



## Stephenville City Council Committee Meetings

City Hall Training Room, 298 W. Washington (Use Columbia St. entrance)

Tuesday, March 19, 2019 at 5:30 PM

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I. TOURISM AND VISITORS BUREAU COMMITTEE Carla Trussell, Chair; Brady Pendleton, Sherry Zachery	
1. Call to Order	
2. Hotel Occupancy Tax Application - The Original Hico Texas Steak Cook-Off <a href="#">Staff Report - Hico Steak Cook-Off</a>	3 - 4
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II. PARKS AND LEISURE SERVICES COMMITTEE REPORT Sherry Zachery, Chair; Mark McClinton, Carla Trussell, Brandon Huckabee	
1. Call to Order	
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2. Landfill Supervisor Position <a href="#">Staff Report - Landfill Superintendent/Landfill Gate Fees</a>	54 - 57
3. Adjourn	
IV. FINANCE COMMITTEE Mark McClinton, Chair; Carla Trussell, Brady Pendleton	
1. Call to Order	
2. Fiscal Year 2017-2018 Audit	
3. Landfill Gate Fees	58 - 61

[Staff Report - Landfill Gate Fees/Landfill Superintendent](#)

4. Adjourn
- V. PUBLIC WORKS COMMITTEE  
Alan Nix, Chair; Mark McClinton, Rhett Harrison, Brandon Huckabee
1. Call to Order
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  3. 2020 Pavement and Utility Coordination Project Funding 64 - 69  
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  4. Eastside Sewer Project Update 70 - 73  
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  5. Adjourn
- VI. PUBLIC HEALTH AND SAFETY COMMITTEE  
Brady Pendleton, Chair; Rhett Harrison, Alan Nix
1. Call to Order
  2. Municipal Court 74 - 75  
[Staff Report - Municipal Court](#)
  3. Adjourn
- VII. PLANNING AND DEVELOPMENT SERVICES COMMITTEE  
Brandon Huckabee, Chair; Mark McClinton, Brady Pendleton, Rhett Harrison
1. Call to Order
  2. Future Development Projects 76 - 86  
[Staff Report - Future Development Projects](#)
  3. Adjourn

Tourism and Visitors Bureau Committee  
**STAFF REPORT**



**SUBJECT:** HOT application for The Original Hico Texas Steak Cook-Off  
**MEETING:** City Council Committee Meetings - 19 Mar 2019  
**DEPARTMENT:** Tourism and Visitors Bureau  
**STAFF CONTACT:** Julie Smith

**RECOMMENDATION:**

This application meets the first part of the two-part test as event substantially enhances the local hotel industry for the two day event. The application also meets the second part of the two-part test as this is a sporting event where most of the participants and guests are tourists.

**BACKGROUND:**

For 16 years The Original Hico Texas Steak Cook-Off has brought thousands from all over the United States to our area for their cook-off and wine festival. Because of the lack of accommodations in Hico, many of the cook-off teams and guests stay in Stephenville hotels for this two-day event. This year's request is for \$2,500 to offset their costs for the event. Per their application, their outreach includes print, online, and radio advertising.

**FISCAL IMPACT SUMMARY:**

The Original Hico Texas Steak Cook-Off is asking for \$2,500 for their event on May 17th and 18th.

**ATTACHMENTS:**

[Hico Steak Cookoff HOT Application](#)

# 2018 TOURISM FUNDS APPLICATION

Stephenville Tourism & Visitor Bureau ★ 254.552.1222

**EVENT NAME:** The Original Itico TX STEAK COOK OFF  
**Sponsor Organization or Business:** \_\_\_\_\_  
**Status:**  Non-Profit     For-Profit  
**Contact Person:** Gary Bristel  
**Email:** gbristel@itico-ind.net  
**Address:** PO Box 335 Itico, TX 76457  
**Phone:** 817-875-5059  
**Tax ID#:** \_\_\_\_\_

**For STVB Use Only**  
 # Years Funded: \_\_\_\_\_  
 2017 Amount: \_\_\_\_\_  
 2016 Amount: \_\_\_\_\_  
 2015 Amount: \_\_\_\_\_  
 2014 Amount: \_\_\_\_\_

**EVENT DESCRIPTION**

**Event Dates:** May 17<sup>th</sup> - 19<sup>th</sup>  
**Event HOURS (Start & End Time each day):** 10:00 - 8:00 pm  
**Location:** Itico  
**Description of Event:**  
Steak cook off; wine Festival

**Is this an Annual Event that plans to remain in Stephenville?** YES  
**How many years has the event been held?** 16 Itico  
**Last year's estimated attendance (if applicable):**  
     **Entries/Registrants** 160    **Spectators** 9,000.00  
**Last year's estimated hotel nights reserved and # of nights:** # Rooms 100+ # Nights 2  
**Total attendance expected this year:**  
     **Entries/Registrants** same    **Spectators** same  
**Estimated hotel rooms that will be occupied and # of nights:** # Rooms 100+ # Nights 2  
**Where do competitors/spectators come from?**  
Across the US

**Are concessions available at event?**  Yes     No    **If so, who provides them?** vendors; co-ops  
**How many event staff work at the event?** 75    **# Local Hires** 0  
**How many volunteers work the event?** 75  
**How will the event be advertised/promoted?**  
Print Media / Website / Radio

**Amount Requested from STVB:** \$ 2,500  
**Please indicate how funds will be spent:**  
Funds will be used to fund the cook off

Tourism and Visitors Bureau Committee  
**STAFF REPORT**



**SUBJECT:** HOT Application for LJT Shuttle Service  
**MEETING:** City Council Committee Meetings - 19 Mar 2019  
**DEPARTMENT:** Tourism and Visitors Bureau  
**STAFF CONTACT:** Julie Smith

**RECOMMENDATION:**

This application for HOT funds meets the first part of the two-part test as the LJT Music Festival directly enhances and promotes tourism, and substantially increases economic activity with over 500 hotel rooms for the six day event. Additionally, the application meets the second part of the two-part test as it is for the cost of transporting tourists from local hotels to a tourist attraction in or near the city.

**BACKGROUND:**

For over 30 years thousands of music fans have come to Stephenville for the largest music festival in Texas. The six-day outdoor festival is held at Melody Mountain Ranch feature over 60 bands across four stages every day from 10:00 a.m. to 11:00 p.m. The festival offers 4,000 campsites, 20-30 food and retail vendors for over 60,000 fans. Each April the LJT Music Festival has over 500 hotel rooms per night for the six day event.

**FISCAL IMPACT SUMMARY:**

The LJT Music Festival is requesting \$10,000 for shuttles for VIP's, artists, fans, and vendors from the hotel to the festival and back.

**ATTACHMENTS:**

[LJT Shuttle Funds Application 2019](#)  
[Shuttle Service Outline](#)

# 2018 TOURISM FUNDS APPLICATION

Stephenville Tourism & Visitor Bureau ★ 254.552.1222

**EVENT NAME:** \_\_\_\_\_

**Sponsor Organization or Business:** \_\_\_\_\_

**Status:**  Non-Profit       For-Profit

**Contact Person:** \_\_\_\_\_

**Email:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Tax ID#:** \_\_\_\_\_

<b>For STVB Use Only</b>
# Years Funded: _____
2017 Amount: _____
2016 Amount: _____
2015 Amount: _____
2014 Amount: _____

## EVENT DESCRIPTION

**Event Dates:** \_\_\_\_\_

**Event Hours** (Start & End Time each day): \_\_\_\_\_

**Location:** \_\_\_\_\_

**Description of Event:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Is this an Annual Event that plans to remain in Stephenville?** \_\_\_\_\_

**How many years has the event been held?** \_\_\_\_\_

**Last year's estimated attendance (if applicable):**

**Entries/Registrants** \_\_\_\_\_      **Spectators** \_\_\_\_\_

**Last year's estimated hotel nights reserved and # of nights:**    # Rooms \_\_\_\_\_    # Nights \_\_\_\_\_

**Total attendance expected this year:**

**Entries/Registrants** \_\_\_\_\_      **Spectators** \_\_\_\_\_

**Estimated hotel rooms that will be occupied and # of nights:**    # Rooms \_\_\_\_\_    # Nights \_\_\_\_\_

**Where do competitors/spectators come from?**  
\_\_\_\_\_  
\_\_\_\_\_

**Are concessions available at event?**     Yes     No    **If so, who provides them?** \_\_\_\_\_

**How many event staff work at the event?** \_\_\_\_\_      **# Local Hires** \_\_\_\_\_

**How many volunteers work the event?** \_\_\_\_\_

**How will the event be advertised/promoted?**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Amount Requested from STVB: \$** \_\_\_\_\_

**Please indicate how funds will be spent:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



### LARRY JOE TAYLOR FEST - Event Overview

- This will be our 31<sup>st</sup> Annual Larry Joe Taylor Texas Music Festival (18<sup>th</sup> year in Stephenville)
- This is a 6-day outdoor music event held at Melody Mountain Ranch, just outside of Stephenville
- Each year this event brings approximately 55,000-60,000 people from all over the nation 6 days of live music and camping
- We have 8 full time employees running our office, ranching and general operations for all of our company events, but for this event we hire an additional 150-200 staff who are responsible for ticketing, parking, merchandise, bartending, office administration, armed security, designated drivers, stage hands and general management and operations. The majority of our staff are local hires, including Tarleton students and off duty SPD and Erath Co. Sheriff officers.
- LJT Fest features over 60 bands, with acts such as Pat Green, Randy Rogers Band, Josh Abbott, Roger Creager, William Clark Green, Koe Wetzel, Mike Ryan, Randall King, Cody Johnson, and Larry Joe Taylor



## Proposed Hotel Transportation Plan

### 1) Need for Transportation

- a. Camping is part of the traditional experience of LJT Fest, and every year over 4,000 campsites are reserved by fans who have been coming back for years. But we have hundreds of fans, artists and staff who stay in hotels during the week, so we block off approximately 50 hotel rooms for these folks. Without knowing exactly the number of hotel rooms booked for LJT Fest during the week, we estimate approximately 500 or more Stephenville hotel rooms are booked annually in April for this event.
- b. Our first priority is safety and with our attendance increasing each year, we are always looking for ways to improve our safety plans in all aspects. This will be our 3<sup>rd</sup> year of the #SafeLJT partnership campaign with Tarleton, we have made improvements to our security staff and surveillance systems, and we continue to work with Donnie Hill who operates the “Free Rides” Jesus Bus crew.
- c. With many of the folks drinking alcohol at the festival, we believe there is always a need for transportation to and from the event, and each year we hire 2-3 drivers and rent shuttles for sponsors, artists and VIP guests who need a ride to and from the event. With additional funding, we believe we could hire more shuttles and drivers to provide this same service to anyone staying at local hotels.

**2) Proposed Transportation Plan** – Similar to our Fall Festival event, we have never fully measured how many commuters used Lyft, our drivers, a limo or other means of transportation to our event in prior years, so measuring the number of trips to/from hotels and the event ahead of time is a similar challenge. However, with what we do know about the hotel rooms used for the event and the potential reach with advertising, we propose the following plan:

- a. We currently rent 2-3 shuttles and drivers for the week, each shuttle and driver costing about \$2500. We estimate \$10,000 would be a reasonable amount for 6 days, using up to \$8,500 of these funds for the shuttle services, and the remaining \$1,500 for promoting this service.
- b. Promotional materials would include social media ads, newspaper ads, radio ads, e-mailing lists (our newsletter email list contains approximately 30,000 people), magnetic signs identifying the vehicles as “Hotel Shuttle” on-site signage at hotels and the event. We plan to use local newspapers and radio stations for advance promotions, but we also want to reach out of town guests about this incentive through other sources.
- c. We did not use the additional \$1,500 of the \$3,000 that the City approved for the 2018 Rhymes & Vines event, so if this is still available, it could be applied towards the amount requested.



**3) If funding is approved, we would need to do the following:**

- a. Begin promotions immediately - design and distribute promotional material through social media, newsletter and local newspapers. Design hotel on-site material containing a schedule for hourly pick-ups. Ideas for signage include sandwich boards/large signs at each hotel with pick up times each day and magnetic signs for the shuttles with our logo and "HOTEL SHUTTLE".



- b. Organize a hotel routing schedule with the shuttle, picking up at each hotel every hour at some point – it would be helpful to know in advance from each hotel if they have guests who plan to utilize the shuttle for the event.
- c. Coordinate a pick-up and drop-off plan with the drivers at the event location so they know where to drop passengers off and pick them up at the event. The entrance and exit gates become very congested at peak hours, so we need to have a plan in place with designated areas for guests to wait for the shuttle. Designated drop off and pick up areas marked by signs and tents will help avoid confusion with guests, drivers, and event staff who are managing the exit lines.

Thank you all very much in advance for your time and consideration.

Sincerely,  
The Taylor Family ~ Larry Joe, Sherry, Zack and Martha



Tourism and Visitors Bureau Committee  
**STAFF REPORT**



**SUBJECT:** HOT application for the 2019 TAAF Youth State Volleyball Tournament  
**MEETING:** City Council Committee Meetings - 19 Mar 2019  
**DEPARTMENT:** Tourism and Visitors Bureau  
**STAFF CONTACT:** Julie Smith

**RECOMMENDATION:**

This application meets the first part of the two-step test as it estimates 50 rooms for two nights for the TAAF State Volleyball Tournament May 31 -June 2. While this sporting event does not substantially increase economic activity at our local hotels, it does meet the second part of the two-step test as the funds are for expenses related to a sporting event.

**BACKGROUND:**

Last year the TAAF Youth State Volleyball Tournament brought teams from all over Texas associated with TAAF to compete in Stephenville. Their post event report indicated 87 hotel room nights were generated by attendees of the event. Of the \$13,150 requested for the tournament last year, only \$8,500 was used. There is a \$250 entry fee for the TAAF State Volleyball Tournament.

**FISCAL IMPACT SUMMARY:**

The request is for \$15,000 in HOT funds.

**ATTACHMENTS:**

[2019.03.07 - TAAF Application for May 31 - June 2nd](#)

2019

# 2018 TOURISM FUNDS APPLICATION

Stephenville Tourism & Visitor Bureau ★ 254.552.1222

**EVENT NAME:** TAAF Youth Volleyball State Tournament

**Sponsor Organization or Business:** Stephenville Parks and Recreation

**Status:**  Non-Profit  For-Profit

**Contact Person:** Cherisa Black

**Email:** cblack@stephenvilletx.gov

**Address:** 378 W. Long Stephenville, TX 76401

**Phone:** 254-413-8468

**Tax ID#:** \_\_\_\_\_

<b>For STVB Use Only</b>	
# Years Funded:	_____
2017 Amount:	_____
2016 Amount:	_____
2015 Amount:	_____
2014 Amount:	_____

## EVENT DESCRIPTION

**Event Dates:** May 31-June 2nd

**Event Hours (Start & End Time each day):** May 31 4:00PM-7:00PM, June 1 8:00AM-4:00PM, June 2 8:00AM-5:00PM

**Location:** Stephenville High School, Henderson Junior High, Tarleton State Recreation Center, SPARD Rec Hall

### Description of Event:

A youth volleyball tournament where teams from all over Texas compete to become the best in the state. Over 50 games will be played and reaching for over 30 teams to enter in the tournament. Outside officiating and scorekeeping staffs travel to Stephenville to work the tournament and stay the weekend in town. The state commissioner also travels to the event to stay the weekend.

**Is this an Annual Event that plans to remain in Stephenville?**  Yes  No

**How many years has the event been held?** 2

**Last year's estimated attendance (if applicable):**

Entries/Registrants 300 Spectators 1000

**Last year's estimated hotel nights reserved and # of nights:** # Rooms 30 # Nights 2

**Total attendance expected this year:**

Entries/Registrants 500 Spectators 1500

**Estimated hotel rooms that will be occupied and # of nights:** # Rooms 50 # Nights 2

**Where do competitors/spectators come from?**

All over Texas. Cities include Georgetown, Greenville, College Station, Austin, Denton, Watauga, Texas City and more

**Are concessions available at event?**  Yes  No **If so, who provides them?** SPARD

**How many event staff work at the event?** 45 **# Local Hires** 15

**How many volunteers work the event?** 5

**How will the event be advertised/promoted?**

The event will be promoted through the TAAF website, social media and cities affiliated with TAAF will push it out via email and text to all of their local teams. It will also be advertised through SPARD's social media, email/text contact list, on the radio, newspaper and flyers.

**Amount Requested from STVB: \$** 15,000

**Please indicate how funds will be spent:**

The funds will spent on the tournament fees associated with TAAF, the state commissioners stay, officiating/scorekeeping association, marketing, hospitality rooms for coaches and staff, and staff gear.

Tourism and Visitors Bureau Committee  
**STAFF REPORT**



**SUBJECT:** Film Friendly Texas Guidelines and Ordinance  
**MEETING:** City Council Committee Meetings - 19 Mar 2019  
**DEPARTMENT:** Tourism and Visitors Bureau  
**STAFF CONTACT:** Julie Smith

**RECOMMENDATION:**

Staff recommends the passage of the attached ordinance for adopting the attached enforceable filming guidelines for our community.

**BACKGROUND:**

In order to become a certified Film Friendly Texas community, the City of Stephenville must administratively pass enforceable filming guidelines. The attached guidelines have been modified for Stephenville, and were created by The Texas Film Commission. These guidelines reflect best practices and media industry standards on how to effectively accommodate on-location filming activity in our community.

