

City Council Agenda

SAGINAW CITY COUNCIL NOTICE OF MEETING

Meeting and/or Executive Session Agenda

6:00 PM - Tuesday, March 3, 2020

Saginaw City Hall Council Chambers

333 West McLeroy Blvd.

In accordance with Section 551.042 of the Texas Government Code, this agenda has been posted at Saginaw City Hall, and distributed to the appropriate news media within the required time frame. All meetings of the Saginaw City Council are open to the public. Public participation and written comments are invited on all open session business items.

The Mayor and City Council request that all cell phones and pagers be turned off or set to vibrate. Members of the audience are requested to step outside to respond to a page or to conduct a phone conversation.

The City Hall is wheelchair accessible and special parking is available on the east side of the building. If special accommodations are required please contact the City Secretary a minimum of 72 hours in advance at 817-232-4640.

(1) Call to Order--Todd Flippo, Mayor

Pledge of Allegiance to the United States

Pledge of Allegiance to the State of Texas

"Honor the Texas Flag; I pledge allegiance to thee, Texas, one State under God, one and indivisible"

(2) Invocation--Pastor Sean Reed, The Crossroads Church

(3) Audience Participation--On the Video Screen

(4) Consent Agenda

- (a)** Action regarding Minutes, February 18, 2020--Janice England, City Secretary
- (b)** Action regarding Building Improvement Grant Agreement with Julien & Lambert Professional Photography (100 S. Hampshire St. #200)--Keith Rinehart, Director of Community & Economic Development
- (c)** Action regarding Resolution 2020-07 - Continued Participation with the Steering Committee of Cities Served by Oncor--Dolph Johnson, Assistant City Manager

- (d) Action regarding Proposal for Radio Marketing Partnership with 95.9 The Ranch and 92.1 Hank FM for the 2020 Saginaw Train & Grain Festival--Janice England, City Secretary/Festival Co-Chairperson
 - (e) Action regarding Ordinance No.2020-05, Canceling the May 2, 2020 General Election and Declaring Each Unopposed Candidate Elected to Office--Janice England, City Secretary
 - (f) Action regarding Rejection of Bids for Finish Mowing/Grounds Maintenance of City Parks and Rights-of-Ways--Rick Trice, P.E., Director of Public Works
 - (g) Action regarding Retail Retention, Recruitment and Development Services Proposal with the Retail Coach--Gabe Reaume, City Manager
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- (5) Presentation of 2019 Texas Achievement in Library Excellence Award from the Texas Municipal Library--Gabe Reaume, City Manager
 - (6) 2020 Census Presentation--Chris Carathers, Dallas Regional Census Center
 - (7) Community Involvement Presentation--Camelot Square Apartments--Council Member Cindy Bighorse
 - (8) Consideration and Action regarding Resolution No. 2020-08 Declaring Intention to Reimburse an Amount not to Exceed \$8,500,000 for Certain Capital Expenditures with Proceeds from Debt; and Placing Time Restrictions on the Issuance of Tax-Exempt Obligations--Gabe Reaume, City Manager
 - (9) Consideration and Action regarding an Individual Project Order with Kimley-Horn and Associates, Inc. for Knowles Drive Final Design--Rick Trice, P.E., Director of Public Works
 - (10) Consideration and Action regarding a Management Agreement with Community Link Mission, Inc. for the Operation and Promotion of a Farmer's Market at Saginaw SwitchYard--Gabe Reaume, City Manager
 - (11) Consideration and Action regarding Resolution No. 2020-09 Adopting the Fiscal Year 2019-2020 Annual Strategic Project List and Work Plan--Gabe Reaume, City Manager
 - (12) Consideration and Action regarding an Interlocal Agreement with Tarrant County Governing County Game Room Regulations, Permitting and Enforcement Within the City Limits--Gabe Reaume, City Manager
 - (13) **Executive Session--Todd Flippo, Mayor**

551.071. Texas Government Code.

Consultation with Attorney. The City Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the City Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the following items:

(a) Any Posted Item

(14) Adjournment--Todd Flippo, Mayor



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Janice England
City Secretary

Agenda Items: (4)(a)

E-mail: jengland@saginawtx.org

Phone: 817-230-0327

SUBJECT:

Action regarding Minutes, February 18, 2020

BACKGROUND/DISCUSSION:

The minutes of the City Council Meeting held on February 18, 2020 are being presented for consideration,.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval.

ATTACHMENTS:

Description

Minutes 2-18-2020

**CITY OF SAGINAW
MINUTES OF CITY COUNCIL MEETING
PUBLIC HEARING, AND WORKSHOP
HELD AT THE SAGINAW CITY HALL
333 WEST MCLEROY BLVD.
FEBRUARY 18, 2020**

Present at the meeting:

Mayor	Todd Flippo
Mayor Pro-Tem	Valerie Tankersley
Councilmember	Charles Beasley
Councilmember	Patrick Farr
Councilmember	Charles Tucker
Councilmember	Cindy Bighorse
Councilmember	Mary Copeland
City Attorney	Bryn Meredith
City Engineer	Dana Shumard, P.E.
City Manager	Gabe Reaume
Asst. City Manager	Dolph Johnson
Finance Director	Kim Quin
City Secretary	Janice England
Asst. Police Chief	Russell Ragsdale
Fire Chief	Doug Spears
Director of Public Works	Rick Trice, P.E.
Director of Comm. & Eco Dev.	Keith Rinehart
Library Director	Ellen Ritchie
Director of Human Resources	Melanie McManus
Police Officer	K. Kaddatz

Absent from the meeting:

None

Visitors at the meeting:

Chris Carathers	Glen Reeves
Aaron Farmer	Joseph Alva
Jan Young	Megan Nichols
Preston Nichols	Mary Ragle
Clay Cristy	Trenton Tidwell

(1) Call to Order

Mayor Flippo called the meeting to order at 6:00 p.m. with a quorum present.

Pledge of Allegiance to the United States

Pledge of Allegiance to the State of Texas

(2) Invocation

Elder Josef Alva of Sar Shalom Synagogue gave the invocation.

(3) Audience Participation

This item was covered on the video screen.

(4) Consent Agenda

a. Action regarding Minutes, February 4, 2020

b. Action regarding Resolution No. 2020-05, Continued Participation with the Atmos Cities Steering Committee

Summary: The Atmos Cities Steering Committee is composed of 178 municipalities in the service area of Atmos Energy Corporation, Mid-Tex Division that have retained original jurisdiction. Atmos is a monopoly provider of natural gas. Participating with the Atmos Cities Steering Committee and working as a coalition to review the rates charged by Atmos allows cities to accomplish more collectively than each city could do by acting alone. The cost to the city is five cents per capita which is \$1,119. Funds to cover this expenditure are budgeted in the General Administration Office Budget, Legal and Special Services and Audit Account (01-6650-02). Resolution No. 2020-05 authorizes continued participation with the Atmos Cities Steering Committee.

