | 25 ABOVE FINISHED GRADE / 1 STORY |
| LOT COVERAGE | 12.5% |
| FLOOR AREA RATIO | 1.0 : 0.12 |
| PARKING SPACES REQUIRED* | 8 SPACES |
| PARKING SPACES PROVIDED | 13 SPACES |
| TOTAL HANDICAP REQUIRED* | 5 SPACE |
| TOTAL HANDICAP PROVIDED | 5 SPACE |
| MINIMUM SURFACE AREA | 14,300 SQ. |

* H.A.M.P. = MINIMUM PROVIDED IS ACCORDANCE WITH ADA OF CALIFORNIA

EXHIBIT C - LANDSCAPE PLAN



| PLANTLIST | | | | | | | |
|-----------|------------------------|-----|--------|-----------|----|----------------|---------|
| SPN | PLANT SPECIES | QTY | SIZE | HT | SP | NOTES | SPRINGS |
| 00 | RULES DIRT | 4 | 4" CAN | 13-14" FT | | HAIRY-RT GROWN | |
| 01 | CLIMBER HEDERA CORDATA | | | | | | |
| 02 | CLIMBER HEDERA CORDATA | | | | | | |
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LANDSCAPE NOTES

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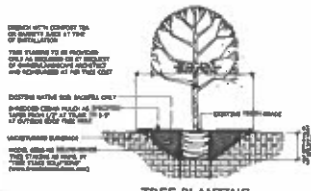


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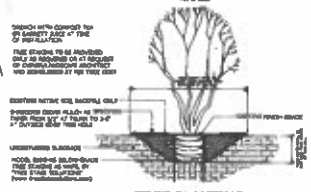
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CITY REQUIREMENTS

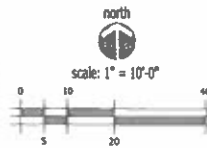
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TREE PLANTING



TREE PLANTING



pr. by:
ann by:
date: 05-23-23

revisions



**Learning
Design Group**
Landmarks Architecture

LANDSCAPE PLAN

INDIAN HILL CLEANERS
115 DEAN BOX DRIVE
WAXAHACHIE, TEXAS

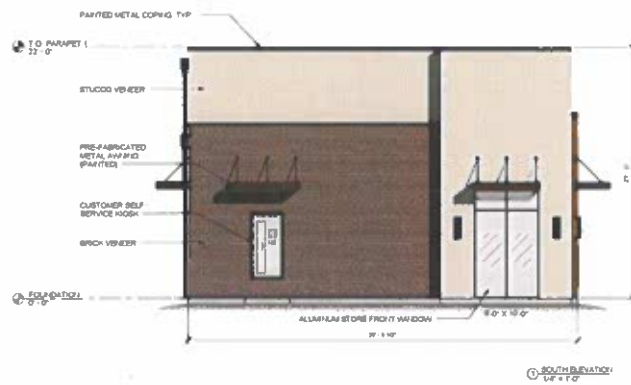
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EXHIBIT D - Architectural Elevations

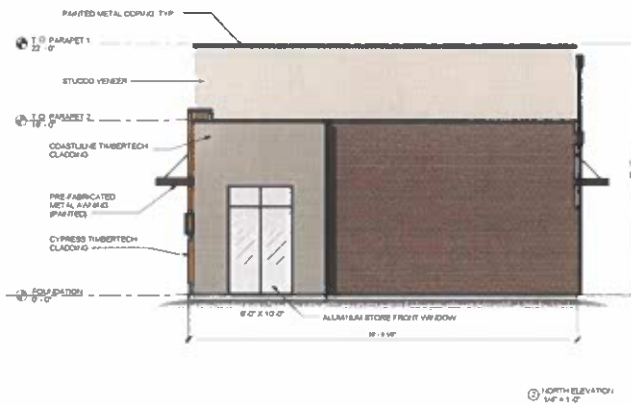


EXHIBIT D - Architectural Elevations



| EXTENSION FINISHING MATERIAL | SURFACE AREA | PERCENTAGE |
|---|--------------|------------|
| STUCCO VENEER | 447 SF | 59% |
| TEMPERTECH CLADDING (CYPRRESS) BACK VENEER | 10 SF | 1% |
| | 345 SF | 43% |
| TOTAL SURFACE AREA | 787 SF | 100% |

* CALCULATION IS EXCLUDE WINDOWS, DOORS AND TRIM



| EXTERIOR FINISHING MATERIAL | SURFACE AREA | PERCENTAGE |
|-----------------------------------|---------------|-------------|
| STUCCO VIB 4501 | 242 SF | 32% |
| TIMBERTECH CLADDING (CYPRESS) | 12 SF | 2% |
| TIMBERTECH CLADDING (DOAST LK 42) | 130 SF | 17% |
| SPACK VIB 4501 | 372 SF | 49% |
| TOTAL SURFACE AREA | 757 SF | 100% |

* CALCULATIONS EXCLUDE WINDOWS, DOORS, AND TRIM

(9)

EXHIBIT D - Architectural Elevations



CYPRESS*



COASTLINE*

TIMBERTECH CLADDING.
SEE ATTACHED BROCHURE FOR MORE INFORMATION.



DRIFTWOOD SIOUX
SIOUX CITY BRICK
MODULAR BRICK



TEXTURED STUCCO



EXAMPLE OF MATERIALS USED

EXHIBIT D - Architectural Elevations



**INDIAN HILLS
CLEANERS**
116 Dean Box Drive
WAXAHACHIE, TX 75166

**PRELIM.
REVIEW**
October 09, 2023

[illegible]

PHC/MARCH-88

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RENDERING - DAY

A-108

Copyright © 2003
Wiley Periodicals, Inc.

(9)

EXHIBIT D - Architectural Elevations



DC TEXAS
ARCHITECTURE
1100 W. 19th Street, Suite 100
Waco, TX 76798
Phone: 817.770.1100
Fax: 817.770.1101
www.dctexasarch.com

**INDIAN HILLS
CLEANERS**
116 Dean Box Drive
WAXAHACHIE, TX 76166

**PRELIM.
REVIEW**
October 09, 2023

THIS PRELIMINARY REVIEW IS FOR INFORMATIONAL PURPOSES ONLY. IT IS NOT A FINAL REVIEW. THE ARCHITECT ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS. THE CLIENT ASSUMES ALL RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED.

REVISIONS

04.12 055.42 001.14

**RENDERING
NIGHT**

A-109

Copyright © 2023
DC TEXAS ARCHITECTURE

STATE OF TEXAS §
 §
 COUNTY OF ELLIS §

**DEVELOPMENT AGREEMENT
 FOR INDIAN HILLS CLEANERS**

This Development Agreement for Indian Hills Cleaners ("**Agreement**") is entered into between Ruffin Holdings, LLC ("RH") and the City of Waxahachie, Texas ("**City**"). RH and the City are sometimes referred herein together as the "**Parties**" and individually as a "**Party**."

Recitals:

1. RH is the owner of approximately 0.37 acres of real property generally located north of 2251 Brown Street, Parcel Number 291054 in the City of Waxahachie, Texas (the "**Property**"), for which the applicant has requested a change in the Property's General Retail (GR) zoning to a ("**PD**") Planned Development with a base zoning of General Retail District, revising specific development standards. The Property is currently zoned General Retail District by the City, and is anticipated to have the PD reviewed on December 4, 2023.

2. The planned use of the Property is to create a Planned Development to allow for a dry-cleaning establishment (off-site). The PD zoning process is utilized to ensure that the Property would develop in a manner that meets the City's desired development standards, as well as providing RH with agreed-upon and negotiated standards consistent with their business objectives.

3. As is reflected by the public records of the City, significant discussions and negotiations between representatives of RH and the City of Waxahachie staff have occurred during various meetings, in an effort to obtain an agreed-upon and negotiated set of zoning and development standards to be reflected in the PD zoning amendment **Ordinance No. TBD** (the "**Indian Hills Cleaners**"), a copy of which is attached hereto as *Exhibit A* and which contains the negotiated zoning and development standards for Indian Hills Cleaners.

4. This Agreement seeks to incorporate the negotiated and agreed upon zoning and development standards contained in the Indian Hills Cleaners PD Ordinance as contractually-binding obligations between the City of Waxahachie and RH, and to recognize RH's reasonable investment-backed expectations in the Indian Hills Cleaners PD Ordinance and the planned development of the Indian Hills Cleaners.

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

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

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

Section 3. Agreements. The Parties agree as follows:

Incorporation of Zoning and Recognition of Investment-Backed Expectations:

The negotiated and agreed upon zoning and development standards contained in the Indian Hills Cleaners PD Ordinance, which incorporate by reference the general zoning regulations of the City of Waxahachie zoning ordinance, are hereby adopted and incorporated into this Agreement as contractually-binding obligations of the Developer.

The Developer agrees to:

- (A) A mutually agreed upon Development Agreement will be required for the property.
- (B) The development shall adhere to the following plans approved by City Council: Exhibit A – Location Map, Exhibit B – Site Plan, Exhibit C – Landscape Plan, and Exhibit D – Architectural Elevations.
- (C) All development within the subject property will be subject to obtaining building permits from the City in accordance with the City's applicable rules and regulations governing such permits.
- (D) The building shall consist of the building design and composed of the exterior finishing materials and their associated percentages as provided in Exhibit D – Architectural Elevations.
- (E) Any zoning, land use requirement, or restriction not contained within this Zoning Ordinance or the Development Agreement shall conform to those requirements and/or standards prescribed in Exhibit A – Location Map, Exhibit B – Site Plan, Exhibit C – Landscape Plan, and Exhibit D – Architectural Elevations. Where regulations are not specified in Exhibits B, C, and D in this ordinance, the development shall adhere to the regulations of the General Retail Zoning District and the City of Waxahachie Zoning Ordinance in the future.
- (F) The Applicant shall provide a permanent irrigation system for all required landscape areas shown on Exhibit C – Landscape Plan and maintain the landscaping required for screening at all times.
- (G) The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.

In consideration of RH's agreement in this regard, the City of Waxahachie agrees that RH has reasonable investment-backed expectations in the Indian Hills Cleaners PD Ordinance, and that the City of Waxahachie may not unilaterally change the zoning and development standards contained in the Indian Hills Cleaners PD Ordinance without impacting RH's reasonable investment-backed expectations.

Section 4. Miscellaneous

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

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

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

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

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

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

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

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

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

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

- K. This Agreement is the entire agreement between the Parties with respect to the subject matters covered in this Agreement. There are no other collateral oral or written agreements between the Parties that in any manner relates to the subject matter of this Agreement, except as provided or referenced in this Agreement.
- L. This Agreement shall be recorded in the real property records of Ellis County, Texas. This Agreement and all of its terms, conditions, and provisions is and shall constitute a restriction and condition upon the development of the Property and all portions thereof and a covenant running with the Property and all portions thereof, and is and shall be binding upon RH and all heirs, successors, and assigns and the future owners of the Property and any portion thereof; provided, however, this Agreement shall not constitute an obligation of or be deemed a restriction or encumbrance with respect to any platted residential lot upon which a completed structure has been constructed.
- M. **Form 1295 Certificate.** The Developer agrees to comply with Texas Government Code, Section 2252.908 and in connection therewith, the Developer agrees to go online with the Texas Ethics Commission to complete a Form 1295 Certificate and further agrees to print the completed certificate and execute the completed certificate in such form as is required by Texas Government Code, Section 2252.908 and the rules of the Texas Ethics Commission and provide to the Town, at the time of delivery of an executed counterpart of this Agreement, a duly executed completed Form 1295 Certificate.
- N. **Undocumented Workers Provision.** The Developer certifies that Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of any public subsidy provided under this Agreement to Developer plus six percent (6.0%), not later than the 120th day after the date the Town notifies Developer of the violation.
- O. **Non-Boycott of Israel Provision.** In accordance with Chapter 2270 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2270 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) the contract has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless Developer is not subject to Chapter 2270 of the Texas Government Code for the reasons stated herein, the signatory executing this Agreement on behalf of Developer verifies that Developer does not boycott Israel and will not boycott Israel during the Term of this Agreement.
- P. **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Developer is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

- Q. **Verification Against Discrimination of Firearm or Ammunition Industries.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) the Developer will not discriminate during the Term of the Agreement against a firearm entity or firearm trade association.
- R. **Verification Against Discrimination Developer Does Not Boycott Energy Companies.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 13, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Developer employs at least ten (10) fulltime employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the Town, the Developer represents that: (1) the Developer does not boycott energy companies; and (2) the Developer will not boycott energy companies during the Term of this Agreement.

(10)

{Signature Pages Follow}

(10)

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

CITY OF WAXAHACHIE, TEXAS

By: _____
Michael Scott, City Manager

Date: _____

ATTEST:

By: _____
City Secretary

STATE OF TEXAS §
§
COUNTY OF ELLIS §

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

[Seal]

By: _____
Notary Public, State of Texas

My Commission Expires: _____

(10)

DEVELOPER:

Ruffin Holdings, LLC

By: _____

Name: _____

Its: _____

Date: _____

STATE OF _____

§

§

COUNTY OF _____

§

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

[Seal]

By: _____

Notary Public, State of Texas

My Commission Expires: _____

Planning & Zoning Department

Zoning Staff Report

Case: ANX-DNX-76-2023



MEETING DATE(S)

City Council:

December 4, 2023

CAPTION

Consider a request by a majority of the qualified voters of approximately 263.60 acres annexed by the City in 2005 to disannex the property from the City pursuant to Texas Local Government Code Section 43.141. (ANX-DNX-76-2023)

RECOMMENDED MOTION

"I move to deny Disannexation Request ANX-DNX-76-2023." If Council votes to approve the request, staff will prepare a disannexation ordinance to be presented to Council at a future meeting.

APPLICANT REQUEST

The applicants, who comprise a majority of the qualified voters of approximately 263.60 acres annexed by the City in 2005, request that the City disannex the approximately 263.60 acres pursuant to the requirements of Texas Local Government Code Section 43.141.

CASE INFORMATION

Applicant: Roger Borgelt, Borgelt Law

Property Owner(s): Trelen Land, LLC, Et al.

Site Acreage: Approximately 263.60 acres

Current Zoning: Future Development (FD)

SUBJECT PROPERTY

General Location: Adjacent to FM 387 and FM 813

Parcel ID Number(s): 157213, 157222, 179144, 179145, 179147, 190833, 191142, 192606, 221421, 245187, 289912, 294342, 294343, 296993, 297998, 297999

Existing Use: Three single-family residences are currently located within the subject properties. The remainder of the subject properties are undeveloped.

Development History: The subject properties were annexed into the City via Ordinance No. 2295 on March 21, 2005. Parcel ID: 296993 was platted as a single-family lot in August of 2022. Parcel ID: 294343 was platted as a single-family lot in April of 2023.

Adjoining Zoning & Uses:

| Direction | Zoning | Current Use |
|-----------|-------------------------|--|
| North | N/A (ETJ) | Undeveloped Land |
| East | N/A (ETJ) | Undeveloped Land |
| South | N/A (ETJ) | Undeveloped Land and Single-Family Neighborhoods |
| West | Future Development (FD) | Single Family Residence |

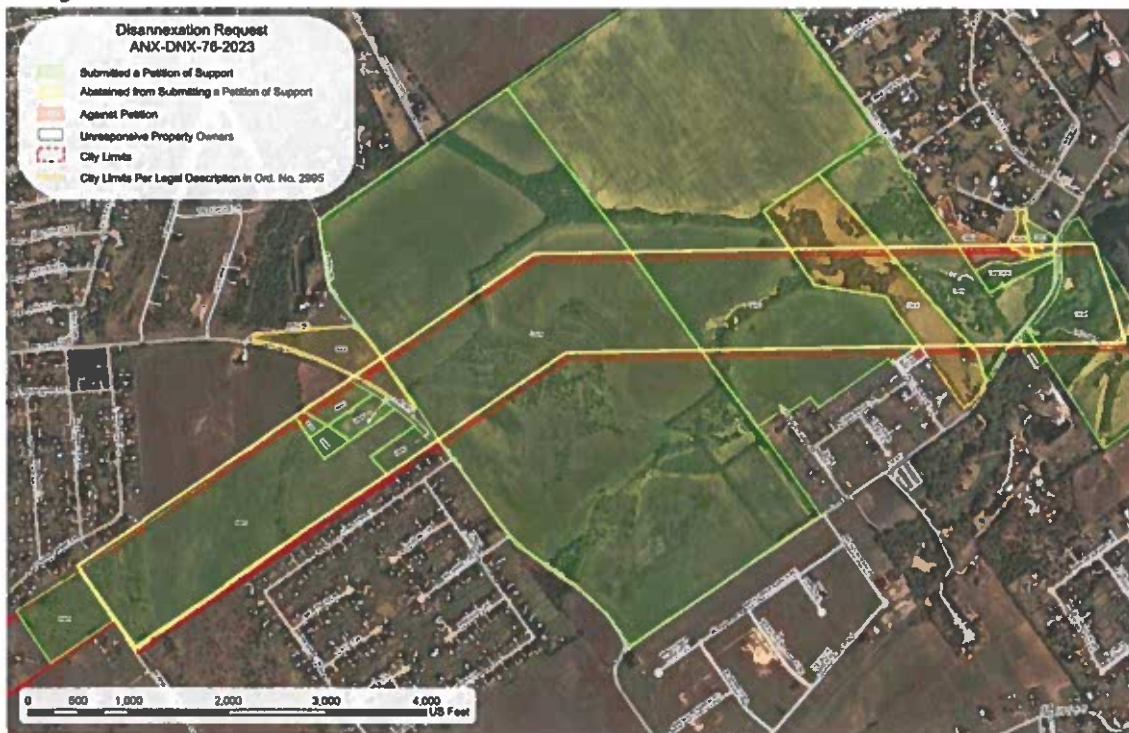
Future Land Use Plan: Rural Estate & Residential Neighborhood

Comprehensive Plan: **Rural Estate:** This placetype is characterized by large lots with single-family homes in rural settings away from the city center as well as public services. This type of development leaves ample amount of surrounding open space, and should involve minimal infrastructure investment. Though this placetype will almost exclusively be single family homes, it is to be expected that home-based businesses may thrive in this environment.

Residential Neighborhood: This placetype serves to create neighborhoods built with a traditional walkable block/street grid network that allows some variation in housing typologies. Although this placetype will predominantly consist of traditional single family detached housing, denser housing types are encouraged such duplex, cottage courts, and townhomes. Both residential and commercial uses need to be context sensitive. Commercial uses in this placetype may be a small pop up facility or a home converted to a small store front. Walkability is key for neighborhood commercial uses so that they are accessible from surrounding neighborhoods.

Thoroughfare Plan: The subject properties are accessible via FM 387, FM 813 and Robnett Road.

Site Image:



BACKGROUND INFORMATION:

Texas Local Government Code Section 43.141 ("**Section 43.141**") provides a process by which a majority of the qualified voters of an annexed area may petition the governing body of a city to disannex the area if a city fails or refuses to provide services to the annexed area within the period of time set forth in the annexation service plan that was adopted with the annexation ordinance. If the governing body declines

to disannex the area within 60 days of the receipt of a disannexation petition that meets the procedural requirements of Section 43.141, then the petitioners may file a lawsuit in a district court of the county in which the area is located requesting that the court enter an order disannexing the area.

To order such a disannexation, the court would have to find, by a preponderance of the evidence, that (1) a valid petition was filed and (2) that the city failed perform its obligations under the service plan adopted under Texas Local Government Code Section 43.056 ("**Section 43.056**"). If an area is disannexed under Section 43.141, the area may not be re-annexed by the city for 10 years after the date of the disannexation.

In May and June of this year, the City received a number of petitions from landowners which, when combined, seek disannexation of approximately 263.60 acres annexed by the City in 2005 through Annexation Ordinance No. 2295, which was passed on March 21, 2005. The City did not initially accept these petitions as they did not meet the specific procedural requirements imposed by Section 43.141 regarding providing voter registration numbers and voting precinct numbers, as well as evidence that notice of the petition had been posted for 10 days in 3 public places in the annexed area and once in a newspaper of general circulation serving the area before the 15th day before the date the petition is first circulated. In October of this year, however, the applicants provided additional information with landowner affidavits and a publisher's affidavit that indicated compliance with the procedural requirements of Section 43.141. As a result, the petitions are procedurally in a position for the City Council to consider them and the disannexation request.

The petitions request disannexation because of an alleged failure by the City to provide services to them as set forth in the annexation service plan for the area. Specifically, they state that the City does not provide "police protection; fire protection; emergency medical services; solid waste collection; operation or maintenance of wastewater services; operation and maintenance of roads and street lighting; operation and maintenance of parks, playgrounds and swimming pools; nor operation and maintenance of any publicly owned facility, building or service."

PLANNING ANALYSIS

Planning staff has worked closely with the City Attorney regarding Disannexation Request ANX-DNX-76-2023 given the legal issues involved here. It is the opinion of the City Attorney that the petitioners are not entitled to disannexation for the following reasons.

1. Based on information provided by staff, the City has provided all of the services that the service plan for the annexed area requires.
2. The service plan expired in 2015 and the City has no current obligations under the service plan. Texas Local Government Code Section 43.056(l) provides, in pertinent part, as follows:
 - I. A service plan is valid for 10 years. Renewal of the service plan is at the discretion of the municipality. A person residing or owning land in an annexed area may enforce a service plan by applying for a writ of mandamus not later than the second anniversary of the date the person knew or should have known that the municipality was not complying with the service plan.

As the date of the annexation and the adoption of the service plan was March 21, 2005, the annexation service plan, and any obligations to provide services under it, expired on March 21, 2015.

3. To the extent that the petitioners' challenge could be construed as one to require the provision of service under Texas Local Government Code Section 43.056(l), that section imposes a two-year statute of limitations to assert such a claim once the claimant becomes aware of the lack of required services. That deadline has long passed as well.

PUBLIC NOTIFICATIONS

Per Section 43.141(f) of the Texas Local Government Code, the applicant provided public notice of the petition by posting a copy of the petition for ten (10) days in three public places in the annexed area and published a copy of the petition once in a newspaper of general circulation serving the area more than fifteen (15) days before the petition was circulated to voters in the annexed area.

RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, staff recommends denial of the Disannexation request.

ATTACHED EXHIBITS

1. Disannexation Petition with Signatures
2. Disannexation Reference Exhibit – Prepared by City of Waxahachie Staff

STAFF CONTACT INFORMATION

Prepared by:

Zack King, AICP

Senior Planner

zking@waxahachie.com

Reviewed by:

Jennifer Pruitt, AICP, LEED-AP, CNU-A

Senior Director of Planning

jennifer.pruitt@waxahachie.com

PETITION REQUESTING DISANNEXATION BY AREA LANDOWNERS

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

The undersigned, **Affected Landowners** (the "Petitioners") hereby petition the Mayor and City Council of the City of Waxahachie, Texas, a home rule municipality (the "City"), to remove and disannex from the corporate limits of the boundaries of the City, that portion of the following tract of land owned in fee by the undersigned (the "Proposed Disannexation Tract"):

All that certain lot, tract or parcel of land situated within the boundary limits of the City of Waxahachie, Ellis County, Texas, Annexed by City Ordinance 2295 and being more particularly depicted in EXHIBIT A attached hereto.