**ATTACHMENTS:**

[Film Guidelines Stephenville, Texas Ordinance](#)

*The following Filming Guidelines & Application are intended solely as a potential starting point for use by your legal counsel in crafting an appropriate final set of Filming Guidelines and Application for your municipal program. They may not be suitable for all situations and may even include guidelines which are unsuitable for your particular municipality. The Texas Film Commission does not endorse, guarantee, or warrant, either expressly or impliedly, the accuracy, completeness or timeliness of the following Filming Guidelines & Application Sample and it is provided "as is," without warranty of any kind. You are urged to consult legal counsel in the development, adoption and implementation of your Filming Guidelines and Application.*

## **Guidelines for Filming in Stephenville, Texas**

Revised 12-30-10

- I. Purpose
- II. City Control/City Manager Authority
- III. Permit Requirements and Fees
- IV. Application Fee
- V. Use of City Equipment and Personnel
- VI. Use of City-Owned Real Estate
- VII. Vehicles and Equipment
- VIII. Hours of Filming
- IX. Notification of Neighbors
- X. Certificate of Insurance
- XI. Damage to Public or Private Property
- XII. Hold Harmless Agreement

## Guidelines for Filming in Stephenville, Texas

### I. PURPOSE

The Guidelines contained in this policy are intended to create a program for promoting economic development activity within **Stephenville** and the vicinity of the City. The following Guidelines are also intended to protect the personal and property rights of **Stephenville**, Texas residents and businesses, and to promote the public health, safety and welfare. The City Manager reserves the right to impose additional regulations in the interest of public health, safety and welfare, or if otherwise deemed appropriate by the City Manager.

These Guidelines cover requests for commercial use of City-owned property (including but not limited to streets, rights-of-way, parks, and/or public buildings), commercial use of private property which may affect adjacent public or private property, and the use of City equipment and personnel in all types of motion picture production, including, but not limited to, feature films, television programs, commercials, music videos and corporate films.

### II. CITY CONTROL/CITY MANAGER AUTHORITY

The City Manager may authorize the use of any street, right-of-way, park, or public building, equipment or personnel for commercial uses in the filming or taping of movies, television programs, commercials, or training films and related activities. In conjunction with these uses, the City Manager may require that any or all of the conditions and/or remuneration herein and as specified on the application be met as a prerequisite to that use.

The Applicant agrees that the City of **Stephenville** shall have exclusive authority to grant the Applicant the use of public streets, rights-of-way, parks and public buildings of the City, as well as authority to regulate the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming in order to promote the public health, safety or welfare.

The Applicant shall allow City departments (e.g., Police, Fire, Building) to inspect all structures, property, devices and equipment to be used in connection with the filming and taping, as deemed appropriate by the City Manager.

### III. PERMIT REQUIREMENTS

Before filing an application for filming in **Stephenville**, the Office of the City Manager must be contacted to discuss the production's specific filming requirements and the feasibility of filming in **Stephenville**, Texas.

Any commercial producer who desires to undertake a commercial production in **Stephenville** is required to complete and return the attached application for filming to the Office of the City Manager, within the time frames below:

- **Commercials or episodic television:** a minimum of two (2) business days prior to the commencement of filming or any substantial activity related to the project.
- **Feature films:** a minimum of five (5) business days prior to the commencement of filming or any substantial activity related to the project.

### IV. APPLICATION FEE

An application processing fee of \$25.00 should accompany each application for filming in **Stephenville**.

The City Manager may waive this fee upon proof of an organization's non-profit status or for any other reason deemed appropriate by the City Manager.

### V. USE OF CITY EQUIPMENT AND PERSONNEL

The Applicant shall pay for all costs of any Police, Fire, Public Works, or other City personnel assigned to the project (whether or not specifically requested by the production). Remuneration rates for the use of any City equipment, including police cars and fire equipment, will be established on a case-by-case basis.

as determined by the City Manager. The Applicant shall pay all costs in full within ten (10) days after receipt of an invoice for said costs. The City Manager may, at his/her discretion, require an advance deposit for all costs related City personnel and/or the use of City equipment.

The City Manager, in consultation with the Chief of Police and/or Fire Chief, shall have the authority to stipulate additional fire or police requirements and level of staffing for same, at any time during a film project if it is determined to be in the best interest of public health, safety and welfare, which cost shall be borne entirely by the Applicant.

Off-duty police officers and firefighters shall be paid by the production company at a rate no less than one and one-half times their hourly rate.

**VI. USE OF CITY-OWNED REAL ESTATE**

The City Manager may authorize the use of any street, right-of-way, park or public building, use of **Stephenville**, Texas name, trademark or logo and/or use of City equipment and/or personnel for commercial uses in motion picture production. In conjunction with these uses, the City Manager may require that any or all of the conditions and/or remuneration as specified herein and on the application be met as a prerequisite to that use. A security or damage deposit may be required within the discretion of the City Manager.

The Applicant shall reimburse the City for inconveniences when using public property. Following is the rate schedule:

<u>Activity</u>	<u>Cost per calendar day</u> (maximum of 8 hours/day)
Total or disruptive use (regular operating hours) of a public building, park, right-of-way, or public area	\$500 per day/\$100 per hour after 8 hours
Partial, non-disruptive use of a public building, park, right-of-way, or public area	\$250 per day/\$50 per hour after 8 hours
Total closure or obstruction of public street or right-of-way, including parking lots and on-street parking	\$50 per block, per day/\$10 per hour after 8 hours
Partial closure or obstruction of public street or right-of-way, including parking lots and on-street parking	\$25 per block, per day/\$5 per hour after 8 hours
Use of City parking lots, parking areas, and City streets (for the purpose of parking film trailers, buses, catering trucks, and other large vehicles)	\$50 per block or lot, per day/\$10 per hour after 8 hours

The Applicant acknowledges and agrees that the City of **Stephenville**, Texas, possesses and retains exclusive authority to grant the Applicant a revocable license for the use of its name, trademark, and logo, public streets, rights-of-way, parks and buildings of the City as well as control over the hours of production and the general location of the production. The City reserves the full and absolute right to prohibit all filming or to order cessation of filming activity in order to promote the public health, safety and/or welfare.

**VII. VEHICLES AND EQUIPMENT**

The Applicant shall provide a report listing the number of vehicles and types of equipment to be used during the filming, including proposed hours of use and proposed parking locations. Such locations will need to be specifically approved by the City Manager. On-street parking or use of public parking lots is

subject to City approval.

The use of exterior lighting, power generators, or any other noise- or light-producing equipment requires on-site approval of the City Manager.

**VIII. HOURS OF FILMING**

Unless express written permission has been obtained from the City Manager in advance, and affected property owners, tenants and residents have been notified, filming will be limited to the following hours:

Monday through Friday: 7:00 a.m. to 9:00 p.m.

Saturday, Sunday and holidays: 8:00 a.m. to 8:00 p.m.

**IX. NOTIFICATION OF NEIGHBORS**

The Applicant shall provide a short written description, approved by the City Manager, of the schedule for the proposed production to the owners, tenants and residents of each property in the affected neighborhood(s). The Applicant, or his or her designee, shall make a good faith effort to notify each owner, tenant and resident of all such property, and shall submit, as part of this application, a report noting owners, tenants and/or residents' comments, along with their signatures, addresses and phone numbers. Based upon this community feedback, and other appropriate factors considered by the City Manager, the City Manager may grant or deny the filming application.

**X. CERTIFICATE OF INSURANCE**

The Applicant shall attach a valid certificate of insurance, issued by a company authorized to conduct business in the state of Texas, naming the City of **Stephenville** and its agents, officers, elected officials, employees and assigns, as additional insured, in an amount not less than \$1,000,000 general liability, including bodily injury and property damage with a \$5,000,000 umbrella; and automobile liability (if applicable) in an amount not less than \$1,000,000 including bodily injury and property damage.

**XI. DAMAGE TO PUBLIC OR PRIVATE PROPERTY**

The Applicant shall pay in full, within ten (10) days of receipt of an invoice, the costs of repair for any and all damage to public or private property, resulting from or in connection with, the production, and restore the property to its original condition prior to the production, or to better than original condition.



XII. HOLD HARMLESS AGREEMENT

The Applicant shall sign the following Hold Harmless Agreement holding the City harmless from any claim that may arise from their use of designated public property, right-of-way, or equipment in conjunction with the permitted use:

*I certify that I represent the firm which will be performing the filming/taping at the locations specified on the attached permit application. I further certify that I and my firm will perform in accordance with the directions and specifications of The City of **Stephenville**, Texas, and that I and my firm will indemnify and hold harmless the City of **Stephenville**, Texas and its elected officials, officers, servants, employees, successors, agents, departments and assigns from any and all losses, damages, expenses, costs and/or claims of every nature and kind arising out of or in connection with the filming/taping and other related activities engaged in pursuant to this Application.*

*I further certify that the information provided on this Application is true and correct to the best of my knowledge, and that I possess the authority to sign this and other contracts and agreements with the City of **Stephenville**, Texas on behalf of the firm.*

Signed: \_\_\_\_\_

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

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

THE CITY OF STEPHENVILLE, TEXAS

**Application for Commercial Filming**

Title of project

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Type of production (feature film, television production, commercial, corporate, music video, etc.)

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Proposed Filming Locations (attach additional pages if necessary)

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Date(s) of prep/filming

---

Primary Contact

Name

Cell phone

Email

Location Manager (if different from Primary Contact)

Name

Cell phone

Email

Production Company Information

Name of Production Company

Address

City/State/Zip

Web Site

Primary Contact's Name

Primary Contact's Phone

Primary Contact's Email

Is this production already in contact with the Texas Film Commission? \_\_\_\_\_

If yes, who is your contact at the Texas Film Commission?

Name

Phone

Email

**PRODUCTION** (*Attach additional sheets if necessary.*)

1. Production schedule and activities, including stunts, pyrotechnics, special effects, aerial photography, amplified sound or use of animals: (Give dates and times and rain dates. Hours should include set-up, holding of sets and restoration.)

2. Approximate number of persons involved with the production, including cast and crew:

3. Anticipated need of City personnel, equipment or property:

4. Public areas in which public access will be restricted during production:

5. Describe alterations to public property:

6. Number and type of production vehicles to be used and location(s) where vehicles will be parked:

7. Location where crew will be fed, if not at filming location:

8. Location where extras will be held, if not at filming location:

9. Please attach map of anticipated street closure(s) or other public area use.

Applicant (production company representative):

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

Name

\_\_\_\_\_

Title

Application approved by **Stephenville** representative:

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

*The "Guidelines for Filming in **Stephenville, Texas**" apply to all motion picture production in **Stephenville**.*

*The Office of the City Manager may require the applicant to acknowledge receipt of the Guidelines prior to approving this application.*

**Ordinance No. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF STEPHENVILLE, TEXAS ESTABLISHING GUIDELINES FOR FILMING IN STEPHENVILLE, TEXAS AND PROVIDING FOR AN EFFECTIVE DATE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEPHENVILLE, TEXAS:**

**SECTION 1.**

The City hereby adopts the guidelines for filming in Stephenville, Texas as set out in the attachment hereto, pages 1 through 5.

**SECTION 2.**

The City hereby adopts the application for commercial filming in Stephenville, Texas as set out in the attachment, hereto, pages 6 through 8.

**SECTION 3.**

This ordinance shall become effective upon its passage.

\_\_\_\_\_  
Doug Svien, Mayor

Attest:

\_\_\_\_\_  
Staci L. King, City Secretary

\_\_\_\_\_  
Reviewed by Allen L. Barnes,  
City Administrator

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



Regular City Council Meeting  
**STAFF REPORT**

**SUBJECT:** Studio 6:14 Contract  
**MEETING:** City Council Committee Meetings - 19 Mar 2019  
**DEPARTMENT:** Parks and Leisure Services  
**STAFF CONTACT:** Jen Basham

**RECOMMENDATION:**

Approve contract with Studio 6:14 Dance

**BACKGROUND:**

In Spring 2018, Studio 6:14 began utilizing the upstairs space at the Recreation Hall for Dance Classes. The current contract ends in May 2019. The proposed contract is a 2 year extension.

**FISCAL IMPACT SUMMARY:**

NA

**ALTERNATIVES:**

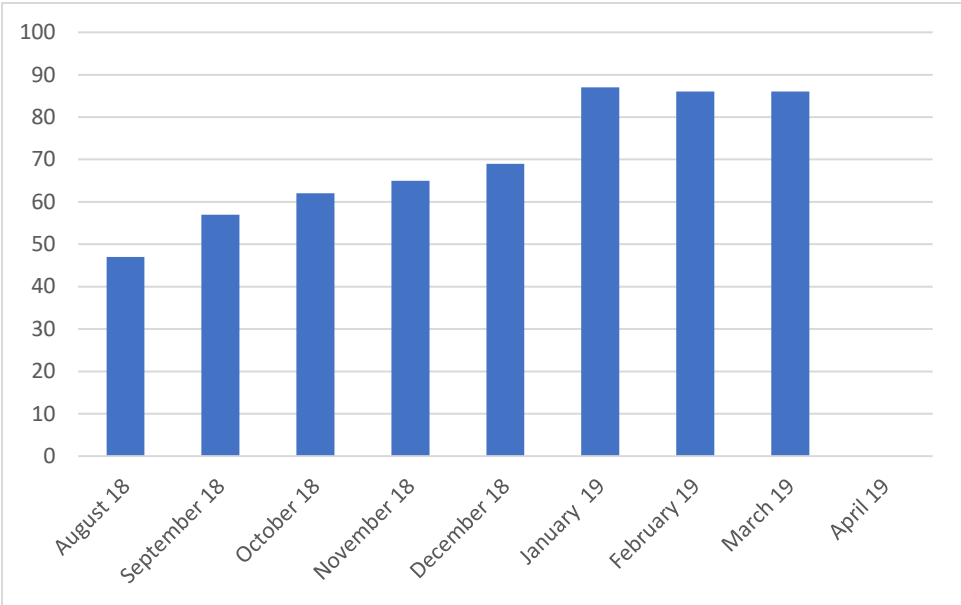
NA

**ATTACHMENTS:**

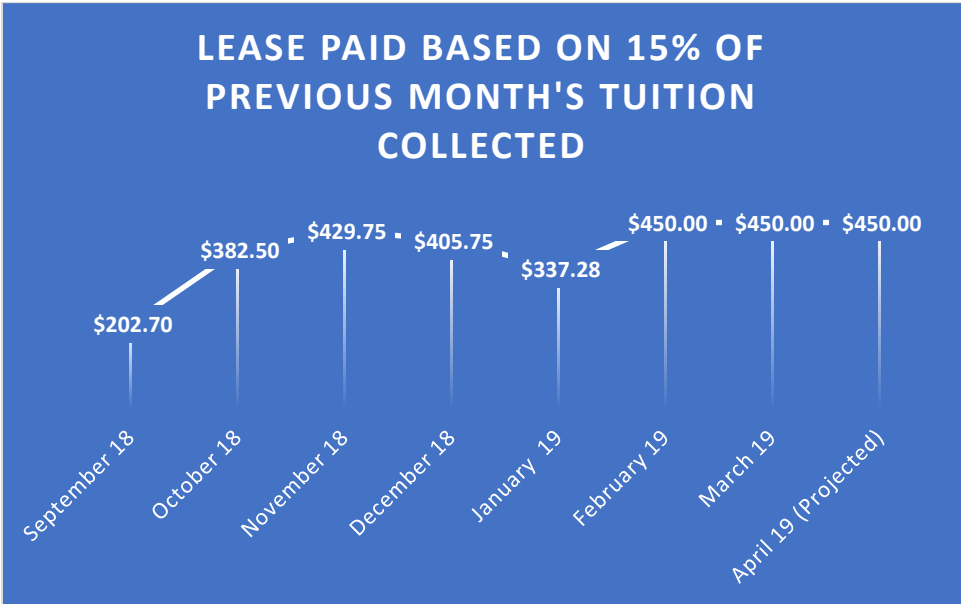
- [2019 report](#)
- [proposed 2019-20 agreement](#)



## 2018-19 Enrollment and Revenue Share



- 2018-2019 Goal was 35 enrollment
- Enrollment at beginning of August was 47 and levelled off in February at 86

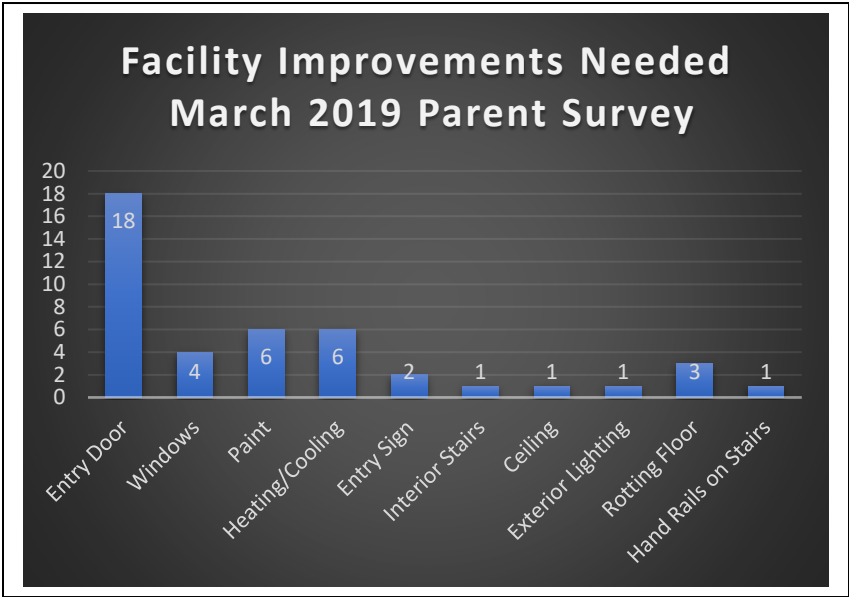


- First revenue share payment, based on 15% of collected August tuition was made September 1st. After deducting some painting expenses, first payment was \$202.70
- Agreement set a monthly revenue share cap at \$450. This cap was first reached on February lease payment (based on January tuition collected) and has been reached each month since.
- Studio 6:14 has experienced an 86% retention rate as of March 1. Industry average for children's dance studio retention year over year is 70-80%

- Since inception in July, Studio 6:14 has given back \$2,284 to community projects and organizations registered to participate in SPARD's Adopt-a-Spot Program

# March 2019 Parent Survey Results

In March 2019, Studio 6:14 asked each parent for feedback on services offered, perceived facility improvements needed and asked for any testimonials parents were willing to share. Thirty-four surveys were returned. The graph below shows the number of responses regarding each perceived need for facility improvement.