Motion was made by Councilmember Farr with a second by Mayor Pro-Tem Tankersley to approve the consent agenda as presented. Motion carried unanimously. 7-0-0-0

For: Mayor Flipppo, Mayor Pro-Tem Tankersley,
Councilmembers Beasley, Farr, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

(5) Community Involvement Presentation

Director of Community and Economic Development Rinehart gave a presentation on the recent 2020 Polar Bear Plunge. Participants slid down the slide at the aquatic center and also stood under the water bucket as it dumped water. He reported that over \$1,100 was raised for animal services. He added that there are many good things going on in our city and plans are to give brief presentations periodically at future Council Meetings to highlight these events and happenings.

(6) It's Time Texas Community Challenge 2020 Mayor Pledge

Mayor Flipppo explained that the "It's Time Texas Community Challenge Mayor Pledge" is in conjunction with the "It's Time Texas Community Challenge". The Mayor Pledge re-iterates the importance of healthy living in our community.

- (7) Consideration and Action regarding Continued Negotiations with YMCA related to possible Natatorium

City Manager Reaume stated that this item was requested to be placed on the agenda by two Councilmembers. He explained that information was received recently from the YMCA that they are proceeding with a partnership with the Eagle Mountain-Saginaw Independent School District at a location in the city limits of Fort Worth. Therefore, there is no need for the Council to take action on this item.

- (8) Update on Retail Market Analysis

Mr. Aaron Farmer, President of The Retail Coach, presented an update on the Retail Market Analysis approved by the City Council in December.

- (9) PUBLIC HEARING—Consideration and Action regarding a Recommendation from the Planning and Zoning Commission to Amend the Zoning Ordinance (Ordinance No. 2001-04) Section 5-1 amending Regulations for “Snow Cone Stand, Seasonal” and Sections 5-2 A(25) AND 12-2 pertaining to Seasonal Operations (Ordinance No. 2020-02)

Mayor Flippo declared the public hearing for this item opened at 6:32 p.m. Director of Public Works Trice explained that that Ordinance No. 2020-02 amends the Zoning Ordinance to allow Snow Cone Stand, Seasonal use in the Light Industrial and Heavy Industrial Zoning Districts; and to allow operation from March to October. He added the Planning and Zoning Commission unanimously recommended approval. Mayor Flippo called for public comment. There was none. Mayor Flippo declared the public hearing closed at 6:33 p.m.

Motion was made by Councilmember Farr with a second by Councilmember Beasley to approve Ordinance No. 2020-02 as recommended by the Planning and Zoning Commission. Motion carried unanimously. 7-0-0-0

For: Mayor Flippo, Mayor Pro-Tem Tankersley,
Councilmembers Beasley, Farr, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

- (10) PUBLIC HEARING—Consideration and Action regarding a Recommendation from the Planning and Zoning Commission to Amend the Zoning Ordinance (Ordinance 2002-04) amending the Regulations for “Mobile Food Unit Park” (Ordinance No. 2020-03)

Mayor Flippo declared the public hearing for this item opened at 6:34 p.m. Director of Public Works Trice explained that Ordinance No. 2020-03 amends the Zoning Ordinance to allow “Mobile Food Unit Park” as a permitted use in the Community Facilities Zoning District. Mayor Flippo called for any public input. There was none. Mayor Flippo declared the public hearing closed at 6:35 p.m.

Motion was made by Councilmember Farr with a second by Mayor Pro-Tem Tankersley to approve Ordinance No. 2020-03 as recommended by the Planning and Zoning Commission. Motion carried unanimously. 7-0-0-0

For: Mayor Flippo, Mayor Pro-Tem Tankersley,
Councilmembers Beasley, Farr, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

- (11) Consideration and Action regarding Approval of a Request for a Specific Use Permit to allow a Day Care Facility on Lot 30, Block 2 (912 North Old Decatur Rd.) of the Saginaw Springs Addition, located on the Northeast corner of Old Decatur Rd. and W.J. Boaz Rd. in Saginaw (Continued from December 3, 2019 City Council Meeting) (Ordinance No. 2020-04)

Director of Public Works Trice explained that the public hearing for this item was held on December 3, 2019. He stated that the Traffic Impact Analysis (TIA) requested by the Council at that meeting is included in the Council packet. The TIA indicates that the proposed day care facility will have a minimal impact on traffic.

Motion was made by Councilmember Farr with a second by Councilmember Tankersley to approve the Specific Use Permit to allow a day care facility at 912 N. Old Decatur Rd. as presented. Motion carried unanimously. 7-0-0-0

For: Mayor Flippo, Mayor Pro-Tem Tankersley,
Councilmembers Beasley, Farr, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

- (12) Recess into Workshop

Mayor Flippo declared the meeting recessed into Workshop at 6:43 p.m.

- (13) Mid Term Capital Improvement Project Planning

After discussion of possible projects, the Council concurred to begin design of the following six projects in the order listed below.

- 1) Knowles Drive
- 2) Central Fire Station
- 3) N. Old Decatur Rd. Reconstruction
- 4) New Sidewalks
- 5) Old Decatur Rd./Boaz Intersection Realignment
- 6) Traffic Signal Upgrades on Hwy. 287

- (14) Reconvene Back into Regular Session

Mayor Flippo declared the meeting back in Regular Session at 7:26 p.m.

(15) Executive Session

1 § 551.071. Texas Government Code. Consultation with Attorney. The City Council may convene in executive session to conduct a private consultation with its attorney on any legally posted agenda item, when the City Council seeks the advice of its attorney about pending or contemplated litigation, a settlement offer, or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the provisions of Chapter 551, including the following items:

- a. Any Posted Item

1 § 551.087. Texas Government Code. Deliberation regarding Economic Development Negotiations. The City Council may convene in executive session to discuss or deliberate regarding commercial or financial information that the City has received from a business prospect that the City seeks to have locate, stay, or expand in or near the City and with which the City is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to a business prospect described above, including:

- a. Building Improvement Grant Application—100 S. Hampshire St.
- b. Retail Relocation

Mayor Flippo declared the meeting recessed into Executive Session at 7:26 p.m.

Mayor Flippo declared the meeting back in Regular Session at 8:00 p.m.

(16) Adjournment

Motion was made by Councilmember Farr with a second by Councilmember Tucker to adjourn the meeting. Motion carried unanimously. 7-0-0-0

For: Mayor Flippo, Mayor Pro-Tem Tankersley,
Councilmembers Beasley, Farr, Tucker, Bighorse, and Copeland

Against: None

Abstain: None

Absent: None

Mayor Flippo declared the City Council Meeting of February 18, 2020 adjourned at 8:00 p.m.