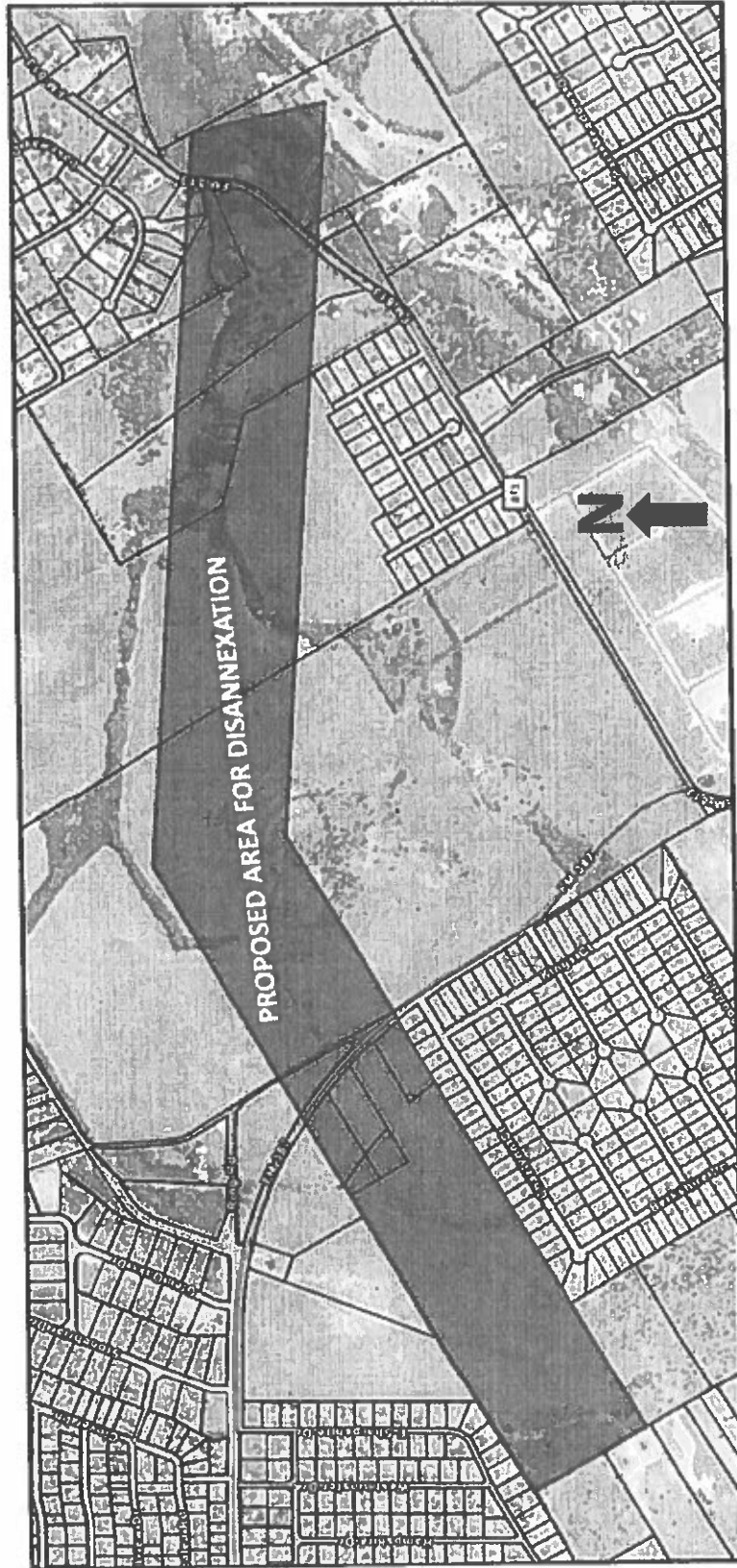
The requested disannexation is authorized pursuant to Section 43.141 of the Texas Local Government Code. In support of this petition for consensual disannexation of the Proposed Disannexation Tract, the undersigned state as follows:

1. The City has failed to provide: police protection; fire protection; emergency medical services; operation or maintenance of wastewater services; operation and maintenance of roads and street lighting; operation and maintenance of parks, playgrounds and swimming pools; nor operation and maintenance of any publicly owned facility, building or service as outlined in the Service Plan contained within Waxahachie City Ordinance 2295, 21 March, 2005.

Petitioners certify that the Proposed Disannexation Tract is contiguous and adjacent to Ellis County, TX; that this petition is being filed for the purposes described above; that this petition is for failure to provide services by the City; and that this petition is signed and duly acknowledged by Petitioners, which are the sole parties having a fee ownership interest in the Proposed Disannexation Tract.

(11)

EXHIBIT A



(11)

By: Filipe Morales Isordia Name: FILIPPE MORALES ISORDIA
Address: 209 LAKEWAY DR WAXAHACHIE 75165

Voter Reg. _____ Precinct: _____

Signed this the 27 day of SEPTEMBER, 2023

By: Gloria Bravo Name: GLORIA BRAVO
Address: 209 LAKEWAY DR WAXAHACHIE TX 75165

Voter Reg. _____ Precinct: _____

Signed this the 27 day of SEPTEMBER, 2023

By: Thomas E Taylor Name: THOMAS E. TAYLOR
Address: 321 TAYLOR ROAD
Voter Reg. 1029806593 Precinct: 1047

Signed this the 27 day of SEPT, 2023

By: Regina L. Cook Name: REGINA L. COOK
Address: 3037 FM 813
Voter Reg. 2132144472 Precinct: 1047

Signed this the 27 day of Sept, 2023

By: Robt E Cook Jr Name: ROBERT EDWARD COOK JR
Address: 5037 FM 813
Voter Reg. 1205192168 Precinct: 1047

Signed this the 27 day of SEPT, 2023

(11)

By: Jorge Montes Name: Jorge Montes
Address: 1664 Butcher Rd Waxahachie 75165
Voter Reg. 2156210759 Precinct: 1047

Signed this the 27 day of September, 2023

By: Yael Montes Name: Yael Montes
Address: 1664 BUTCHER RD. WAXAHACHIE, TX 75165
Voter Reg. _____ Precinct: _____

Signed this the 27 day of SEPTEMBER, 2023

By: Olin Gibbons III Name: OLIN GIBBONS III
Address: 5035 FM 813 WAXAHACHIE TX
Voter Reg. _____ Precinct: _____

Signed this the 27 day of SEPTEMBER, 2023

By: Gerardo Garcia Name: Gerardo Garcia
Address: FM 387 Waxahachie TX 75165
Voter Reg. 2127767499 Precinct: 4054

Signed this the 27 day of Sept, 2023

By: Crystal Rodriguez Name: Crystal Rodriguez
Address: FM 387 Waxahachie TX 75165
Voter Reg. _____ Precinct: _____

Signed this the 27 day of Sept, 2023

(11)

By Victoria J. Cerniglia Name: Victoria J. Cerniglia

Address: 13124 Larks Viewpoint, Keller, TX 76244

Voter Reg. 1047334490 Precinct: 3372

Signed this the 28th day of September, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

(11)

By: Clay Estes (TIE) Name: Clay Estes
Address: 11420 Wonderland Trail Dallas, Texas 75229
Voter Reg. 1083223564 Precinct: 2009
Signed this the 28th day of SEPTEMBER, 2023

By: _____ Name: _____
Address: _____
Voter Reg. _____ Precinct: _____
Signed this the _____ day of _____, 2023

By: _____ Name: _____
Address: _____
Voter Reg. _____ Precinct: _____
Signed this the _____ day of _____, 2023

By: _____ Name: _____
Address: _____
Voter Reg. _____ Precinct: _____
Signed this the _____ day of _____, 2023

By: _____ Name: _____
Address: _____
Voter Reg. _____ Precinct: _____
Signed this the _____ day of _____, 2023

(11)

By: Miguel Vega Name: Miguel A. Vega

Address: 221 N Stewart Ave, Lancaster, TX 75146

Voter Reg. _____ Precinct: _____

Signed this the 2 day of October, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

(11)

By:  Name: Keith Davis

Address: PO Box 140991, Irving,
TX 75014

Voter Reg. _____ Precinct: _____

Signed this the 29th day of September, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

By: _____ Name: _____

Address: _____

Voter Reg. _____ Precinct: _____

Signed this the _____ day of _____, 2023

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

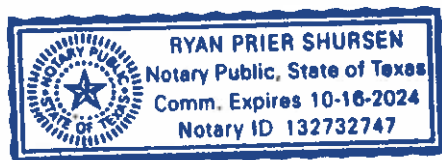
STATE OF TEXAS §
 §
COUNTY OF §
ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared **Clay Estes**, known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath depose and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: **8-26-2023 through 9-13-2023**"



Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 28 day of September 2023 to certify which witness my hand and seal of office.





NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §
 §
COUNTY OF §
ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared

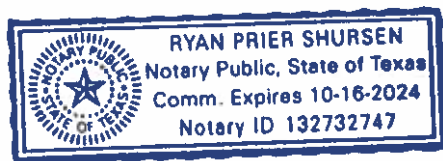
ROBERT EDWARD COOK, JR.

known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath deposed and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: **8-26-2023 through 9-13-2023**"

Robert E Cook, Jr.

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of Sept, 2023 to certify which witness my hand and seal of office.



Ryan Prier Shursen
NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §

§

COUNTY OF §

ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared

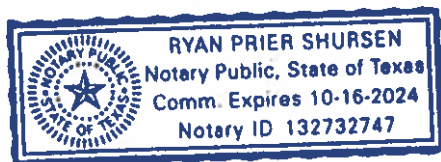
REGINA L. COOK

known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath depose and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: **8-26-2023 through 9-13-2023**"

Regina L. Cook

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of SEPT, 2023 to certify which witness my hand and seal of office.



[Signature]

NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §

§

COUNTY OF §

ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared

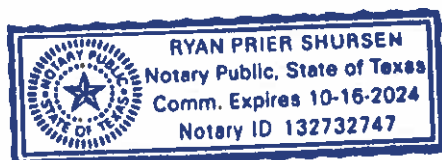
KEITH DAVIS, MANAGING MEMBER, TIGLEN LAND

known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath deposed and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: 8-26-2023 through 9-13-2023"



Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of Sept, 2023 to certify which witness my hand and seal of office.



NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §
 §
COUNTY OF §
ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared

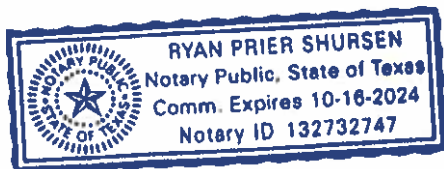
Yael Montes

known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath depose and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: 8-26-2023 through 9-13-2023"

Yael Montes

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of SEPT, 2023 to certify which witness my hand and seal of office.



[Signature]

NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §

§

COUNTY OF §

ELLIS §

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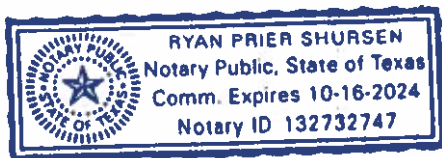
JORGE MONTES

known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath depose and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: **8-26-2023 through 9-13-2023**"

Jorge Montes

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of Sept, 2023 to certify which witness my hand and seal of office.



Ryan Prier Shursen

NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §

§

COUNTY OF §

ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared

CRYSTAL RODRIGUEZ

known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath depose and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: 8-26-2023 through 9-13-2023"

Crystal Rodriguez

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of SEPT, 2023 to certify which witness my hand and seal of office.



[Signature]

NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §

§

COUNTY OF §

ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared

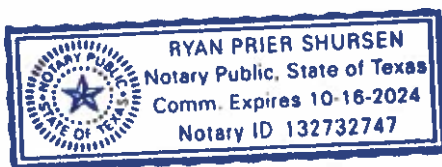
GERARDO GARCIA MATA

known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath deposed and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: **8-26-2023 through 9-13-2023**"

Gerardo Garcia

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of Sept, 2023 to certify which witness my hand and seal of office.



[Signature]

NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §
 §
COUNTY OF §
ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared

GIORNI BRAVO

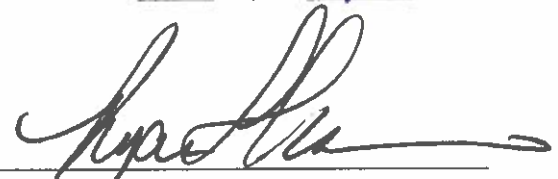
known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath depose and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: **8-26-2023 through 9-13-2023**"



Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of Sept, 2023 to certify which witness my hand and seal of office.





NOTARY PUBLIC, STATE OF TEXAS
My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §
 §
COUNTY OF §
ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared

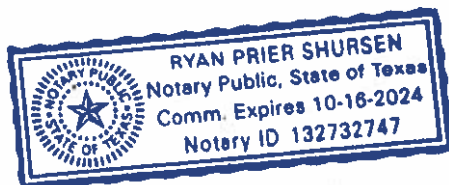
FILIFE MORALES-IBORDIA

known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath depose and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: **8-26-2023 through 9-13-2023**"

Filife Morales-Ibordia

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of Sept, 2023 to certify which witness my hand and seal of office.



Ryan Prier Shursen
NOTARY PUBLIC, STATE OF TEXAS
My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §
 §
COUNTY OF §
ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared

OLIN GIBBONS III


known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath deposed and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: 8-26-2023 through 9-13-2023"



Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of Sept, 2023 to certify which witness my hand and seal of office.





NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §
 §
COUNTY OF §
ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared

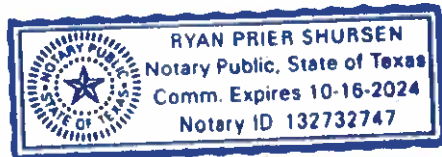
THOMAS E. TAYLOR

known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath depose and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: **8-26-2023 through 9-13-2023**"

Thomas E. Taylor

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 27 day of Sept, 2023 to certify which witness my hand and seal of office.



Ryan Shursen
NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

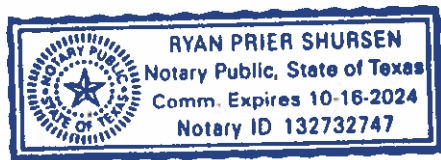
STATE OF TEXAS §
 §
COUNTY OF §
ELLIS §

BEFORE ME, the undersigned authority, on this day personally appeared **VICTORIA J. CERNIGLIA**, known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath deposed and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: **8-26-2023 through 9-13-2023**"

Victoria J. Cerniglia

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 28 day of Sept, 2023 to certify which witness my hand and seal of office.



Ryan Prier Shursen

NOTARY PUBLIC, STATE OF TEXAS

My commission Expires 10-16-2024

(11)

AFFIDAVIT OF VOTER VERIFYING POSTING

STATE OF TEXAS §

§

COUNTY OF Dallas §

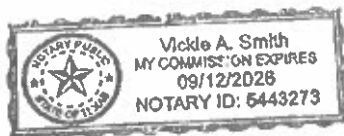
ELIAS §

BEFORE ME, the undersigned authority, on this day personally appeared Michael Vega, Managing Member, MKK Homes LLC, a Texas limited liability company, known to me to be the person whose name is subscribed below, and who, being by me first duly sworn, under oath deposed and said: "Notice of the petition was given by posting a copy of the petition for 10 days in the following three public places in the annexed area, **WITHIN THE PUBLIC RIGHT-OF-WAY AT THE FOLLOWING LOCATIONS: BUTCHER RD (FM387) SOUTHBOUND AT SOUTH RING RD, BUTCHER RD (FM 387) AT THE BOUNDARY OF THE ESTES TRACT and FM 813 AT TAYLOR RD** and on the following dates: 8-26-2023 through 9-13-2023"

M Vega

Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this 31st day of Oct, 2023 to certify which witness my hand and seal of office.



Vickie A. Smith

NOTARY PUBLIC, STATE OF TEXAS

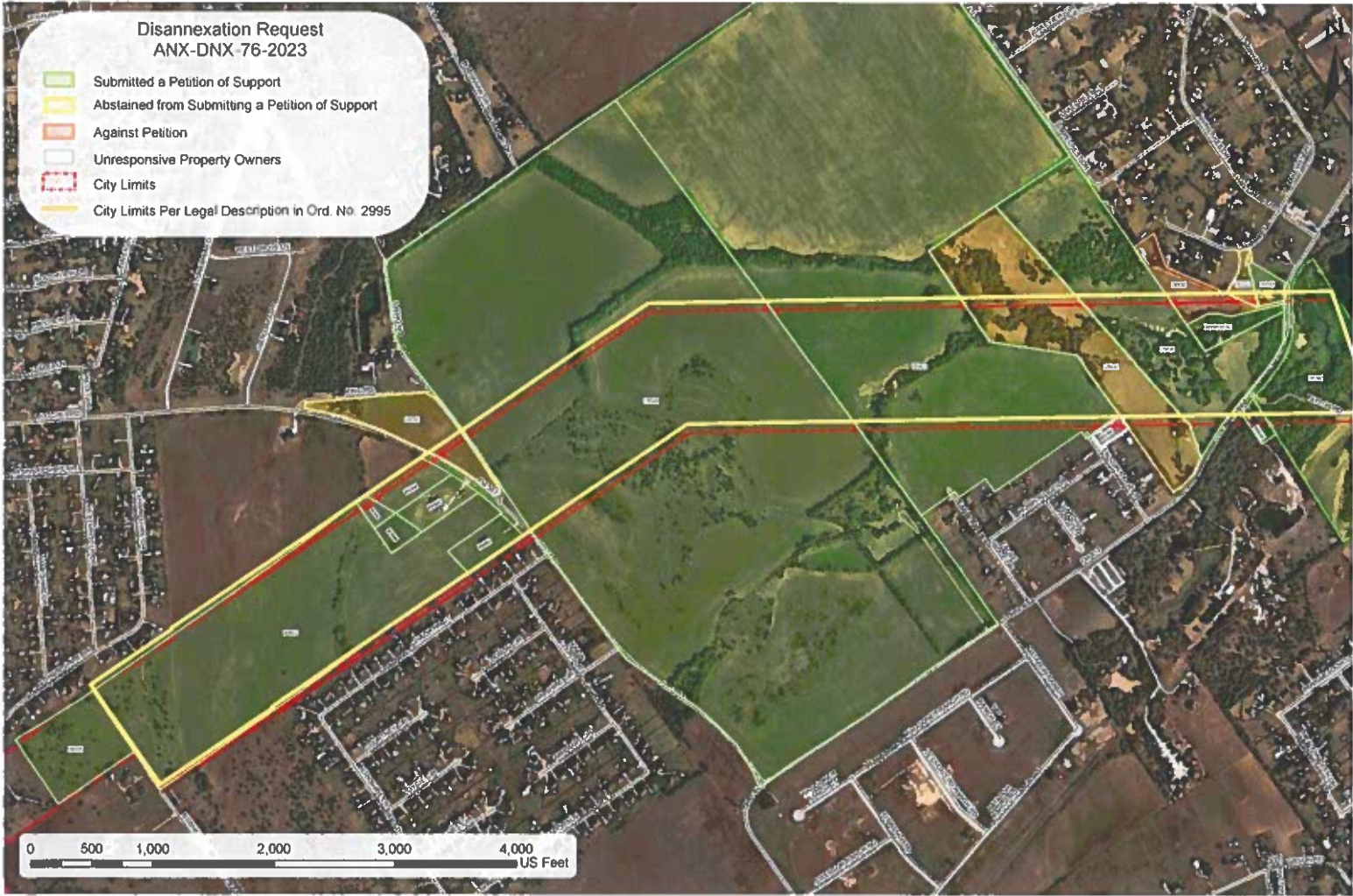
My commission expires 9/12/2028

(11)

Disannexation Request
ANX-DNX-76-2023

- Submitted a Petition of Support
- Abstained from Submitting a Petition of Support
- Against Petition
- Unresponsive Property Owners
- City Limits
- City Limits Per Legal Description in Ord. No. 2995

0 500 1,000 2,000 3,000 4,000 US Feet



Planning & Zoning Department

Zoning Staff Report

Case: ANX-DNX-154-2023



MEETING DATE(S)

City Council:

December 4, 2023

CAPTION

Consider proposed ordinance for a disannexation request for approximately 9.952 acres, located at 611 Wilson Road, pursuant to Texas Local Government Code Section 43.141. (ANX-DNX-154-2023)

RECOMMENDED MOTION

"I move to approve ANX-DNX-154-2023, a Disannexaton request for Lot 1, Block A of the Fuquez Addition, authorizing the Mayor to sign the associated documents accordingly."

APPLICANT REQUEST

The applicant is the owner of approximately 199.07 acres annexed by the City in 2007 who is requesting that that the City disannex approximately 9.952 acres of such property from the City pursuant to Texas Local Government Code Section 43.141.

CASE INFORMATION

Applicant:

Johnny Fussell, SDJF Property Trust

Property Owner(s):

SDJF Property Trust

Site Acreage:

9.952 acres

Current Zoning:

Planned Development-Single Family-1 (PD-SF-1)

SUBJECT PROPERTY

General Location:

611 Wilson Road

Parcel ID Number(s):

289604

Existing Use:

A single-family residence is currently under construction on the subject property.

Development History:

A Planned Development zoning district (Ordinance 2429) allowing for the development of single-family homes was approved for the subject property in 2007. The subject property was platted as Lot 1, Block A of the Fuquez Addition in 2021.

Adjoining Zoning & Uses:

| Direction | Zoning | Current Use |
|-----------|---|-------------------------|
| North | Planned Development-Single Family-1 (PD-SF-1) | Agriculture & Livestock |
| East | Planned Development-Single Family-1 (PD-SF-1) | Agriculture & Livestock |
| South | N/A (ETJ) | Agriculture |
| West | Planned Development-Single Family-1 (PD-SF-1) | Agriculture & Livestock |

Future Land Use Plan:

Rural Estate

Comprehensive Plan:

This placetype is characterized by large lots with single-family homes in rural settings away from the city center as well as public services. This type of development leaves ample amount of surrounding open space, and should involve minimal infrastructure investment. Though this placetype will almost exclusively be single family homes, it is to be expected that home-based businesses may thrive in this environment.

Thoroughfare Plan:

The subject property is accessible via Wilson Road; which is classified as a Type D, 2-4 Lane Major Collector roadway.

Site Image:**BACKGROUND INFORMATION:**

Texas Local Government Code Section 43.141 ("**Section 43.141**") provides a process by which a majority of the qualified voters of an annexed area may petition the governing body of a city to disannex the area if a city fails or refuses to provide services to the annexed area within the period of time set forth in the annexation service plan that was adopted with the annexation ordinance. If the governing body declines to disannex the area within 60 days of the receipt of a disannexation petition that meets the procedural requirements of Section 43.141, then the petitioners may file a lawsuit in a district court of the county in which the area is located requesting that the court enter an order disannexing the area.

To order such a disannexation, the court would have to find, by a preponderance of the evidence, that (1) a valid petition was filed and (2) that the city failed perform its obligations under the service plan adopted under Texas Local Government Code Section 43.056 ("**Section 43.056**"). If an area is disannexed under Section 43.141, the area may not be re-annexed by the city for 10 years after the date of the disannexation.