Prior to Studio 6:14



After Studio 6:14 Occupancy





Exterior Entry Door



Water Damage to New Ceiling



Wood Rot on Windows



Water Seeping Through Mortar During Heavy Rain



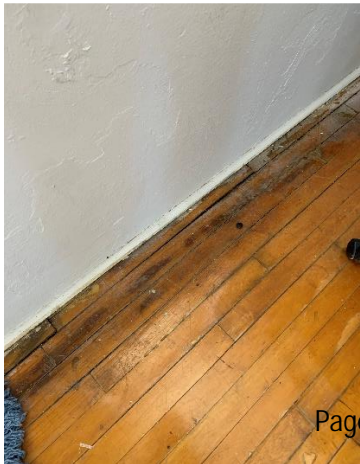
Old Fire Damage and Non Working A/C



Water Damage to Entry Ceiling



Water Damage to Wood Floor Along Walls



## March 2019 Parent Testimonials

My daughter is having a wonderful time in class. The prices are reasonable and it's perfect for young girls. The program isn't competitive, just little girls, dressed appropriately and having a great time learning. - Nieda Griffin

Ballet and tap have helped my daughter come out of her shell a little at a time. I feel not only is this possible through dance, but with the help of the great teachers we have grown to love. - Jessica Jones

Studio 614 is a really great dance studio! It is very affordable. Great teachers, multiple times and multiple classes for all ages. - Jessica Ussery

The teaching is outstanding. My daughter has learned so much in the short time she has been attending. -- Amber Wallace

Laidback atmosphere that teaches my child the basics of dance without pressure so she can learn while having fun - Christin Pack

The 2 classes my daughter participates in are awesome. The teachers are so loving and patient with the students and you can tell they really want them to succeed.- Rachel Thackerson

This dance studio has been great to try out this year. The staff is friendly and inviting. My daughter feels happy and comfortable there.- Pamela Singleton

The programs at Studio 6:14 are AMAZING! The teachers are all very knowledgeable and patient, working with each student individually all while preparing team routines. The classes are fun, innovative, and creative! My child cried and wouldn't leave my side during the trial class and the teachers assured me to send her and they would make sure she was well taken care of! After just a few classes, she was LOVING it! I am so glad we decided to stick with it!- Courtney Holland

The pre dance classes are full of passion and joy. My daughter always is always excited to attend class. She always enjoys showing us what she is learning.- Sarah Ste - Marie

My daughter loves the dance classes and Musical Theater program.- Stacy Morrison

My daughter loves her dance teacher Mrs. Brittany and is improving so much in her dance class. Brittany is so good with the class and it shows with her students. - Sarah Freels

Yes! The teachers make you feel very welcome and are great with the kids! [My daughter] has learned a lot in such a short time! I am very glad we decided to try dance! - Amanda Beasley

We were having trouble finding something my daughter enjoyed, until we tried out Studio 6:14. She absolutely loves dance class and looks forward to going every week! She would go more than once if allowed. Thank you to the teachers for always being patient with my not so patient daughter! - Victoria Hannon



# Service Agreement

This agreement is entered into **this DATE**, by and between the City of Stephenville Parks and Recreation Department, a municipal government Agency hereinafter referred to as “Agency” and **STUDIO 6:14**, hereinafter referred to as “Instructor.” The parties agree as follows:

1. Agency agrees to hire Instructor as independent contractor to teach the following classes:

Class	Tuition Fee
CHILDREN’S DANCE CLASSES (Ages 3-18) Pre-Dance, Jazz/Lyrical, Hip-hop, Musical Theatre, Clogging	\$35-50.00 (varies by age, length of class and sibling discounts)
ADULT DANCE CLASSES (Ages 15+)	Special Weekly Series – weekly Rate - \$5-\$10
SPECIAL EVENTS Parent’s Night Out, Summer Dance Camps, etc	Tuition Varies
	*registrants may receive a discounted rate if registered for multiple classes

Instructor agrees to pay Agency a sliding percentage of the Gross Monthly Class Tuition Fees collected.  
Gross Monthly Tuition Fees Collected \$0 - \$1,500 = 10% paid to Agency  
Gross Monthly Tuition Fees Collected \$1,501 - \$2,000 = 12.5% paid to Agency  
Gross Monthly Tuition Fees Collected \$2,001+ = 15% paid to Agency  
Instructor shall not be required to pay Agency an amount exceeding \$450 in any month.

This agreement will be in place through May 31, 2021. At that time the Agency and/or Instructor reserve the right to amend, cancel, or renegotiate the terms. Instructor is allowed to make the following agreed upon improvements to the reserved space listed below. The improvements will be at the cost of the Instructor and will be used in lieu of the percent of revenue share listed above. Once the return on investment has been completed the revenue share will be placed on the Instructor.

1. Maintain paint on interior walls with existing light gray color or white.

2. Paint Instructor's company logo on side wall
3. Finish out the mirrors to floor
4. Maintain paint on the barre on the outside wall
5. Maintain paint steps into studio
6. Place blinds on windows

Agency agrees to make the following improvements to the space:

1. Replace entry door.
2. Continue to work to resolve rain leakage issue.
3. Repair ceiling damage when leaks have been resolved.

Instructor is responsible for providing all teaching personnel for classes and events classes as outlined above. Student registration will be collected by STUDIO 6:14. Classes will be held at 378 W. Long St, Stephenville. At the completion of each month of instruction, the Instructor will submit a report including classes held, number of registrants for each class, and registrant tuition fees collected for each class. The Instructor is required to remit payment for the agreed upon percentage by the fifth (5) of each month. Failure to remit payment will result in the voidance of this agreement and all terms within.

1. Instructor is provided exclusive use of the upstairs space at 378 W, Long St, Stephenville. Use of the space by any other party must be approved by the Agency and the Instructor.
2. Instructor agrees to teach the above activities for the above rate of pay.
3. Instructor may hold one week of "Free Preview Classes" at no charge to registrants during the month of July in order to promote registration for regular classes beginning in August.
4. Instructor agrees to notify the Recreation Center Staff Representative at (254) 918-1295 as soon as possible if an emergency will prevent her from instructing class, or if they are running late. In the event of cancellation by the Instructor, class instruction will be conducted the following week.
5. The Instructor and Agency agree that if the Instructor breaches any of the stipulations of the agreement, the Agency reserves the right to terminate the agreement immediately by written notice.
6. This agreement is contingent upon paid satisfactory registration for the program. If the Agency deems that satisfactory registration is not obtained, the Staff Representative of the Stephenville Recreation Center reserves the right to cancel the class, and/or agreement.
7. Instructor agrees to indemnify and hold harmless the City of Stephenville from and against all loss, liability, claims, and causes of action of every kind and character caused by the negligence, gross negligence, intentional acts or omissions or fault of the Instructor or the Instructor's agents, invitees, and employees, and the Instructor's subcontractors and their agents, invitees and employees, arising in connection with the work or services specifically performed hereunder which results in damage to property or bodily injury or death to any person or persons. However, the City of Stephenville shall not be required to indemnify Instructor for Instructor's negligence, gross negligence or intentional acts or omissions.
8. Keys to facilities will only be issued to the agreement Instructor. It is the Instructor's responsibility to be sure that the facility is secure and all items are turned off before leaving. Failure to secure the facility may result in termination of the agreement. This includes the restrooms in the gymnasium.

9. The parties agree that Instructor, in performing his services and in providing instructional personnel shall act as an independent contractor, and shall have control over his work and the manner in which it is performed. Instructor agrees that neither he nor any person provided by the Instructor is in any way an employee of the City.
10. It is agreed that no compensation shall be provided any such person as an employee of the City and that no rights to benefits or contribution under the Texas Worker's Compensation shall be provided any such person as an employee of the City and that no rights to benefits or contribution under the Texas Worker's Compensation Act shall insure the instructional personnel.
11. The parties further agree that the Instructor, as an independent contractor, and any additional personnel that may be provided, are not entitled to unemployment insurance benefits and that all rights to such benefits are waived by the Instructor and by such additional personnel as she may provide.
12. Special Provisions: All materials in the instructional area will be positioned by the Instructor for this class, and will be replaced by the Instructor in storage, or organized within the class area in a neat and professional manner at the culmination of each teaching date. All signs, flyers, etc and location. must be approved by the Recreation Superintendent.
13. Insurance: To protect the City and its Citizens, the Instructor shall agree to provide liability insurance insuring the above indemnity provisions and products/completed operations coverage where applicable, in the following amounts:  
 Bodily injury: \$100,000 per person  
                   \$500,000 per occurrence  
                   AND  
                   Property Damage: \$100,000 per occurrence  
 Instructor shall further expressly agree that with respect to the above required insurance, the City shall;
  - A. Be named as additional insured or as an insured as their interest may appear
  - B. Prior to execution of this agreement, be provided with an original certificate of insurance of their insurance policy evidencing the requirements.

Signature indicates the preceding three-page proposal is satisfactory to all involved parties. The Instructor was issued an exact copy of this document on **DATE**.

This activity will end on **DATE**, thereby ending the term of this agreement. Either party may terminate this agreement at anytime with 30 days advanced written notice.

\_\_\_\_\_  
Instructor's Signature                      Date

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Director of Community Services                      Date  
Jennifer Basham



Community Services Committee  
**STAFF REPORT**

**SUBJECT:** Senior Center HVAC  
**MEETING:** City Council Committee Meetings - 19 Mar 2019  
**DEPARTMENT:** Parks and Leisure Services  
**STAFF CONTACT:** Jen Basham

**RECOMMENDATION:**

Staff recommends replacement of HVAC unit

**BACKGROUND:**

At the end of February 2019, the HVAC unit that services the west end of the building stopped working. After 3 contractors have inspected the unit it has been deemed irreparable. We have received 3 quotes, with the lowest bid being \$6,000. This was not budgeted as a maintenance project for the year.

**FISCAL IMPACT SUMMARY:**

\$6,000 budget adjustment

**ALTERNATIVES:**

NA

**ATTACHMENTS:**

[HVAC Quotes](#)

Vargas Mechanical Services LLC  
175 Bryan St  
Stephenville, TX 76401 US  
vargasservices85@gmail.com  
http://www.tdlr.texas.gov

# ESTIMATE

**ADDRESS**

Stephenville Senior Center  
164 E College  
Stephenville, TX 76401 USA

**ESTIMATE # 1016**

**DATE 02/20/2019**

**EXPIRATION DATE 03/20/2019**

SERVICE	DESCRIPTION	QTY	RATE	AMOUNT
<b>AC Package</b>	3 ton Roof top, gas/electric package unit removal and replace with new equipment. Current equipment has damaged heat exchanger.  Goodman 3 ton 14 SEER gas/electric package unit with 80k furnace. Duct work and electrical will be uninstalled for removal of old equipment and reinstalled on new equipment.  Crane will be used to remove and install roof mounted equipment. Mechanical permit will be obtained by Vargas Mechanical Services.	1	6,000.00	6,000.00

**TOTAL \$6,000.00**

Accepted By

Accepted Date

Vargas Mechanical Services LLC  
175 Bryan St  
Stephenville, TX 76401 US  
vargasservices85@gmail.com  
http://www.tdlr.texas.gov

# ESTIMATE

**ADDRESS**

Stephenville Senior Center  
164 E College  
Stephenville, TX 76401 USA

**ESTIMATE # 1016**

**DATE 02/20/2019**

**EXPIRATION DATE 03/20/2019**

SERVICE	DESCRIPTION	QTY	RATE	AMOUNT
<b>AC Package</b>	<p>3 ton Roof top, gas/electric package unit removal and replace with new equipment. Current equipment has damaged heat exchanger.</p> <p>Goodman 3 ton 14 SEER gas/electric package unit with 80k furnace. Duct work and electrical will be uninstalled for removal of old equipment and reinstalled on new equipment.</p> <p>Crane will be used to remove and install roof mounted equipment. Mechanical permit will be obtained by Vargas Mechanical Services.</p>	1	6,000.00	6,000.00

**TOTAL \$6,000.00**

Accepted By

Accepted Date





*Easter Heat & Air*

*A Division of All Around Heat & Air, LLC*

TACLA # 57089E

865 S. Graham St.

Stephenville, TX 76401

(254) 968-6494 (817)573-4247 (254) 968-4241 fax

Date: February 20, 2019

To: Stephenville Senior Citizen Center  
c/o Sandy

From: Chris Williams

Job Location: Stephenville Senior Citizen Center  
164 College Street  
Stephenville, TX 76401

Easter Heat & Air proposes to install and replace existing roof top package system with a Ruud roof top package system of comparable size to the existing unit. Includes new thermostat, hail guard. Including removing and disposing of exiting system, reconnecting low and high voltage, wiring, reconnect drain lines piping with new PVC as needed, factory curbing and duct work connections to existing duct system, and all. All materials, labor, and freight are included. This proposal does not include any electrical breakers or wiring to units.

**Total Investment \$ 7,813**

We appreciate your business and the opportunity to bid on your heating & cooling needs.

*Acceptance upon Signature,  
Terms: Full payment amount due upon completion  
Quote Valid for 30 Days From Above Date*

\_\_\_\_\_  
Date

Chris Williams  
Easter Heat & Air  
\_\_\_\_\_  
Date

\*Cancellations prior to installation will be subject to any and all shipping and handling charges.



633 Lingleville Rd. Phone: (254) 968-8871  
 Stephenville, Tx. 76401 Fax: (254) 968-5860

TACLA018197C

**PROPOSAL**

<b>DATE</b>	<b>INVOICE #</b>	<b>CUST #</b>
2/21/2019	0000044120	0001746

**BILL TO:**  
 City Of Stephenville  
 298 W. Washington  
 Stephenville TX 76401

**SHIP TO:**  
 Senior Citizens Center  
 164 E College  
 Stephenville TX 76401

254-918-1220

www.mangrumac.com

P.O. NUMBER	TERMS	SALES PERSON
	COD	Bryan Quarles
Part	DESCRIPTION	
48VL-C360903-TP CPLOUVER022A00 OAD.25-ES24-36	<p>We propose to replace existing unit on the North East side of the building with a Carrier 3 Ton Cooling, gas heat, packaged system, . Price includes removing and disposing of existing system, reconnecting low and high voltage electrical wiring, reconnect drain line piping, ductwork connections, crane service, and all other miscellaneous materials need to complete installation of the new system. We propose using the following equipment:</p> <p>3 Ton 14 SEER 90000 Btuh Residential Packaged Gas Heat &amp; Electric Cooling Unit                      Louvered Metal Outdoor Coil Grille                      Manual Outside Air Damper                      Use existing thermostat</p> <p>Commercial Warranty 1 year labor 10 year parts 20 years heat exchanger</p> <p>Payment terms: 100% due upon completion of work.</p>	

Regulated by the Texas Department of Licensing and Regulation  
 P.O. Box 12157 - Austin, Texas 78711  
 1-800-803-9202 / 512-463-6599 www.tdlr.texas.gov

Total: \$7,801.41

This proposal may be withdrawn by us if not accepted within 30 days

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

\_\_\_\_\_  
 Authorized Signature

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.



Community Services Committee  
**STAFF REPORT**

**SUBJECT:** Rec Hall HVAC Update  
**MEETING:** City Council Committee Meetings - 19 Mar 2019  
**DEPARTMENT:** Parks and Leisure Services  
**STAFF CONTACT:** Jen Basham

**RECOMMENDATION:**

Staff recommends moving forward the addition of HVAC at the Recreation Hall.

**BACKGROUND:**

In the 2019 budget, council approved up to \$250,000 for the addition of heating and air-conditioning at the Rec Hall. The opinion of probable cost to install the HVAC has been determined to be approximately \$180,000, this includes addressing the addition of electrical to support the units. It does not address additional electrical replacement. Staff has also created a list of projects that would provide many facility aesthetic updates to ensure safe and clean spaces.

**FISCAL IMPACT SUMMARY:**

\$250,000

**ALTERNATIVES:**

Deny the Rec Hall HVAC project

**ATTACHMENTS:**

[Construction AIA](#)

 **AIA** Document A105™ – 2017

**Standard Short Form of Agreement Between Owner and Contractor**

AGREEMENT made as of the ( ) day of (month) in the year 2019.

**BETWEEN** the Owner:

**CITY OF STEPHENVILLE, TEXAS**  
298 W. Washington Street  
Stephenville, Texas 76401

and the Contractor:

**TBD**

for the following Project:

The Project includes installing a new heating and air conditioning system in the gymnasium, stage area, and second floor dance room. Work will include all related plumbing and electrical work as required to install and make operational the new HVAC system.