ATTEST:

APPROVED:

City Secretary Janice England

Mayor Todd Flippo



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Keith C. Rinehart
Director of Community & Economic
Development

Agenda Items: (4)(b)

E-mail: krinehart@saginawtx.org

Phone: 817-230-0331

SUBJECT:

Action Regarding Building Improvement Grant Agreement with Julien & Lambert Professional Photography (100 S. Hampshire St. #200)

BACKGROUND/DISCUSSION:

On Tuesday, February 18, 2020, the Saginaw City Council heard information in Executive Session pertaining to the specifics of a Building Improvement Grant (BIG) Program application that was submitted February 1, 2020 by Julien & Lambert Professional Photography in regards to their property located at 100 S. Hampshire St. #200. The City Council determined in that session to award an amount not-to-exceed \$5,000.00 in reimbursable, and matching, dollars for the anticipated improvements as proposed on their application. The included contract under consideration is the realization of that intention.

FINANCIAL IMPACT:

Maximum of \$5,000.00 from Account # 01-6142-13-00 Building Improvement Grants

RECOMMENDATION:

NA

ATTACHMENTS:

Description

Building Improvement Grant Application

Building Improvement Grant Program Agreement

This Building Improvement Grant Program Agreement ("Agreement") is made by and between the City of Saginaw (the "City") and Julien & Lambert Professional Photography ("Property Owner").

WITNESSETH:

WHEREAS, the Property Owner is the owner of property located at 100 South Hampshire Street #200, Saginaw, Texas; and

WHEREAS, Texas Local Government Code Chapter 380 allows the City to provide incentives for the promotion of economic development; and

WHEREAS, the promotion of the redevelopment of commercial properties in the City promotes economic development within the City and is essential for the continued economic growth and vitality of the City; and

WHEREAS, the Building Improvement Grant Program will enhance the commercial viability and sustainability of commercial properties in the City, improve the physical appearance of businesses and visibly enhance the City's commercial corridors, and aid in the retention and expansion of existing businesses; and

WHEREAS, the City has determined that providing an economic development incentive in accordance with this Agreement will further the objectives of the City, will benefit the City and the City's inhabitants, will promote local economic development, and will stimulate business and commercial activity in the City; and

NOW THEREFORE, in consideration of the foregoing, and on the terms and conditions hereinafter set forth, and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Term

The term of this Agreement shall begin on the date of Property Owner execution listed below and shall continue until the three-year anniversary of the date that the final Building Improvement Grant is paid by the City, unless sooner terminated as provided herein.

Section 2. Definitions

The terms used in this Agreement shall have the meanings ascribed to them in the City of Saginaw Building Improvement Grant Policy. The term "Impositions" shall mean: all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary

and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on the Property Owner or any property or any business owned by Property Owner within the City.

Section 3. Economic Development Incentive

(a) Payment. Subject to the Property Owner's continued satisfaction of the terms and conditions of this Agreement and of the Policy, and the obligation of the Property Owner to repay the Incentive pursuant to Section 5(b) hereof, the City agrees to provide the Building Improvement Grant to the Property Owner to be paid in a single lump-sum payment after Property Owner makes a written request for reimbursement, in accordance with the requirements of the Policy. The total Building Improvement Grant shall be an amount not to exceed \$5,000.00 and eligibility for any Enhancement category shall be limited as set forth in the Policy.

(b) Current Revenue. The Building Improvement Grant made hereunder shall be paid solely from lawfully available funds that have been appropriated by the City. Under no circumstances shall City's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. None of the City's obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution or other party.

Section 4. Building Improvement Grant Conditions

(a) Conditions. The City's obligation to pay the Building Improvement Grant shall be conditioned upon the Property Owner's continued compliance with and satisfaction of the terms and conditions of this Agreement and the Policy, except those portions of the Policy that have been specifically waived or modified by the City Council. A detailed summary of the required Enhancements and required Construction Costs is set forth in the attached and incorporated Exhibit "A" hereto. A copy of the Policy is hereby attached hereto and incorporated herein as Exhibit "B" to this Agreement.

(b) Inspections. The Property Owner agrees that City, upon reasonable advance notice, may inspect the Enhancements to determine compliance with the terms of the Agreement.

(c) Construction Costs. The Property Owner shall, as a condition precedent to the City's payment of the Building Improvement Grant, provide copies of invoices, receipts and other documentation as may be reasonably requested by the Staff to verify the costs incurred and paid by the Property Owner for construction of the Enhancements.

Section 5. Termination

(a) This Agreement shall terminate upon the occurrence of any one of the following:

- (1) mutual agreement of the parties;
 - (2) the Expiration Date;
 - (3) at the City's option, if any Impositions owed to the City or the State of Texas by Property Owner shall become delinquent (provided, however Property Owner retains the right to timely and properly protest and contest any such Impositions);
 - (4) by the City in the event Property Owner breaches any of the terms or conditions of this Agreement and such breach is not cured within sixty (60) days after written notice thereof;
 - (5) by City, if the Property Owner suffers an event of bankruptcy or insolvency;
 - (6) by City, if any subsequent Federal or State legislation or any final, non-appealable decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable; or
- (b) In the event of termination by the City pursuant to (a)(3), (4), (5), or (6) the Property Owner shall immediately repay to the City an amount equal to Building Improvement Grant paid to Property Owner, if any, prior to termination of this Agreement.

Section 6. Miscellaneous

- (a) Assignment. This Agreement may not be assigned without the prior written consent of the City.
- (b) Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and assigns of the parties hereto.
- (c) Limitation on Liability. It is understood and agreed between the parties that the Property Owner, in satisfying the conditions of this Agreement, has acted independently, and City assumes no responsibilities or liabilities to third parties in connection with these actions.
- (d) No Joint Venture. It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties.
- (e) Authorization. Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

(f) Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below or on the day actually received if sent by courier or otherwise hand delivered.

If intended for Property Owner, to:

Julien & Lambert Professional Photography
Attn: Malinda Julien
100 South Hampshire Street #200
Saginaw, Texas 76179

If intended for City, to:

Attn: City Manager
City of Saginaw, Texas
P. O. Box 79070
Saginaw, Texas 76179

(g) Indemnification. **THE PROPERTY OWNER HEREBY CERTIFIES THAT THE PROPERTY OWNER IS SOLELY RESPONSIBLE FOR OVERSEEING THE WORK, AND WILL NOT SEEK TO HOLD THE CITY, THE BOARD, AND / OR THEIR AGENTS, EMPLOYEES, OFFICERS, AND / OR DIRECTORS LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY, OR OTHER LOSS RELATED IN ANY WAY TO THIS AGREEMENT OR THE POLICY, AND AGREES TO INDEMNIFY THE CITY, THE BOARD, AND THEIR AGENTS, EMPLOYEES, OFFICERS, AND DIRECTORS FROM ANY CLAIMS OR DAMAGES RESULTING FROM THE PROJECT, INCLUDING REASONABLE ATTORNEY FEES.**

(h) Entire Agreement. This Agreement is the entire Agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the parties that in any manner relates to the subject matter of this Agreement, except as provided in any Exhibits attached hereto.