In September of this year, the City received a petition from Johnny Fussel, the owner of approximately 199.07 acres annexed by the City in 2007, seeking to disannexation approximately 9.952 acres of such property. The 9.952 acres was subdivided from the rest of Mr. Fussel's property and he intends to build a house on the 9.952 acres site. This site is part of the larger annexation of the approximately 199.07 acres in 2007 through Annexation Ordinance No. 2418, which was passed on August 6, 2007. This

annexation was a voluntary one and made by the owner of the property at that time. There is an active City building permit with pending inspections that has been issued for the site. The City has determined that the petition is in compliance with the procedural requirements of Section 43.141 and, as a result, the petition is procedurally in a position for the City Council to consider it and the disannexation request.

The petitioner has indicated that this disannexation request was submitted because he feels he has been paying for city services that have not been provided to the subject property.

PLANNING ANALYSIS

Planning staff has worked closely with the City Attorney regarding Disannexation Request ANX-DNX-154-2023 given the legal issues involved here. While it is the opinion of the City Attorney that the petitioner is not entitled to disannexation, the City has determined that the petition is in compliance with the procedural requirements of Section 43.141 and, as a result, the petition is procedurally in a position for the City Council to consider it and the disannexation request.

Due to the fact that the owner has abandoned plans to develop a single-family residential neighborhood on the subject property in favor of building a family home, staff is supportive of the disannexation request.

PUBLIC NOTIFICATIONS

Per Section 43.141(f) of the Texas Local Government Code, the applicant provided public notice of the petition by posting a copy of the petition for ten (10) days in three public places in the annexed area and published a copy of the petition once in a newspaper of general circulation serving the area more than fifteen (15) days before the petition was circulated to voters in the subject property.

RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, staff recommends approval of the Disannexation request, with the condition noted below.

Conditions:

1. Approval of the Final Inspection for building permit BLDR-004051-2021 is required to be issued for the home on the subject property before the disannexation is effective for the subject property.

ATTACHED EXHIBITS

1. Disannexation Petition
2. Disannexation Ordinance
3. Exhibit A - Subject Property Plat

STAFF CONTACT INFORMATION

Prepared by:

Zack King, AICP
Senior Planner
zking@waxahachie.com

Reviewed by:

Jennifer Pruitt, AICP, LEED-AP, CNU-A
Senior Director of Planning
jennifer.pruitt@waxahachie.com

(12)

FUQUEZ PROPERTY COMPANY NO. 105, LLC
439 WILSON ROAD, WAXAHACHIE, TX 75165
469-964-9375, john@qtechht.com
Johnny Fussell, Member/Manager



October 13, 2023

Ms. Jennifer Pruitt,
Director of Planning
City of Waxahachie, Texas

Reference Property ID: 289604, Legal description: LOT 1 BLK 1 FUQUEZ ADDN 9.952 Acres

Address: 611 Wilson Road, Waxahachie, TX 75165

Owner: SDJF PROPERTY TRUST, Johnny L. Fussell, Co-Trustee and Sean D. Fussell, Co-Trustee

Dear Ms. Pruitt,

I subdivided 9.952 acres from my 275-acre ranch. I am in the process of building a house on the property.

I am requesting to have Property ID 289604 (9.952 acres) de-annexed from the city limits.

The previous owner was planning to develop the property and wrote a letter dated May 29th, 2007 (attached) requesting the city to annex the ranch into the city in conjunction with the re-zoning for single family. The city annexed the property August 6th, 2007, and stated in ordinance No. 418 (attached) that they would provide Municipal facilities and services.

Some of the services in the City Service plan (attached) are as follows: Police Protection, Fire Protection, Medical Services, Solid waste Collection, Water and Wastewater Service and others.

I am paying for the services as per the attached City Service Plan and not receiving anything in return.

10/13/2023 10:00 AM FAXED TO CITY OF WAXAHACHIE



(12)

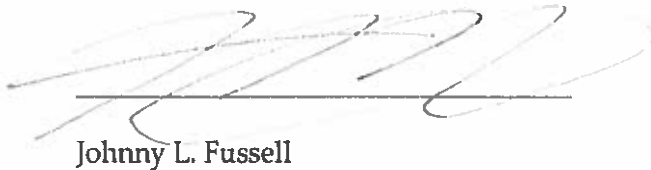
I have two other personal houses on 5-acre tracts at 439 and 515 Wilson Rd. beside the 611 Wilson Rd. house. They are on my ranch and are not in the city limits.

The many properties owned by others surrounding my ranch are not within the city limits.

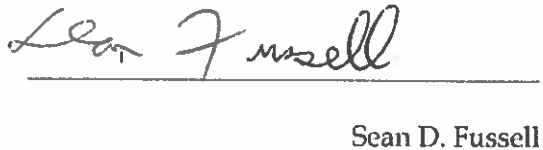
I do not plan to develop the Ranch.

Your consideration of the de-annexation of the 9.952 acres will be greatly appreciated.

Sincerely,



Johnny L. Fussell



Sean D. Fussell

Johnny L. Fussell
2225 Southern Oaks Drive
Cedar Hill, Tx 75104
Voter Precinct # 3109
Registration # 1085872280

Sean D. Fussell
439 Wilson Road
Waxahachie, Tx 76165
Voter Precinct # 1003
Voter Registration # 1047588607

(12)

ORDINANCE NO. XXXX

AN ORDINANCE PROVIDING FOR THE DISANNEXATION OF LOT 1, BLOCK A OF THE FUQUEZ ADDITION, SITUATED AT 611 WILSON ROAD, WAXAHACHIE, ELLIS COUNTY, TEXAS, WITHIN THE BOUNDARY LIMITS OF THE CITY OF WAXAHACHIE AND SETTING AN EFFECTIVE DATE.

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

WHEREAS, the landowners of the herein described property have requested and petitioned in writing, case number ANX-DNX-154-2023, that the City disannex and exclude the property herein described; and,

WHEREAS, the City Council finds that those tracts are not suitable or necessary for City purposes, and the City Council finds that the public interest will be served by disannexing the property;

NOW THEREFORE, the following described tracts of land and territory are disannexed by the City of Waxahachie and are no longer included within the corporate limits of the City of Waxahachie, and that city services shall no longer be available in those areas:

All those certain lots, tracts or parcels of land situated in Ellis County, Texas, and being more particularly described on Exhibit "A", which is made a part hereof and attached hereto for all purposes.

This ordinance shall be effective thirty (30) days after passage.

PASSED, APPROVED AND ADOPTED on this 4th day of December, 2023.

MAYOR

ATTEST:

City Secretary



Memorandum

To: Honorable Mayor and City Council
From: Jennifer Pruitt, AICP, LEED-AP, CNU-A, Senior Director of Planning
Thru: Michael Scott, City Manager *[Signature]*
Date: December 4, 2023
Re: Disannexation of Property for the Haven Ranch Development.

The City of Waxahachie has initiated a disannexation of land owned by GRBK Edgewood LLC situated East of East Haven Road and South of Hunter Pass, per the requirements of the Haven Ranch Development Agreement approved by City Council on November 6, 2023. The disannexation requires City Council consideration and adoption of the ordinance on this agenda only, a subsequent public hearing is not required for this request.

This land is proposed to be utilized as part of the Haven Ranch development. The total acreage of the requested disannexation is approximately 45.096 acres. Per the Haven Ranch Development Agreement, the tract is proposed to be annexed back into the City of Waxahachie following the issuance of PID bonds for the development of the property.

RECOMMENDED MOTION

"I move to approve ANX-DNX-184-2023, a Disannexaton for approximately 45.096 acres owned by GRBK Edgewood LLC, authorizing the Mayor to sign the associated documents accordingly."

AN ORDINANCE PROVIDING FOR THE DISANNEXATION OF CERTAIN TRACTS OF LANDS SITUATED EAST OF EAST HAVEN ROAD AND SOUTH OF HUNTER PASS, AND BEING PART OF THE W. BASKINS SURVEY, ABSTRACT NO. 145, THE J.R. LANGFORD SURVEY, ABSTRACT NO. 635, THE J. RIGGS SURVEY, ABSTRACT NO. 923, THE S.C. WHITE SURVEY, ABSTRACT NO. 1250, THE N.H. WHITTENBERG SURVEY, ABSTRACT NO. 1128, THE ELLIS COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 328, THE J.J. YOUNG SURVEY, ABSTRACT NO. 1199, THE W. STEWART SURVEY, ABSTRACT NO. 956, AND THE S.M. DURRETT SURVEY, ABSTRACT NO. 272, WAXAHACHIE, ELLIS COUNTY, TEXAS, WITHIN THE BOUNDARY LIMITS OF THE CITY OF WAXAHACHIE AND SETTING AN EFFECTIVE DATE.

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

WHEREAS, the landowners of the herein described property have requested and petitioned in writing, case number ANX-DNX-184-2023, that the City disannex and exclude the property herein described; and,

WHEREAS, disannexation of the herein described property is consistent with the Haven Ranch Development Agreement **INST. #1** approved by City Council on November 6, 2023;

WHEREAS, the City Council finds that those tracts are not suitable or necessary for City purposes, and the City Council finds that the public interest will be served by disannexing the property;

NOW THEREFORE, the following described tracts of land and territory are disannexed by the City of Waxahachie and are no longer included within the corporate limits of the City of Waxahachie, and that city services shall no longer be available in those areas:

All those certain lots, tracts or parcels of land situated in Ellis County, Texas, and being more particularly described on Exhibit "A", which is made a part hereof and attached hereto for all purposes.

This ordinance shall be effective thirty (30) days after passage.

PASSED, APPROVED AND ADOPTED on this 4th day of December, 2023.

MAYOR

ATTEST:

City Secretary

EXHIBIT A

(13)

BEING part of a certain tract or parcel of land situated in Ellis County, Texas and in the W. Baskins Survey, Abstract No. 145, J. R. Lansford Survey, Abstract No. 635, J. Riggs Survey, Abstract No. 923, S.C. White Survey, Abstract No. 1250, N.H. Whittenberg Survey, Abstract No. 1128, Ellis County School Land Survey, Abstract No. 328, J.J. Young Survey, Abstract No. 1199, W. Stewart Survey, Abstract No. 956, and the S.M. Durrett Survey, Abstract No. 272 and being more particularly described as follows:

COMMENCING at the Northwest corner of a 3.039 acre tract as described in Volume 2057, Page 1195, Official Public Records of Ellis County, Texas, at a point in the South line of a 9.83 acre parcel identified as **SECOND TRACT** of land described in Volume 703, Page 36, Deed Records of Ellis County, Texas.

THENCE South 30°15'40" East a distance of 401.42 feet, along the West line of said 9.83 acre tract, to the **POINT OF BEGINNING**;

THENCE South 30°15'40" East, passing the City Limits of Waxahachie Texas at a distance of 10.00 feet, continuing a total distance of 252.58 feet, along the said West line of 3.039 acre tract, to a point for corner;

THENCE South 59°16'35" West a distance of 642.77 feet, along the North line of a 10 Acre tract as described in Volume 2083, Pg. 2308, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE South 29°55'32" East a distance of 519.86 feet, along the West line of said 10 acre tract, to a point for corner;

THENCE South 29°54'10" East a distance of 1223.66 feet, along the West line of a 31.459 Acre tract as described in Volume 2100, Pg. 1310, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE South 30°21'10" East a distance of 957.87 feet, along the West line of a 30.88 Acre tract as described in Volume 531, Pg. 1001, Deed Records of Ellis County, Texas; to a point for corner;

THENCE South 57°38'45" West a distance of 105.58 feet, along the North line of a 80 Acre tract as described in Volume 531, Pg. 1001, Deed Records of Ellis County, Texas; to a point for corner;

THENCE South 29°54'52" East a distance of 1791.95 feet, along the West line of said 80 Acre tract and 80 Acre tract and West line of a 50 Acre tract as described in Volume 716, Pg. 545, Deed Records of Ellis County, Texas, to a point for corner;

THENCE South 60°51'37" West a distance of 1607.80 feet, along the North line of the Ann Allen tract containing 64.2 acres as described in Volume 947, Pg. 872, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE North 30°25'14" West a distance of 1233.51 feet, along the East line of the Ann Allen tract containing 80 acres as described in Volume 947, Pg. 872, Official Public Records of Ellis County, Texas, to a point for corner;

2

THENCE South 60°10'57" West a distance of 666.67 feet, along the North line of the said 80 acre Ann Allen tract, to a point for corner;

THENCE South 29°54'55" East a distance of 167.23 feet, along the West line of the said 80 acre Ann Allen tract, to a point for corner;

THENCE South 59°32'17" West a distance of 1762.64 feet, along a North line of the John S. Huffman tract as described in Volume 1648, Pg. 610, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE North 30°14'10" West a distance of 20.00 feet, along an East line of the said John S. Huffman tract, to a point for corner;

THENCE South 59°30'05" West a distance of 1063.77 feet, along a North line of the said John S. Huffman tract and a South line of a reserved 24 acre parcel of a 420.724 acre tract described in Volume 2197, Page 1480, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE North 30°08'12" West a distance of 975.81 feet, along the East line of the Elizabeth C. Hill tract as described in Volume 434, Pg. 32, Deed Records of Ellis County, Texas and a West line of said 24 acre tract, to a point for corner;

THENCE South 59°08'46" West a distance of 2219.61 feet, along a North line of the said Elizabeth C. Hill tract and a North line of the Rankin L. Hind tract as described in Volume 570, PG. 46, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE North 30°00'00" West a distance of 2404.55 feet, along the East line of the Pinhas Bendaya tract as described in Volume 1357, Pg. 125, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE South 62°59'38" West a distance of 156.46 feet, along a North line of said Pinhas Bendaya tract, to a point for corner;

THENCE North 30°15'18" West a distance of 818.24 feet, along an East line of the Ellis County Water Control and Improvement District tract as described in Volume 453, Pg. 206, Deed Records of Ellis County, Texas and an East line of the Erique Gascoyne tract as described in Volume 1440, Pg. 352, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE North 60°15'39" East a distance of 418.82 feet, along a South line of the said Erique Gascoyne tract, to a point for corner;

THENCE North 29°47'36" West a distance of 4294.58 feet, along an East line of the said Erique Gascoyne tract, to a point for corner;

THENCE North 59°28'07" East a distance of 312.24 feet, along the South line of a 19.363 acre tract as described in Volume 1021, Pg. 785, Deed Records of Ellis County, Texas, to a point for corner;

THENCE South 30°32'02" East a distance of 127.79 feet, a West line of said 19.363 acre tract, to a point for corner;

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THENCE North 60°46'13" East a distance of 133.69 feet, along a South line of said 19.363 acre tract, to a point for corner;

THENCE North 27°08'28" East a distance of 721.94 feet, along a Southeastly line of said 19.363 acre tract as described in Volume 1021, Pg. 785, Deed Records of Ellis County, Texas to a point for corner;

THENCE North 21°15'20" East, passing the City Limits of Waxahachie Texas at a distance of 370.04 feet, along a Southeasterly line of said 19.363 acre tract, continuing a total distance of 380.04 feet, to a point for corner;

THENCE South 68°44'40" East, a distance of 10.00 feet, into the 467.382 acre tract described in Volume 2194, Page 1465, Official Public Records of Ellis County, Texas, to a point for a corner;

THENCE South 21°15'20" West, passing the City Limits of Waxahachie Texas at a distance of 10.52 feet, continuing a total distance of 380.55 feet, on a line 10' offset of and parallel to a Southeasterly line of said 19.363 acre tract, to a point for corner

THENCE SOUTH 27°08'28" West, a distance of 725.48 feet, on a line 10' offset of and parallel to a Southeasterly line of said 19.363 acre tract, to a point for corner

THENCE South 60°46'13" West, a distance of 115.35 feet, on a line 10' offset of and parallel to a South line of said 19.363 acre tract, to a point for corner;

THENCE South 34°14'46" East, a distance of 16.61 feet, on a line 10' offset of and parallel to an East line of a reserved 16 acre tract out of a 467.382 acre tract described in Volume 2197, Page 1465, Official Public Records of Ellis County, Texas, to a point for a corner

THENCE South 71°23'59" East, a distance of 553.57 feet, on a line 10' offset of and parallel to a Northwest line of said reserved 16 acre tract, to a point for corner;

THENCE South 25°56'44" East, a distance of 650.16 feet, on a line 10' offset of and parallel to a Northwest line of said reserved 16 acre tract, to a point for corner;

THENCE South 60°12'24" West, a distance of 650.36 feet, on a line 10' offset of and parallel to a Southwest line of said reserved 16 acre tract, to a point for corner;

THENCE South 29°47'36" East, a distance of 3091.45 feet, on a line 10' offset of and parallel to an East line of the Erique Gascoyne tract as described in Volume 1440, Pg. 352, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE South 60°15'39" West, a distance of 418.74 feet, on a line 10' offset of and parallel to a South line of said Erique Gascoyne tract, to a point for corner;

THENCE South 30°15'18" East, a distance of 798.70 feet, on a line 10' offset of and parallel to an East line of said Erique Gascoyne tract, and of an East line of the Ellis County Water Control

and Improvement District tract as described in Volume 453, Pg. 206, Deed Records of Ellis County, Texas, to a point for corner;

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THENCE North 62°59'38" East, a distance of 156.50 feet, on a line 10' offset of and parallel to a North line of the Pinhas Bendaya tract as described in Volume 1357, Pg. 125, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE South 30°00'00" East, a distance of 2403.89 feet, on a line 10' offset of and parallel to an East line of said Pinhas Bendaya tract, to a point for corner;

THENCE North 59°08'46" East, a distance of 2209.46 feet, on a line 10' offset of and parallel to a North line of the Rankin L. Hinds 191.12 acres tract described in Volume 570, Page 46, Official Public Records of Ellis County, Texas, and the Elizabeth C. Hill 39.8 acres described in Volume 434, Page 32, Deed Records of Ellis County, Texas, to a point for corner;

THENCE North 29°56'28" West, a distance of 36.66 feet, along a West line of a reserved 24 acre tract out of the 420.724 acre tract described in Volume 2197, Page 1480, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE North 59°30'05" East, a distance of 1022.47 feet, along the North line of said 24 acre reserved tract, to a point for corner;

THENCE South 30°08'12" East, a distance of 1012.47 feet, along the East line of said 24 acre reserved tract, to a point for corner;

THENCE North 59°30'05" East, a distance of 51.29 feet, on a line 10' offset of and parallel to a North line of the John S. Huffman tract as described in Volume 1648, Pg. 610, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE South 30°14'10" East, a distance of 20.01 feet, on a line 10' offset of and parallel to an East line of said John S. Huffman tract, to a point for corner;

THENCE North 59°32'17" East, a distance of 1742.70 feet, on a line 10' offset of and parallel to a North line of said John S. Huffman tract, to a point for corner;

THENCE North 29°54'55" West, a distance of 167.34 feet, on a line 10' offset of and parallel to a West line of the Ann Allen tract containing 80 acres as described in Volume 947, Pg. 872, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE North 60°10'57" East, a distance of 686.58 feet, on a line 10' offset of and parallel to a North line of the said Ann Allen 80 acre tract, to a point for corner;

THENCE South 30°25'14" East, a distance of 1233.63 feet, on a line 10' offset of and parallel to an East line of the said Ann Allen 80 acre tract, to a point for corner;

THENCE North 60°51'37" East, a distance of 1587.88 feet, on a line 10' offset of and parallel to the North line of the Ann Allen tract containing 64.2 acres as described in Volume 947, Pg. 872, Official Public Records of Ellis County, Texas, to a point for corner;

(13)

THENCE North 29°54'52" West, a distance of 1791.39 feet, on a line 10' offset of and parallel to the West line of a 50 Acre tract as described in Volume 716, Pg. 545, and along the West line of a

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80 Acre tract as described in Volume 531, Pg. 1001, Deed Records of Ellis County, Texas, to a point for corner;

THENCE North 57°38'45" East, a distance of 105.51 feet, on a line 10' offset of and parallel to a North line of said 80 acre tract, to a point for corner;

THENCE North 30°21'10" West, a distance of 948.25 feet, on a line 10' offset of and parallel to a West line of a 30.88 acres tract described in Volume 531, Page 1001, Deed Records of Ellis County, Texas, to a point for corner;

THENCE North 29°54'10" West, a distance of 1223.70 feet, on a line 10' offset of and parallel to a West line of a 35.459 acres tract described in Volume 2100, Page 1340, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE North 29°55'32" West, a distance of 529.72 feet, on a line 10' offset of and parallel to a West line of a 10 acre tract as described in Volume 2083, Pg. 2308, Official Public Records of Ellis County, Texas, to a point for corner;

THENCE North 59°16'35" East, a distance of 642.71 feet, on a line 10' offset of and parallel to a North line of said 10 acre tract, to a point for corner;

THENCE North 30°15'40" West, on a line 10' offset of and parallel to a West line of a 3.039 acre tract as described in Volume 2057, Page 1195, Official Public Records of Ellis County, Texas, passing the City Limits of Waxahachie Texas at a distance of 239.07 feet, and continuing a total distance of 242.66 feet, to a point for corner;

THENCE North 59°44'20" East, a distance of 10.00 feet, to the **POINT OF BEGINNING**, and containing **45.096 ACRES**, more or less.