The Architect:

**RON HOBBS ARCHITECTURE & INTERIOR DESIGN, LLP**  
614 West Main Street, Suite 200  
Garland, Texas 75040

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The Owner and Contractor agree as follows.

## TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
3	CONTRACT SUM
4	PAYMENTS
5	INSURANCE
6	GENERAL PROVISIONS
7	OWNER
8	CONTRACTOR
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## ARTICLE 1 THE CONTRACT DOCUMENTS

## § 1.1 Basic Definitions

## § 1.1.1 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

## § 1.1.2 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

## § 1.1.3 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

**§ 1.1.4 The Specifications**

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

**§ 1.2 Correlation and Intent of the Contract Documents**

**§ 1.2.1** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

**§ 1.2.1.1** Should the Drawings disagree in themselves or with the Specifications the better quality or the greater quantity of the work or materials shall be estimated upon, and unless otherwise ordered by the Architect in writing, shall be performed or furnished.

**1.2.1.2** The inter-relation of the Specifications, the Drawings and the Schedules is as follows: The specifications determine the nature and setting of the several materials; the Drawings establish the quantities, dimensions and details; and the Schedules give the location.

**§ 1.2.2** Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

**§ 1.2.3** Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

**§ 1.3 Ownership and Use Of Drawings, Specifications and Other Instruments of Service**

**§ 1.3.1** The Architect and the Architect’s consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect’s or Architect’s consultants’ reserved rights.

**§ 1.3.2** The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect’s consultants.

**§ 1.4 Transmission of Data In Digital Form**

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

**§ 1.5 Documents**

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Architect, dated 12/18/2018 and enumerated as follows:

Drawings:

Number	Title	Date
--------	-------	------

Specifications:

Section Number	Title	Pages
.3	Addenda prepared by the Architect as follows:	
.4	written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and	
.5	other documents, if any, identified as follows:	

**ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

**§ 2.2 Date of Commencement:**

The date of commencement shall be the date of the “Notice to Proceed”.

**§ 2.3 Substantial Completion:**

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work not later than (.....) calendar days from the date of the Notice to Proceed.

**ARTICLE 3 CONTRACT SUM**

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is: (.....)

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:

Portion of the Work	Value
n/a	

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner: To be determined

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:

Item	Price
Allowance Number One:	\$10,000

§ 3.5 Unit prices, if any, are as follows:

Item	Units and Limitations	Price per Unit (\$0.00)
None		

**ARTICLE 4 PAYMENTS**

§ 4.1 Based on Contractor’s Applications for Payment certified by the Architect, the Owner shall pay the Contractor, in accordance with Article 12.

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.

n/a

**ARTICLE 5 INSURANCE AND BONDS**

**§ 5.1 Contractor’s Liability Insurance**

§ 5.1.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.2 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than

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one million dollars (\$1,000,000) each occurrence, two million dollars (\$2,000,000) general aggregate, and two million dollars (\$2,000,000) aggregate for products-completed operations hazard.

**§ 5.1.3** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than one million dollars (\$1,000,000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

**§ 5.1.4** The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.2 and 5.1.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

## **§ 5.2 Property Insurance – “Builder’s Risk”**

**§ 5.2.1** In addition to the insurance coverages described above, the Contractor, at his own expense, shall purchase and maintain through the duration of the Project, Property Insurance, "All Risk" Builder's Risk Insurance, insuring against, including but not limited to, losses resulting from fire, lightning, windstorm, hurricane, hail, explosion, riot, civil commotion, smoke, aircraft, land vehicles, vandalism and malicious mischief, collapse, theft, and debris removal in an amount of one hundred percent (100%) completed value basis, including materials delivered and labor performed for the Project. This policy shall be issued jointly in the names of the Contractor, his sub-contractors and the Owner with specific endorsement for this Project. Any non-insured losses shall be the sole responsibility of the Contractor. Furthermore, Contractor agrees to waive any right of subrogation against the Owner and Architect for any such non-insured loss.

**§ 5.2.1.1** If this insurance is written with stipulated amounts deductible under the terms of the policy, the Contractor shall pay the difference attributable to deductions in any payments made by the insurance carrier on claims paid by this insurance.

**§ 5.2.1.2** Included in the policy are such items as labor and materials connected therewith, whether or not adjacent to the structures insured, materials in place or to be used as a part of the permanent construction, including surplus materials, shanties, protective fences, bridges or temporary structures, miscellaneous materials and supplies incident to the work, and such scaffolding, staging, towers, forms and equipment as are not owned or rented by the contractor, the cost of which is included in the cost of the work.

**§ 5.2.1.3** This insurance does NOT cover any tools owned by mechanics, any tools, equipment, scaffolding, staging, towers and forms owned or rented by the contractor, the capital value of which is not included in the cost of the work, or any cook shanties, bunkhouses, or other structures erected for housing the workmen.

**§ 5.2.1.4** The Owner shall not be liable or responsible for any loss or damage whatever to the items excluded in the above paragraph and the Contractor shall indemnify and hold harmless the Owner from any claims or causes of action brought by any persons or parties as a result of loss or damage to such excluded items.

## **§ 5.3 Other Insurance Provided by the Contractor**

**§ 5.3.1** Workers’ Compensation at statutory limits.

**§ 5.3.2** Employers’ Liability with policy limits not less than one million dollars (\$1,000,000) policy limit.

**§ 5.3.3** The Contractor shall provide builder’s risk insurance to cover the total value of the entire Project on a replacement cost basis.

## **§ 5.4 Other Insurance Requirements**

**§ 5.4.1** Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

**§ 5.4.2** Unless specifically precluded by the Owner’s property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect’s consultants, and any of their agents and employees, for damages caused by fire or other causes of



loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

### **§ 5.5 Performance Bond and Payment Bond**

**§ 5.5.1** The Contractor shall furnish surety bonds guaranteeing the faithful performance of the work and the payment of all obligations arising thereunder, each in the penal sum of one hundred percent (100%) of the Contract Sum. The premiums for such bonds shall be paid by Contractor. Each bond shall be signed by the Contractor as principal and by an established bonding company approved by the Owner, as surety, and shall be accompanied by appropriate power-of-attorney clearly establishing the extent and limitations of the authority of each signer to so sign, where the work is performed and to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship. All bonds shall be made on form complying with the requirements of the laws of the State of Texas. Bonds shall be executed to include one year guarantee requirements on the work.

## **ARTICLE 6 GENERAL PROVISIONS**

### **§ 6.1 The Contract**

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

### **§ 6.2 The Work**

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

### **§ 6.3 Intent**

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

### **§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents**

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect.

### **§ 6.5 Electronic Notice**

Written notice under this Agreement may be given by one party to the other by email as set forth below.

n/a

## **ARTICLE 7 OWNER**

### **§ 7.1 Information and Services Required of the Owner**

**§ 7.1.1** If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

**§ 7.1.2** Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

**§ 7.1.3** Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

### **§ 7.2 Owner's Right to Stop the Work**

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

### **§ 7.3 Owner's Right to Carry Out the Work**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In

such case, the Architect may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

#### **§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts**

**§ 7.4.1** The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

**§ 7.4.2** The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

### **ARTICLE 8 CONTRACTOR**

#### **§ 8.1 Review of Contract Documents and Field Conditions by Contractor**

**§ 8.1.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

**§ 8.1.2** The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Architect.

#### **§ 8.2 Contractor's Construction Schedule**

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. Submit schedule in accordance to Section 01310 of the Project Manual.

#### **§ 8.3 Supervision and Construction Procedures**

**§ 8.3.1** The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

**§ 8.3.2** The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

#### **§ 8.4 Labor and Materials**

**§ 8.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

**§ 8.4.2** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

#### **§ 8.5 Warranty**

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner.

#### **§ 8.6 Taxes**

**§ 8.6.1** The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

#### **§ 8.6.2 Tax Exemption**

**§ 8.6.2.1** The Owner qualifies for exemption from the state and local sales and use taxes, pursuant to the provisions of Section 151.309 of the Texas Limited Sales, Excise and Use Tax Act. Therefore, the Contractor shall not pay such taxes which would otherwise be payable in connection with the performance of this contract.

**§ 8.6.2.2** The Contractor shall issue an exemption certificate in lieu of the tax on the purchase, rental or lease of all materials, supplies, equipment, and other tangible personal property incorporated into the real property being improved; and all materials, supplies, equipment, and other tangible personal property used or consumed by the Contractor in performing the contract with the Owner.

**§ 8.6.2.3** Materials and supplies "used in the performance of a contract" include only those materials actually incorporated into the property being improved and those supplies directly used to incorporate such materials into the property being improved. Overhead supplies and supplies used indirectly or only incidental to the performance of the contract with the Owner are not included in the exemption.

**§ 8.6.2.4** Under "reasons said purchaser is claiming this exemption" in the exemption certificate, the Contractor must name the Owner and the project for which the equipment, material, and supplies are being purchased, leased, or rented.

### **§ 8.7 Permits, Fees and Notices**

**§ 8.7.1** The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

**§ 8.7.2** The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

### **§ 8.8 Submittals**

The Contractor shall promptly review, approve in writing, and submit to the Architect shop drawings, product data, samples, and similar submittals required by Section 01340 of the Project Manual of the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

### **§ 8.9 Use of Site**

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

### **§ 8.10 Cutting and Patching**

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. Refer to Section 01070 of the Project Manual for additional requirements.

### **§ 8.11 Cleaning Up**

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials. Refer to Section 01710 of the Project Manual for additional requirements.

### **§ 8.12 Indemnification**

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts

they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

## **ARTICLE 9 ARCHITECT**

**§ 9.1** The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

**§ 9.2** The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from the Contract Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

**ARTICLE 10 CHANGES IN THE WORK**

**§ 10.1 General**

§ 10.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 10 and elsewhere in the Contract Documents.

§ 10.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

§ 10.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

**§ 10.2 Change Orders**

§ 10.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

**§ 10.3 Construction Change Directives**

§ 10.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 10.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 10.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.7.

§ 10.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 10.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 10.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 10.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 A pre-specified percentage of cost markup for overhead and profit.

§ 10.3.7.1 Overhead and Profit shall include supervision, superintendence, wages of time keepers, watchmen and clerks, hand tools, incidentals, construction field office expenses, home office expenses, and all other expenses not included in 'cost'.

§ 10.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

#### § 10.4 Concealed Conditions

§ 10.4.1 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

### ARTICLE 11 TIME

#### § 11.1 Claims for Additional Time

§ 11.1.1 If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include the probable effect of delay on progress of the work. In the case of a continuing delay only one Claim is necessary. All claims for additional time shall be limited to time extensions only. Claims for additional costs due to time extensions will not be considered.

§ 11.1.2 Requests for time extensions because of abnormal inclement weather conditions will not be allowed.

**ARTICLE 12 PAYMENTS AND COMPLETION****§ 12.1 Contract Sum**

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

**§ 12.2 Applications for Payment**

**§ 12.2.1** At least ten days before the date established for each progress payment, the Contractor shall prepare and submit to the Architect for approval, an original and four copies of Certificate for Payment, AIA Form G703, and Application for Payment, AIA Form G702. Certificates for Payment shall be for the previous one month period, less the aggregate of previous Certificates. The Application for Payment shall be prepared in accordance with the schedule of values for completed portions of the Work. Such application shall be notarized and, if required or requested by the Architect or Owner, supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

**§ 12.2.1.1** Applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

**§ 12.2.1.2** Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

**§ 12.2.1.3** Until final payment, the Owner will pay **ninety-five 95%** of the amount due the Contractor on account of progress payments.

**§ 12.2.2** Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

**§ 12.2.3** The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

**§ 12.3 Certificates for Payment**

**§ 12.3.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole.

**§ 12.3.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies

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of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### § 12.4 Decisions to Withhold Certification

§ 12.4.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 12.4.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

#### § 12.5 Progress Payments

§ 12.5.1 After the Architect has issued a Certificate for Payment, the Owner will pay within twenty days after receipt of the approved Certificate, or on or about the twentieth day of each month **ninety five percent (95%)** of the proportion of the Contract Sum properly allocated to labor, material and equipment suitably stored at the site or at some other location agreed upon in writing by the parties, up to the first day of the month, less the aggregate of payments in each case. Each Progress payment shall also include a proportionate part of the Contractor's fee."

§ 12.5.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 12.5.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 12.5.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 12.5.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.5.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

#### § 12.6 Substantial Completion

§ 12.6.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.6.2 When the Contractor determines that the work, or a designated portion thereof acceptable to the Owner is

substantially complete, the Contractor shall notify the Architect in writing that he has inspected the project, prepared a list of items remaining to be completed, and the project is ready for a pre-final inspection to verify substantial completion. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents. The Architect shall check and add to, if necessary, the Contractor's list of items which, in his opinion, require completion, replacement or correction and will furnish this list to the Contractor.

If, during the course of this pre-final inspection, it becomes apparent in the opinion of the Architect that the project or portions thereof is not ready for such inspection, or the list prepared by the Contractor is incomplete, the Architect may terminate the inspection and inform the Contractor that, in his opinion, the project is not yet ready for such inspection. The Contractor shall then cause the project to be made ready for such inspection and resubmit a complete list of items remaining to be completed, replaced, or corrected. After the pre-final inspection has been completed and the Contractor has completed all the work on all items shown on the list and/or required by the Contract Documents as well as all other items which may subsequently have been discovered, and added by the Architect, he shall notify the Architect that the project is ready for final inspection. The Architect will then make his final inspection as promptly as possible and if the Work is found to be fully completed, will so inform the Owner with the recommendation that the work of the Contractor be accepted.

§ 12.6.3 The Architect will make only one trip of pre-final inspection and one trip of final inspection to the Project. Should it be found on these trips, in the opinion of the Architect, that the project is not ready for such trips or that any items have not been completed and another trip or trips will be required before the Work can be approved for acceptance, the Architect will charge the Owner at his usual hourly billing rates plus any travel, living and other reimbursable expenses for all time required by reason of the Contractor's failure to have the project ready at the time he requested such inspection. Each Contractor, in signing his Contract, agrees to reimburse the Owner for all charges due to the Architect as set forth above, and authorizes the Owner to deduct the cost of reimbursing the Architect from balances due the Contractor.

§ 12.6.4 When the Architect on the basis of his pre-final inspection determines that the work is substantially complete, he will then prepare a Certificate of Substantial Completion which shall establish the date of substantial completion, shall state the responsibilities of the Owner and the Contractor for maintenance, heat, utilities, and insurance and shall fix the time within which the Contractor shall complete the items listed therein. The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibilities assigned to them in such certificate.

§ 12.6.5 Upon substantial completion of work additional payments to Contractor may be made at discretion of Owner from amount retained under provision of agreement. Final payment will be made thirty (30) days after final acceptance of work.

#### § 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed including the Contractor's submittal of all required project closeout documentation as listed in Specification Section 01700 - Project Closeout, the Contractor will submit a final Certificate for Payment to the Architect. The Architect will promptly process the final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 12.6.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 12.6.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the all project closeout documentation as listed in Specification Section 01700 - Project Closeout. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

#### § 12.7 Liquidated Damages

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§ 12.7.1 It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the Contract for the work to be done hereunder are essential conditions of the contract.

§ 12.7.2 The Contractor agrees that said work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

§ 12.7.3 Should the Contractor fail to complete on time, for each calendar day that any work remains uncompleted after the time specified in the Proposal and Contract, or the increased time granted by the Owner, or as increased by additional work or materials ordered after the Contract is signed, the sum of **Two Hundred Fifty Dollars (\$250.00)** per calendar day shall be paid to the Owner as Liquidated Damages. The Contractor does hereby agree to pay to the Owner the amount specified, not as a penalty but as liquidated damages, for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the Work.

§ 12.7.4 It is further agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be retained by the Owner from current Application for Payment.

## ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

### § 13.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

### § 13.2 Safety of Persons and Property

§ 13.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 13.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

§ 13.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

§ 13.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 13.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in ARTICLE 5 - INSURANCE caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under ARTICLE 5 - INSURANCE, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor.

§ 13.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 13.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 13.2.8 If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

### § 13.3 Hazardous Materials

§ 13.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 13.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

§ 13.3.3 The Owner shall not be responsible for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 13.3.4 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations, except to the extent that the cost and expense are due to the Owner's fault or negligence.

## ARTICLE 14 UNCOVERING AND CORRECTION OF WORK

### § 14.1 Uncovering of Work

§ 14.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 14.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 14.1.3 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.1.4 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

**§ 14.2 Correction of Work Before or After Substantial Completion**

**§ 14.2.1** The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

**§ 14.2.2** In addition to the Contractor's obligations under Section 8.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established by required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

**§ 14.2.3** The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

**§ 14.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor.

**§ 14.2.4** The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

**§ 14.2.5** The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

**§ 14.2.6** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

**§ 14.2.7 Acceptance of Nonconforming Work**

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

**ARTICLE 15 MISCELLANEOUS PROVISIONS****§ 15.1 Assignment of Contract**

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

**§ 15.2 Tests and Inspections**

**§ 15.2.1** At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

**§ 15.2.2** If the Architect requires additional testing, the Contractor shall perform those tests.

**§ 15.2.3** The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

**§ 15.3 Governing Law**

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The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

**ARTICLE 16 TERMINATION OF THE CONTRACT**

**§ 16.1 Termination by the Contractor**

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

**§ 16.2 Termination by the Owner for Cause**

**§ 16.2.1** The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

**§ 16.2.2** When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

**§ 16.2.3** When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

**§ 16.2.4** If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

**§ 16.3 Termination by the Owner for Convenience**

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

**ARTICLE 17 OTHER TERMS AND CONDITIONS**

n/a

This Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
OWNER (Signature)

\_\_\_\_\_  
CONTRACTOR (Signature)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
(Printed name and title)



Community Services Committee  
**STAFF REPORT**

**SUBJECT:** TA Set Aside / Safe Routes to School Grant Application  
**MEETING:** City Council Committee Meetings - 19 Mar 2019  
**DEPARTMENT:** Parks and Leisure Services  
**STAFF CONTACT:** Jen Basham

**RECOMMENDATION:**

Pursue application for TA Set Aside and Safe Routes to School Joint Grant Application FY 2019

**BACKGROUND:**

TxDot has released a call for projects that allow cities to implement alternative transportation methods. The TA Set Aside (Transportation Alternatives Set Aside) is an 80/20 grant that has \$20,000,000 conditionally approved for the 2020 calendar year. The program objective is to establish or enhance sidewalks, mixed-use paths, trails, or bike lanes for communities to connect through multiple modes. The projects accepted must have established ownership of all of the parcels in the proposed project area.