(i) Governing Law. The Agreement shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Tarrant County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

(j) Amendment. This Agreement may only be amended by the mutual written agreement of the parties.

(k) Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any

respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

(l) Recitals. The recitals to this Agreement are incorporated herein.

(m) Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

(n) Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

City of Saginaw, Texas

By:

Todd Flipppo, Mayor,

Attest:

By:

City Secretary

Executed on this _____ day of _____, 20 .

Property Owner

By: _____

Name:

EXHIBIT "A"

ENHANCEMENTS AND CONSTRUCTION COSTS

Saginaw, Texas

Application for Building Improvement Grant

Contact: Alora Wachholz, EDC Executive Director - (817) 230-0331 - aloraw@saginawtx.org

1. PROJECT INFORMATION								
A	Property Address: <u>100 S. HAMPSHIRE ST #200</u>							
B	Estimated Begin Work Date: <u>12/27/2019</u>			Estimated Completion Date: <u>2/10/2020</u>				
C	Years in business at this location: <u>JUST MOVED TO PROPERTY</u>							
D	Reason for requesting grant: <u>Revitalize & Bring Current 1950's Building</u>							
2. ELIGIBILITY OF PROPERTY								
	Yes	No	Item	Notes				
A	☒	☐	Within the City?	•				
B	☒	☐	Commercially zoned?	•				
C	☒	☐	Tax Paying entity?	•				
D	☒	☐	City taxes in good standing?	•				
E	☐	☒	No City liens existing?	•				
F	☒	☐	Proof of ownership provided?	•				
G	☐	☒	Outstanding code violations?	•				
H	☒	☐	Frequency of Grants OK?	• In accordance with Section 3.1.8				
3. ELIGIBILITY OF BUSINESS								
	Yes	No	Item	Notes				
A	☒	☐	Business taxes in good standing?	•				
B	☐	☐	If not owner, authorization provided?	•				
4. Enhancements								
			Enhancements	Total Cost	Policy Max %	Policy Max \$	Amount Requested	Amount Approved
A			Facade: (Section 4.3) •	3946.88	50 %	\$5,000	1973.45	\$
B			Interior Renovation: (Section 4.4) •	8,000	50 %	\$5,000	4000.00	\$
C			Landscaping: (Section 4.5) •	1200.00	50 %	\$5,000	600.00	\$
D			Lighting: (Section 4.6) •	809.00	50 %	\$5,000	404.50	\$
E			Parking / Driveways: (Section 4.7) •	\$	50 %	\$5,000	\$	\$
F			Pedestrian Amenities: (Section 4.8) •	\$	50 %	\$5,000	\$	\$
G			Signage: (Section 4.9) •	446.49	50 %	\$5,000	223.25	\$
H			Code Compliance: (Section 4.10) •	967.00	50 %	\$5,000	483.50	\$
I			Demolition: (Section 4.11) •	\$	50 %	\$5,000	\$	\$
J			Public Art: (Section 4.12) •	\$	50 %	\$5,000	\$	\$
K	(Max. Grant Per Policy = \$5,000) TOTAL BUILDING IMPROVEMENT GRANT APPROVED:							
L	Describe any planned Non-Grant Enhancements: <u>re-marking parking, continual interior.</u>							

5 GRANT PRIORITIES				
	Yes	No	Preferred Area?	Notes
A	✓		Transportation Corridors including; Saginaw Blvd, Bailey Boswell Rd, Old Decatur Rd, Blue Mound Rd (west side), McLeroy Blvd;	•
B			Downtown	•
	Yes	No	Preferred Business?	Notes
C	✓		Retail	• Commercial / Personal Photo + Broadcast Studio
D			Restaurants	•
E			Professional Office	•
F			Industrial and manufacturing	•
G			Any sales-tax generating business	•
6 ATTACHMENTS / EXHIBITS				
	Yes	No	Item	Notes
A	✓		Ownership documentation	•
B	✓		Photos of existing conditions	•
C	✓		Drawing, renderings, plans of the proposed enhancements	•
D	✓		Written description of the enhancements including building materials and color schemes	•
E	✓		Construction cost estimate	•
F	✓		Copy of the signed lease agreement	• If Applicant is not property owner
G	✓		Written support of the grant application from the owner	• If Applicant is not property owner
7 CONTRACTOR INFORMATION				
A	Contractor for: Barn Door Front Company Name: FORT WORTH BARN DOORS Contact Person: Josh Brannon Title: Address: 7721 WESTWIND BL, FW, TX 76179 Wk Phone: 817 764011 Cell: Same Fax: Email: jbrannon@fortworthbarndoors.com Website: FortWorthBarnDoors.com			
B	Contractor for: Signs BY Tomorrow (OUTDOOR TEMP SIGN) Company Name: Signs BY Tomorrow Contact Person: DAVID IRWIN Title: General Manager Address: 3509 NW TIM WRIGHT FORT WORTH 76106 Wk Phone: 817 6267446 Cell: Fax: Email: dave@sbftomorrow.com Website: Signsbytomorrow.com/FortWorthTX			
C	Contractor for: Electrical #1 Company Name: Kiker Electrical Contact Person: Bobby Kiker Title: owner Address: 8924 Lake Rock Ct FW, TX 76179 Wk Phone: Cell: Fax: Email: Ikikerelectric@gmail Website: Ikikerelectric.wyxsite.com/website			
D	Contractor for: Elec #2 Company Name: Bob Carr Elec Contact Person: Bob Carr Title: owner Address: Wk Phone: 682-230-0792 Cell: Fax: Email: Website:			

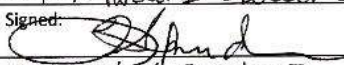
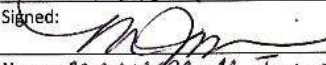
Saginaw!

Saginaw!

Saginaw!

Saginaw!