TRACT 2 Description:

(13)

BEING THAT CERTAIN TRACT OF LAND SITUATED IN THE PLACIDIO MCEARLEY SURVEY, ABSTRACT NUMBER 741, THE PUERTO TIERRA IRRIGATION COMPANY SURVEY, ABSTRACT NUMBER 1238 AND THE WILLIAMS BASKINS SURVEY, ABSTRACT NUMBER 145, ELLIS COUNTY, TEXAS AND BEING LOT 3, BLOCK A OF CRYSTAL HILLS, AN ADDITION TO THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, AS RECORDED IN CABINET "H", SLIDE 798 OF COUNTY RECORDS, ELLIS COUNTY, TEXAS. (4.783 ACRES)

SAVE AND EXCEPT THE FOLLOWING TRACT OF LAND

Being a certain tract or parcel of land situated in the W. Baskins Survey, Abstract No. 145, Ellis County Texas, and being a portion of a called 10.0 acre tract of land described in the Deed to Nita Condor, recorded in Instrument No. 2034598, Official Public Records, Ellis County, Texas (O.P.R.E.C.T.), and being a portion of a called 2.98 acre tract of land designated as "Tract 2" in the Deed to Mark J. Bench and Caroline V. Brooke, recorded in Instrument No. 2032169, O.P.R.E.C.T., and being a portion of the 45.096 acre tract of land designated as the "Annexation Boundary" in City of Waxahachie Ordinance No. 2426, as recorded in Volume 2340, Page 736, O.P.R.E.C.T., and being more particularly described as follows:

BEGINNING at the southeast corner of said 2.98 acre tract, same being the most northerly corner of a called 10.0 acre tract of land described in the Deed to Brian K. and Kimberly Garlitz, recorded in Volume 2809, Page 470, O.P.R.E.C.T.;

THENCE South 59°16'35" West, with the northerly line of said 10.0 acre Garlitz tract and the southerly lines of said 2.98 acre tract and said 10.0 acre Condor tract, a distance of 652.77 feet to a point for corner;

THENCE over and across said 10.0 acre Condor tract and said 2.98 acre tract, the following courses and distances:

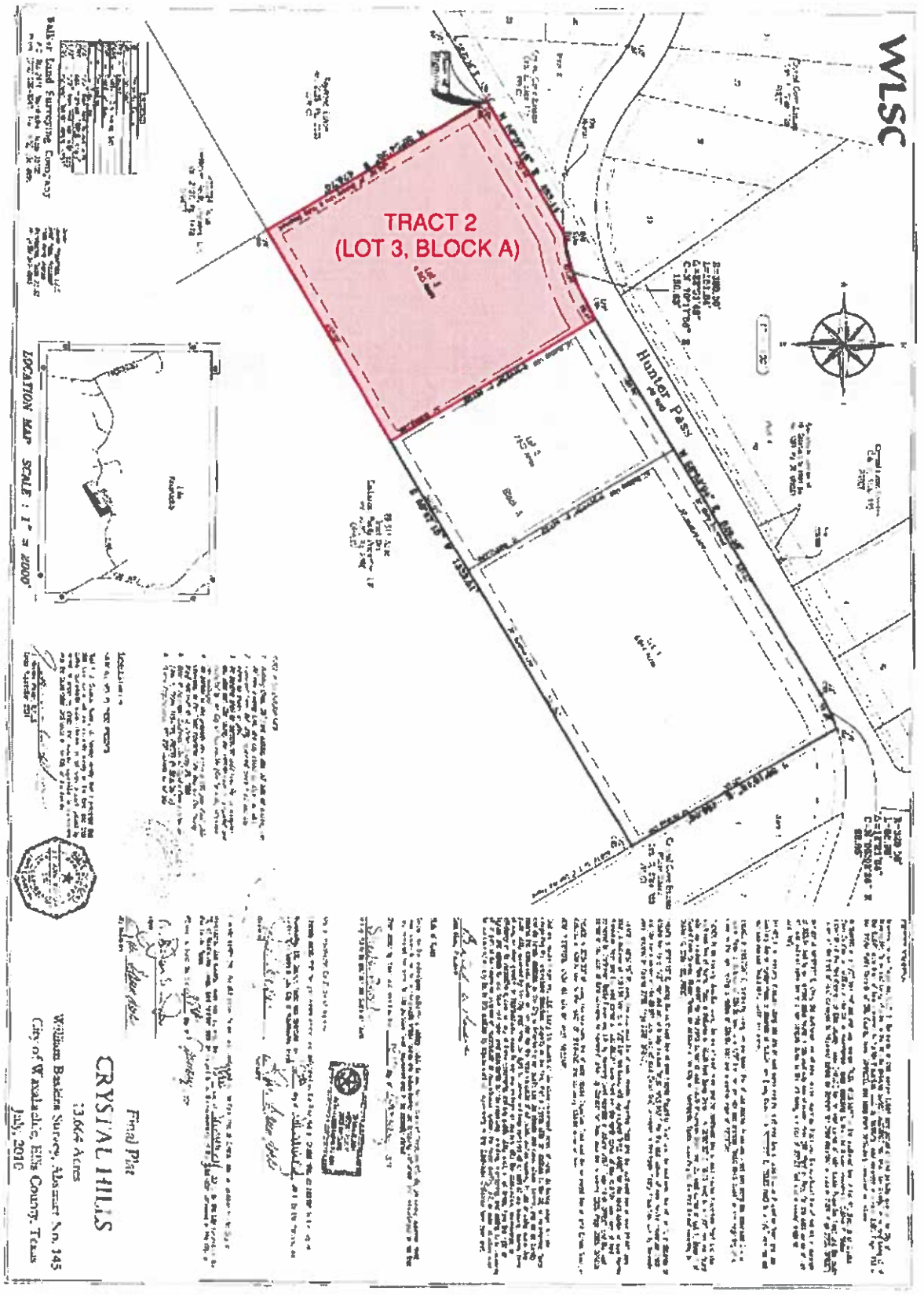
North 29°55'32" West, a distance of 10.00 feet to a point for corner;

North 59°16'35" East, a distance of 642.71 feet to a point for corner;

North 30°15'40" West, a distance of 242.66 feet to a point for corner;

North 59°44'20" East, a distance of 10.00 feet to a point for corner in the easterly line of said 2.98 acre tract;

THENCE South 30°15'40" East, with the easterly line of said 2.98 acre tract, a distance of 252.58 feet to the **POINT OF BEGINNING** and containing 8,954 square feet or 0.206 acres of land.



(13)



ANX-DNX-184-2023 Disannexation Exhibit

Date: 11/16/2023

Legend

 ANX-DNX-184-2023 (DNX)

 City Limits



Memorandum

To: Honorable Mayor and City Council

From: Ricky Boyd, Fire Chief

Thru: Michael Scott, City Manager

Date: November 27, 2023

Re: Consider the Award of a Contract for Emergency Ambulance Service to Allegiance Mobile Health and Related Supplemental Appropriation and Update City Ordinance Chapter 4 ½ 'Ambulances and Emergency Medical Service'

Recommended Motion#1: "I move to approve the award of a contract for Emergency Ambulance Service with Allegiance Mobile Health and the related supplemental appropriation of \$6,582 and authorize the Mayor and/or City Manager to execute all necessary documents."

Recommended Motion #2: "I move to approve the staff recommended changes to City Ordinance Chapter 4 ½ 'Ambulances and Emergency Medical Service'."

Item Description: On June 29, 2023, American Medical Response (AMR) notified the City of their decision to terminate their contract for Ambulance Services. We began an RFP process on July 14, 2023. We received two (2) bids. It was the decision of the entities to enter into negotiations with Allegiance Mobile Health (AMH).

Operational Impact: We believe that we have negotiated the best contract possible with AMH. Here are some highlights of the contract:

- Initial Term- January 1, 2024 to September 30, 2027
- Optional Renewals- three (3) optional renewals of two (2) years each
- Ambulances- twelve (12) in the system with four (4) stationed in the City
- Staffing Hours- 240 minimum staffing hours per day
- Performance Security- in lieu of a Performance Bond, the City will receive four (4) fully stocked and operational ambulances if AMH defaults on the contract
- Ambulance Replacement- the maximum ambulance service life is two (2) years
- Annual Subsidy- \$420,000 for the system of which the City will pay \$159,600 (38%)
- Annual Subsidy Redetermination- equal to the Medicare/Medicaid Ambulance Inflation Factor (AIF) not to exceed a 7% increase if approved by the City
- Notice of Termination- 365 days by either AMH or the City
- Dispute Resolution- in a court of competent jurisdiction in Ellis County
- Transfer Ambulances- at the request of BSW Hospital, the contract does not include oversight of interfacility transfers

In order to make the existing Chapter 4 ½ of the Code of Ordinances consistent with the terms of the new ambulance services contract with Allegiance (AMH), the ordinance language needs to be updated. These language changes are the result of removing the exclusivity of non-emergency ambulatory transports.

Fiscal Impact: Our EMS subsidy budget for FY24 is \$150,825, of which we have paid \$37,706.24 to AMR for the first quarter of the fiscal year (October through December 2023). As stated above, our annual subsidy for the initial term of the contract with AMH is \$159,600, of which we will pay \$119,700 for the remainder of the fiscal year (January through September 2024). I therefore request a Supplemental Appropriation for account #100-220-55000 in the amount of \$6,582 for FY24.

There is no fiscal impact to the requested ordinance revision of Chapter 4 ½ of the Code of Ordinances.

Service Contract

With



For

Ambulance Services



Ellis County Contract- City of Waxahachie

This Ambulance Services Contract ("Agreement") is made and entered into this 4th day of December, 2023 by and between the City of Waxahachie ("City") and Allegiance Mobile Health ("AMH") for services to be provided collectively to the public Entities of the Cities of Waxahachie, Ennis, and Red Oak as well as Ellis County (collectively the "Entities" and individually an "Entity").

- A. The Entities are political subdivisions of the State of Texas (the "State") with authority over the delivery of pre-hospital emergency medical services ("EMS") within their respective jurisdiction.
- B. AMH is a licensed provider of high-quality EMS with the capability to provide EMS within the Entities.
- C. In order to ensure that residents and visitors within the Entities receive appropriate EMS when required as a result of injury or illness, the Governing Body (the "Governing Body") of the Entities desire to grant AMH the right to provide 911 EMS described herein, and AMH desires to provide such 911 EMS, subject to the terms and conditions specified herein.
- D. While often mentioned collectively in this Agreement, each Entity and their respective Governing Body are separate and distinct from each other. Therefore, while it is the intent that each of the Entities act together, nothing in this Agreement shall be construed as to alter the powers of each separate Entity and their Governing Body to act independently of each other.

NOW, THEREFORE, in consideration of their mutual promises, the parties hereby agree as follows:

1. Definitions:

- 1.1 First Responders includes but not limited to State and Local Government Employees who may respond to emergencies, such as firefighters, police officers, officers of the peace, judges, justices, and others who may be called to the scene of the emergency.
- 1.2 EMS Administrators- the Fire Chiefs for the Cities and the Fire Marshall for the County.

2. Exclusive 911 Emergency Ambulance Operating Area.

- 2.1 The Entities hereby grant AMH the right to provide the Services described in Appendix B (the "Services") within the service area specified in such Appendix A (the "Service Area"). All Primary PSAPs and communications facilities ("Communications Centers") authorized to receive emergency medical calls and/or to dispatch emergency ambulances within the Service Area shall direct such calls to AMH in accordance with the dispatch protocols ("Dispatch Protocols") agreed upon by AMH and the Entities. Subject to Section 2.2, the Entities shall not permit any other provider of emergency ambulance services to respond to medical calls within the Service Area requiring emergency dispatch, regardless of whether such calls are placed through the 911 system or to a ten (10) digit number. The Entities shall require that all such emergency and non-emergency calls, including those received on ten (10) digit numbers, be routed to AMH.
- 2.2 Notwithstanding the foregoing, AMH may enter into subcontracts and mutual aid agreements with licensed ambulance providers as deemed necessary by AMH to ensure adequate coverage throughout the Service Area. All subcontractors ("Subcontractors") shall meet the applicable requirements of this Agreement. The EMS Administrators shall have the ability to approve or disapprove subcontractors as mutual aid partners. Likewise, the Entities retain

Ellis County Contract- City of Waxahachie

the right to call upon their fire department mutual aid partners to provide emergency ambulance response when AMH and their mutual aid partners are unable to provide a timely response.

- 2.3 The Entities shall retain the right to treat and transport patients under the guidelines of Texas Health and Safety Code Sec. 773.0043 if AMH and/or the subcontractors and/or the mutual aid partners are unable to provide emergency medical services imminently at the patient's location.

3. Ambulance Services.

- 3.1 AMH shall respond, or request that a mutual aid provider or Subcontractor respond, to all requests for Services within the Service Area from a Communications Center. When AMH or their mutual aid providers cannot respond to a call, the affected Entity Communications Center shall request ambulance(s) from a fire department mutual aid partner.
- 3.2 AMH shall respond to all requests for Services from a Communications Center using an MICU Ambulance. Each MICU Ambulance shall be staffed with two personnel, at least one (1) of whom shall be licensed or certified as an Emergency Medical Technician-Paramedic ("Paramedic") and at least one of whom shall be licensed or certified at the level of EMT-Basic or EMT-Advanced.
- 3.3 All ambulances used to provide Services (the "Ambulances") shall be licensed and equipped with all supplies and equipment required by State law and shall be maintained in good working order in accordance with AMH's maintenance policies and procedures. The Ambulances shall also comply with the vehicle specifications set forth in Appendix F.
- 3.4 AMH shall perform its own dispatching. Calls received by the Primary PSAPs (Primary Public Safety Answering Points) within the Service Area shall be immediately transferred to AMH in accordance with the Dispatch Protocols as agreed upon by all parties. The Entities agree to allow AMH access to their established radio systems in order to complete EMS radio dispatch services for the Entities. However, all radio contact to and from AMH Dispatch and AMH ambulances shall be on their own channel. AMH shall provide all radio and connectivity equipment to ensure appropriate use of established radio system(s). AMH shall work collaboratively with the Entity's officials in the development of appropriate radio Dispatch Protocols.
- 3.5 AMH, its Ambulances and AMH Personnel shall comply with all federal, State and local laws. Without limiting the foregoing, all AMH personnel and Ambulances shall be fully licensed or certified as required by law and shall comply with all licensing, certification or other laws.
- 3.6 AMH shall perform the Services in accordance with prevailing standards of care in the ambulance industry. To help ensure maintenance of such standards, AMH shall operate a quality improvement program consistent with industry standards.
- 3.7 AMH shall perform the additional services specified in Appendix B.

Ellis County Contract- City of Waxahachie

4. **Response Time Standards; Deployment.**

This is a PERFORMANCE BASED agreement. AMH shall deploy a sufficient number of Ambulances necessary for it to substantially comply with the Response Time Standards set forth in Appendix G ("Response Time Compliance"). As a minimum, AMH shall provide 240 total ambulance service hours per 24-hour period (7:00 am to 7:00 am) with a total of 1,680 ambulance service hours per calendar week (07:00 am Sunday thru 07:00 am Sunday). In the event AMH's overall response time compliance in the aggregate is below ninety percent (90%) for any two (2) consecutive months, AMH shall deploy sufficient additional Ambulances to meet or exceed that level.

If it is determined by the Entities that the deployment hours set forth above are not working, those hours will be renegotiated with the Entities and agreed upon in writing, AMH will not unreasonably withhold consent to an increase if necessary to meet the standards set forth in this Agreement.

5. **Term.**

5.1 AMH shall commence providing services hereunder effective at 7:00 a.m. on January 1, 2024, and this Agreement shall continue in full force and effect through 7:00 a.m. on October 01, 2027 (the "Initial Term").

5.2 At the end of the Initial Term, the Entities shall have the option to renew the contract for two (2) years under the following provisions:

- a. The First Renewal shall only be exercised if AMH is successful in meeting the Response Time Compliance standards in Appendix F and the Entities are satisfied with the services provided by AMH.
- b. The First Renewal shall only occur with written approval from the Entities which shall occur at least ninety (90) days prior to the end of the Initial Term. Failure of the Entities to provide a renewal letter shall serve as Notice of Nonrenewal.

5.3 Likewise, at the end of the First Renewal, the Entities shall have the option to renew the contract for two (2) years under the following provisions:

- a. The Second Renewal shall only be exercised if AMH is successful in meeting the Response Time Compliance standards in Appendix F and the Entities are satisfied with the services provided by AMH.
- b. The Second Renewal shall only occur with written approval from the Entities which shall occur at least ninety (90) days prior to the end of the First Renewal. Failure of the Entities to provide a renewal letter shall serve as Notice of Nonrenewal.

5.4 Likewise, at the end of the Second Renewal, the Entities shall have the option to renew the contract for two (2) years under the following provisions:

- a. The Third Renewal shall only be exercised if AMH is successful in meeting the Response Time Compliance standards in Appendix F and the Entities are satisfied with the services provided by AMH.

Ellis County Contract- City of Waxahachie

- b. The Third Renewal shall only occur with written approval from the Entities which shall occur at least ninety (90) days prior to the end of the First Renewal. Failure of the Entities to provide a renewal letter shall serve as Notice of Nonrenewal.

6. Entity Considerations:

- 6.1 As part of the consideration of AMH's undertakings hereunder, the Governing Bodies of the Entities shall provide AMH a total subsidy of \$420,000 shared as follows:

- a. The City of Waxahachie: \$159,600.00 (38%)
- b. The City of Ennis: \$71,400.00 (17%)
- c. The City of Red Oak: \$50,400.00 (12%)
- d. The County of Ellis: \$138,600.00 (33%)
- e. The subsidy of each Entity is payable in four (4) equal payments which shall be made by the tenth (10th) day of the month following the end of the quarter.

- 6.2 Subsidy Redetermination:

- a. A price redetermination may be considered by the Entities' Governing Bodies only on October 1st of each year of the Agreement. All requests for price redetermination shall be in written form, shall be submitted at least one hundred and eighty (180) days prior to October 1st of each year, and shall include supporting documentation.
- b. If requested, the subsidy increase shall be equal to the Medicare/Medicaid Ambulance Inflation Factor (AIF) but shall not exceed 7% of the current subsidy.
- c. If AMH and the Entities agree that additional ambulances are needed in order to meet response time compliance due to growing demand, AMH may request a subsidy increase equivalent to \$280,000/24 additional hours multiplied by the requested and granted subsidy redetermination agreed upon in previous years under 5.2.b.
- d. In order to receive consideration for a price redetermination, AMH must be in good standing, meet the minimum requirements of the Agreement, and be performing at or above the level of the Response Time Compliance standards.

- 6.3 The Cities of Waxahachie, Ennis and Red Oak shall provide medical first response at the BLS level with the local option to coordinate with the medical director to provide ALS ("First Responder Services"). Volunteer departments shall have the option of whether or not to participate in First Responder Services. As applicable, all professional, volunteer and combination departments shall comply with the requirements set forth in Appendix H.

7. Termination.

- 7.1 Notwithstanding Section 5, the Entities may terminate this Agreement in the event of material breach ("Material Breach") by AMH of this Agreement. Material Breach shall include:

Ellis County Contract- City of Waxahachie

- a. Continued failure to operate the system in a manner consistent with Federal, State and Local laws, rules and regulations;
- b. Continued failure to provide Services consistent with the prevailing standards of care in the ambulance industry, such that the continued delivery of such Services would pose a serious and imminent threat to the health and safety to the residents of the Service Area;
- c. Failure to provide the data or access to records as required by this Agreement within ten (10) days of written notice by the Entities citing the relevant section of this Agreement;
- d. Intentionally supplying misleading material information with regard to records, documents, dates or time kept for the purpose of determining AMH's performance under the terms of this Agreement. Upon detection of accidental or unintentional error, AMH shall notify the Entities immediately;
- e. Continued failure of AMH, its employees, its agents, or its representatives to conduct themselves in a professional and courteous manner including professional appearance;
- f. Continued failure to substantially and consistently meet or exceed the response time standards and/or the various clinical standards provided for in the Agreement;
- g. Continued failure of AMH personnel to bring needed equipment to the location of the patient. For clarification, AMH personnel shall bring all patient care equipment (medical kit, Lifepak, oxygen, cot, etc.) to patient locations upon arrival on every call unless fire department personnel are on location prior to their arrival and give direction otherwise.
- h. Continued failure to maintain equipment in accordance with manufacturer or industry maintenance practices as outline in the Agreement;
- i. Continued failure to furnish key personnel of quality and experience;
- j. Continued failure to submit scheduled or ad hoc reports, or other information;
- k. Making an assignment for the benefit of creditors; filing a petition for bankruptcy; being adjudicated insolvent or bankrupt; petitioning by custodian, receiver or trustee for a substantial part of its property; or commencing any proceeding relating to it under the bankruptcy, reorganization arrangements, readjustment of debt, dissolution or liquidation law or statute;
- l. Failure to maintain insurance requirements or provide timely notification of policy changes;
- m. Any other continued failure of performance required in the Agreement which is determined to constitute an endangerment to public health and safety, or not be in the best interest of the Entities;
- n. Failure to pay penalties within the requirements of the Agreement;

Ellis County Contract- City of Waxahachie

- o. Failure to maintain any type of license, permit, or certification required by law in order to fulfill the requirements of the Agreement or in order to avoid fines and penalties imposed by law;
 - p. Persistent and repeated failures of AMH to comply with any of the performance requirements;
 - q. Continued failure to comply with any other material provision of this Agreement.
- 7.2 As a condition precedent to termination by the Entities, the Entities shall provide AMH with no less than thirty (30) days' advance written notice citing, with specificity, the basis for the Material Breach (the "Breach Notice"). In the event AMH shall have cured the Material Breach within such thirty (30) days' period, or such longer period as may be specified in the Breach Notice, this Agreement shall remain in full force and effect. In the event the Entities reasonably deem AMH to remain in Material Breach as of the end of the notice period specified in the Breach Notice, the Entities shall provide AMH with a notice of termination ("Termination Notice") setting forth the specific reasons the Entities believe AMH remains in Material Breach and the effective date of termination ("Termination Date"), which shall be no less than thirty (30) days from the date of the Termination Notice.
- 7.3 AMH may appeal the Breach Notice or Termination Notice by filing a notice of appeal ("Appeal Notice") with the Governing Body(ies) of the Entity(ies) at least twenty (20) days prior to the Termination Date. Following receipt of such Appeal Notice, the Governing Body(ies) shall hold a hearing as soon as reasonably practicable, in which AMH shall be entitled to contest the Breach Notice and/or Termination Notice, as the case may be. The Governing Bodies may affirm or reverse the Breach or Termination Notice, or may provide AMH with additional time within which to cure the Material Breach. Notwithstanding Section 7.2, this Agreement shall remain in effect until the Governing Body(ies) has issued a written decision following the appeal. The written decision of the Governing Body(ies) shall be binding on the parties. Notwithstanding the foregoing, nothing herein shall impair the rights of either party to seek damages or such other relief as may be available under applicable law in a court of competent jurisdiction.
- 7.4 AMH Performance Security – Primary assets assigned to the City of Waxahachie (City) contract shall be held as collateral for performance security in the event of termination due to default by AMH. AMH shall, within 5 days of the execution of this Agreement, supply the City with an Asset List including year, make, model, VIN or serial numbers for all equipment assigned to the City of Waxahachie. If equipment is replaced, AMH will supply the City with an updated asset list within 48 hours.
- In the event that AMH is found in default and contract is terminated for default, AMH will surrender the four (4) fully stocked and operational primary mobile intensive care (MICU) ambulances, including cardiac monitors, stretchers, all medical supplies and other items listed on the Asset List to the City. Further, the EMS stations, and station amenities will be made available to the City or their appointed provider to use for a period of 120 days. AMH staff members assigned to the City will not be reassigned by AMH and will continue to cover the contracted service area under the direction of the City or their appointed agency.
- 7.5 AMH may terminate this Agreement with or without cause upon three hundred sixty-five (365) days' written notice to the Entities. Termination with a shorter period of notification

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shall result in surrender of all performance security assets to the City as defined in section 7.4.

- 7.6 Likewise, an Entity may terminate this Agreement with or without cause upon three hundred sixty-five (365) days' written notice to AMH.
- 7.7 In the event of termination by either party for any reason, or of expiration of this Agreement, AMH shall cooperate with the Entities and with the successor provider to help ensure a smooth transition.