Safe Routes to School are 100% grant funded projects that include design and construction. Projects must be within 2 miles of a K-8 school. Trails, sidewalks, and mixed use paths are eligible.

Applications submitted are evaluated against both program criteria and TxDot will determine which program best suites the project. We can submit multiple projects.

Staff have identified three project areas to submit for the call for projects. In order to begin the application process we will place RFQ's for grant administration and engineering.

**FISCAL IMPACT SUMMARY:**

To be Determined



Personnel Committee

Finance Committee

## STAFF REPORT

**SUBJECT:** Landfill Supervisor Position  
**MEETING:** Personnel Committee Meeting - 19 Mar 2019  
**DEPARTMENT:** Public Works  
**STAFF CONTACT:** Nick Williams

### RECOMMENDATIONS:

1. Landfill Supervisor Position

Staff recommends adjusting the title and compensation of the currently vacant Landfill Supervisor position to a Superintendent level by adjusting the landfill minimum charge from \$20 per load to \$25 per load, to ensure the associated personnel costs are budget neutral. The Personnel Committee may consider making a motion to change the position title contingent upon Finance Committee's recommendation to adjust the minimum charge per load as stated above.

2. Landfill Tipping Fee

Staff recommends adjusting the landfill gate rate, from \$50 per ton to \$60 per ton, in preparation for anticipated maintenance and site improvement costs.

### BACKGROUND:

1. Landfill Supervisor Position

The vacant Stephenville Landfill Supervisor position was posted on September 9, 2018. The position has been advertised on the Texas Municipal League (TML) website, the city's website, and other sites such as linkedin.com, tdtnews.com, glassdoor, zip recruiter, simplyhired.com, monster.com, and indeed.com, as well as on websites and publications for solid waste professional associations. Additionally, all Texas license holders, with the Class-A Municipal Solid Waste (MSW-A) License were contacted with direct mailings and were notified of the position vacancy. The direct mailings generated the most interest and multiple, informal site-interviews have taken place. According to TCEQ, there are 647 MSW-A licensed individuals in Texas.

The position has been offered to four candidates. All candidates stated they were unable to accept the position based upon the highest salary offered.

The Landfill Supervisor is responsible for the daily operations of the landfill including, personnel management, equipment and site maintenance as well as TCEQ permit compliance.

By state permit, the position requires a TCEQ-issued Class A Municipal Solid Waste Operator License or the ability to obtain licensure within six (6) months. With a high school diploma, four (4) years of TCEQ-approved experience is a prerequisite for the licensure examination.

Discussions regarding contract operations as well as full privatization have taken place with Jacobs, Waste Management, Waste Connections, Republic Waste and other solid waste providers, but have proven to be unsuccessful.

2. Landfill Tipping Fee

The landfill uses scales to assess incoming loads at a current rate of \$50 per ton. A minimum charge of \$20 is assessed for loads up to 800 pounds. The minimum charge was set based on 800 lbs. being 40% of one ton and 40% of \$50 being \$20. Landfill fees were last adopted in 2013.

### FISCAL IMPACT SUMMARY:

1. Landfill Supervisor Position

Staff proposes to elevate the Landfill Supervisor position to the status of Landfill Superintendent with a pay range from \$48,048 - \$60,050.

The current pay range for the Landfill Supervisor position is listed in the FY18-19 budget from \$39,187 to \$48,984. A base salary increase of \$10,000 to the Landfill Supervisor position would meet the other peer-level superintendent positions.

Pay ranges for peer-level superintendent positions include:

Utility Superintendent	\$48,048 - \$60,050
Street Dept. Superintendent	\$47,195 - \$58,989
Recreation Superintendent	\$47,195 - \$58,989
Parks Superintendent	\$47,715 - \$59,654

The landfill is an enterprise fund, supported only with funds generated by the landfill and is not supported through taxes.

The proposed salary adjustment can be accomplished through adjusting the tipping fee or the minimum charge per load to ensure the associated personnel costs are budget neutral.

By converting from a non-exempt supervisor level position to an exempt superintendent level position, a \$10,000 base salary increase to the position nets an overall benefit cost decrease to the city. The Finance Department has confirmed that a \$10,000 base salary increase would cost \$9,040.

Based on an annual average of 1,875 minimum charge loads, a minimum charge increase of \$5 per load, from \$20 per load to \$25 per load, is expected to generate \$9,375 annually and would cover the cost of the position's base salary increase.

**2. Landfill Tipping Fee**

It is recommended to increase the gate rate by \$10 per ton, from \$50 per ton to \$60 per ton, in preparation for anticipated maintenance and site improvement costs. The current gate rate was set at \$50 per ton in 2013.

Anticipated upcoming costs include:

- 1) the construction of cells five and six at an estimated cost of \$400,000 within the next 24-36 months due to running out of space in the currently permitted cells;
- 2) the immediate refurbishment of the permit-required 2006 Dozer at a an estimated cost of \$150,000, due to unforeseen transmission failure;
- 3) facility permit amendments to increase site capacity at an estimated cost of \$350,000 within the next 60 months; and
- 4) construction of the site capacity improvements at an estimated cost of \$875,000 within the next 120 months.

Based on an average of 41 tons per day, and an annual average of 232 operating days, a gate rate increase of \$10 per ton would generate approximately \$95,120 annually. Estimating an annual profit of \$200,000 would yield a conservative \$295,000 annually to offset the above-noted maintenance and site improvement costs.

**The intent of the fee schedule adjustments is to generate enough revenue to cover the cost of scheduled upcoming site improvements without the need to borrow any funds or incur debt service.**

**IMPLEMENTATION:**

Staff recommends any change to the personnel pay range become effective immediately upon council approval. It is recommended to initiate any gate rate changes effective 30-calendar days following council approval.

**ALTERNATIVES:**

The following alternatives are provided for consideration:

1. Adjust the title and compensation without adjusting the gate rate.
  - a. The landfill has an unrestricted fund balance of approximately \$332,433.
2. Decline to adjust title and compensation at this time.
3. Adjust the gate rate to a different amount.

**Advantages:**

1. Adjusting the compensation rate may help attract and secure the necessary talent to fill the vacancy.
  - a. The Water Department employee filling the vacancy can return to the Water Department.

2. Adjusting the compensation rate can be accomplished without budgetary expense.

**Disadvantages:**

1. Fee increases are necessary to offset the adjusted costs.

**ATTACHMENTS:**

None

Over the last five fiscal years, the landfill received an average of 41 tons per day. Using the current gate rate of \$50 per ton, the average daily revenue was \$2,050 per operating day.

Based on an annual average of 41 tons per day, and an annual average of 232 operating days, a gate rate increase of \$1.00 per ton would generate over \$9,500 in revenue to cover the annual compensation adjustment.

Glenrose

Brownwood

Abilene

Weatherford

Turkey Creek

Retirement

SS

Workers Comp

Insurance -

\$50,669      \$60,050

\$73,842      \$82,882

DECREASE: No longevity, no OT, no incentive, no 1% adjustment, no sick time buyback

INCREASE: Base Salary, \$1,609

Benefits has a net decrease 2,026

Certifications

1. Prevention of unauthorized wastes
2. Waste Screening
3. Class A- MSW

No taxable health insurance option

Seabreeze Landfill

Shad Pletcher

Arlington Landfill

Bob Weber

NTMWD Landfill

Terry Roland



[Amarillo Landfill](#)

Roy Beeson



Personnel Committee  
 Finance Committee  
**STAFF REPORT**

**SUBJECT:** Landfill Supervisor Position  
**MEETING:** Personnel Committee Meeting - 19 Mar 2019  
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- 2) the immediate refurbishment of the permit-required 2006 Dozer at a an estimated cost of \$150,000, due to unforeseen transmission failure;
- 3) facility permit amendments to increase site capacity at an estimated cost of \$350,000 within the next 60 months; and
- 4) construction of the site capacity improvements at an estimated cost of \$875,000 within the next 120 months.

Based on an average of 41 tons per day, and an annual average of 232 operating days, a gate rate increase of \$10 per ton would generate approximately \$95,120 annually. Estimating an annual profit of \$200,000 would yield a conservative \$295,000 annually to offset the above-noted maintenance and site improvement costs.

**The intent of the fee schedule adjustments is to generate enough revenue to cover the cost of scheduled upcoming site improvements without the need to borrow any funds or incur debt service.**

**IMPLEMENTATION:**

Staff recommends any change to the personnel pay range become effective immediately upon council approval. It is recommended to initiate any gate rate changes effective 30-calendar days following council approval.

**ALTERNATIVES:**

The following alternatives are provided for consideration:

1. Adjust the title and compensation without adjusting the gate rate.
  - a. The landfill has an unrestricted fund balance of approximately \$332,433.
2. Decline to adjust title and compensation at this time.
3. Adjust the gate rate to a different amount.

**Advantages:**

1. Adjusting the compensation rate may help attract and secure the necessary talent to fill the vacancy.
  - a. The Water Department employee filling the vacancy can return to the Water Department.

2. Adjusting the compensation rate can be accomplished without budgetary expense.

**Disadvantages:**

1. Fee increases are necessary to offset the adjusted costs.

**ATTACHMENTS:**

None

Over the last five fiscal years, the landfill received an average of 41 tons per day. Using the current gate rate of \$50 per ton, the average daily revenue was \$2,050 per operating day.

Based on an annual average of 41 tons per day, and an annual average of 232 operating days, a gate rate increase of \$1.00 per ton would generate over \$9,500 in revenue to cover the annual compensation adjustment.

Glenrose

Brownwood

Abilene

Weatherford

Turkey Creek

Retirement

SS

Workers Comp

Insurance -

\$50,669      \$60,050

\$73,842      \$82,882

DECREASE: No longevity, no OT, no incentive, no 1% adjustment, no sick time buyback

INCREASE: Base Salary, \$1,609

Benefits has a net decrease 2,026

Certifications

1. Prevention of unauthorized wastes
2. Waste Screening
3. Class A- MSW

No taxable health insurance option

Seabreeze Landfill

Shad Pletcher

Arlington Landfill

Bob Weber

NTMWD Landfill

Terry Roland

[Amarillo Landfill](#)

Roy Beeson



Public Works Committee  
**STAFF REPORT**

**SUBJECT:** Requests For Qualifications Rankings  
Landfill Master Plan  
**MEETING:** Public Works Committee Meeting - 19 Mar 2019  
**DEPARTMENT:** Public Works  
**STAFF CONTACT:** Nick Williams

**RECOMMENDATION:**

Direct staff to negotiate a professional services proposal with SCS Engineers, Inc. based on the rankings of the six (6) total responses received following a Request for Qualifications (RFQ) for the Landfill Master Plan.

**BACKGROUND:**

In Fiscal Year 2018-2019, funding was allocated for the preparation of a Landfill Master Plan to guide decisions about the future of waste disposal for the City of Stephenville and surrounding areas. The comprehensive plan will identify long-term facility planning and funding strategies as well as develop a roadmap for sustainability with the goal of ensuring the cost of local construction and its direct impact on economic development remain affordable.

**RESULTS:**

Request For Qualifications documents were prepared, advertised, posted on the city’s website and sent directly to multiple firms, to which six (6) responses were received from well-qualified engineering firms with Statements of Qualifications requesting to develop the Landfill Master Plan for the City of Stephenville.

The responses were reviewed and ranked based on consistent criteria identified in the RFQ. The review committee ranked each proposal independently and the results were averaged to compile impartial rankings.

Although all of the submittals were from high-caliber and very capable firms, the submittal by SCS Engineers, Inc. was the ranked the highest due the firm’s demonstrated experience, project approach, and physical and financial modeling expertise to create projections for operating and capital expenses in relation to fund balances, and revenues.

A copy of the rating sheet summary is attached to this memorandum.

**FISCAL IMPACT SUMMARY:**

The 2018-2019 Fiscal Year Budget allocated \$31,000 of landfill enterprise funding for the master plan development.

Upon direction from the Public Works Committee, staff will initiate negotiations for a professional services agreement. A proposal will be brought to the Public Works Committee for review and recommendation to full council prior to executing the work identified in the approved budget.

If, for any reason, a satisfactory agreement cannot be successfully negotiated with the highest ranked, most qualified firm, in accordance with Section 2254.004 of the Government Code, negotiations would cease and would begin with the next most qualified firm.

The proposal will be discussed with the committee prior to presentation to council to consider approval.

**ALTERNATIVES:**

The following alternatives are provided for consideration:

- 1. Do not recommend negotiating a proposal with the highest ranked firm as presented; or
- 2. Recommend a different firm.

**ADVANTAGES:**

Directing staff to negotiate a proposal with the highest ranked firm provides the best probability for a project to be completed within budget and within time constraints while not obligating the city to enter into an agreement. A service agreement must be approved by council action prior to performing any work.

**DISADVANTAGES:**

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

**ATTACHMENTS:**

[Landfill Master Plan Rankings](#)

**PROFESSIONAL SERVICES**  
**FOR**  
**TYPE IV LANDFILL MASTER PLAN, CELL CONSTRUCTION AND PERMITTING**  
**Engineering SOQ Rating Sheet Summary**

Date of Rating: 03/08/2019

Ranked by Average - Landfill Master Plan SOQ Rankings							
Firm	Office Location	Project Understanding (25%)	Work Plan (25%)	Experience (40%)	Quality of Response (10%)	Average Total	Rank
SCS Engineers, Inc.	Houston, TX	24	23	35	10	91	1
CP&Y, Inc.	Dallas, TX	22	22	33	10	87	2
Parkhill, Smith & Cooper	Lubbock, TX	22	21	34	9	86	3
Tetra Tech	Houston, TX	21	19	34	10	84	4
Biggs & Matthews, Inc.	Mansfield, TX	21	23	31	9	83	5
Weaver Consultants Group	Fort Worth, TX	11	10	15	6	43	6



Public Works Committee
STAFF REPORT

SUBJECT: TXDOT SH 108 / Graham Avenue 2020 Pavement and Utility Coordination Project
Funding
MEETING: Public Works Committee Meeting - 19 Mar 2019
DEPARTMENT: Public Works
STAFF CONTACT: Nick Williams

RECOMMENDATION:

Direct staff to pursue funding options for the TXDOT SH108/Graham Ave. 2020 Pavement and Utility Coordination Project.

BACKGROUND:

The Texas Department of Transportation (TXDOT) is preparing to reconstruct the pavement on Graham Avenue (SH 108) through the City of Stephenville from north of Lingleville Road to the South Loop. The pavement reconstruction is anticipated to bid in August 2019, with construction to begin in the spring of 2020. Due to the age and condition of the existing cast iron water and clay sewer infrastructure within the right of way of Graham Avenue, it is recommended to replace the utilities as part of the project. There are approximately 6,170 linear feet of 4-16 inch water main and approximately 6,500 linear feet of 6-21 inch sewer main within the Graham right of way.

At the March 6, 2019 regular business meeting, a professional services agreement was awarded to Burns & McDonnell Engineering Company, Inc. for the utility replacement design portion of the pavement and utility coordination project.

FISCAL IMPACT SUMMARY:

The professional services fee of \$140,438 for the design of the utility replacement was negotiated with Burns & McDonnell and approved at the March 6, 2019 council meeting. Design services will provide opinions of probable construction cost, but preliminary utility replacement costs are estimated at approximately \$1.2 million.

As the construction is scheduled to occur in FY19-20, funding has not been specifically allocated for the professional services or replacement of the utilities within the Graham Avenue right-of-way in FY18-19.

FUNDING OPTIONS AND ANALYSIS:

Advantages and disadvantages to the use of unrestricted funds, State Infrastructure Bank and open-market funding programs are discussed below.

1. Unrestricted Fund Balance: The projected end-of-year unrestricted fund balance for FY18-19 is \$929,841 dollars in the enterprise utility fund.

2. State Infrastructure Bank: Long-term financing is available through the State Infrastructure Bank. The State Infrastructure Bank (SIB) program is administered by TXDOT to provide financing to communities to assist them in meeting their infrastructure needs associated with improvements to the State's highway system. The SIB is a revolving loan fund that allows entities to access capital funds at or lower than market interest rates. SIB financial assistance can be granted to any public or private entity authorized to construct, maintain or finance an eligible transportation project. An annual \$20 million amount is maintained for "first-come, first-served" applications. The loan amount must be disbursed by year three of this project.

To utilize the SIB, the state requires a resolution "authorizing the filing of an application for financial assistance from the State Infrastructure Bank" to be passed by the city council. A sample resolution is attached to this memorandum.