8	Applicant / Owner Certifications: In accordance with Resolution 2018-23 adopting the Building Improvement Grant Policy, the undersigned do hereby certify the following:
A	Section 7.1 - Application Accuracy: The information provided in the Application, and all that may have been affixed thereto, is true and correct, and that the City may rely on all of the information therein contained, and all that may have been affixed thereto, as being true and correct.
B	Section 7.2 - Compliance: I (we) certify that I am (we are) solely responsible for all safety conditions and compliance with all safety regulations, building codes, ordinance and other applicable regulations. Neither approval of an Application nor payment of a Grant upon completion of the project shall constitute approval of the project by any City department, Board Member or Staff or a waiver by the City of any safety regulation, building code, ordinance or other applicable regulation.
C	Section 7.3 - Insurance: I (we) certify that I (we) maintain sufficient insurance coverage for property damage and personal injury liability relating to the project.
D	Section 7.4 - Maintenance: I (we) certify that the Enhancements, once approved by the City shall be maintained for a period of three (3) years from the date of payment. No changes shall be made without prior written approval from the City.
E	Section 7.5 - Discretionary Rights: I (we) certify that I (we) acknowledge that the City has the absolute right of discretion in deciding whether or not to approve a matching Grant relative to the Application, whether or not such discretion is deemed arbitrary or without basis in fact, including the right to approve or disapprove a Grant on terms and conditions that are contrary to the guidelines of this policy.
F	Section 7.6 - Policy Promotion: I (we) authorize the City to use an approved project to promote the merits of this Policy, including but not limited to displaying a sign at the Property or Business during and within thirty (30) days after construction, and using photographs and descriptions of the project in distribution material, press releases, social media and on the City's website.
G	Section 7.7 - Indemnification: I (we) certify that I am (we are) solely responsible for overseeing the work, and will not seek to hold the City, the Board, and / or their agents, employees, officers, and / or directors liable for any property damage, personal injury, or other loss related in any way to this Policy, and by submission of an Application, agree to indemnify the City, the Board and / or their agents, employees, officers, and / or directors from any claims or damages resulting from the project, including reasonable attorney fees.
9	I (we) hereby affirm the Certifications noted above and approve this Application for Building Improvement Grant incentives and the Enhancements identified herein.

Property Owner	Applicant / Business Representative
Company: AWESOME BLOSSOMS	Company: Julien & Lambert, LLC
Signed: 	Signed: 
Name: TRACY SPINDOR	Name: MALINDA M JULIEN
Title: OWNER	Title: Co-Owner
W: 817-232-1298 C: 817-791-3323	W: 817-681-9851 C: 325-439-1585
EM: tracy4trick@gmail.com	EM: malindajulien@mac.com
Address: 612 PALOMINO CT. SAGINAW, TX 76179	Address: 808 Lottie Lane, Saginaw, TX 76179

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EXHIBIT “B”

BUILDING IMPROVEMENT GRANT POLICY

Saginaw, Texas

Building Improvement Grant Policy

WHEREAS, the City Council of the City of Saginaw, Texas (Council) desires to implement a matching grant program to encourage the development, retention, or expansion of business enterprises in the City; and

WHEREAS, Chapter 380 of the Texas Local Government Code authorizes municipalities to establish and provide for the administration of programs that promote economic development and stimulate business and commercial activity in the City; and

WHEREAS, the City Council on December 4, 2018 considered and approved Resolution 2018-23 approving this Building Improvement Grant Policy (Policy).

BE IT KNOWN THAT, the terms and conditions of the Policy, having been reviewed by the Council and found to be acceptable and in the best interest of the City and its citizens and businesses, are hereby approved.

Section 1.

Introduction & Goals

This program is a matching grant program that reimburses commercial property owners or business operators for Eligible Enhancements made to the Property. The goals of this Policy are to: 1.1. Enhance the commercial viability and sustainability of commercial properties in the City;

1.2. Improve the physical appearance of businesses and visibly enhance the City’s commercial corridors;

1.3. Aid in the retention and expansion of existing businesses;

1.4. Increase the taxable value of commercial properties in the City;

1.5. Enhance commercial areas through the placement of Public Art;

1.6. Increase the marketability and occupancy rate of commercial buildings hindered by an outdated appearance;

1.7. Increase the safety of a commercial area and stimulate more public interaction; and

1.8. Provide incentives in areas and to businesses most likely to stimulate similar enhancements by other private entities.

Section 2.

Definitions

The following definitions shall apply to the terms used in this Policy:

Agreement: A written performance agreement between the Board and the Applicant.

Applicant: Shall mean the Property owner or business occupant signing the Application for a Building Improvement Grant.

Application: Shall mean the Application for Building Improvement Grant Policy Incentives as maintained by Staff.

Board: Shall mean the Board of the Saginaw Economic Development Corporation of the City. Prior to formulation of the Board or in its absence in the future, the City Council shall perform all duties of the Board.

Building Improvement Grant: Shall mean the financial support to make designated Property Enhancements as approved, and sometimes referred to as "Grant."

City: The City of Saginaw, Texas.

City Council: The City Council of the City.

Code Violations: Shall be any violation of the City's code of ordinances.

Construction Costs: The cost of permits, fees, construction materials, and installation labor. All other associated costs are deemed excluded, including, but not exclusively, the following costs: design, construction document preparation, bidding, sweat equity and construction financing.

Eligible Enhancements: Shall mean the Enhancements identified as eligible in Section 4 herein.

Enhancements: Shall be as defined in Section 4 herein.

Façade: Shall mean the exterior of a building.

Notice to Proceed: A written notice authorizing the Applicant to begin construction as approved.

Policy: Shall mean this Building Improvement Grant Policy.

Property: Shall mean the physical lot and / or building to which Enhancements are being made.

Public Art: Shall mean sculptures, murals, architectural features and similar tangible exhibits, and specifically excludes performing arts.

Staff: The City Manager or their designee.

Section 3.

Eligibility

The following Properties and Businesses are eligible to receive Grants.

3.1. **Properties**: Only properties meeting the following requirements at the time an Application is submitted shall be eligible to receive Grants as outlined by this Policy:

3.1.1. **Within the City**: Property must be located within the City's municipal boundaries.

3.1.2. **Non-Residentially Zoned**: Property must be zoned for uses other than residential uses and the current use of the Property may not be residential.

3.1.3. **Tax-Paying Entity**: The Property must be subject to the City's Ad Valorem property tax.

3.1.4. **Financial Standing**: Property shall be in good standing as it relates to taxes or any monies due to the City.

3.1.5. **City Liens**: Property shall be in good standing as it relates to any liens held by the City.

3.1.6. **Ownership**: Property owners must provide sufficient proof of ownership.

3.1.7. **Code Violations**: Property must not have any outstanding code violations.

3.1.8. **Frequency**: Property must not have received a Grant for the same category of Enhancement (e.g. Façade, Landscaping) in a twelve month period.

3.2. **Businesses**: Only businesses meeting the following requirements shall be eligible to receive benefits outlined by this Policy:

3.2.1. **Financial Standing**: The business shall be in good standing as it relates to taxes or any monies due to the City.

3.2.2. **Tax-Paying Entity**: The business must be a tax-paying entity.

3.2.3. **Property Owner Approval**: Businesses, if not the owner of the property to be occupied, must provide a copy of their lease agreement and support of the Application from the Property owner prior to approval of the Application.

Section 4. **Enhancements**

4.1. **Aspirations**: As with any policy or regulation, it is difficult to precisely regulate factors that are not easily defined. With that in mind, the following are to be considered aspirations for contemplated Enhancements:

- Enhancements should be compatible with the character and architecture of the individual building and those in proximity;

- Where appropriate, Enhancements may act as a catalyst to create a unique environment;
- Enhancements should make the Property more inviting to the public; and □ Enhancements should be functional as well as visually appealing.