8. Billing and Payment.

- 8.1 AMH shall be solely entitled to perform, and responsible for performing, billing of patients and third-party payers for EMS Transport Services provided hereunder. The Entities shall not bill, or permit any other party to bill patients or third-party payers, for EMS, including but not limited to transport, first response or dispatch services provided in connection with an Emergency Call.
- 8.2 As an exception to 8.1 above, fire department mutual aid partners shall retain the right to bill patients and third-party payers for EMS Transport Services.
- 8.3 AMH shall comply with all applicable laws governing billing and collection, including but not limited to laws and regulations applicable to patients covered by Medicare, Medicaid, Tricare and other public or private reimbursement programs.
- 8.4 AMH shall further comply with the rate requirements set forth in Appendix I. The Entities agree to increase such rates on an annual basis in an amount equal to any increase in the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average, average of "Medical Care" and "Transportation" Major Groups (or any successor indices). Further, AMH may request an additional increase based on cost factors such as unexpected or unusual increases in the cost of fuel, supplies or labor, or new regulatory or patient care standards. Such requests shall be supported by credible documentation.

9. Records.

- 9.1 AMH shall maintain accurate books, documents and records reflecting the Services provided and all bills or claims submitted to patients or third-party payers. All such records should be prepared and maintained in accordance with applicable law, including but not limited to the Health Insurance Portability and Accountability Act of 1996 and applicable regulations promulgated thereunder ("HIPAA").
- 9.2 Subject to all applicable laws and regulations, the Entities shall be entitled to review and inspect such records to the extent necessary to ensure compliance with the terms of this Agreement. Any such review or inspection shall occur at AMH's premises, during regular business hours, upon not less than two (2) full business days' advanced written notice.

10. Mutual Cooperation.

- 10.1 The parties shall fully cooperate with each other to assist AMH in the performance of this Agreement.

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10.2 Each party shall designate a primary liaison who shall be the primary point of contact for the other party in connection with the performance of this Agreement. In the event either party is dissatisfied with the other party's conduct or performance related to this Agreement, the primary liaison for each party shall meet and confer, with such other personnel as they may deem appropriate, in order to informally resolve such issue, if possible.

10.3 AMH shall transport any professional or volunteer Fire Department or Police Department personnel who are injured in the line of duty at no charge to any of the Entities or the injured person.

11. Insurance.

Each party shall maintain, throughout the term of this Agreement, the insurance coverage specified in Appendix J. Each party shall furnish to the other certificates evidencing such coverage prior to the effective date hereof, and each party shall endeavor to provide no less than thirty (30) days' advance written notice to the other party prior to the diminution or cancellation of such coverage.

12. Indemnification.

AMH shall indemnify, defend and hold the City, and its employees and agents harmless against any claims, liability, losses or damages (collectively "Claims"), incurred by the City which arise from any breach of this Agreement or any negligent, intentional or other tortious act or failure to act of AMH related to the performance of this Agreement. This provision shall survive the termination of this Agreement. The City agrees to promptly notify AMH of any Claim against it which it expects to give rise to a duty of indemnity by AMH.

13. Dispute Resolution.

13.1 All disputes which in any manner arise out of or relate to this Agreement or the subject matter thereof, shall be resolved in an Ellis County Texas court of competent jurisdiction.

- a. Mediation may be utilized prior to court action if the Entities agree.
- b. However, the option of mediation does not preclude the rights of the Entities to take a matter of dispute to court.

13.2 The parties shall have the rights of discovery as provided for by applicable Texas law.

13.3 Nothing herein shall be construed as requiring court action of claims brought by patients or other third parties.

14. Miscellaneous Provisions.

14.1 Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; (c) by facsimile transmission, upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the following addresses:

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If to City of Waxahachie:

City of Waxahachie
 Attn: City Manager
 408 S. Rogers Street
 Waxahachie, TX 75165

If to AMH:

General Manager
 Allegiance Mobile Health
 500 N. Shoreline BLVD Suite 906
 Corpus Christi, TX. 78401

With Mandatory Copy to:

Waxahachie Fire-Rescue
 Attn: Fire Chief
 407 Water Street
 Waxahachie, TX 75165

- 14.2 AMH shall maintain compliance with the Texas Administrative Code, Chapter 157 Emergency Medical Care.
- 14.3 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
- 14.4 This Agreement (including the Appendixes and any attachments thereto, which are incorporated herein by this reference) constitutes the entire Agreement between the parties with respect to the subject matter hereof, superseding all prior oral and written agreements with respect thereto, and no amendment shall be valid unless it is documented in a written instrument duly executed by the party or parties making such amendment.
- 14.5 AMH agrees not to differentiate or discriminate in its provision of Services to patients because of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, disability or age.
- 14.6 Nothing in this Agreement shall be construed to confer upon any person, any remedy or claim as third-party beneficiaries or otherwise. No waiver of any breach of any provision of this Agreement shall be deemed a waiver of any preceding or succeeding breach. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.
- 14.7 Neither party may assign this Agreement nor any rights hereunder, nor may they delegate any of the duties to be performed hereunder without the prior written consent of the other party, except as provided in Section 2.2 herein. This Agreement shall be binding upon, and shall inure to the benefit of, the parties to it and their respective legal representatives, successors and assigns.
- 14.8 The prevailing party in any legal action arising from this Agreement shall be awarded attorneys' fees and costs of all such legal action.
- 14.9 It is not the intent of either party to this Agreement that any remuneration, benefit or privilege provided for under this Agreement shall influence or in any way be based on the referral or recommended referral by either party of patients to the other party or its affiliated providers, if any, or the purchasing, leasing, or ordering of any services other than specific services described in this Agreement. Any payments or other consideration specified in this

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Agreement are consistent with what the parties reasonably believe to be the fair market value for the services provided.

- 14.10 In the performance of this Agreement, each party hereto shall be, as to the other, an independent contractor and neither party shall have the right or authority, express or implied, to bind or otherwise legally obligate the other. Nothing contained in this Agreement shall be construed to constitute either party assuming or undertaking control or direction of the operations, activities or medical care rendered by the other. AMH and the administrative staff of the Entities shall meet on a monthly basis to address issues of mutual concern related to the provision of Services and the parties' respective rights and obligations hereunder.
- 14.11 Each party shall comply with the privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996 and the regulations thereunder ("HIPAA"). All Patient medical records shall be treated as confidential so as to comply with all state and federal laws.
- 14.12 AMH has made available to the Entities a copy of its Code of Conduct, Anti-kickback policies and other compliance policies, as may be changed from time-to-time, at AMH's web site, located at: <https://allmh.com>, and the Entities acknowledge receipt of such documents. AMH warrants that its personnel shall comply with AMH's compliance policies, including training related to the Anti-kickback Statute.
- 14.13 Each party represents and certifies that neither it nor any practitioner who orders or provide Services on its behalf hereunder has been convicted of any conduct that constitutes grounds for mandatory exclusion as identified in 42 U.S.C. § 1320a-7(a). Each party further represents and certifies that it is not ineligible to participate in Federal health care programs or in any other state or federal government payment program. Each party agrees that if DHHS/OIG excludes it, or any of its practitioners or employees who order or provide Services from participation in Federal health care programs, the party must notify the other party within five (5) days of knowledge of such fact, and the other party may immediately terminate this Agreement unless the excluded party is a practitioner or employee who immediately discontinues ordering or providing Services hereunder.
- 14.14 Equal Employment Opportunity. If the provisions of Executive Order 11,246 are applicable to this Agreement, the parties incorporate the equal employment opportunity clause set forth in 41 C.F.R. part 60-1. If the provisions of Executive Order 13,201 are applicable to this Agreement, the parties incorporate the equal employment opportunity clause set forth in 29 C.F.R. part 470.
- 14.15 Each individual executing this Agreement on behalf of any party to this Agreement represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said party. This Agreement may be signed in counterparts.
- 14.16 Pursuant to Texas Government Code Section 2252.152, by executing this Agreement, you verify that you, your company, and your employees are not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.
- 14.17 To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't. Code §552.001 *et seq.*, as amended (the "Texas Public Information Act"), the same shall be of no force and effect. Furthermore, it is expressly understood and agreed that the City, its

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officers and employees may request advice, decisions, and opinions of the Attorney General of the State of Texas in regard to the application of the Open Records Act to any software, or any part there, or other items or data furnished to the City whether or not the same are available to the public. It is further understood that the City, its officers and employees shall have the right to rely on the advice, decisions, and opinions of the Attorney General, and that the City, its officers and employees shall have no liability or obligations to AMH for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other items or data furnished to the City by AMH in reliance on any advice, decision, or opinion of the Attorney General of the State of Texas.

- 14.18 Funds for payment of this contract have been provided through the City budget approved by the City Council for this fiscal year only. State of Texas law prohibits the obligations and expenditures of public funds beyond the fiscal year for which a budget has been approved. However, the performance of this contract may extend beyond the current fiscal year. The fiscal year for the City extends from October 1 of each calendar year to September 30 of the following calendar year. It is the expectation of the City that funding will be available to pay for the expenditures related to this contract. Notwithstanding anything to the contrary within this contract, if at any time during the term of this contract the City Council of the City of Waxahachie, Texas (1) fails to provide funding for this contract during the following fiscal year of the City; (2) does not adopt a budget for expenditures; (3) or is only able to partially fund the expenditures required by this contract, then the City may, upon giving AMH written notice of such failure to fund and termination, terminate this contract, or part thereof, without any further liability, effective (30) days after the City shall pay AMH for work completed up to that date.
- 14.19 Any failure by a party to insist upon strict performance by the other party of any material provision of this Agreement shall not be deemed a waiver thereof, and the party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement shall be waived except by writing signed by the party waiving such provision.
- 14.20 This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.
- 14.21 The parties acknowledge and agree that AMH, prior to approval by each governing body, submitted to the Entities a completed Form 1295 generated by the Texas Ethics Commission's (the "TEC") electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (the "Form 1295"). The parties agree that, except for the information identifying the Entity and the contract identification number, the Entity is not responsible for the information contained in the Form 1295 completed by AMH. The information contained in the Form 1295 completed by AMH has been provided solely by AMH and the Entities have not verified such information.

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IN WITNESS WHEREOF, each party hereto has caused the Agreement to be executed in its name as of the date first written above.

Allegiance Mobile Health:

By: 

Daniel Gillespie, COO
Allegiance Mobile Health

City of Waxahachie:

By: _____

Michael Scott, City Manager
City of Waxahachie, Texas

By: _____

Amber Villarreal, City Secretary
City of Waxahachie, Texas

By: _____

David Hill, Mayor
City of Waxahachie, Texas

By: _____

Robert Brown, City Attorney
City of Waxahachie, Texas

By: _____

Ricky Boyd, Fire Chief
City of Waxahachie, Texas

SERVICE AREA BOUNDRIES

ELLIS COUNTY FIRE BOUNDARIES



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APPENDIX B

PROVIDER SERVICES

Operational Expectations

AMH shall provide and manage the delivery of emergency medical services. This Agreement shall be a performance contract, not a level-of-effort contract; however, the following conditions are baseline expectations. AMH is highly encouraged to consider innovative methods to grow the service and exceed performance expectations.

Staffing

AMH is responsible for ensuring high-performance service through employing, managing, training and other personnel functions necessary to fulfill the terms of this Agreement. AMH shall maintain one (1) shift supervisor not assigned to an ambulance for the Service Area twenty-four (24) hours per day. The County Operations Manager cannot act as the Shift Supervisor except for emergency staffing (i.e., an employee goes home sick, etc.) and then only for a maximum of twelve (12) hours. See appendix K for the Shift Supervisor Job Description. AMH should attempt to employ EMTs, Paramedics and clerical staff with local knowledge and experience. All reasonable efforts to employ EMTs and Paramedics with experience, knowledge and history of the Service Area should be considered first.

- a. The parties understand that the EMS System requires professional and courteous conduct at all times from AMH's field personnel, middle management, and top executives. AMH shall employ highly trained EMTs, Paramedics and support staff to provide patient care and to operate AMH's vehicles and equipment.
- b. Each EMT and Paramedic shall be physically capable of performing the tasks assigned by AMH, shall be clean in dress and person, and shall display their name and certification in an appropriate manner visible to the patient. During the performance of services described in this Agreement employees shall conform to the AMH's dress code which shall conform to DSHS guidelines.
- c. The parties understand that training and educational requirements change from time to time for EMTs and Paramedics as new protocols and medical treatments are approved by the EMS Medical Director. AMH agrees that the EMS Administrators may require additional training or education for EMTs and Paramedics for the benefit of patients receiving care under the Agreement. The cost of such training or education shall be the sole responsibility of AMH.
- d. AMH shall utilize reasonable work schedules and shift assignments that allow personnel to work no more than thirty-six (36) consecutive hours followed by a minimum of twelve (12) hours off duty if that employee is assigned to an ambulance with a unit hour utilization rate (UHU) greater than 20%. Employees assigned to an ambulance with a unit hour utilization rate (UHU) equal to or lower than 20% may work forty-eight (48) consecutive hours followed by a minimum of twenty-four (24) hours off duty. AMH shall utilize management practices that ensure that field personnel working extended shifts, part-time jobs, and voluntary or mandatory overtime are not exhausted to an extent that might impair judgment or motor skills. To ensure compliance, the AMH Shift Supervisor shall send a Daily Staffing Report which includes names, hours and assignment locations worked (including subbing) of all of their personnel in Ellis County to each Entity by 10am each day. Furthermore, the Shift Supervisor shall immediately send all Entities an updated Daily Staffing Report when changes to the original staffing occurs.

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- e. AMH shall provide working conditions that assist in attracting and retaining highly qualified personnel. AMH shall offer its employees a compensation and benefits package designed to attract and retain highly qualified field personnel and clerical personnel. Salary and benefits should be comparable to the same positions in the industry and surrounding counties.
- f. All AMH personnel shall be trained and receive certification as current level National Incident Management System (NIMS) compliant. All response personnel shall be trained and certified with NIMS 100, 200, 700, and 800. Shift Supervisors shall meet this requirement as well as being trained and certified with NIMS 300 and 400.
- g. AMH shall have in place a third-party independent testing program for random drug screening of all personnel providing response under the Agreement. Further, AMH shall transport to a facility for testing any employee suspected to be using or under the influence of drugs or alcohol or other intoxicant, or have an agent of a testing facility come to the location of the employee to obtain a necessary sample. Any employee suspected of being under the influence of any drug or intoxicating substance shall be immediately relieved of duty until there is clinical proof to the contrary.
- h. AMH shall have a Standard Operating Procedure (SOP) that describes expectations, requirements, and practices of daily operations, and how complaints regarding level of care, response or employee action or inaction are handled. This SOP shall be given to the EMS Administrators at the beginning of the Agreement. Likewise, any updates must be given to the EMS Administrators immediately upon being implemented. AMH and the Entities shall work together to create policies that coincide and do not contradict each other.
- i. Complaints from the EMS Administrators directed at level of care, response or employee action or inaction shall be answered within forty-eight (48) hours to include actions taken (i.e. disciplinary action and other corrective measures).
- j. It shall be of the utmost importance that employees of AMH strive to gain proficient knowledge of the streets and highways in the coverage areas in order to choose the quickest, most direct route to the scene of an emergency.
- k. AMH shall provide a mechanism or approved method for monitoring driver performance for all ambulances providing service under the Agreement. The Entities are to be provided with reports on driver performance as requested by the EMS Administrators.
- l. AMH shall have staff available and a toll-free phone number capable of discussing and resolving billing questions.
- m. System ambulances shall be staffed with a minimum of one (1) paramedic and one (1) EMT.
- n. AMH may not offer incentives by way of additional salaries or wages or compensated leave of absence to employees based upon the number of procedures performed or based upon mileage for the provision of ambulance transport.
- o. AMH shall ensure clinical performance consistent with Department of State Health Services (DSHS) and Medical Director Standards and implement reasonable changes accordingly.

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Local Medical Director:

AMH will provide the Entities with a local medical director and be responsible for funding the position. The local medical director will be selected with input and approval of all the Entities.

Service Deployment Model:

This is a PERFORMANCE BASED agreement. AMH shall deploy a sufficient number of Ambulances necessary for it to substantially comply with the Response Time Standards set forth in Appendix F ("Response Time Compliance"). As a minimum, AMH shall provide 240 total ambulance service hours per 24-hour period (7:00 am to 7:00 am) with a total of 1,680 ambulance service hours per calendar week (07:00 am Sunday thru 07:00 am Sunday). In the event AMH's overall response time compliance in the aggregate is below ninety percent (90%) for any two (2) consecutive months, AMH shall deploy sufficient additional Ambulances to meet or exceed that level.

AMH shall comply with the response time requirements set forth in Appendix G.

AMH shall provide at least one (1) supervisor who is a Paramedic assigned to a quick response vehicle (QRV), twenty-four (24) hours a day, seven (7) days a week, who shall be available for immediate response to emergencies, deliver supplies and equipment to the ambulances, supervise AMH personnel on a daily basis and be on call if needed.

AMH shall make emergency services (as defined by NFPA standards) available to all persons within the Service Area.

Replacement of Ambulances:

When an ambulance is taken out of service for preventative or routine maintenance or repairs of any kind, another ambulance shall be put in place of the ambulance being taken out of service until such time as the other ambulance is returned to service. If the downtime of the unit shall be over four (24) hours, the EMS Administrators shall be notified of such and shall also be notified when a replacement unit is put in service in its place.

Patient Transport Considerations:

AMH shall provide emergency medical treatment and transport from the scene to the closest appropriate health facility based upon the chief complaint/illness/injury.

Patients and/or guardians have the right to request transport to a facility of their choice. However, it is the responsibility of the AMH staff to communicate to the patient and/or guardian the potential adverse effects on the outcome of the patient's condition if the requested hospital is not the closest, most appropriate facility to treat their condition. Once this is communicated, the patient and/or guardian retains the privilege of making the final decision of the hospital the patient shall be transported to as long as said hospital is within the Dallas/Ft. Worth Metroplex.

When air activation is necessary, requests for an air ambulance shall be made through the Entity's communications center, not AMH's communications center. The Entity's communication center will contact the closest, most appropriate air ambulance.

AMH agrees that for ambulance services provided to the Entities for patients in custody, such as transports after an arrest or transports to/from the jail facility, AMH agrees to charge the Entity only the Medicare rate

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current as of the date the service is provided. The Governing Body shall only be charged if the patient is not released and remains in the custody of the Entity's Police Department.

AMH shall apply for, secure, and renew all licenses, permits, certificates or similar government approvals which are or may be required by applicable law and shall provide copies of all such pertinent documents to the local EMS Administrators.

Subject to AMH's reasonable policies and procedures regarding same, AMH shall give authorization to Entity dignitaries and members of the Law Enforcement Departments to ride out as observers. Likewise, AMH shall permit members of the Entity and volunteer Fire Departments to ride out as interns. AMH's policies and procedures may address, among other things, the requirement of written waiver and indemnity agreements, insurance requirements, dress codes, conduct codes and the like.

Mass Events / Proactive Preparedness:

AMH shall provide a standby ambulance and emergency medical personnel for standby upon request of the local EMS Administrators or the Governing Body at no additional charge to the areas when there is reason to believe a life threatening public emergency presently exists or is imminent in the Service Area which includes mass gathering events, inclement weather forecasts of snow, ice, thunderstorm warnings, and tornado warnings as well as structure fires, technical rescues, water rescues, and hazardous materials responses. This shall be within the guidelines approved by the EMS Administrators. The number of additional units shall be coordinated by AMH and the local EMS Administrators.

AMH shall participate in community disaster drills as requested by an Entity or local school district within AMH's resources and guidelines for such activities.

AMH shall ensure disaster readiness including strict compliance with the National Incident Management System (NIMS).

AMH shall comply with all adopted and approved Emergency Operations Plans or Successor Plans of the Entities. AMH shall participate in the Ellis County Local Emergency Planning Committee.

Radio Communication and Interoperability:

AMH shall be responsible for supplying vehicles, equipment and supplies, and mobile and portable radios that meet or exceed standards for interoperable communications with the Entities' First Responder Organizations. AMH shall utilize industry standard radio communications, paging and alerting at all times. AMH shall be responsible for purchase, installation, repair and any replacement of AMH owned equipment.

AMH shall provide EMS (ambulance) dispatch services, including radio infrastructure, communications with First Responders and other emergency services. A communications plan must be coordinated with the EMS Administrators and the dispatch managers.

AMH shall provide capability to record all radio traffic and to record emergency and non-emergency telephone calls and other communications with AMH's dispatch center.

AMH shall supply and maintain fully operational vehicle and portable radios as required for it to perform hereunder. Radios shall have the ability to operate on frequencies used by all Entity First Responder Organizations. However, communications between AMH Dispatch and AMH ambulances shall be on an AMH frequency. Use of the frequencies of the Entities shall only be used by AMH when it is essential for interoperability during the response to an emergency.

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Dispatch, Reporting, and Monitoring

AMH shall furnish all manpower and supervision for the operation of a centralized dispatch center. AMH shall provide sufficient certified personnel in the dispatch center at all times to allow prompt answering of all requests for emergency service.

- a. A third party or sub-AMH dispatching provider shall not be allowed without prior approval by the Entities.
- b. AMH shall receive calls for emergency ambulance service that are initially answered by a PSAP then transferred to AMH.
- c. AMH may receive calls from PSAP via telephone, radio, or other means.
- d. AMH must be capable of receiving TTY/TDD communications in accordance with Americans with Disabilities Act/Department of Justice requirements.
- e. AMH shall provide professional Emergency Medical Dispatch (EMD) with Medical Priority Dispatch System (MPDS) protocols and pre-arrival instructions using International Academies of Emergency Dispatch (IAED) certified Emergency Medical Dispatchers or other City approved national accredited program.
- f. AMH shall utilize accepted dispatch quality assurance programs and follow the compliance requirements of the IAED Accreditation Center of Excellence performance standards.
- g. AMH shall equip each 911 ambulance and QRV with automatic vehicle locating (AVL) equipment that is capable of being monitored by the dispatcher center of each Entity at all times.
- h. AMH shall utilize GIS software compatible with NCTCOG mapping data in order to expedite responses.
- i. AMH may use the most current map published by the GIS and Addressing Departments of each Entity. AMH shall be provided Bi-annual map updates by the GIS and Addressing Departments of each Entity.
- j. AMH shall have separate dispatch and field operations supervisors on duty at all times and shall be jointly responsible for posting assignments and other adjustments to field assignments.

Community Relations:

AMH is responsible for ensuring high-performance service through employing good business practices, community partnerships and customer service to fulfill the terms of this Agreement.

- a. Maintain and pay for Internet presence, telephone listings and/or advertising.
- b. Maintain and support superior working relationships with air medical transport providers, first responders, and law enforcement.
- c. Notify the Entity(ies) in a timely manner of all activities, issues, and policy/procedure modifications (internal and external) that may reasonably be expected to affect (positively or negatively) the Entity(ies).
- d. Participate in quarterly meetings, planning, and improvement with public safety partners.