As a requirement for closing a financial assistance transaction and for disbursement of SIB funds, the city would provide a "Borrower's Certificate" to declare that the proposed cash flow or revenues are eligible to be used to repay the loan and to certify that the financial assistance will not violate any of the borrowing or bond commitments the borrower may have in place. The certificate could be provided from bond counsel and would have an anticipated cost of less than

\$1,000



Staff has corresponded with TXDOT and confirmed replacement of the utilities within Graham Avenue is an eligible project for SIB financing.

a. Advantages:

- i. The program advertises “at or below” market rates. The TXDOT program representative forecasted a 1.75% interest rate for a five-year term and a 2.25% interest rate for a ten-year term for a \$1.5 million amount.
  1. Any amount of loan not used for the project would be repaid at the end of the project and cannot be used for other projects. Similar to other loan programs, additional funds cannot be requested after the application is submitted and TXDOT recommends requesting a conservative amount above the anticipated cost.
- ii. With the SIB, the city can include any financial advisory or legal fee in the loan request. The loan can be 100% of the project cost (0% match required) and TXDOT does not charge an application, handling, or legal fee for the duration of the loan. In addition, prepayment is allowed at any time, without penalty.
- iii. Applications can be submitted at any time.
  1. There is a mandatory 90-day review period. TXDOT sends a letter to Stephenville’s state representative.
- iv. The SIB program allocates a minimum of \$20 million annually for similar projects. TXDOT SIB personnel have confirmed ample funding is available for the project.
- v. Passage of the required resolution and submission of an SIB application does not obligate the city to accept the funding – for example, if interest rates are not better than open market rates.

b. Disadvantages:

- i. SIB interest rates are set at the time of application.
- ii. The SIB would not cover the professional services design fee with Burns & McDonnell of \$140,438.

Because the utility project is being incorporated with TXDOT’s pavement rehabilitation into a single project, an Advance Funding Agreement (AFA) will need to be executed with TXDOT. A draft AFA will be brought before the committee/council for review as part of the coordination process. A preliminary project timeline, identifying the necessary steps to utilize the SIB, is attached to this memorandum.

3. Open Market - Bonds:

- a. Revenue Bonds – Revenue bonds are bonds supported by a revenue stream to provide for the capital needs of any activities where the capital requirements are necessary for a continuation or expansion of a service. Revenue bonds are authorized by a vote of the governing body.
  - i. Revenue Bonds are not recommended, as the repayment interest rates received were higher than the interest rates received for using Certificates of Obligation or SIB financing.
- b. General Obligation Bonds (GO Bonds) – General obligation bonds must be authorized by a vote of the citizens of Stephenville. GO Bonds are used only to fund capital assets of the general government and are not to be used to fund operating needs of the city.
  - i. Staff’s understanding is GO bonds are not applicable for enterprise fund improvements due to being backed/supported only by ad valorem taxes.

4. Open Market - Certificates of Obligation:

Certificates of Obligation (CO) – Certificates of obligation or contract obligations may be used to fund capital requirements that are not otherwise covered either by general obligation or by revenue bonds. Debt service for a CO may be either from general revenues (tax-supported) by a specific revenue stream(s) or by a combination of both general and enterprise funds. A CO is authorized by a vote of the governing body.

- a. Open Market Funding: Staff received a debt analysis from First Southwest Company on March 11, 2019. The use of certificates of obligation was analyzed as a part of the debt analysis. Repayment schedules are attached illustrating potential issuance supported by utility revenues.

- i. A five-year term, with level debt, for \$1,565,000 would incur \$121,900 in interest for a total cost of \$1,686,910 using a 2.90% interest rate.
  - ii. A ten-year term, with level debt, for \$1,565,000 would incur \$274,585 in interest for a total cost of \$1,839,585 using a 3.25% interest rate.
  - iii. A ten-year term, with wraparound debt, for \$1,565,000 would incur \$447,519 in interest for a total cost of \$2,012,519 using a 3.35% interest rate.
- b. Advantages:
- i. Securing funding from the open market could be anticipated within a 90-day timeframe.
  - ii. The actual project parameters do not have to be identified and justified when securing funds on the open market allowing funds to be used for multiple projects.
  - iii. Funding is generally not dependent upon environmental reviews.
- c. Disadvantages:
- i. Interest rates available on the open market are higher than the forecasted the SIB interest rates.

**RECOMMENDATION:**

Due to the lower than market interest rates forecasted by TXDOT's SIB representative, it is staff's recommendation to pursue financing from the State Infrastructure Bank through the Texas Department of Transportation at a forecasted 1.75% interest rate over a five-year term to fund the Graham Avenue Pavement and Utility Coordination Project.

**ALTERNATIVES:**

The following alternative is provided for consideration:

1. Decline to pursue the project at this time.

**Advantages:**

1. Declining to pursue the project will save approximately \$1.5mm in expenditures from the FY19-20 budget.

**Disadvantages:**

1. Declining to pursue the project will defer necessary maintenance.
2. Declining to pursue the project will remove the pavement repair savings realized by coordinating with the TXDOT.
3. Declining to pursue the project will likely still cause utility service to be disrupted as the pavement construction itself may cause the cast iron water and clay sewer lines to fail.
4. Traffic disruption can be reduced if the utility replacement work is completed in conjunction with the TXDOT project.
5. Declining to pursue the project means repairs to existing lines will result in pavement repairs in new paving.

**ATTACHMENTS:**

Sample TXDOT SIB Resolution  
Preliminary TXDOT SIB Schedule

[EXAMPLE OF FORM OF RESOLUTION AUTHORIZING SIB APPLICATION]  
RESOLUTION NO. \_\_\_\_\_  
RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR  
FINANCIAL ASSISTANCE FROM THE STATE INFRASTRUCTURE BANK;  
AUTHORIZING [Name, Title] TO ACT ON BEHALF OF THE [City/County/RMA]  
IN ALL MATTERS RELATING TO THE APPLICATION

WHEREAS, the State Infrastructure Bank, operated by the Texas Department of Transportation, is a revolving loan fund; and

WHEREAS, the [name of borrowing entity] (the “[City/County/RMA]”) deems it proper and in the best interest of the [City/County/RMA] to apply for a loan from the State Infrastructure Bank in the amount of \$ \_\_\_\_\_ to be used for [purpose]; and

WHEREAS, the [City/County/RMA] is qualified to apply for and obtain financial assistance from the State Infrastructure Bank for this purpose;

NOW, THEREFORE, BE IT RESOLVED BY THE [CITY COUNCIL/COMMISSIONERS COURT/BOARD OF DIRECTORS]:

Section 1. That the [City Council/Commissioners Court/Board of Directors] believes that it is in the best interest of the [City/County/RMA] to apply for a loan from the State Infrastructure Bank in the amount of \$ \_\_\_\_\_ to finance [describe purpose].

Section 2. That the [City Council/Commissioners Court/Board of Directors] hereby authorizes [Name, Title] to execute an application for financial assistance from the State Infrastructure Bank and to submit the application, together with all required documentation, to the Texas Department of Transportation for consideration.

Section 3. That the application to be submitted is attached hereto as Exhibit A and made a part hereof for all purposes.

PASSED, APPROVED, AND RESOLVED THIS [date].

\_\_\_\_\_  
[Name, Title]  
[City/County/RMA]

ATTEST:

\_\_\_\_\_  
[Name, Title]

[SEAL]

<b>TXDOT SH 108 / Graham Avenue 2020 Pavement and Utility Coordination Project</b>		
--- Preliminary Schedule ---		3/19/2019
<b>ID</b>	<b>Task</b>	<b>Date</b>
<b>1</b>	<b>City Council</b> Approve Burns & McDonnell Prof Serv Contract	<b>5-Mar-19</b>
<b>2</b>	<b>Public Works Committee</b> SIB Resolution Recommendation Authorize SIB Application Recommendation	<b>19-Mar-19</b>
<b>3</b>	<b>Burns &amp; McDonnell</b> Submit 30% Preliminary Design to TxDOT Provide itemized probable construction cost	<b>29-Mar-19</b>
<b>4</b>	<b>TxDOT</b> Begin Environmental Review (1 1/2 months) Draft AFA	<b>1-Apr-19</b>
<b>5</b>	<b>City Council</b> Approve SIB Resolution to Authorize Application (90-days) Authorize Draft AFA	<b>2-Apr-19</b>
<b>6</b>	<b>TxDOT</b> TxDOT Environmental Review complete	<b>14-May-19</b>
<b>7</b>	<b>Burns &amp; McDonnell</b> Submit 90% Final Design to TxDOT	<b>14-May-19</b>
<b>8</b>	<b>Public Works Committee / Council Work Session</b> AFA Recommendation Authorization to submit SIB Application	<b>14-May-19</b>
<b>9</b>	<b>City Council</b> Approve AFA	<b>4-Jun-19</b>
<b>10</b>	<b>SIB Commission</b> Consider SIB Funding Award SIB Funding escrowed to TxDOT	<b>15-Jul-19</b>
<b>11</b>	<b>Burns &amp; McDonnell</b> Submit 100% Final Drawings to TxDOT	<b>25-Jul-19</b>
<b>12</b>	<b>TxDOT</b> Bid Letting of Project	<b>6-Aug-19</b>

<b>13</b>	<b>City Council</b>	<b>29-Aug-19</b>
	Accept SIB Funding	
<b>14</b>	<b>TxDOT</b>	<b>3-Sep-19</b>
	Award of Contract	
<b>15</b>	<b>Construction</b>	<b>Spring 2020</b>

**SUBJECT:** Eastside Sewer Project – Update Alternate Alignment  
**MEETING:** Public Works Committee Meeting - 19 Mar 2019  
**DEPARTMENT:** Public Works  
**STAFF CONTACT:** Nick Williams

#### RECOMMENDATION:

This report serves to provide a status update.

#### BACKGROUND:

On March 21, 2018, the Texas Water Development Board (TWDB) approved \$17,030,000 in financial assistance to the City of Stephenville via Resolution 18-037 for construction of the Eastside Sewer Project. The loan was closed on July 10, 2018.

The project is staged in phases.

The lift station portion of the project was bid separately and was awarded to Crescent Constructors of Plano, TX with a bid of \$4,347,000 on January 8, 2019. The lift station project is scheduled to be substantially complete May 17, 2020.

Phase I addresses the critical system capacity need and connects the lift station at the wastewater treatment plant to the existing collection system lines and transfers a significant wastewater loading to the new trunk main. Phase I has an estimated cost of \$8.5 million.

Phase II connects to Phase I and connects US 281 to US 67 on the south side of the airport. Phase II has an estimated cost of \$2.3 million.

Phase III connects to Phase I north of Washington Street and travels northward stopping on the south side of the railroad tracks. Phase III has an estimated cost of \$4.4 million.

#### DISCUSSION:

Property owners along the Phase I pipeline route have been contacted to request access for design survey. The city owns 13 of the 36 parcels along the original route. Nineteen (19) of the twenty-three (23) private parcel owners have consented to allow access to survey the pipeline route. Four (4) of the parcel owners have been non-responsive to mailers, phone calls, and site visits. Staff and the city's consultant, Public Management, Inc., will continue attempts to make contact with these property owners.

Although several property owners have consented to allow access for survey, several property owners have also expressed concerns regarding the location of the pipeline, the damage an open-cut method of installation may cause to their property, as well as concerns regarding the protection of the trees along the pipeline route.

An alternate alignment that utilizes the existing right-of-way under Old Hico Road may be considered to expedite the start of construction. An alternate alignment layout is shown on the attached exhibit.

#### Advantages:

1. The alternate alignment bypasses fifteen (15) of the nineteen (19) private parcel negotiations by utilizing the city's existing right-of-way. Fewer easement negotiations should translate to a faster construction starting time.
2. The alternate alignment utilizes approximately 2,100 less linear feet of pipe compared to the original alignment. Less pipe means less maintenance.
3. The alternate alignment route would allow both sides of SH108 to be serviced in lieu of just the west side of SH108.
  - a. The alternate alignment also allows both sides of Old Hico Road as well as the area between Old Hico Road and US 281 to have access to sanitary sewer.
4. The alternate alignment route, because of depth, utilizes a tunneling installation method in lieu of an open cut installation and uses fused/jointless pipe. No joints means no joint failures.

Disadvantages:

- 1. The tunneling installation method is more expensive than the open-cut method.
  - a. The alternate alignment cost in favorable soil (sand/clay) conditions is anticipated to cost approximately \$1.5 million more (\$10 million total) than the original alignment and approximately \$3.5 million (\$12 million total) more in unfavorable soil (rock) conditions.
- 2. Using the alternate alignment reduces funds available to other phases.

To explore the potential costs of the alternate alignment, three borings have been authorized at a cost of \$20,400. The boring analysis will identify the soil conditions and assist in predicting the construction cost of the alternate alignment. The soil borings report will yield valuable information and will be included in the Phase I pipeline specifications, whether the original alignment or the alternate alignment is pursued. The soil boring data will allow perspective contractors to bid the work factoring the proper equipment, timeframe, and level of effort matching the soil types without inflating bid prices or underbidding and asking for change orders to account for unknown soil conditions. The soil borings are being scheduled and the analysis report is expected by mid-April.

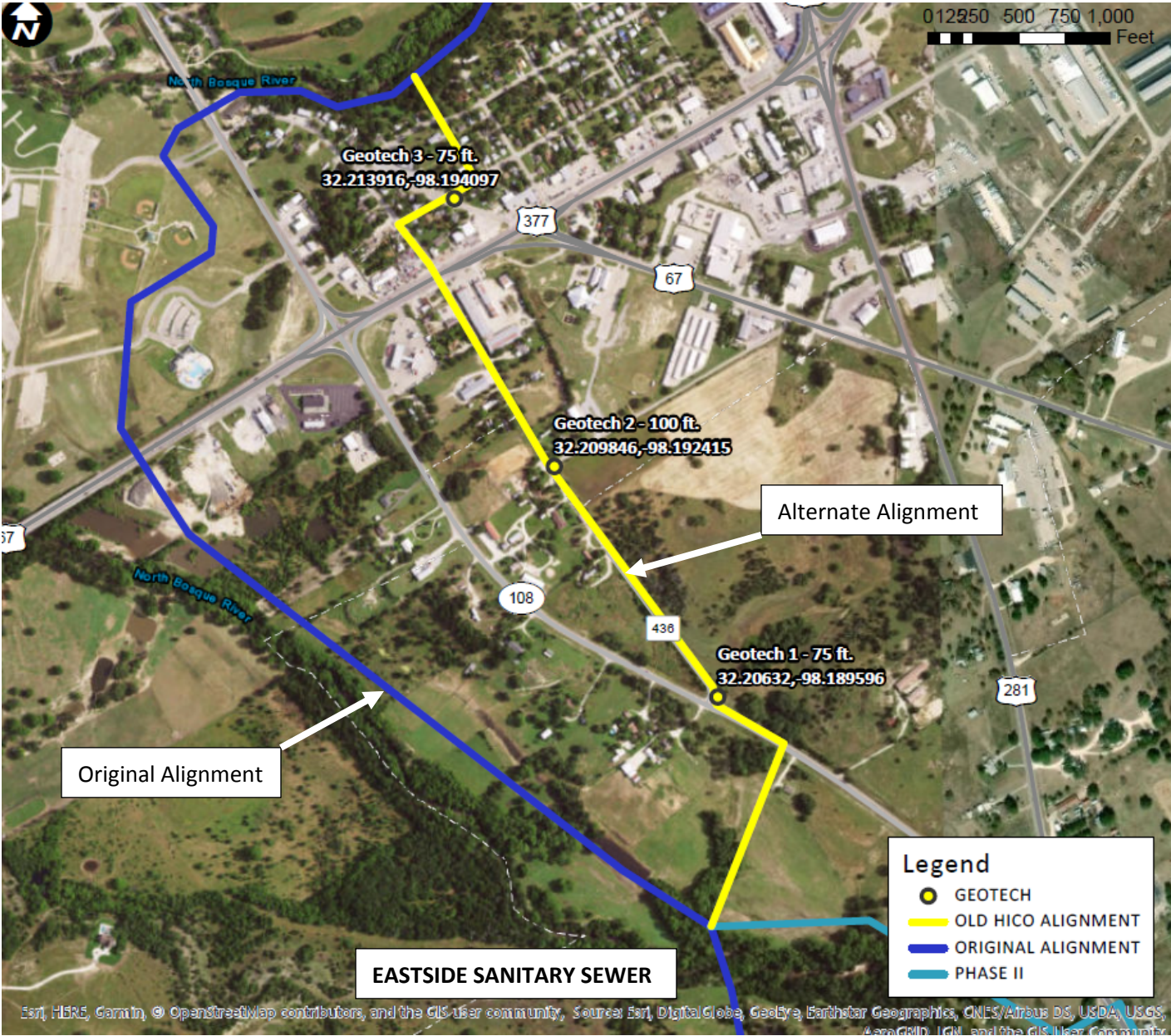
**INTERNAL REVENUE SERVICE (IRS) REGULATION[26 CFR 1.148-2(e)(2)]:**

The loan amount will continue to earn interest throughout the project for a maximum 3-year period, at which time, at least 85 percent of the total loan amount must be allocated. If the 3-year deadline were to be exceeded, the loan would be subject to arbitrage provisions, where interest amounts earned on the loan would have to be rebated back to the state. Three years from the loan closing date of July 10, 2018 is July 10, 2021.

The loan could be expected to earn \$\_\_\_\_\_ in interest.