4.2. General Enhancement Eligibility: Property Enhancements shall be deemed as eligible or ineligible for the benefits of this Policy as defined below. In general, the following Enhancements, though not exclusively, are ineligible for all Grants:

- Any Enhancement that does not comply with existing ordinances of the City;
- Any Enhancements made prior to the Notice to Proceed;
- Sweat equity or “in-kind” services;
- New construction which is not specifically listed in this Policy as an Eligible Enhancement;
- Any Enhancements to eliminate Code Violations of a Property or Business; □ Fees for designing, engineering, surveying, legal services, financing, etc.; or
- Any Enhancements not identified as eligible below. A potential applicant may discuss an enhancement not identified below with City staff to ascertain whether or not the enhancement meets the Purpose and Intent of this Policy. If so, an amendment to this Policy may be placed before the City Council to determine the merits of including a new eligible enhancement.

4.3. Façade Enhancements: The following are Eligible Enhancements except as noted otherwise:

- 4.3.1. Façade Materials: Replacing deteriorated or unsafe façade materials with brick, stone, tile, wood, or siding meeting the City’s masonry requirements and / or architectural standards. Removal of “slip” coverings of prior façade materials and re-establishment of historic façade details. Repointing of mortared joints, replacement or repair of damaged masonry.
- 4.3.2. Cleaning: Pressure washing or sand blasting existing facades, cleaning of tiles.
- 4.3.3. Painting: Scraping, priming and otherwise preparing the surface and painting.
- 4.3.4. Window / Doors: Replacement of or improvements to existing windows or doors that are visible from a public street. New windows and doors matching replaced windows or doors. Replacement of broken glass panes.
- 4.3.5. Awnings / Canopies: Replacement of or improvements to existing awnings or canopies. New awnings or canopies.
- 4.3.6. Historical Restoration: Restoration of architectural details of historic significance and / or removal of elements covering such details.
- 4.3.7. Roof Repair: Replacement or repair of all or portions of the roof.
- 4.3.8. Gutters and Downspouts: Replacement or repair of existing gutters and / or downspouts.
- 4.3.9. Ineligible: Though not an all-inclusive list, the following are specifically not eligible: burglar bars, painting a new building.

4.4. Interior Renovation: The following are Eligible Enhancements except as noted otherwise:

- 4.4.1. Renovations: Renovations that enhance the commercial usability of the building.

- 4.4.2. Ineligible: Though not an all-inclusive list, the following are specifically not eligible: painting, wallpaper, and other types of aesthetic treatments.
- 4.5. Landscaping: The following are Eligible Enhancements except as noted otherwise:
- 4.5.1. Edging: Providing a perimeter to shrub beds with materials deemed to be of a long life, e.g. brick, stone, concrete, steel.
 - 4.5.2. Shrubs and Trees: Shrubs and / or trees of a variety that are sustainable in the area when combined with removal of existing shrubs and / or trees that are either overgrown or of poor quality. Preference is given to xeriscape approaches using drought-tolerant plant species.
 - 4.5.3. Seasonal Color: Providing one-time planting of annual or perennial flowers in critical areas adequate to provide an appealing impact.
 - 4.5.4. Irrigation: Automatic irrigation system complying with all code requirements. Preference is given to water conservation measures and approaches (e.g. drip irrigation).
 - 4.5.5. Lawn Renovation: Removal or re-establishment of an existing lawn with a desirable type of lawn. (An automatic irrigation system is required with this Enhancement.)
 - 4.5.6. Fencing: Replacement of fencing or installation of new fencing that is visually appealing.
 - 4.5.7. Ineligible: Though not an all-inclusive list, the following are specifically not eligible: landscape pruning, mowing and / or maintenance.
- 4.6. Lighting: The following are Eligible Enhancements:
- 4.6.1. Interior: Lighting of a permanent nature that enhances the commercial viability of a building.
 - 4.6.2. Pedestrian: Increases in lighting in pedestrian areas on or adjacent to the Property, e.g. sidewalks, parking lots.
 - 4.6.3. Accents: Lighting that accentuates exterior features of the building or Property creating a pleasant ambience on the Property.
 - 4.6.4. Signage: Lighting that illuminates signage identifying the business.
- 4.7. Parking / Driveways: The following are Eligible Enhancements except as noted otherwise:
- 4.7.1. Reconstruction: Removal of existing pavement, gravel, curbing, drives, accessibility ramps, etc. and replacement with reconstruction meeting City requirements.
 - 4.7.2. Resurfacing: Re-topping asphalt parking areas.
 - 4.7.3. Restriping: Repainting of parking stall stripes and / or fire lane graphics meeting the City's requirements.
 - 4.7.4. Ineligible: Though not an all-inclusive list, the following are specifically not eligible: Installation, repair or replacement of any surface that is not an all-weather hard surface as required by the City's code of ordinances.

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4.8. Pedestrian Amenities: The following are Eligible Enhancements:

- 4.8.1. Paving: Paving of a unique nature in areas that allow customers to congregate.
- 4.8.2. Seating Areas: Provisions for seating in areas where customers may congregate before, during or after supporting the business.
- 4.8.3. Shade: Provisions for shading pedestrian areas to include permanent or temporary canopies, awnings, umbrellas or similar shade structures.
- 4.8.4. Music: Provisions for permanent installation of fixtures to accommodate providing music in areas where customers congregate.
- 4.8.5. Trash Receptacles: Trash receptacles establishing or matching a design theme utilized throughout the pedestrian areas.
- 4.8.6. Play Equipment: Recreational equipment intended for the entertainment of children when placed on private property in close proximity to the primary building.

4.9. Signage: The following are Eligible Enhancements. The replacement of signs that do not conform to current City requirements is a priority for the City.

- 4.9.1. Replacing Signs: Replacing existing signs, with new signage that complies with all City requirements.

4.10. Code Compliance: The following are Eligible Enhancements:

- 4.10.1. Public Accessibility: Reconstruction or new construction to comply with public accessibility requirements.
- 4.10.2. Fire Suppression Systems: Replacement, upgrade, or installation of fire suppression systems in compliance with current codes.

4.11. Demolition: The costs of demolishing and removing existing structures on a Property may be considered for Property Enhancements.

4.12. Public Art: Providing for the placement of Public Art on the Property.

4.13. Participation Limitations: The potential matching Grant for each type of Enhancement would be the lesser of the Maximum Percentage or Maximum Per Enhancement Category Amount. The Applicant is responsible for the remaining costs of the Enhancement and must complete the full Enhancement to be eligible for the matching Grant.

- 4.13.1. Maximum Percentage: A Maximum Percentage of fifty percent (50%) shall be the maximum percentage of the total cost of any Enhancement that the City will grant the Applicant.