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APPENDIX C

OUTCOME-CENTERED PRE-HOSPITAL EMERGENCY CARE

AMH shall provide the following Ellis County Clinical Report to all four (4) Entities by the 10th day after the end of the respective month or quarter. The minimum acceptable standard is 90% for the following categories:

- ETCO2 use in advanced airway
- Non-Transport Protocol Compliance
- ASA administration for ACS patient
- 12 Lead EKG for ACS patient
- Stroke Protocol Compliance
- 12 Lead EKG for STEMI patient
- Spinal Motion Restriction Protocol Compliance in Trauma patient transported emergently
- In the event AMH does not meet this standard, the provisions of Appendix H shall apply.

| Ellis County Clinical Report | Goal | Month |
|---|-------|-------|
| Airway Management | | |
| Total number of Airway management incidents | TREND | 0 |
| Total number of advanced airway incidents | TREND | 0 |
| Total number airways managed using PAI | | 0 |
| Percentage of advanced airways managed using PAI | TREND | % |
| Total number successful ETT | | 0 |
| Total number ETT first attempt | | 0 |
| Percentage of first attempt success with ETT | TREND | % |
| Number of incidents with ETT as first advanced airway successfully | TREND | 0 |
| Number of incidents with Supraglottic airway as first advanced airway successfully | TREND | 0 |
| Number of incidents that were managed with an alternate airway (BVM, OP, NP, Supraglottic airway on subsequent attempt, etc.) | TREND | 0 |
| Number of incidents where the patient was unable to be ventilated | TREND | 0 |
| Number of airways confirmed with ETCO2 | | 0 |
| Percentage of all advanced airways in which end tidal CO2 was used to confirm success initially | 90% | % |
| Protocol Compliance | | |
| Non-Transport Protocol Compliance | 90% | % |
| Total number of Responses | | 0 |
| Total number of Patient Refusals | | 0 |
| Total number of Non-Transports protocol compliance | | 0 |
| Percentage of Non-Transports | TREND | % |

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| | | |
|---|-------|---|
| ACS | | |
| Number of patients with a c/o chest pain | | 0 |
| Number of patients who received ASA per protocol | | 0 |
| Number of patients who received 12 Lead | | 0 |
| Percentage of patients who received ASA | 90% | % |
| Percentage of patients who received 12 lead EKG | 90% | % |
| Stroke | | |
| Number of patients with suspected CVA | | 0 |
| Number of patients treated according to protocol | | 0 |
| Percentage of incidents demonstrating stroke protocol compliance | 90% | % |
| Cardiac Arrest | | |
| Total number of arrests | | 0 |
| Number of ROSC | | 0 |
| Percentage of patients with ROSC-medical | TREND | % |
| STEMI | | |
| Number of patients with suspected STEMI | TREND | 0 |
| Number of patients with suspected STEMI received 12 Lead | 90% | 0 |
| Number of patients transported to PCI capable facility | | 0 |
| Percentage of patients with suspected STEMI received 12 Lead capable facility | TREND | % |
| Percentage of patients with suspected STEMI transported to PCT capable facility | TREND | % |
| Trauma | | |
| Total number of helicopter activations/number of helicopter activations correctly triaged | TREND | 0 |
| Total number of trauma patients transported LIGHTS/SIRENS | | 0 |
| Total number scene time <10 minutes | | 0 |
| Total number of patients with spinal motion restriction | | 0 |
| Total number of patients treated according to SMR protocol | | 0 |
| Percentage on scene time <10 min for LIGHTS/SIRENS trauma, non-entrapped patients | TREND | % |
| Percentage of incidents demonstrating C spine immobilization protocol adherence for LIGHTS/SIRENS | 90% | % |
| Skills | | |
| Number of patients received IV | | 0 |
| Number of patients successful IV | | 0 |
| Number of patients received IO | | 0 |
| Number of patients successful IO | | 0 |
| Paramedic success Rate IV (overall) | TREND | % |
| Paramedic success Rate IO (overall) | TREND | % |

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APPENDIX D

AGREEMENT OVERSIGHT

Reporting and Review:

The EMS Administrators shall conduct a monthly evaluation of the performance of AMH utilizing criteria the EMS Administrators determines to be relevant.

- a. In addition, the EMS Administrators may conduct intermittent evaluations or at such times specified by the Entities. This shall include but not be limited to issues of mere compliance with the terms of the Agreement.
- b. AMH's performance should exceed the minimum requirements of the Agreement.
- c. Each month, a response time report (described in Appendix D), and a response time exception report shall be submitted to the EMS Administrators by the close of business on the 10th of each following month. These reports shall as a minimum also include the following:
 - (1) The EMS Administrators may request performance statistic reports, to include any clinical performance issues (i.e. IV attempts, IV success rate, etc.) and to include individualized action plans to improve performance when it is lacking.
 - (2) Monthly statistics on prioritization of calls, locations, call type, and hospital transport destination.
- d. AMH shall provide a copy of their Annual Unaudited Income Statement to include profits and losses to each of the Entities by the 15th day of the month after the close of their fiscal year.
- e. AMH shall provide a patient payer mix report as part of the AMH Annual Report.
- f. The EMS Administrators shall be able to obtain any reports as needed.

The EMS Administrators shall be notified within 72 hours whenever the following occurs:

- a. The employment of any person involved in the delivery of services related to the subject of the Agreement and the notification shall provide necessary certification of the person.
- b. The separation/termination or the employee status change of any of the AMH's employees involved in the delivery of services related to the Agreement.
- c. A change in the AMH's method of delivery of services, management or supervisory structure.

Agreement Monitoring:

The following represents the desired conditions for ongoing monitoring of EMS for quality, efficiency and Agreement compliance.

- a. Information shall be made available as described in this Agreement on a timely and accurate basis and as described above.

Ellis County Contract- City of Waxahachie

- b. Information provided shall be consistent with dispatch logs, run reports and other data without prior edit or adulteration.
- c. Information shall be verifiable by the EMS Administrators without undue or extensive effort.
- d. Information shall be accessible by the EMS Administrators through the use of internet access, direct software connection(s) or other state of the art retrieval technologies. The Parties agree and understand that protected health information ("PHI"), as defined by 45 CFR § 160.103, or individually identifiable health information, as defined by 42 U.S.C. § 1320d, shall not be available over the internet or in any method that violates the above stated statutes.
- e. The EMS Administrators may audit, examine, copy and make excerpts or transcripts from all of AMH's records with respect to all matters covered by the Agreement and may make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by the Agreement for a period of three (3) years from the date of final settlement of the Agreement or of such other or longer period, if any, as may be required by applicable statute or other lawful requirements. Such audits and examinations may be requested as often as once per calendar year, or more frequently upon a showing of good cause by the EMS Administrators, during normal business hours, by providing AMH with reasonable written notice. AMH agrees to provide any pertinent information to the EMS Administrators to ensure transparency.

Ellis County Contract- City of Waxahachie

APPENDIX E**VEHICLE SPECIFICATIONS**

All AMH ambulances used for emergency patient transportation shall be in good physical appearance as well as working operational and mechanical condition for the patient and crew members. This shall remain in effect unless otherwise approved in writing by the Entities.

Each AMH ambulance used in the transportation of patients shall be equipped with all items required by Texas Administrative Code 157, Emergency Medical Care and NFPA vehicle standards 1901 and 1917.

AMH Equipment shall be available to allow ambulances to travel in inclement weather conditions including snow or ice.

Each AMH ambulance shall have a standalone box with an independent AC unit capable of shoreline power as well as generator or alternator power.

Each AMH ambulance shall meet current FDA requirements for drug storage.

Each initial AMH Ambulance shall be Type III. All future replacement AMH ambulances shall be Type I.

Each AMH ambulance shall not exceed 24 months in age. The age of the vehicle will start from the time it is first titled from the manufacturer. Likewise, all EMS equipment assigned to AMH ambulances shall be properly maintained and serviceable at all times. AMH shall provide monthly maintenance records for all ambulances and EMS equipment utilized in the Agreement Service Area. Each AMH ambulance shall permanently display its name or other suitable corporate identification or logo on the outside of the vehicle along with the vehicle DSHS license numbers.

All AMH ambulances for transporting patients shall conform to all standards as promulgated and defined by the EMS Medical Director and all rules and regulations promulgated and set forth in any state and local ordinance.

All AMH ambulances shall be equipped with a Power Patient Cot to reduce possible injury of responders as well as a FAA approved CPR assist device for highly efficient CPR. All future replacement ambulances shall also be equipped with a power cot loading system.

AMH shall supply and maintain fully operational vehicle and portable radios as required for it to perform hereunder. All radios shall operate on frequencies used by all Entities covered by AMH's Agreements in the Service Area.

AMH's radios shall be of a type acceptable for use with the radio systems of the Entities. Programming for the radios shall only be approved through the Entities' authorized programmers and programming shall be at the expense of AMH.

AMH shall supply vehicles, equipment and supplies, and mobile and portable radios that meet or exceed standards for interoperable communications with the Dispatch System of each Entity in Ellis County covered by AMH's Agreement.

AMH shall install Automatic Vehicle Locators (AVL) hardware compatible with the Entities' CAD providers to be used by 911 Dispatch centers to track and locate the closest appropriate ambulance for emergency calls.

All AMH vehicles shall be equipped with a compatible transponder to be tracked by AMH dispatch.

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APPENDIX F

RESPONSE TIME COMPLIANCE

Dispatch:

For purposes of the foregoing, a “Dispatch” shall be deemed to have occurred when AMH acknowledges receipt of all information required to respond, as specified in the Dispatch Protocols, to the address or other location specified by the Communications Center (“Destination”).

Alarm Answering Time- The time interval that begins when the alarm is received at the communication center and ends when the alarm is acknowledged at the communication center. Measured from connection of the call to the communication center system and answering of the call by the call taker.

Alarm Handling Time- The time interval from the receipt of the alarm at the primary PSAP until the beginning of the transmittal of the response information via voice or electronic means to emergency response facilities (ERFs) or the emergency response units (ERUs) in the field.

Alarm Processing Time- The time interval from the first keystroke of the call-taker until the information is transmitted via voice or electronic means to emergency response units.

In accordance with NFPA 1221 and 1710

| Alarm Answering Time | Alarm Processing Time |
|-------------------------------|--------------------------------|
| < 15 Seconds 95% of alarms | < 64 Seconds 90% of alarms |
| < 40 Seconds 99% of alarms | < 106 Seconds 95% of alarms |

| Emergency Alarm Processing For the Following Call Types: | |
|---|--------------------------------|
| <ul style="list-style-type: none"> • Calls requiring EMD questioning and pre-arrival medical instructions • Calls requiring language translation • Calls TTY/TTD device or audio/video relay • Hazmat incidents • Technical rescue | < 90 Seconds 90% of alarms |
| <ul style="list-style-type: none"> • Calls requiring determination of location due to insufficient information • Calls received by text messages | < 120 Seconds 99% of alarms |

911 Response Time:

For purposes of determining 911 compliance, response time shall begin the moment the request for service is received by the AMH dispatch center with a minimum of the following information: caller name and callback phone number, incident location, and nature of the emergency. Response time shall end the moment that the Ambulance comes to a stop at the reported address or, in the event of an unopened gate or other obstacle which impedes the Ambulance from proceeding to such destination, when the Ambulance stops at such obstacle.

Ellis County Contract- City of Waxahachie

| Emergency Response Time Compliance | 911 Emergency Response Time | Delete this column |
|------------------------------------|-----------------------------|------------------------------|
| | ≤ 8:59 Minutes | <u>Doesn't apply to City</u> |

911 Exceptions:

When an AMH unit has a response time of > 8:59, the run shall be deemed an exception. In determining whether AMH has met the Response Time Standards for 911 calls during any calendar month, all calls shall be held to the response time standard of ≤ 8:59, even those where hindrances existed that were beyond AMH's reasonable control. The City of Waxahachie may, at their discretion, remove calls with hindrances from the final compliance calculations. AMH must request an exemption to the exception within 5 business days of the hindered response. Such hindrances include, but are not limited to:

- a. Requests during a local disaster or a disaster in a neighboring jurisdiction to which an AMH ambulance is dispatched.
- b. Inclement weather condition of without limitation to snow, ice, flooding, tornados, hail and heavy fog.
- c. Train delays, road construction for which notification was not given, etc.
- d. Incorrect address reported to the 911 Dispatch Center or to a responding ambulance crew.

All Transports: Response Time Reports:

In order to assist the Entities in determining whether AMH has met with the Response Time Standards for any calendar month, AMH shall provide, on or before the 5th day of each month for calls the preceding month, a summary of all responses, which shall include but not limited to:

- ☐ Incident location
- ☐ Incident Type
- ☐ Call processing Time
- ☐ Dispatch time
- ☐ Reaction time
- ☐ Drive time
- ☐ Time of arrival
- ☐ Over all response time
- ☐ Compliance Results

All Transports: Response Damages:

AMH shall pay the appropriate Entity a penalty for each calendar month in which it has failed to meet the applicable Standard of at least 90% of time for all categories of calls.

- a. In each monthly period (beginning on the first day of each month), not less than one hundred percent (100%) of AMH's responses to emergency requests shall be performed as set forth in the herein. AMH shall provide access to all information the Entities may request to resolve any dispute relating to damages.
- b. Failure of AMH to meet response time requirements shall result in an assessment of penalties.

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- c. Penalties for Dispatch Answering and Processing, 911 Response Time, Clinical Standards as well as Daily and Weekly Staffing Hours noncompliance shall be deposited in the designated bank account of choice of the appropriate Entity by the 10th day of the month following the end of the month in which AMH failed to achieve the requirements delineated in the contract.

- d. Penalties shall be assessed based on the following:

Dispatch Answering and Processing- payable to the affected entity(ies)

| 95-100% Alarm answering time | <95% Alarm answering time | 90-100% Alarm processing time | <90% Alarm processing time | 90-100% Emergency alarm processing | <90% Emergency alarm processing |
|---|---|--|--|---|---|
| No Assessment | \$100 per non- compliant alarm | No Assessment | \$100 per non- compliant alarm | No Assessment | \$100 per non- compliant alarm |

911 Response Time- payable to the affected entity(ies)

| 90-100% 911 Responses | <90% 911 Responses |
|----------------------------------|--|
| No Assessment | \$750 per non-compliant response |

Clinical Standards- payable to each of the four (4) entities

| 90-100% Clinical Standards | <90% Clinical Standards |
|---------------------------------------|---|
| No Assessment | \$1,000 per non-compliant incident highlighted in Appendix C |

Staffing Hours- payable to each of the four (4) entities

| ≥ 240 Daily Staffing Hours | 216-239 Daily Staffing Hours | 192-215 Daily Staffing Hours | ≤ 191 Daily Staffing Hours |
|---------------------------------------|---|---|---------------------------------------|
| No Assessment | \$500 per day | \$1,000 per day | \$2,500 per day |

- e. All Transports: Probation for Response Time Noncompliance:

- (1) If AMH is noncompliant in any above area(s) in any two (2) consecutive month period, AMH shall be placed on probation for three (3) months. The EMS Administrators shall notify AMH when/if they are placed on probation.
- (2) If AMH is put on probation, AMH shall be required to submit a written plan within ten (10) days of being notified of Probation detailing how AMH intends to remove itself from probation.
- (3) In order to be removed from Probation, AMH shall achieve minimum compliance in the appropriate area(s) for the next three (3) months.

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APPENDIX G

Non-response Damages

If AMH fails to comply with any of the Agreement requirements described in 7.1, the following shall apply:

- a. AMH shall be issued a written warning describing such failure.
- b. AMH shall be assessed a penalty in the amount of one hundred dollars (\$100) for each incidence of noncompliance payable to each of the four (4) Entities within ten (10) days of notification in writing beginning with the first incident of noncompliance.
- c. Should the noncompliance continue for more than five (5) consecutive days, the penalty, which is payable to each of the four (4) Entities as above, shall increase to five hundred dollars (\$500) for each additional incident that AMH remains non-compliant.
- d. AMH may appeal the decision to assess penalties to all four (4) EMS Administrators in writing within ten (10) days of notification of assessment. Penalties must be paid within ten (10) days of the final determination.

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APPENDIX H

FIRST RESPONDER RESPONSIBILITIES

- A. The Governing Bodies of Ennis, Red Oak and Waxahachie as well as the Emergency Services Districts (ESDs) shall require its fire service First Responder Medical Personnel ("First Responder Personnel") to work collaboratively with AMH Personnel with the primary goal being to enhance patient care through mutual cooperation. In the event First Responder Personnel arrive at an incident scene prior to AMH, First Responder Personnel shall assume temporary medical control of the scene until AMH's arrival, at which point AMH shall assume medical control unless on scene event First Responder Personnel hold a higher licensure or certification than on scene AMH Personnel. Both parties shall ensure that a professional transfer of patient care occurs for the best interest of the patient outcome. The highest ranking First Responder Officer on the scene shall have the responsibility of command and control and perform the duties as the scene incident commander. Patient care and medical control shall not be confused with overall scene management responsibilities.

Additionally, the first agency on the scene shall have the following privileges:

1. The ability to disregard the other responding agency via radio prior to their arrival to the scene of the emergency.
 2. The ability to request air ambulance(s) prior to the arrival of the other agency.
 3. The ability to request additional ground ambulances from AMH or another ambulance that has been pre-approved through mutual aid agreements.
- B. AMH shall provide an exchange of disposable medical supplies used on a 1:1 basis within 24 hours of an incident. As a result of the exchange program, AMH shall be entitled to include, in its charges to patients and third-party payers, charges for services performed or for supplies utilized by First Responder Personnel. In consideration of the foregoing, AMH shall, without charge, restock the disposable medical supplies agreed upon by the parties when utilized by the First Responder Personnel in treating patients transported by AMH.
- C. The EMS Administrators shall ensure and certify in writing to AMH prior to the effective date hereof, and on an annual basis thereafter, in a format acceptable to AMH, that none of its First Responder Personnel are "Ineligible Persons". Ineligible Persons shall include any individual who: (1) is currently excluded, debarred, suspended, or otherwise ineligible to participate in the Federal health care programs or in Federal procurement or non-procurement programs; or (2) has been convicted of a criminal offense that falls within the ambit of 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible. The EMS Administrators shall ensure that all First Responder Personnel are not Ineligible Persons, by implementing the following screening requirements:
1. The EMS Administrators shall screen such persons against the Exclusion Lists within thirty (30) days of the effective date hereof and annually thereafter.
 2. As part of the hiring/volunteering process for any new First Responder Personnel hired/volunteering after the effective date hereof, the EMS Administrators shall require such persons to disclose whether they are an Ineligible Person and shall screen them against the Exclusion Lists.

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3. The EMS Administrators shall implement a policy requiring all First Responder Personnel to disclose immediately any debarment, exclusion, suspension, or other event that makes that person an Ineligible Person.

D. Exclusion Lists include:

1. The HHS/OIG List of Excluded Individuals/Entities (available through the Internet at <http://oig.hhs.gov>); and
 2. The General Services Administration's List of Parties Excluded from Federal Programs (available through the Internet at <http://epls.arnet.gov>).
- E. The EMS Administrators shall cooperate with AMH in performing quality improvement activities in accordance with policies and procedures agreed upon by the parties.

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APPENDIX I

BASE CHARGES

| HCPCS | Description | Medicare | Medicaid | Insurance | Private |
|--------------|--------------------------|-----------------|-----------------|------------------|----------------|
| AO382 | BLS Disposables | N/A | \$ 280.00 | \$ 280.00 | \$ 280.00 |
| AO398 | ALS Disposables | N/A | \$ 425.00 | \$ 425.00 | \$ 425.00 |
| AO422 | Oxygen | N/A | \$ 125.00 | \$ 125.00 | \$ 125.00 |
| AO425 | Mileage | \$ 35.00 | \$ 35.00 | \$ 35.00 | \$ 35.00 |
| AO426 | ALS Non-Emergent | \$ 1,250.00 | \$ 1,250.00 | \$ 1,250.00 | \$ 1,250.00 |
| AO427 | ALS Emergent | \$ 2,100.00 | \$ 2,100.00 | \$ 2,100.00 | \$ 2,100.00 |
| AO428 | BLS Non-Emergent | \$ 1,200.00 | \$ 1,200.00 | \$ 1,200.00 | \$ 1,200.00 |
| AO429 | BLS Emergent | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 | \$ 1,500.00 |
| AO433 | ALS Level II | \$ 2,600.00 | \$ 2,600.00 | \$ 2,600.00 | \$ 2,600.00 |
| AO434 | Specialty Care Transport | \$ 3,100.00 | \$ 3,100.00 | \$ 3,100.00 | \$ 3,100.00 |
| AO998 | Response- No Transport | \$ 200.00 | \$ 200.00 | \$ 200.00 | \$ 200.00 |

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APPENDIX J**INSURANCE**

At all times during the term of this Agreement, each party shall maintain general, professional and automobile liability insurance coverage in a minimum amount of one million dollars (\$1,000,000) per occurrence, and three million dollars (\$3,000,000) in the annual aggregate, providing coverage for the negligent acts or omissions of such party and its employees and agents. In the event such coverage is provided under a "claims made" policy, such coverage shall remain in effect (or the covered party shall procure equivalent "tail coverage") for a period of not less than three (3) years following termination of this Agreement. In addition, each party shall maintain automobile liability insurance coverage in a minimum amount of one million dollars (\$1,000,000) per occurrence, and three million dollars (\$3,000,000) in the aggregate.

Ellis County Contract- City of Waxahachie

APPENDIX K

SHIFT SUPERVISOR RESPONSIBILITIES

This list is designed to drive high quality interaction with the Ellis County stake-holders and AMH. It is not entirely comprehensive.

1. Make contact with field personnel at least weekly to ensure continuity of communication.
2. Develop work schedules to ensure compliance with maximum continuous 36-hour rule.
3. Respond to calls in which an air ambulance is requested, or a multi-patient scene requiring a multi-unit response.
4. Visiting all county facilities at least once a month to ensure service expectations are being met.
5. Meeting with all fire department officers or designees monthly to ensure favorable customer service and teamwork.
6. Monitor Chute times, turn-around times, in-service times, and other response metrics, tracking service compliance with internal expectations.
7. Field and answer service complaints within 48 hours. Documenting such on a tracking log in compliance with the Texas Administrative Code.
8. Facilitate multi-agency training with field personnel at least once per quarter.
9. Investigate all citizen and fire department employee complaints and provide written findings and outcomes to the Entity administrators in a timely manner.

(15)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF WAXAHACHIE AMENDING SECTION 4-1/2 OF THE CODE OF ORDINANCES, CITY OF WAXAHACHIE, CONCERNING AMBULANCES AND EMERGENCY MEDICAL SERVICE BY AMENDING USE, AND SETTING AN EFFECTIVE DATE, DECLARING AN EMERGENCY AND PROVIDING FOR AN EFFECTIVE DATE.

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

THAT Section 4-1/2 of the Code of Ordinances, City of Waxahachie, is amended to read as follows, as attached as Exhibit "A", which is made a part hereof.

An emergency is declared to exist affecting the public health and safety due to the need to have ambulance and emergency medical service available to the public, and up to current standards, and this ordinance is effective upon passage.

PASSED, APPROVED AND ADOPTED on this 4th day of December, 2023.

Mayor

ATTEST:

City Secretary

(15)

Ordinances Governing
AMBULANCE SERVICE
In the

CITY OF WAXAHACHIE
TEXAS

December 4, 2023

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ARTICLE I DEFINITIONS**Section 1.01 Definitions**

For the purpose of this Chapter, the following words, terms, phrases and their derivations shall have the meanings as set out by this Article:

"Air Ambulance" means any aircraft providing ambulance transportation by an air-ambulance provider as defined by law.

"Ambulance" means any motor vehicle constructed, reconstructed, arranged, equipped or used for the purpose of transporting patients.