**ATTACHMENTS:**

[Alternate Alignment Exhibits](#)









Public Health and Safety Committee  
**STAFF REPORT**

**SUBJECT:** Municipal Court  
**MEETING:** City Council Committee Meetings - 19 Mar 2019  
**DEPARTMENT:** Administration  
**STAFF CONTACT:** Allen L. Barnes

**RECOMMENDATION:**

**BACKGROUND:**

In January we received a letter from Judge Bass that as of October 1, JP1 would no longer serve as the Municipal Court for the City of Stephenville.

After a significant amount of research the most logical alternative to using JP1 is for the city to establish its own in house municipal Court. Several of our comparator cities have in house municipal courts for a budget similar to ours, approximately \$150,000 per year. These cities have contract judges who work four to eight days per month. The pay range for the judge is \$25,000 to approximately \$36,000 per year. This is a contract amount and does not have retirement or other benefits attached to it. Most of the comparator cities also recommended at least preferring that the Judge be an attorney if we don't make it an absolute requirement. Most of the comparator cities have a court administrator and a court clerk. The court administrator would be a salary in the range of \$36,000 per year with a total cost of \$49,280 per year with benefits. The clerk would pay approximately \$30,000 with total costs of \$42,398. We will also have to acquire court security. In talking with the Chief of Police he has recommended us to contract with Constable PCT 1 as there is a certain certification police must have to serve as bailiff and no one in our PD has the certification. Chief is also concerned about having to train multiple officers to become certified bailiffs as well as the fact that his patrol division is working at 75 percent strength at this time. The cost for the bailiff services would be \$12,000. Again, this would be contract and would not have any other costs associated with it.

It is recommended that the court be approved and set up by June 1. The new court clerk's school and the new judge's school are July 8-12. While the Judge's services will not be necessary until October 1, the clerks will need time to set up the record keeping procedures for the court prior to October 1. This will also give the new clerks time to observe Judge Bass' court and work with their clerks to gain some experience.

We are working with INCODE to obtain a workable price for their court software. We have been quoted a price of \$49,000 for the software. This software will smoothly integrate with our INCODE municipal software suite. We will also need to provide computers for the court, with the suggestion of using laptops as they can be transported to court and back. Three computers will cost around \$3,000. One can presume they will need office supplies for around \$500. May need office furniture for around \$2,000.

**Recommendation:**

Recommend that we proceed with establishing a Municipal Court for the City. The startup costs can be designated to come from unrestricted fund balance, with expectations of covering them with budget savings through the rest of the year.

It is further recommended that the Municipal Judge be solicited with the preferred element of being a licensed attorney in the State of Texas. The Court Administrator should have experience as a court clerk or at least experience as an office manager with college preferred. The Court Clerk should be required to possess a high school diploma with some college preferred. These personnel should be in place no later than June 1. The Court Training requires registrations no later than June 8, they will not take slot requests and they must have names and positions.

It is also recommended that staff be authorized to secure the software and other office equipment necessary for the court.

**FISCAL IMPACT SUMMARY:**

Total Annual Cost as presented: \$140,000 (the budget will also need to reflect collection agency we use.)

Cost for FY 2019: \$87,600 with the largest part of that being the \$49,000 for software.

Please be advised that these are estimates based on the information at hand at that writing of this document.

Planning and Development Committee  
**STAFF REPORT**



**SUBJECT:** Discussion On Future Development Projects  
**MEETING:** City Council Committee Meetings - 19 Mar 2019  
**DEPARTMENT:** Development Services  
**STAFF CONTACT:** Jeremy Allen

**BACKGROUND:**

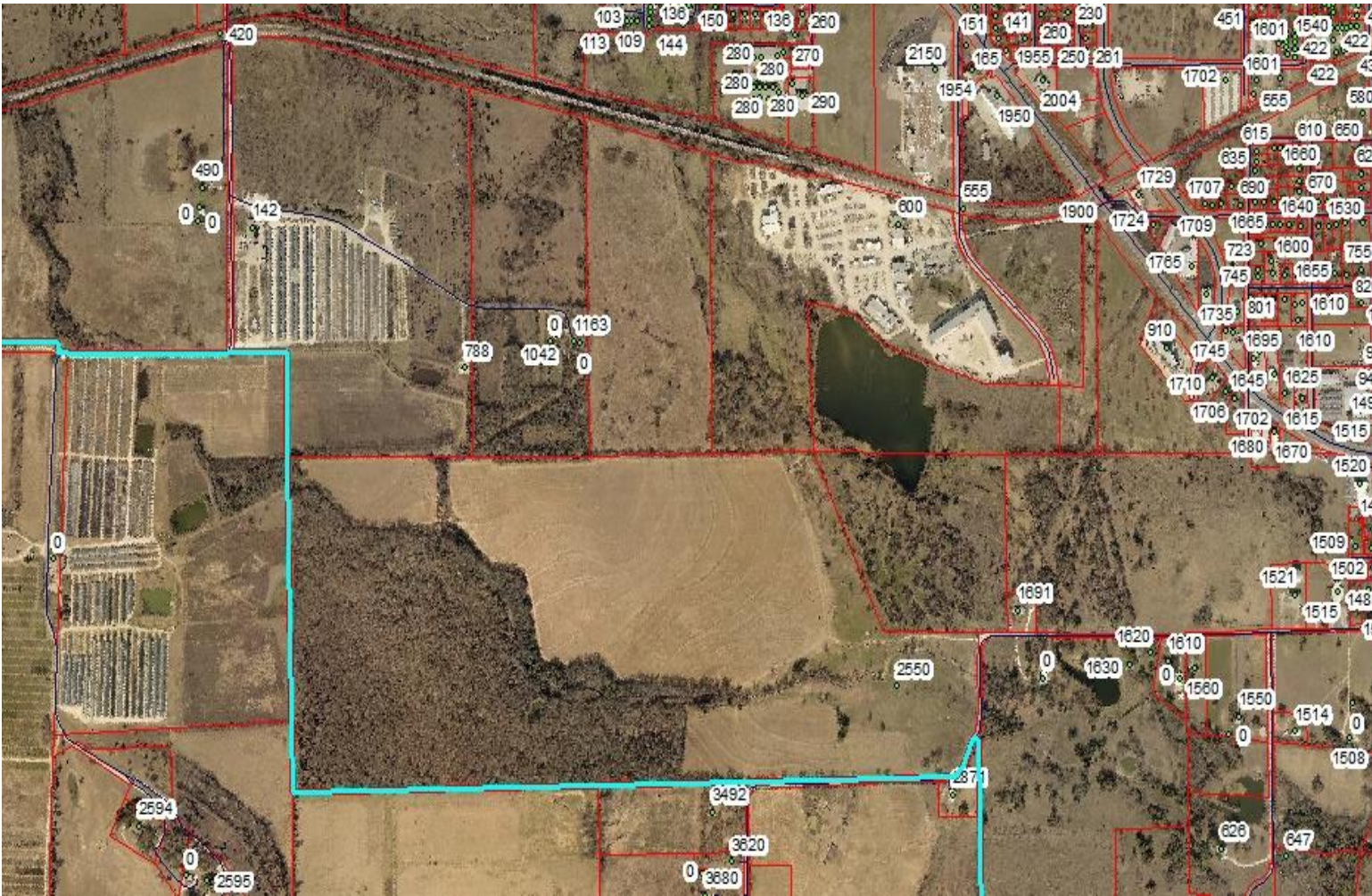
Brandon Huckabee, Jeff Sanford, and Jeremy Allen met with developers and/or Land Owners that have significant interest in land and/or development over a period of 5-6 weeks.

As the City continues to grow, planning plays a key role. The goal would be to mesh the goals of the city's growth to that of the developers. Find ways the City can help promote development and growth while keeping in mind the limited resources. Our goal is to utilize tools and resources to make Stephenville a better place by planning for growth.

The following projects were identified as key projects that will be needed or can be used to stimulate growth for our community in the future. These projects are not prioritized but merely identified in this document to help deliver a prioritized list in the future.

**South Harbin/South of Railroad Tracks**

With the proposed developments on Harbin and the possible project to improve Harbin this area is an area that is believed to be a key area for growth. There is an abundance of land to the South of the Railroad tracks but very little access south. Most of this land has ag exemption.

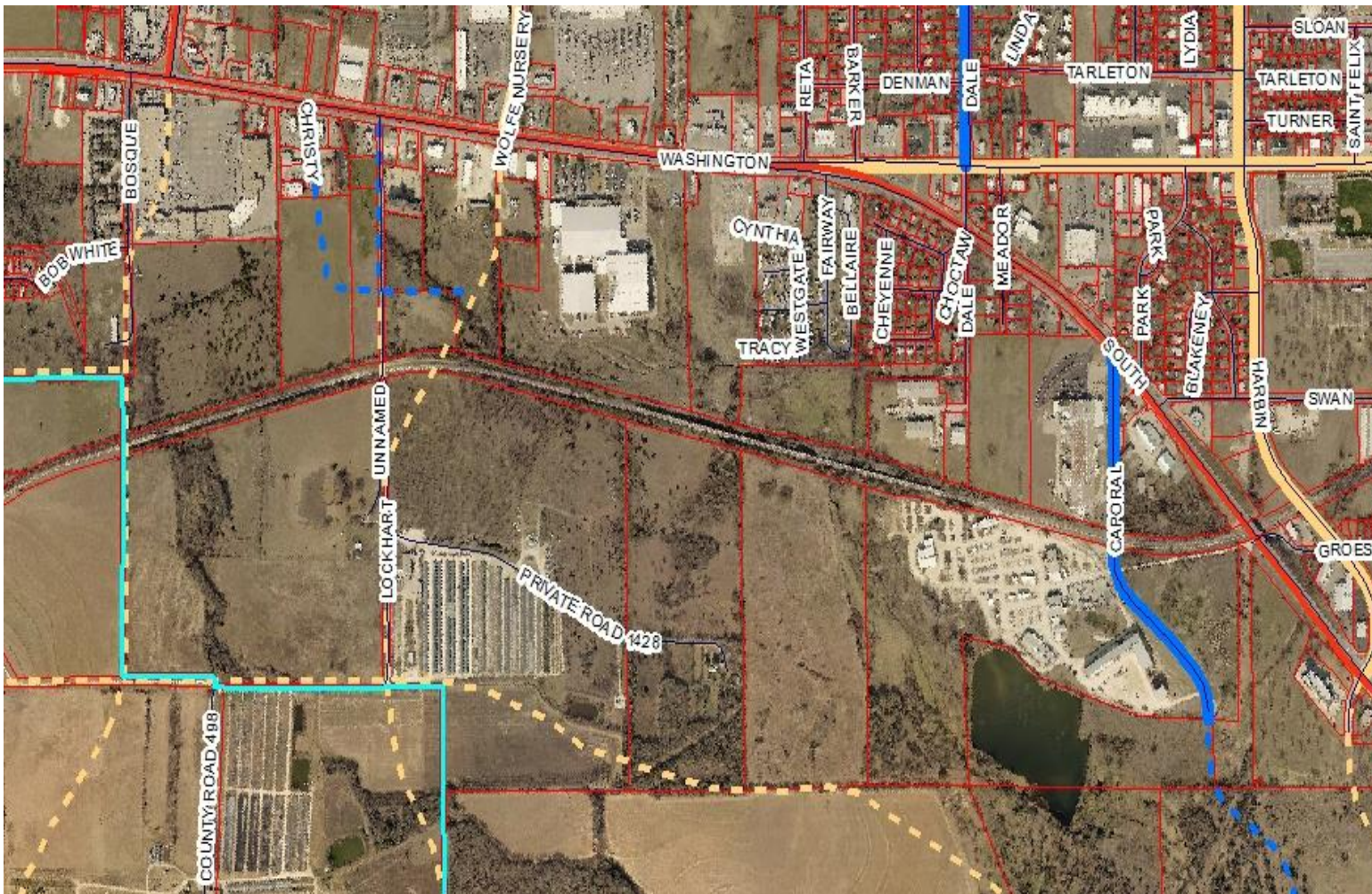


**Suggestions:**

1. Bruener and Allen have both suggested they would dedicate the ROW to continue Harbin South to Cedar. Neither are looking to develop the land themselves. Staking and Grading a road to the South could help promote growth.
2. Could extend Harbin through a project from Loop to Cedar -
3. Utilize a TIRZ district on Harbin to help pay for infrastructure South on Harbin.
4. Harbin/Sixth/Fifth Street improvements may be incentive to encourage Bruener to expand dealership.
5. With development look for East West Route to tie Harbin to Lockhart
6. Caporal is also an option to extend South

**Wolf Nursery/Lockhart**

Project Blue as well as possible development with Mr. Brook's property, Lockhart and Wolf Nursery plays a huge role in providing a thoroughfare plan south of the Railroad. Northwest Loop dead ends into Bosque River Center which leaves one major crossing of the railroad on West Washington where much of our development has happened over the years.

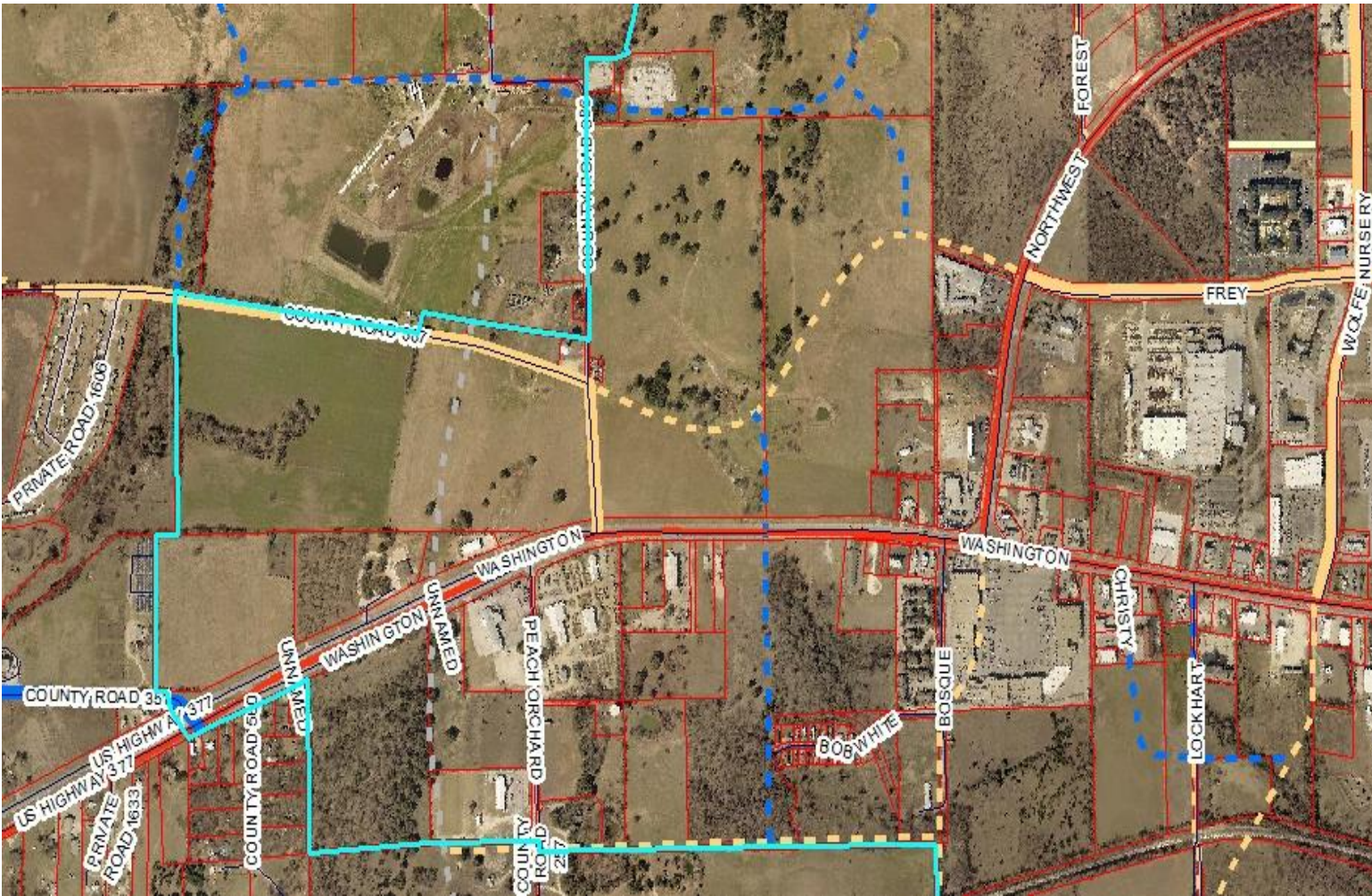


**Suggestions:**

1. Create a TIRZ in this area that encompasses project blue, Christy Plaza, Mr. Brooks property, south of the railroad with Mr. Allen's property. Infrastructure projects would include, Lockhart, extension of Wolf Nursery, Railroad crossing, drainage, South Corridor which includes an East and West Arterial road.

**West Washington/Frey Street**

In the past few years the development on West Washington has been a catalyst to look at the future expansion of Frey Street. Extend Frey and creating a collector south including south of Washington would open up some key development areas. There have been some inquiries from a few Box Stores, small commercial developments, and a housing development.