4.13.2. Maximum Per Enhancement Category: A Maximum Amount of five thousand dollars (\$5,000) is the maximum dollar amount to be granted for any category of Enhancement.

4.13.3. Accumulative Maximum Grant: Notwithstanding the Maximum Percentage and Maximum Per Enhancement Category limitations for each type of Enhancement, no Property or Business may receive more than five thousand dollars (\$5,000) in matching Grants during one 12-month period. The following examples are provided to clarify different application scenarios:

- A. Example 1: Applicant desires to do \$12,000 in eligible Landscape Enhancements. By Policy, the maximum Grant allowed by the Max Percentage (50%) would be \$6,000, but the maximum Grant allowed by the Max Per Category would be \$5,000. The lesser of the two is \$5,000 which would be the maximum matching Grant for the \$12,000 landscaping project. Further, within a 12-month period the Applicant cannot receive additional grants for any Enhancements (per Section 4.13.3).
- B. Example 2: Applicant desires to do \$8,000 in eligible Landscape Enhancements. By Policy, the maximum Grant allowed by the Max Percentage (50%) would be \$4,000, and the maximum Grant allowed by the Max Per Category would be \$5,000. The lesser of the two is \$4,000 which would be the maximum matching Grant for the \$8,000 landscaping project. Further, within a twelve-month period the Applicant cannot receive more grants for Landscape Enhancements (per Section 3.1.8), but may apply and receive a second matching Grant, not to exceed \$1,000 (\$5,000 max - \$4,000 Grant) for any Enhancement category *other than* Landscaping.

Section 5.

Grant Priorities

The City has determined that the following are priorities for the benefits of this Policy. The evaluation of the merits of any Application shall take into consideration whether or not the Application also meets these priorities.

5.1. Preferred Areas: The following areas of the City are areas of priority for implementation of this Policy:

5.1.1. Transportation Corridors including; Saginaw Blvd, Bailey Boswell Rd, Old Decatur Rd, Blue Mound Rd (west side), McLeroy Blvd; and

5.1.2. Downtown areas.

5.2. Preferred Businesses: The following types of businesses are a priority for implementation of this Policy:

5.2.1. Retail;

5.2.2. Restaurants;

5.2.3. Professional Office;

5.2.4. Industrial and manufacturing; and

5.2.5. Any sales-tax generating business.

Section 6.

Administrative Procedures

Following are the Administrative Procedures regarding the Application for and approval of Building Improvement Grants:

6.1. Pre-Submittal: All Applicants are encouraged to meet with Staff prior to preparation of an Application.

Applicants should contact the following to set up a meeting.

Department of Economic Development
333 West McLeroy Blvd, Saginaw, TX 76179
(817) 230-0331

6.2. Application: The submittal of an Application is required prior to any evaluation of the request for Building Improvement Grants. The Application shall be on a form prepared by Staff and available on the City's website or at the location noted in 6.1.

6.2.1. Required Information: The following shall be included with the Application:

- A. Proof of ownership of the Property;
- B. Photographs of the existing Property;
- C. Drawings, renderings, plans of the proposed Enhancements;
- D. Written description of the Enhancements including building materials and color schemes to be used;
- E. Construction Cost estimate; and
- F. If Applicant is not the Property owner:
 - i. Written approval of the Application from the owner;
 - and ii. Copy of the signed lease agreement.

6.2.2. Amendments: Staff may amend the form of the Application as needed to more efficiently evaluate the merits of requested Enhancements.

6.3. Review & Evaluation: Following are criteria to review and evaluate the Application:

6.3.1. Review Criteria:

- A. Completeness of Application: Completeness of the Application; including all required attachments.
- B. Grant Priorities: Whether the Application includes a targeted business classification or whether it is located in a targeted improvement area as defined in Section 5.

- C. Impact: An estimation of the impact that the Enhancements might have, particularly as a catalyst for continued private investment.
- D. Non-funded Improvements: Are the improvements associated with the Grant part of a larger effort to enhance the Property.
- E. Elimination of a Non-Conformity: Do the Enhancements eliminate a legal non-conforming aspect of the Property.

6.3.2. Staff Evaluation and Recommendation: The coordinating Staff member shall convene a team of the appropriate persons to evaluate the Application. Upon review, such team shall prepare a recommendation to forward to the Board.

- A. Site Visit: Prior to formal evaluation of the Application, the Applicant shall allow Staff the opportunity to visit the Property to verify its status prior to any Enhancements.

6.4. Approval: The Board shall make the final decision regarding the merits of the Application and the appropriate Property Enhancement Grant to be given, if any, if funds are available as pre-approved by the Council for the funding period. If approval of the Application requires funds not pre-approved by the Council, the board will prepare a recommendation to forward to the Council for final approval. Upon approval of a matching Grant, the Board shall enter into an Agreement with the Applicant on a form acceptable to the City Attorney. The Agreement, at a minimum, must contain the following: 6.4.1. Enhancements: List the specifications of the proposed Enhancements on the Property.

6.4.2. Access: Provide the City and Staff access to the Property to ensure that the Enhancements or repairs are made according to the specifications and conditions in the Agreement.

6.4.3. Grant: Provide for the procedures of the matching Grant payment.

6.4.4. Recapture Provisions: Provide for the repayment of a Grant if the Applicant or the condition of the Property do not fulfill all obligations required under the Agreement. The City may take any remedy necessary to recover the funds, including filing a lien on the Property.

6.5. Pre-Construction Meeting: If the matching Grant is approved as noted above, and if deemed necessary by Staff, the Applicant must attend a pre-construction meeting with Staff to coordinate any required permits, execute Grant documents, and resolve any questions either party might have.

6.6. Notice to Proceed: Upon approval as noted above, Staff shall prepare and issue a written Notice to Proceed authorizing the Applicant to begin work on the Enhancements. The Notice to Proceed shall in no event be regarded as the issuance or approval of a building permit or any other construction permits.

6.6.1. Required: All Grant documents, including the Agreement with the City, must be executed and all required permits must be received prior to issuance of the Notice to Proceed.

- 6.6.2. Beginning of Work: All work must begin within sixty (60) days of the issuance of the Notice to Proceed.
- 6.6.3. Completion of Work: All work for approved projects must be complete within ninety (90) days of the Notice to Proceed unless an Applicant's written request for extension is granted in writing by the Board.
- 6.7. Construction: All construction shall be in accordance with all requirements for permitting and inspection required by the City.
- 6.8. Verification: Upon completion and approval of the work by the City, Staff shall verify that the work has been performed as authorized in the approval action.
- 6.8.1. Documentation: The Applicant shall provide Staff with documentation necessary to determine the Construction Costs of the Enhancements as approved, e.g. copies of paid contractor invoices, receipts or processed checks. Construction Costs not supported by adequate documentation shall not be eligible for reimbursement.
- 6.9. Payment: Upon verification of compliance with the approval action, Staff shall cause a check to be issued to the Applicant in the approved amount.
- 6.9.1. Cost Overruns: Any costs above and beyond the amounts approved shall be the responsibility of the Applicant.