"Ambulance Call or Ambulance Response" means the act of proceeding with an ambulance for the purpose of transporting any patient for compensation.

"Ambulance Patient" means a person requiring the transportation in a vehicle by a stretcher, gurney or other commonly found emergency medical patient packaging device and the attention and care by ambulance personnel.

"Ambulance Personnel" means persons certified or licensed by the Texas Department of State Health Services at the level of emergency medical technician (EMT), emergency medical technician intermediate (EMT-I), or emergency medical technician paramedic (EMT-P) who respond to life-threatening and nonlife threatening emergencies.

"Ambulance Provider or Provider" means a person engaged in business as the owner, manager, officer or proprietor of a company, firm or organization who uses ambulances to provide emergency ambulance service.

"Base Station Physician or On-Line Medical Director" means a physician licensed to practice medicine in the State of Texas, knowledgeable in the applicable medical protocols, radio procedures and general operating policies of the Waxahachie, Texas emergency medical services system, and a person from whom emergency medical personnel shall, subject to the provisions of this Chapter, take medical direction in person, by radio or by remote communications device.

"City" means all areas within the corporate limits of the City of Waxahachie, Texas.

"City Council" means the Waxahachie City Council.

"Dispatch Center" means the central communications center from which all ambulances operating in the City shall be dispatched and controlled.

"Driver" means any individual who drives or attempts to drive any ambulance.

"Emergency Call" means any call, received through the 911 system, or by other means, in which the patient's condition is such that a prudent layperson may reasonably believe that an emergency condition may exist.

"Emergency Medical Services Personnel Certification or Emergency Medical Services System Certification" means the written authorization issued by the Medical Director or his/her designee for a designated person to provide medical care or service to any patient.

"Emergency Medical Services (EMS) System" means the City Emergency Medical Services System including but not limited to, an independent contractor emergency ambulance provider, an independent contractor Medical Director, First Responders, Emergency Medical Services Dispatch Center, and Waxahachie hospitals that operate an emergency department.

"Emergency Medical Technician (EMT)" means a person certified by the Texas Department of State Health Services as minimally proficient to perform basic life support and as further required by the Texas Health and Safety Code and relevant regulations.

"Emergency Medical Technician-Intermediate (EMT-I)" means a person certified by the Texas Department of State Health Services as minimally proficient to provide emergency prehospital care by initiating under medical supervision certain procedures, as regulated by the Texas Health and Safety Code and relevant regulations.

"Emergency Medical Technician-Paramedic (EMT-P)" means a person certified by the Texas Department of State Health Services as minimally proficient to provide advanced life support that includes initiation under medical supervision of certain procedures, as regulated by the Texas Health and Safety Code and relevant regulations.

"Fire Chief" means the Chief of Waxahachie Fire-Rescue or his authorized representative.

"Fire Department" means the Fire Department of the City of Waxahachie.

"First Responder" means Texas Department of State Health Services certified or licensed emergency medical services personnel who, working under a formal agreement with an emergency medical services ambulance provider, provide immediate on-scene care to ill or injured persons but do not transport those persons.

"Medical Audit" means an official inquiry into the circumstances involving an emergency ambulance run or request for service, conducted by the Medical Director.

"Medical Control" means direction given emergency ambulance personnel and first responders by a Texas licensed physician through direct voice contact or standing written orders.

"Medical Director" means the independent contractor licensed physician or independent contractor entity with designated licensed physician contracted by the City to serve as the officer in carrying out the duties and powers in accordance with this ordinance and the Medical Director contract.

"Medical Protocol" means any diagnosis-specific or problem oriented written statement of standard procedure, or algorithm, approved by the Medical Director as the normal standard of prehospital care for a given clinical condition.

"Mutual Aid Call" means a request for emergency ambulance service in accordance with a reasonable and effective mutual aid agreement with a contiguous municipality, corporation or

other entity, provided, however, any mutual aid provider must provide for substantially medically equivalent services.

"Patient" means an individual who is ill, sick, injured, wounded, or otherwise incapacitated and is in need of or is at risk of needing medical care during transport to or from a health care facility.

"Person" means any individual, firm, association, partnership, corporation, or other group or entity or combination of individuals.

"Police Department" means the Police Department of the City of Waxahachie.

"Response Time" means the elapsed time from the moment a call for a medical emergency is received by the 911 Public Safety Answering Point (PSAP) is documented in the CAD (or time-stamped if using the manual system) until the dispatched emergency ambulance has arrived at the specific address or location dispatched. In the instance of apartment or business complexes, the ambulance has arrived at the specific address or location when the ambulance actually arrives at the point closest to the specified apartment or business to which it can reasonably be driven.

"Senior Paramedic in Charge" means that person among the certified personnel assigned to an emergency ambulance, not the driver, who is a certified paramedic designated as the individual in command of the ambulance.

"Special Use Permit" means a permit required, under applicable regulation promulgated by the City or the Medical Director, for the provision of specialized pre-hospital care.

"Specialized Emergency Medical Services Vehicle" means a vehicle designed for transporting the sick or injured by means of air, water or ground, that has sufficient equipment and supplies to provide for the specialized needs of the patient transported, and that is permitted as such by the Texas Department of State Health Services and authorized by Special Use Permits as defined in this Chapter. This includes fixed wing aircraft, helicopters, boats and ground vehicles.

ARTICLE II MEDICAL DIRECTOR

Section 2.01 Medical Director

The Contractor shall provide an independent contractor Medical Director who shall be responsible for the day-to-day affairs of the Emergency Medical System in accordance with this Chapter, and relevant federal, state and local law. The Medical Director shall be a licensed physician with training and experience as a practicing emergency physician or an entity with a designated Medical Director with training and experience as a practicing emergency licensed physician. The Medical Director shall be removable in accordance with the contract or in the event of absence or disability. Should the Medical Director be so removed, the Fire Chief, with approval of the City Council, shall designate a similarly qualified physician to perform the duties of the Medical Director.

Section 2.02 Medical Director Duties and Responsibilities

- A. The Medical Director is an independent contractor and shall have responsibilities including but not limited to the following powers and duties:

(15)

1. To establish standards for patient care for emergency ambulances and first responder vehicles;
 2. To develop and revise clinical protocols for emergency ambulance and first responder personnel;
 3. To approve medical dispatch protocols for dispatching emergency ambulances and first responder vehicles;
 4. To conduct medical audits;
 5. To oversee the development and administration of written and practical tests for personnel;
 6. To conduct inspections of vehicles, equipment and supplies, in cooperation with the Fire Chief, on both an announced and unannounced basis and to develop standards and procedures for such;
 7. To develop clinical standards regarding the use of air and ground critical care transportation vehicles including the standards limiting which types of patients may be transported by each and whether transports are ambulance transports or non-ambulance transports;
 8. To develop and periodically revise and administer educational material, programs and/or tests to ensure that base station physicians are appropriately knowledgeable of the local EMS System and to certify qualified physicians;
 9. To monitor response time performance;
 10. To periodically conduct intensive reviews of specific clinical types to analyze and improve EMS System performance; and
 11. To present written and oral reports regarding the performance of the EMS System.
- B. All powers not exclusively granted to the Medical Director by this Chapter may also be performed by the City.

ARTICLE III AMBULANCE SERVICE

Section 3.01 Policy

To lessen congestion caused by emergency vehicles on the public streets, safeguard the public health and wellbeing and to facilitate the prompt dispatch of appropriately equipped and staffed ambulances when needed to protect life and health, it is hereby determined that the City Council may designate one emergency ambulance provider to provide all emergency ambulance services, including special event and standby ambulance services. It is the intent of this policy that no ambulance patient be transported by ground transportation unless in compliance with this ordinance and the Texas Health & Safety Code.

Section 3.02 Contract Required for Emergency Ambulance Service

No person shall operate an emergency ambulance for hire on any street of the City without first having obtained a contract from the City Council, except as provided below:

- A. Operates from a location outside the City and transports any patient from a point of origin outside the City to a destination inside the City;
- B. Operates an ambulance brought into the City solely for the purpose of a drill or training exercise;
- C. Operates any ambulance rendering requested assistance to ambulances currently authorized by the City in cases of disaster or major emergency pursuant to provisions of a "mutual aid agreement" approved by the City;
- D. Operates a hospital operated pediatric/neonatal transport service with ambulances modified for pediatric/neonatal transport and staffed at least by registered nurses.

Section 3.03 Insurance

No emergency ambulance shall be operated in the City unless there is at all times in full force and effect at least the minimum insurance coverage as follows:

- A. Commercial General Liability: Coverage for claims for damages because of bodily injury, sickness or disease or death of any person other than ambulance service provider's employees, claims insured by usual bodily injury liability coverages, and claims for damages because of injuries to or destruction of tangible property, including loss of use resulting therefrom in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence;
- B. Automobile Liability: Coverage for claims for damages resulting from an automobile accident resulting in property damage and/or personal injury or death in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence Combined Single Limit. Such coverage is to include Uninsured/Underinsured Motorist Coverage in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence;
- C. Professional Liability: Coverage for claims for damages resulting from professional malpractice liability in an amount of not less than Ten Million Dollars (\$10,000,000.00) per occurrence and Ten Million Dollars (\$10,000,000.00) annual aggregate. If coverage is provided on a "claims made" basis, extended period or "tail" coverage shall be provided for a minimum of four years after the expiration date of the period the ambulance provider is authorized to operate in the City;
- D. Excess Liability Umbrella Insurance: Coverage in an amount not less than Five Million Dollars (\$5,000,000.00) over all underlying liability policies;
- E. Workers' Compensation and Employers' Liability: Statutory. Coverage for claims for Employers' Liability with a policy limit of One Million Dollars (\$1,000,000.00) for each accident, and One Million Dollars (\$1,000,000.00) for Disease; and

F. Other Insurance Requirements:

1. The City, its officials, employees and volunteers shall be named as an additional insured on all applicable policies and each policy shall be endorsed with a waiver of subrogation in favor of the City. Required endorsements shall be signed by a person authorized by that insurer to bind coverage on its behalf.
2. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been provided to the City. If the policy is cancelled for non-payment of premium, only ten (10) days' notice is required.
3. Insurance is to be placed with insurers having a Best rating of no less than A:VII. The company must also be duly authorized to transact business in the State of Texas.

- G. Certificate of Insurance:** At all times during the period the emergency ambulance provider is authorized to operate in the City, the provider shall file with the Fire Chief valid Certificates of Insurance acceptable to the City, naming the City as an additional insured in the amounts and coverages stated above and providing a waiver of all rights of subrogation as listed above. In the event that purchasing an "occurrence" malpractice policy is not possible or commercially reasonable, the emergency ambulance provider may purchase "claims made" coverage upon the condition that it also purchases coverage for the four (4) years following the termination or expiration of the period it is authorized to operate in the City which covers claims made during those four (4) years for actions which occurred during the period it operated in the City. The minimum coverage's required by this section may be increased from time to time as approved by the risk manager for the City.

Section 3.04 Other State Laws and Regulations

No portion of this Chapter shall be construed in a manner inconsistent with state laws and regulations, including but not limited to Chapter 773 of the Texas Health and Safety Code and any other relevant state and federal law.

Section 3.05 Operating Standards

The Medical Director is authorized to establish standards which are more stringent or cover more areas of operation than the minimum standards listed below, which may be amended from time to time by resolution of the City Council. Provider and Emergency Ambulance Personnel shall comply with the following standards:

- A. Ambulances and all patient care equipment and supplies shall be clean and decontaminated according to relevant health care industry standards.
- B. Each ambulance shall be staffed with no fewer than two (2) persons. At the minimum, one person shall be certified at the level of Emergency Medical Technician and one person shall be certified or licensed at the level of Emergency Medical Technician-Paramedic by

the Texas Department of State Health Services or staffing as approved by the Medical Director in accordance with this Chapter. One of the Emergency Medical Technicians shall remain in attendance to the patient being transported at all times.

- C. Be licensed as an Emergency Medical Services Provider according to the Texas Health and Safety Code, as amended.

Section 3.06 Standards for Vehicles and Equipment

The Medical Director is authorized to establish standards which are more stringent or cover more areas of operation than the minimum standards listed below, which may be adopted from time to time by resolution of the City Council:

- A. All motor vehicles used for the purpose of providing ambulance service hereunder shall be in compliance with the Texas Health & Safety Code and rules promulgated thereunder.
- B. All motor vehicles used for the purpose of providing ambulance service hereunder except as otherwise provided in this Chapter shall be equipped and supplied according to the list approved by the Medical Director. The Medical Director may inspect motor vehicles used for providing ambulance service to ensure that vehicles meet these standards. Providers shall be solely responsible for maintaining these standards.
- C. All mechanical, safety and special equipment shall be subject to inspection at any time by the Fire Chief, Medical Director or their designee. Provider shall be solely responsible for maintenance of all mechanical, safety and special equipment.

Section 3.07 General Standards

- A. Provider must meet or exceed all state standards for staffing and equipment in regard to emergency ambulance services and, in addition, meet all standards which are stricter than state standards which are required herein.
- B. A Provider shall meet the following standards:
 - 1. Provider shall respond to all calls for emergency ambulance service within the City and shall not engage in any form of screening calls except as specified by the Medical Director or Ambulance Contract.
 - 2. Provider shall not refuse transport of any patient to any hospital equipped for emergency service within the City. The City may, however, promulgate reasonable procedures and regulations for dealing with the abuse or potential abuse of the system by any person and allow exceptions to this requirement in conformance therewith.
 - 3. Provider shall serve all parts of the City in an equitable manner. In this regard, provider shall furnish and manage its resources in such manner as to provide emergency ambulance service throughout the City and shall take any and all actions which are reasonably necessary to minimize any differences in response time performance among the various parts of the City.

4. Provider must transport all patients whose medical condition is such that transportation by ambulance is necessary for the maintenance of health and well-being, without regard to their ability to pay for such service.
5. Provider shall make no collections during any calls.
6. All vehicles operated as ambulances shall meet or exceed standards as prescribed by applicable state law or regulation and shall, in addition, meet or exceed any vehicular, staffing and equipment standards prescribed by the Medical Director.
7. Provider shall meet all emergency response time standards set by the City.
8. Provider shall be subject to any late-run penalties or any other fines, penalties or reimbursements established by the City.
9. Provider shall meet all personnel certification or licensure standards established in writing by the Medical Director which may be more strict than those in this Chapter.

Section 3.08 Air Ambulance and Special Licensure Provisions

Helicopters and other air ambulances operating from locations outside the City may be brought into the City:

- A. To render assistance during any catastrophe or major emergency when the emergency ambulances authorized to operate in the City are either insufficient in number or inadequate for any other reason, as determined by the Incident Commander or EMS Dispatch Center;
- B. To transport any patient from a point of origin outside the City to a destination inside the City;
- C. Solely for the purpose of a drill or training exercise;
- D. To render requested assistance to emergency ambulances currently authorized by the City in cases of disaster or major emergency pursuant to provisions of a "mutual aid agreement" approved by the City;
- E. For the purpose of transporting patients from medical facilities which have permanent landing accommodations for air ambulances when a physician deems that a patient's condition merits transport by air ambulance;
- F. To transport any patient from an airport to any destination outside the City; and/or
- G. In situations pre-approved by the Medical Director or Fire Chief or his designee.

Section 3.09 Base Station Physician

- A. Standards for Certification as Base Station Physician: The Medical Director shall promulgate standards for certification as a base station physician and standards for certification of the facilities to be used by base station physicians, including but not limited to communication equipment, telemetry equipment and recording equipment.
- B. Medical Supervision and Control by Base Station Physician: The personnel employed by an emergency ambulance provider hereunder shall only accept on-line medical supervision and control by means of radio or other remote communications equipment from a base station physician certified by the Medical Director.

Section 3.10 Communications Standards

The Medical Director shall promulgate standards and protocols for effective dispatch of all emergency ambulances and first responder vehicles, including but not limited to, telephone protocols, pre-arrival instructions, phone patch procedures, response priorities, and emergency ambulance and first responder alert standards.

Section 3.11 Dispatch Procedures

The Medical Director shall promulgate dispatch standards and protocols, including but not limited to telephone protocols.

- A. When the Dispatch center receives a request for emergency ambulance service, the most appropriate emergency ambulance shall be authorized and dispatched on the response in accordance with Medical Director approved telephone protocols.
- B. In the event an emergency ambulance or air ambulance provider receives a request for emergency ambulance service in any way other than via the public 911 system, the provider shall immediately report the request to the Dispatch center, giving the location and nature of the call, if known. The Dispatch center shall then dispatch the most appropriate emergency ambulance in accordance with Medical Director approved telephone protocols.
- C. It shall be unlawful for an ambulance driver or provider to make an emergency ambulance call on the public streets of the City unless exempted or authorized by this Chapter, or unless after initiating non-emergency transport of a patient, the patient's condition unexpectedly deteriorates so that emergency transport is required and is in accordance with the ambulance provider's medical treatment protocols. This determination shall be communicated to the Dispatch center and the instructions of the City Dispatch Center shall be obeyed.

Section 3.12 Use of Emergency Warning Devices

- A. An ambulance may proceed, after directly receiving a request for service from a citizen, on a response using siren and flashing overhead lights provided the Dispatch center is first notified of the driver's intent to use such warning equipment on the City streets and the Dispatch center has authorized said driver to operate under emergency conditions.

- B. After an ambulance has responded to a call and arrived at the point of pickup, it shall be unlawful for the ambulance to proceed to the hospital or other destination with such emergency warning equipment in operation without first notifying the Dispatch center of the intent to use such equipment.
- C. When an ambulance is authorized by the Dispatch center to operate under emergency conditions, the ambulance driver shall operate the vehicle in compliance with state and municipal traffic laws governing emergency vehicles.

Section 3.13 Place of Business

Provider shall maintain a place of business with at least one listed telephone number for receiving all inquiries regarding bills for service where the provider may be reached during business hours, Monday through Friday. Provider shall, in writing, immediately notify the Fire Chief or his designee of any change of the business address or telephone number.

Section 3.14 Provider Records and Reports

Provider shall maintain a daily manifest upon which shall be recorded the time, date, place of origin, patient's name and address, destination, and charges for each trip; and a complete patient care report for each patient treated at or transported from a location within the City. The provider shall retain and preserve all daily manifests for at least eighteen (18) months after the close of its fiscal year, and such manifests shall be available for inspection by the Fire Chief, Medical Director or their duly authorized representatives upon request. Provider shall keep accurate records of the receipts and expenses from operations and such other operating information as may be required by the Fire Chief. Provider shall maintain such records at a place readily accessible for examination by the Fire Chief or Medical Director. Upon request by the Medical Director or his/her designee, the provider shall make available patient care reports for purposes of maintaining and ensuring quality of medical care in the City.

The provider shall provide to the Fire Chief an annual statement which includes, at a minimum, the following:

- A. An annual Profit/Loss Statement;
- B. A list of claims and lawsuits pending, and a list of lawsuits or claims settled or resolved during the previous year;
- C. A statement showing the number of calls made during the previous year for which the points of origin were within the City;
- D. A statement showing the number of calls made during the previous year for which the points of origin and termination were within the City;
- E. A statement showing the total amount billed and the total amount collected for calls made during the previous year for which the points of origin and termination were within the City;
- F. A list, current as of November 1, and received by the Fire Chief or his designee by December 1 of each year, that includes the names of all personnel who staff field units,

their Texas Department of State Health Services EMS certification levels and certification expiration dates; and for all personnel who staff dispatch centers, their Texas Department of State Health Services certification levels and expiration dates, if any, and their emergency medical dispatch certification levels and certification expiration dates.

Section 3.15 Destination Procedures

The Medical Director shall formulate policies and protocols for determining patient destination, considering the capabilities of area medical facilities in regard to injury and illness types, but without regard to whether or not the destination facility is located in the City.

ARTICLE IV EMERGENCY MEDICAL SERVICE PERSONNEL

Section 4.01 Personnel Certification Standards

- A. Minimum Standards Required: All personnel, including but not limited to drivers, attendants, First Responders and dispatch personnel, shall meet all standards for certification under applicable state law or regulations as well as all standards prescribed by the Medical Director.
- B. Standards to be Prescribed by Medical Director
 - 1. The Medical Director may require examinations testing the personnel's knowledge of the local EMS system in general, medical protocols, disaster procedures, and other matters appropriate to determining the applicant's medical knowledge and ability to work in the City.
 - 2. The Medical Director may require a physician's statement that the applicant has no condition which would impair his/her ability to safely operate a motor vehicle or attend patients.

Section 4.02 Qualifications of Ambulance Personnel

The Medical Director is authorized to recommend regulations which are more stringent or cover more areas of operation than the minimum standards listed below, which may be approved from time to time by resolution of the City Council. Applicants shall meet the following minimum requirements:

- A. Each applicant must hold a current Class C driver license issued by the Department of Public Safety of the State of Texas.
- B. Each applicant must possess a valid EMT, EMT-Intermediate or EMT-Paramedic certification or license issued by the Texas Department of State Health Services.
- C. If requested by the Medical Director, applicants must submit a physician's statement that the applicant has no condition which would impair his/her ability to safely operate a motor vehicle or attend patients.

Section 4.03 Rules for Ambulance Personnel

No Ambulance Personnel required to be certified hereunder shall:

- A. Refuse to promptly transport or attend any sick or injured person after responding to a call, without good cause;
- B. Demand or receive compensation other than established and advertised rates, or fail to give a receipt for monies received;
- C. Without good cause induce, or seek to induce a change in destination to or from a hospital or other place specified by the person engaging the ambulance;
- D. Induce or seek to induce any person engaging an ambulance to patronize or retain the services of any hospital, convalescent home, attorney, private accident investigator, nurse, or any person that could benefit financially as a result of said inducement except situations of medical necessity as specifically defined by the Medical Director;
- E. Fail to keep clean and presentable while on duty;
- F. Use abusive or obscene language, or fail to use professional conduct;
- G. Release a patient from ambulance service until care of that patient has been expressly transferred to another health care professional capable of providing care necessary for the health and well-being of the patient; or the patient has been examined, advised of the seriousness of his/her condition and been offered ambulance transportation to a health care facility or other direction as established by the Medical Director;
- H. Use a siren or flashing overhead lights of any color or configuration on a City street for the purpose of clearing traffic, unless on an emergency response authorized by the Dispatch center;
- I. Disobey the lawful orders of a Fire or Police Officer at the scene of an accident, or other similar emergency;
- J. Smoke or use any tobacco product while driving an ambulance or while attending a patient; or
- K. Fail to comply with applicable state and municipal laws.

Section 4.04 Professional Conduct

All personnel employed by the Provider including all persons involved in billing and collection activities, shall, at all times, conduct themselves in a professional manner.

Section 4.05 Patient and On-Scene Management

- A. Waxahachie Fire-Rescue is responsible for overall scene safety and management of all responders and patients. The Provider is included in standard operating procedures within the incident command system and has command responsibilities prior to the

arrival of the Fire Department. Once the Fire Department arrives on scene, the command responsibilities for scene safety and management are transferred to the ranking Fire officer who shall function as the Incident Commander. The Incident Commander shall implement the incident command system. The incident command system means the on scene management of an emergency incident and the structure and organization of responding resources within a standard hierarchy. All resources, including resources of the Provider and its subcontractors, are subject to the direct orders and assignments of the Incident Commander and sector officers in order to affect the timely and orderly mitigation of the emergency.