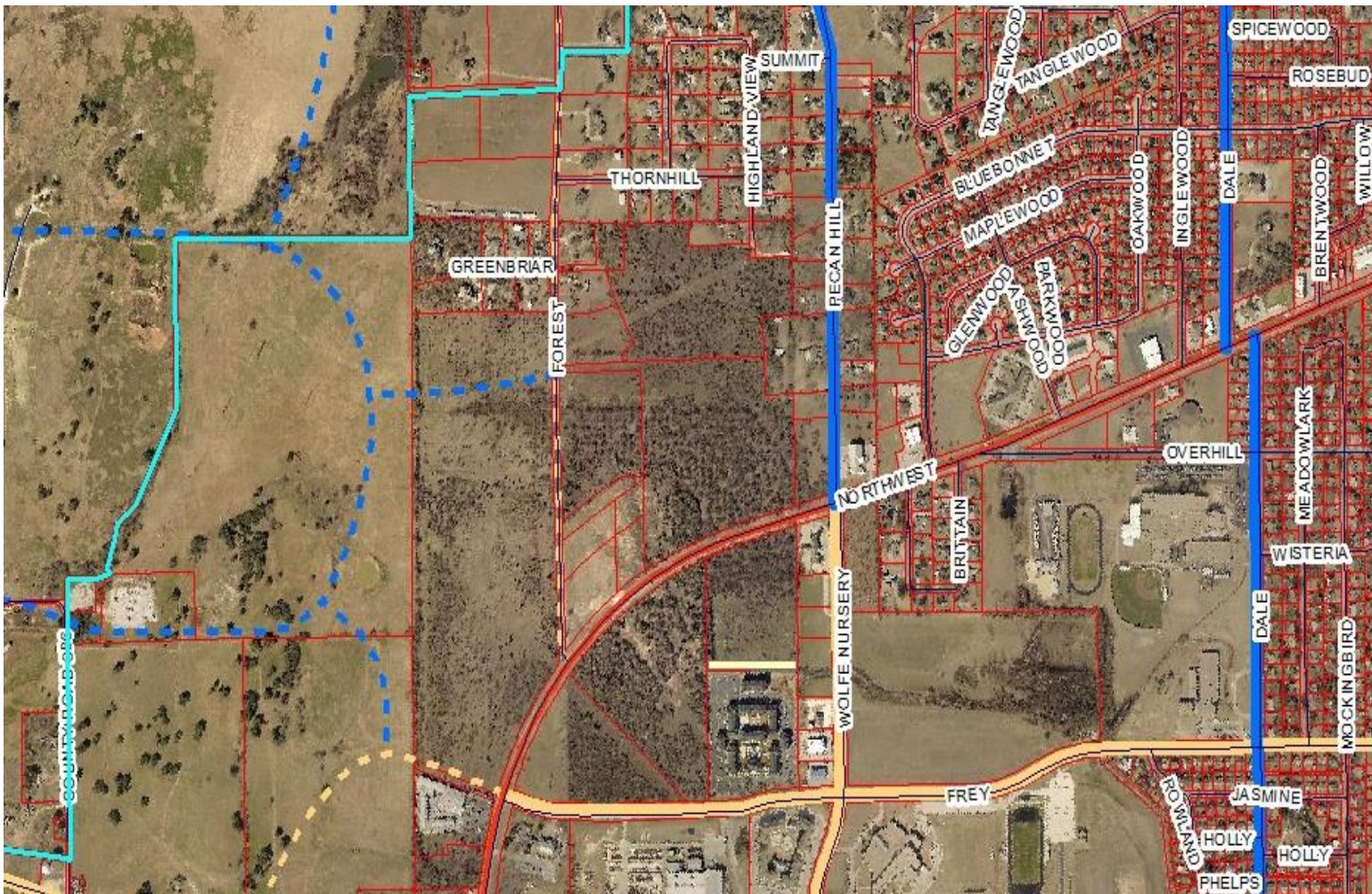


**Suggestions:**

1. Look to extend Frey in future capital projects or in partnerships with developers. Offer incentives to help provide an arterial road.
2. Extend a collector road from Frey Street (extension) to South of Washington to Bob White Trail.

**Forest Lane**

We have missed some housing developments and possible commercial developments because of the road requirements to improve Forest. With the extension of Frey Street and some City participation on Forest Commercial and Residential development could take place. Could open the South of Northwest loop near the Grove. One of the busier areas in Stephenville (Traffic Count).



**Suggestions:**

1. Improve Forest or provide incentives for developers
2. Extend Frey
3. Dedication of ROW heading West off of Forest

**North Forest/Lingleville**

We do need another major road moving from North to South. Need to look to extend a road to Lingleville Road. A thoroughfare running North and South from Lingleville to West Washington will help flow of traffic and open areas for development.



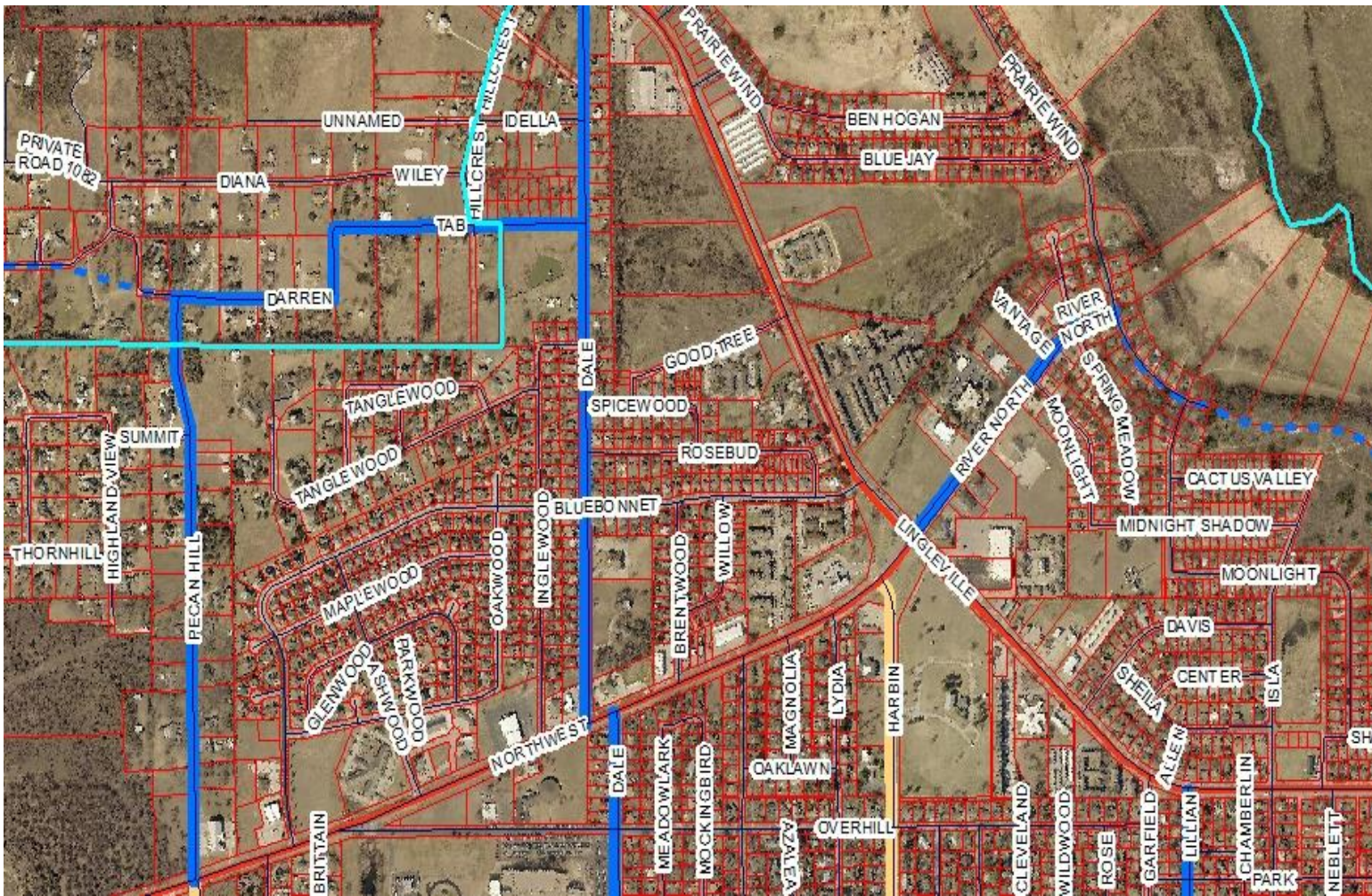


**Suggestions:**

1. Extend Forest North to Lingleville

**River North/Lingleville**

There is some possible development off Lingleville. We do lack utilities in this area. The extension of the Bosque River Trail coupled with a TxDOT sidewalk program and some work to improve utilities will make this area very attractive.

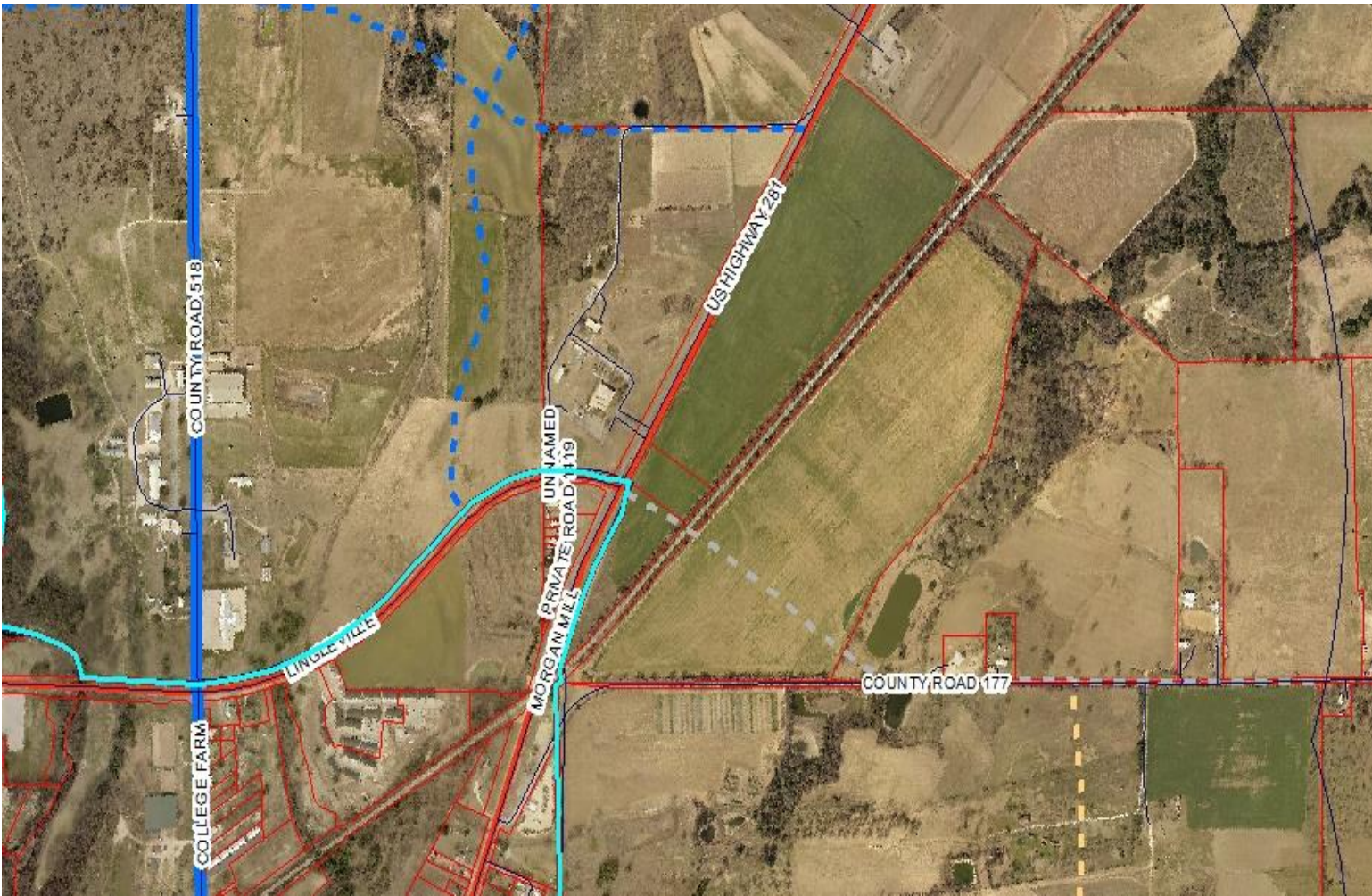


**Suggestions:**

1. Improve utilities
2. Extend Bosque River Trail
3. Partner with Allen/IP to extend Tab Street (previous agreement)

**281/Lingleville**

This has been a target of an industrial/commercial park for some time. This area is a major gateway into the City. As the Eastside Sewer project gets constructed it is important the City look to extend the sewer to this area. We should be looking to partner with this development group so that we can help determine which developments get built here to protect our gateways.

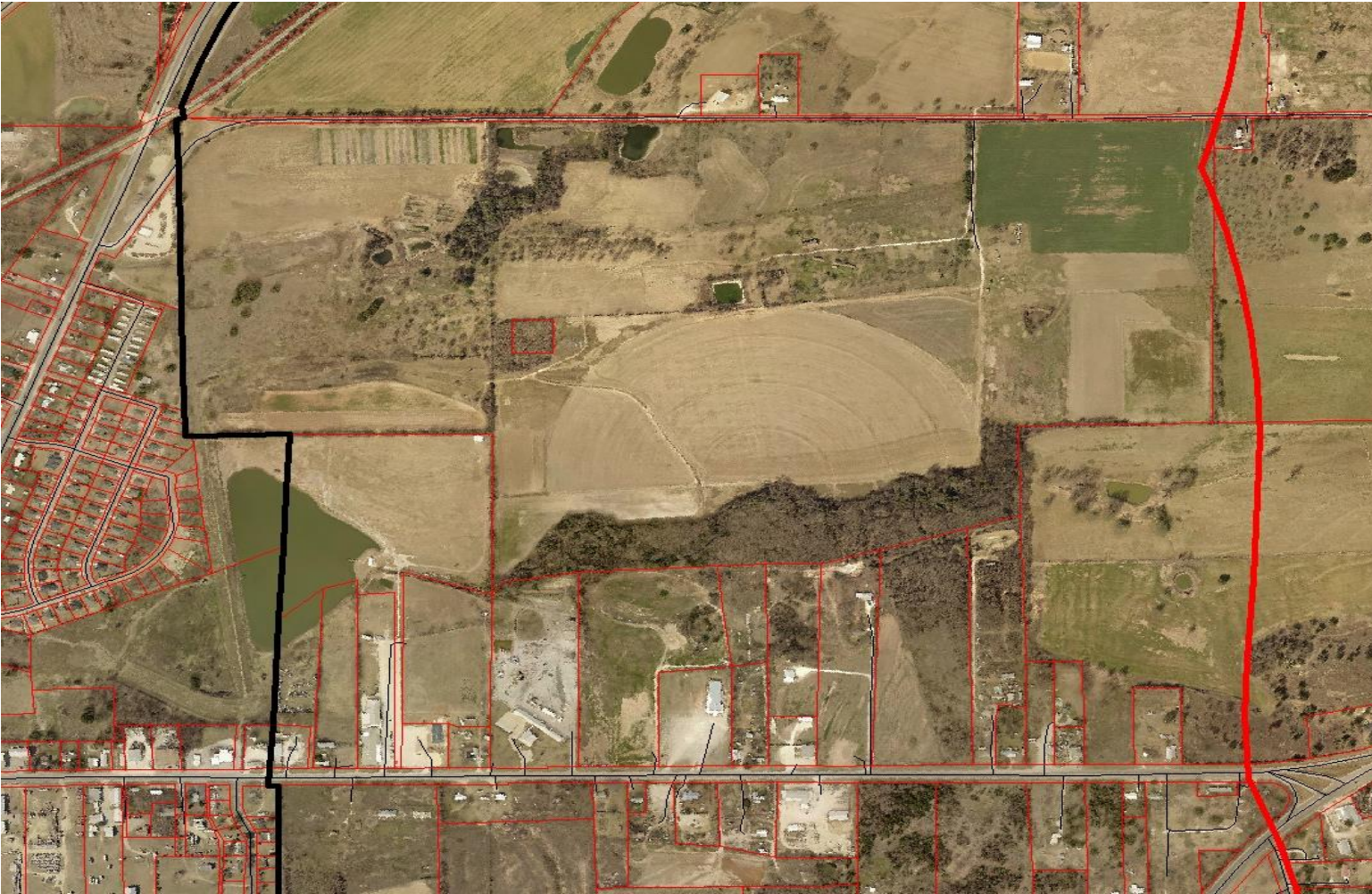


**Suggestions:**

1. Extend Eastside Sewer
2. Offer incentives to help jump start this area
3. Protect this gateway into the city with aestically pleasing developments.

**East Washington**

Lone Star Arena has been a maintain and is our identity. Twisted J has become very popular and is in this region. City Limits and Purple goat continue their popularity. Lack of utilities to Lone Star and Twisted J along with other businesses are preventing development



**Suggestions:**

1. To extend utilities on 377 to Lonestar giving access to everyone along the route would cost an estimated 5 million dollars.
2. Could create a Special Utilities District and level tax to these owners to help pay for the infrastructure.

**Downtown Revitalization**

The Downtown area is what Stephenville is known for. It host numerous events and all the major roads converge downtown. Over the past 5-7 years close to 20 business have located downtown.



**Suggestions:**

1. Lighting
2. Sidewalks
3. Incentive Programs to develop downtown

**Harbin Drive**

With future development that has agreed to come there is a need to improve Harbin. There could be some possibilities to reduce some of the zoning restrictions to create an atmosphere near the development.



**Suggestions:**

1. Improve Harbin
2. Improve Swan
3. City Property
4. Change Zoning Requirements (Overlay)