- B. Patient care and medical control issues are controlled by policies issued by the Medical Director. Generally, the first arriving advanced life support provider with the highest level of certification shall control patient care unless patient care responsibility is transferred to and accepted by another provider of at least equal level of certification.
- C. The determination regarding management of patient care and medical control should consider the following:
 1. The scene of an emergency medical incident shall be managed by the Fire Department in a manner calculated to maximize the life safety of all responders while simultaneously minimizing the risk of death or health impairment to the patient and other persons who may be exposed to risk as a result of the emergency condition.
 2. Police Emergency: In the event that the senior officer of the Police Department present at the scene determines that a police emergency condition exists, the officer shall inform the EMS provider in charge that such condition exists. Upon such notification, the EMS provider at the scene shall defer to the command of the Police Officer.
 3. Waxahachie Fire-Rescue First Responders shall ordinarily consult with the Provider Paramedic in charge at the scene in determining relevant risk factors.
 4. Because all City EMS personnel, both Fire Department First Responders and Provider personnel have met requirements specified by the Medical Director, they have medical authority over non-Waxahachie first responders and ambulance personnel (not to exceed State credentials), and law enforcement personnel.
 5. All City providers have a duty to act and must continue to provide appropriate care to patients within the scope of their certification or licensure.
 6. Medical authority over patient care shall rest solely upon the first arriving City provider until such time as that authority is passed to a Provider Paramedic or hospital physician. That transition is mandatory when a Waxahachie First Responder assumes initial medical authority. The Provider Paramedic assumes that responsibility during transport of the patient. Transition of medical authority from first responders to transporting Paramedics occur only after a verbal patient report is conveyed and the provider-patient relationship has been relinquished. The Provider assuming patient care must have a full understanding of the

patient's condition and the treatments and interventions that have been performed or are still needed.

7. City First Responders and Providers may allow properly identified medical personnel to assist with patient care, but shall maintain medical authority prior to the arrival of an ambulance.
8. In the event a physician licensed to practice medicine in Texas or authorized under Federal law is present and desires to assume direction and control of patient care and issue medical orders which conflict with those of the Medical Control physician, he/she may do so only after communicating with the Medical Control physician by radio and if he/she accompanies the patient to the hospital in the ambulance. The physician who assumes medical direction and control at the scene thus releases the on scene ambulance personnel from responsibility for directing patient care.
9. In cases where conflict regarding patient care exists between City Paramedics on scene and there is a belief that a negligent act or policy deviation that will harm the patient is about to, or has occurred, then the Paramedic with that belief shall initiate conflict resolution procedures approved by the Fire Chief and Medical Director.

Section 4.06 Suspension or Revocation of Ambulance Personnel's Privileges

The Medical Director or Fire Chief or his designee, as appropriate, shall have the power to suspend, alter or revoke the privileges of Ambulance Personnel for the following:

- A. Failure to meet the requirements in this Chapter;
- B. Failure to remain continuously employed by provider;
- C. Violation of rules in this Chapter; or
- D. Failure to comply with rules and regulations established by the Fire Chief, Medical Director, or City Council.

The Fire Chief or his designee may recommend suspension and/or revocation of privileges to the Medical Director who shall cause an investigation to be made into the circumstances surrounding the proposed suspension and/or revocation. The Fire Chief or his designee may at any time give notice in writing to the certification holder that the certification has been revoked. The notice shall outline the reason or reasons for revocation. The notice of revocation shall become a final revocation after the expiration of three (3) days from the date of the service of same, unless on or before the expiration of such three (3) days the certification holder shall file with the Medical Director a written appeal of such revocation. The appeal shall operate as a stay of revocation of the certification issued until such time as the Medical Director shall grant a hearing and make a final adjudication. Provided, however, the Fire Chief or his designee may require immediate suspension of the certification for public safety purposes. If this requirement is made, the certification shall be suspended during the period in which the appeal is pending. The hearing shall be held within thirty (30) days after the date of filing of the appeal, and such action and

judgment of the Medical Director, after hearing all the evidence and facts, shall be final and conclusive as to all parties.

Section 4.07 Miscellaneous Provisions

When the driver of an ambulance has reasonable grounds to believe that an emergency exists, the driver of the ambulance may:

- A. Park or stand, irrespective of the otherwise applicable provisions of law, ordinance or regulations;
- B. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- C. Exceed the maximum speed limits permitted by law, ordinance or regulation; provided, however, that any governing directives issued by the Fire Chief are obeyed and that life and property are not endangered thereby; or
- D. Disregard laws, ordinances and regulations governing directions or movements or turning in specified directions.

Provided, however, that any exemption herein granted shall apply only when such ambulance is operating with siren or flashing overhead lights and when such audible and visual signals meet the requirements of law, ordinance or regulation; and provided further, that the foregoing provision shall not operate to relieve the driver of any ambulance from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

ARTICLE V PURPOSE

Section 5.01 Purpose

- A. The regulation of ambulances and emergency ambulances as herein established has been made in the exercise of the sound discretion of the City Council, and the City Council finds that such regulations are necessary for the purpose of promoting the health, safety and general welfare of the community; that such regulations have been designed to lessen congestion by emergency vehicles on the public streets and to secure safety to pedestrians and vehicles using the public streets and thoroughfares; that such regulations are necessary to protect health, life and property; that such regulations apply to all providers of ambulances as a whole operating for hire under emergency conditions, or otherwise, on the streets and public thoroughfares in such a manner as to minimize the hazards and dangers inherent in the operations of ambulances under emergency conditions; and that public necessity requires that such regulations be adopted to preserve and enforce the health, safety and welfare, and the good order and security of the City and its inhabitants.
- B. To establish a regulated ambulance service system which can provide state-of-the-art clinical quality of care, with reasonable, reliable response time standards, and with the

goal of furnishing the best possible chance of survival, without disability or preventable complication, to each ambulance user.

- C. To establish a sole-provider emergency ambulance system, because it is unreasonable to have unnecessarily high rates or public subsidy to make needed improvements to ambulance service in Waxahachie, when a more efficiently designed system can achieve the same results at lower cost. The most efficient design to achieve the goals of high quality service at the lowest cost consistent with the quality of care required is the implementation of the system described herein.
- D. To provide more effective system performance through the provision of services by a competitively selected emergency ambulance provider.
- E. To establish minimum requirements for non-emergency ambulance transportation.
- F. To ensure that pre-hospital emergency medical care provided throughout the City, regardless of the setting or provider, is compatible with that authorized by the Medical Director for the City ambulance contractor.

ARTICLE VI ASSISTANCE BY FIRE AND POLICE PERSONNEL

Section 6.01 Prior To Ambulance Arrival

Members of the Waxahachie Fire and Police Departments are hereby authorized to render all emergency medical treatment which they are qualified to perform when they arrive at the scene of an emergency situation prior to the arrival of an authorized ambulance.

Section 6.02 After Ambulance Arrival

Members of the Waxahachie Fire and Police Departments are authorized to render all medical treatment which they are qualified to perform if assistance is required at an emergency situation.

ARTICLE VII VIOLATIONS; PENALTIES

Section 7.01 Unlawful Operations and Prohibited Acts

It shall be unlawful for any person to intentionally or knowingly:

- A. Follow any police car, ambulance or fire apparatus which is responding to an emergency call on the streets of the City.
- B. Solicit on the streets of the City the business of transporting injured or sick persons.
- C. Intercept any communication concerning traffic accidents on the streets of the City and divulge or publish the existence, contents, substance, purpose, effect or meaning of such intercepted communication and no such solicitor, owner or person, not being entitled thereto, shall receive or assist in receiving any such message emanating through the radio medium of the Police or Fire Department for his own benefit or for the benefit of another solicitor, owner, operator or person in the business of furnishing ambulance service.

- D. Use on a vehicle a siren and/or flashing overhead light(s) other than strobe lights without prior authorization by the EMS Dispatch Center.
- E. Use a uniform, insignia, badge, title, identification card, or vehicle marking for the purpose of identification to the public or others as an authorized provider of emergency medical services without prior approval from the Fire Chief.
- F. Operate or cause to be operated an emergency ambulance on any street of the City or provide ambulance standby services at any location within the City without first having obtained a valid permit therefore in accordance with this Article or unless exempted therefrom by the provisions of this Chapter.
- G. To sell or attempt to sell any plan including subscription to provide any ground ambulance services within the City limits except for the Contracted Provider.
- H. Request the services of any emergency ambulance which is not permitted in accordance with the provisions of this Chapter or exempted therefrom by the provisions of this Chapter.
- I. Give false information to induce the dispatch of an ambulance or helicopter rescue unit.
- J. Give false information on applications.

Section 7.02 Penalties

- A. Any person who violates any of the provisions of this Chapter shall be guilty of a misdemeanor and each day the violation continues shall be a separate offense. Each offense shall be punishable by a fine not to exceed Two Thousand (\$2,000.00) Dollars.
- B. Each day that any violation of this Chapter is committed or permitted to continue shall constitute a separate offense.
- C. This section shall not serve to limit any other remedies available to the City in law or equity.

(16)



Memorandum

To: Honorable Mayor and City Council

From: James Gaertner, Executive Director of Public Works & Utilities

Thru: Michael Scott, City Manager

Date: December 4, 2023

Re: Consider Award of a Construction Contract to J & L Construction, LLC. for 2021 Water and Sanitary Sewer Replacement Project

Motion: "I move to award a construction contract with J & L Construction, LLC. for \$2,259,392.97 and additional construction contingency in the amount of \$120,000 for the 2021 Water and Sanitary Sewer Replacement Project and authorize the City Manager to execute all necessary documents."

Item Description: Consider the award of a construction contract for the 2021 Water and Sanitary Sewer Replacement Project to J & L Construction, LLC. in the amount of \$2,259,392.97 with a \$120,000 contingency, for a total construction amount of \$2,379,392.97. The engineering for the project was completed in FY 2022 -2023 and is now ready for construction. It will replace water and sewer lines at six locations.

Item Summary: This project is one of the approved Utility Department's FY 2021-2022 Capital Improvement Plan (CIP) projects. The project will replace both the water and sanitary sewer lines at six locations around the city. Improvements to the water and sanitary sewer lines are necessary due to age and condition of the lines. Several water line breaks and sewer repairs have occurred over recent years in these locations and most of the water and sanitary sewer lines have exceeded or are approaching the end of their useful service life. The project's scope includes this replacement work in the following locations:

(lu)

- South Rogers Street from the Alley East of IH 35E Service Road to West Avenue
- Alley between Bauder Street and Opal Avenue from Five Points Road to South Rogers Street
- Alley North of South Rogers Street
- Oldham Street from Kaufman Street to Williams Street
- Ross Street from Farley Street to East Marvin Avenue
- West Avenue from South Rogers Street to Alley North of Opal Avenue

This construction contract will replace 3,970 linear feet of existing water lines and 5,800 linear feet of existing sanitary sewer lines with new Poly Vinyl Chloride (PVC) lines. Scope also includes installing all associated water and sanitary sewer appurtenances and pavement repairs associated with water and sanitary sewer lines replacement.

The City received a total of six sealed bids that were opened on Thursday, October 26th, 2023. J & L Construction, LLC. was the lowest responsible bidder in the amount of \$2,259,392.97. Gresham Smith (Design Engineer) has reviewed the lowest bidder's qualifications, references, and recommends awarding the construction contract to J & L Construction, LLC.

Fiscal Impact: The project is funded through multiple Water and Sanitary Sewer Fund bond sales (2019, 2020 2021, & 2022) and was originally budgeted for \$2,719,119.00. The construction contract amount of \$2,259,392.97 and additional \$120,000 contingency for a total of \$2,379,392.97 is within the budgeted amount.

Planning & Zoning Department

Staff Report

Waxahachie 287 Retail Paving Plan



MEETING DATE(S)

City Council:

December 4, 2023

RECOMMENDED MOTION

"I move to approve the Paving Plan for the Waxahachie 287 Retail development, located directly south of 131 Village Parkway."

APPLICANT REQUEST

The applicant requests approval of the Paving Plan for the Waxahachie 287 Retail development, located directly south of 131 Village Parkway.

CASE INFORMATION

Applicant:

Tim Lyons, Lyons American Securities, Inc.

Property Owner(s):

Waxahachie 287 Retail LLC and Lyons American Securities, Inc.

Site Acreage:

3.788 acres

SUBJECT PROPERTY

General Location:

Directly south of 131 Village Parkway

Parcel ID Number(s):

138302 & 284546

Current Zoning:

Planned Development-General Retail-Mixed Use Residential
(PD-GR-MUR – Ordinance 3118)

Existing Use:

The subject property is currently undeveloped.

Platting History:

The subject property is not currently platted.

Location Map:



STAFF ANALYSIS

Proposed Use: The applicant proposes to utilize stamped concrete at the entrances to the future Waxahachie 287 Retail development to accentuate the entrances. This development is located directly south of the Village Apartments at 131 Village Parkway.

Background: The subject property is located in a PD-GR-MUR zoning district. This PD district includes the Village Apartments and the currently undeveloped parcels north of the intersection of Brown Street and Highway 287. The PD requires the applicant to receive City Council approval of street paving material used for the development prior to the issuance of building permits. The requirement was originally included in the PD because the developer indicated a desire to utilize pavers or stamped concrete to embellish the private drive aisles in the development. However, the developer was not ready to commit to a definitive Paving Plan at the time the PD was proposed in 2018.

Since receiving approval of the PD, the Village Apartments and Village Parkway have been constructed utilizing standard concrete pavement. The developer submitted a Site Plan application to the Planning Department for the retail component of the development in July of 2023. The Site Plan application can be administratively approved by staff once compliance with the PD is verified. With the submission of the Site Plan, the developer confirmed that they would be seeking to utilize stamped concrete to accentuate the entrances of the development while utilizing standard concrete for the internal drive aisles. Following the initial application, staff worked with the developer to finalize the layout of the development before seeking approval of the Paving Plan. At this time, the Site Plan application complies with the requirements of the zoning for the property and has been approved with the condition that the Paving Plan must be approved by City Council prior to issuance of the Civil Construction permit for the development. The Paving Plan is the only portion of the development required to be approved by the City Council.

Staff Review: The proposed Paving Plan meets the original intent of the PD by providing stylized entrance features for the development. The choice to simulate pavers by using stamped concrete addresses staff concerns with the maintenance of the drive aisles. Standard pavers or bricks are typically very difficult to maintain due to their tendency to shift over time. Stamped concrete offers the look of traditional pavers without the maintenance concern. With this in mind, staff supports the Paving Plan as proposed.

RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, staff recommends approval of the proposed Paving Plan.

ATTACHED EXHIBITS

1. Paving Plan - Waxahachie 287 Retail

APPLICANT REQUIREMENTS

1. If approved by City Council, the applicant can proceed with the Site Plan (SP-102-2023) for the development. Upon receiving Site Plan approval, the applicant can proceed to apply for civil construction permits with the Public Works and Engineering Department and building permits with the Building and Community Services Department.

STAFF CONTACT INFORMATION

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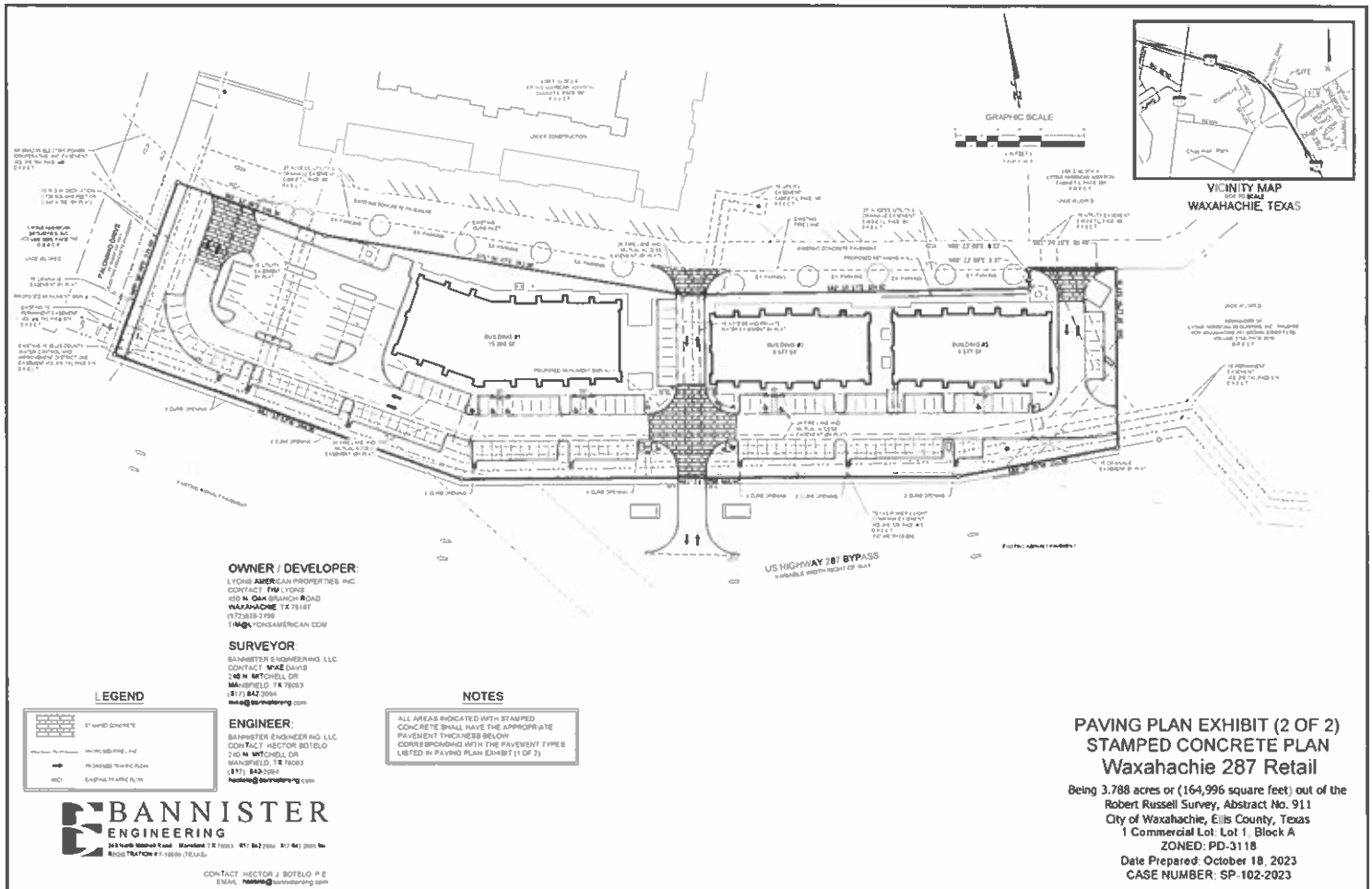
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Memorandum

To: Honorable Mayor and City Council

From: Gumaro Martinez, Executive Director of Parks & Leisure Services

Thru: Michael Scott, City Manager

Date: December 4, 2023

Re: Consider Resolution Authorizing an Advance Funding Agreement with the Texas Department of Transportation

Recommended Motion: "I move to approve a resolution authorizing the Mayor and/or City Manager to execute an Advance Funding Agreement with the Texas Department of Transportation for grant funds for the construction of a portion of the Midlothian – Waxahachie Regional Veloweb shared-use trail."

Item Description: Consider a resolution authorizing the City of Waxahachie to execute an advance funding agreement with the Texas Department of Transportation (TxDOT) for grant funds for the construction of a portion, within the Waxahachie city limits, for the Midlothian – Waxahachie Regional Veloweb Shared-use trail. This will allow for a reimbursement grant program with TxDOT paying 80% and the City of Waxahachie paying 20% of estimated costs of the trail project, and 100% of project cost overruns.

Item Summary: In 2020, the North Central Council of Governments (NCTCOG) procured professional services to evaluate alignment options, recommend a preferred route, and conduct 15% preliminary engineering for a Regional Veloweb shared-use path (trail). A design schematic, environmental summary, right-of-way and/or easement requirements, and opinions of probable costs by jurisdiction were developed.

The project study area is located in Ellis County, Texas generally along Waxahachie Creek and the Union Pacific Railroad (UPRR) from Midlothian Parkway

near Hawkins Spring Park on the west to the existing Waxahachie city trail in Getzendaner Park east of IH-35E. The shared-use path will link the cities of Midlothian and Waxahachie and implement a portion of the Regional Veloweb adopted by the Regional Transportation Council as part of Mobility 2045: The Metropolitan Transportation Plan for North Central Texas.

The total project length is approximately 9.8 miles, with 5.2 miles on the TxDOT right-of-way and 4.62 miles within local jurisdictions. The City of Waxahachie will be responsible for construction of approximately 3.71 miles of the shared-use trail that pertains to the local jurisdictions. The city's trail portion will start at Getzendaner Park and meander along Waxahachie Creek up to the Union Pacific Railroad crossing at FM 875.

The environmental clearance, right-of-way acquisition, utilities relocation, and engineering phases are scheduled from January 2024 – June 2025. Construction of the trail should follow within the timeline of February 2026 – February 2027.

Fiscal Impact: The estimated cost of the City of Waxahachie portion of the proposed trail is \$5,100,000 plus an additional \$232,254 that will be covered solely by TxDOT. It is important to note that this is a reimbursement grant, thus the city will front the costs of the project and apply for reimbursement as the project progresses.

After receiving 80% reimbursement of the estimated cost, the City of Waxahachie will ultimately be responsible for \$1,020,000, and any project cost overruns. The trail project has been earmarked in the FY23-24 budget, funded through the General Fund Unassigned Fund Balance. A supplemental appropriation will be presented for City Council approval at a future date before any funds are disbursed.

RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF WAXAHACHIE, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN ADVANCE FUNDING AGREEMENT FOR GRANT FUNDS WITH THE STATE OF TEXAS FOR THE CONSTRUCTION OF MIDLOTHIAN TO WAXAHACHIE TRAIL; PROVIDING AN EFFECTIVE DATE.

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and;

WHEREAS, costs will be allocated based on 80% federal funding and 20% Local government funding until the federal funding reaches the maximum obligated amount. The local government will be responsible for 100% of the project cost overruns; and

WHEREAS, the total estimated cost of the trail project is \$5,332,254, with the local government share of the costs to be \$1,020,000 plus any cost overruns; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY WAXAHACHIE, TEXAS, THAT:

SECTION ONE. The City Council hereby authorizes the City Manager to enter into an advance funding agreement with the State of Texas for the construction of a section of a regional Midlothian to Waxahachie trail starting at Getzendaner Park and ending at or in the general area of the Union Pacific railroad crossing at FM 875.

SECTION TWO. This Resolution shall become effective immediately upon its passage.

PASSED AND APPROVED THIS THE 4TH DAY OF DECEMBER, 2023.

David Hill, Mayor, City of Waxahachie

ATTEST:

Amber Villarreal, City Secretary, City of Waxahachie