Section 7.

Applicant / Owner Certifications

The Application shall include the following certifications which shall be affirmed by the Applicant / Owner by signing the Application.

- 7.1. Application Accuracy: The information provided in the Application, and all that may have been affixed thereto, is true and correct, and that the City may rely on all of the information therein contained, and all that may have been affixed thereto, as being true and correct.
- 7.2. Compliance: I (we) certify that I am (we are) solely responsible for all safety conditions and compliance with all safety regulations, building codes, ordinance and other applicable regulations. Neither approval of an Application nor payment of a Grant upon completion of the project shall constitute approval of the project by any City department or Staff or a waiver by the City of any safety regulation, building code, ordinance or other applicable regulation.
- 7.3. Insurance: I (we) certify that I (we) maintain sufficient insurance coverage for property damage and personal injury liability relating to the project.
- 7.4. Maintenance: I (we) certify that the Enhancements, once approved by the City shall be maintained for a period of three (3) years from the date of payment. No changes shall be made without prior written approval from the City.

- 7.5. Discretionary Rights: I (we) certify that I (we) acknowledge that the City has the absolute right of discretion in deciding whether or not to approve a matching Grant relative to the Application, whether or not such discretion is deemed arbitrary or without basis in fact including the right to approve or disapprove a Grant on terms and conditions that are contrary to the guidelines of this policy.
- 7.6. Policy Promotion: I (we) authorize the City to use an approved project to promote the merits of this Policy, including but not limited to displaying a sign at the Property or Business during and within thirty (30) days after construction, and using photographs and descriptions of the project in distribution material, press releases, social media and on the City's website.
- 7.7. Indemnification: I (we) certify that I am (we are) solely responsible for overseeing the work, and will not seek to hold the City, the Board, and / or their agents, employees, officers, and / or directors liable for any property damage, personal injury, or other loss related in any way to this Policy, and by submission of an Application, agree to indemnify the City, the Board, and / or their agents, employees, officers, and / or directors from any claims or damages resulting from the project, including reasonable attorney fees.

Section 8.

General Provisions

- 8.1. Termination: The City has the right to terminate any agreement under this Policy for any reason.
- 8.2. Changes During Construction: If an Applicant seeks to change the scope of their project after a Grant has been approved, the Applicant shall meet with Staff to discuss the desired change. Staff has the authorization to approve minor modifications during construction. Any other desired modification shall be placed before the approving body for reconsideration.
- 8.3. Flexibility: The terms and conditions of this Policy are a guideline for the Board during their deliberation and evaluation. The City reserves the right to modify the terms and conditions herein at any time, including for any pending application, and may approve a Grant on terms and conditions contrary to the guidelines set forth in this policy.
- 8.4. Section or Other Headings: Section or other headings contained in this Policy are for reference purposes only and shall not affect in any way the meaning or interpretation of this Policy.
- 8.5. Severability: In the event that any provision of this Policy is determined to be illegal, invalid, or unenforceable, then, and in that event, it is the intention that the remainder of this Policy shall not be affected thereby.

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City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Dolph Johnson
Assistant City Manager

Agenda Items: (4)(c)

E-mail: djohnson@saginawtx.org

Phone: 817-230-0325

SUBJECT:

Action regarding Resolution 2020-07 - Continued Participation with the Steering Committee of Cities Served by Oncor

BACKGROUND/DISCUSSION:

Purpose of the Resolution

The City of Saginaw is a member of a 162-member city coalition known as the Steering Committee of Cities Served by Oncor (Steering Committee). The resolution approves the assessment of a seven cent (\$0.07) per capita fee to fund the activities of the Steering Committee.

Why this Resolution is Necessary

The Steering Committee undertakes activities on behalf of municipalities for which it needs funding support from its members. Municipalities have original jurisdiction over the electric distribution rates and services within the city. The Steering Committee has been in existence since the late 1980s. It took on a formal structure in the early 1990s. Empowered by city resolutions and funded by per capita assessments, the Steering Committee has been the primary public interest advocate before the Public Utility Commission, ERCOT, the courts, and the Legislature on electric utility regulation matters for over two decades.

The Steering Committee is actively involved in rate cases, appeals, rulemakings, and legislative efforts impacting the rates charged by Oncor Electric Delivery Company, LLC within the City. Steering Committee representation is also strong at ERCOT. It is possible that additional efforts will be necessary on new issues that arise during the year, and it is important that the Steering Committee be able to fund its participation on behalf of its member cities. A per capita assessment has historically been used, and is a fair method for the members to bear the burdens associated with the benefits received from that membership.

Explanation of “Be It Resolved” Paragraphs

- I. The City is currently a member of the Steering Committee; this paragraph authorizes the continuation of the City’s membership.
- II. This paragraph authorizes payment of the City’s assessment to the Steering Committee in the amount of seven cents (\$0.07) per capita, based on the population figure for the City as shown in the latest TML Directory of City Officials.
- III. This paragraph requires payment of the 2020 assessment be made and a copy of the resolution be sent to the Steering Committee.

Payment of Assessment

A copy of the resolution should be mailed with payment of the fee to Brandi Stigler, Steering Committee of Cities Served by Oncor, c/o City Attorney's Office, Mail Stop 63-0300, 101 S. Mesquite St., Suite 300, Arlington, Texas 76010. Checks should be made payable to: *Steering Committee of Cities Served by Oncor*.

FINANCIAL IMPACT:

The financial impact will be \$1566.60 which is budgeted in the General Administrative Office budget, Legal and Special Services and Audit, account no. 01-6650-02

RECOMMENDATION:

Staff recommends approval of Resolution 2020-07, authorizing continued participation with the Steering Committee of Cities Served by Oncor.

ATTACHMENTS:

Description

Resolution 2020-07

Committee Members Listing

CITY OF SAGINAW, TEXAS
RESOLUTION NO. 2020-07

A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AND AUTHORIZING THE PAYMENT OF SEVEN CENTS PER CAPITA TO THE STEERING COMMITTEE TO FUND REGULATORY AND LEGAL PROCEEDINGS AND ACTIVITIES RELATED TO ONCOR ELECTRIC DELIVERY COMPANY, LLC.

- WHEREAS, the City of Saginaw is a regulatory authority under the Public Utility Regulatory Act (PURA) and has exclusive original jurisdiction over the rates and services of Oncor Electric Delivery Company, LLC (Oncor) within the municipal boundaries of the city; and
- WHEREAS, the Steering Committee of Cities Served By Oncor (Steering Committee) has historically intervened in Oncor rate proceedings and electric utility related rulemakings to protect the interests of municipalities and electric customers residing within municipal boundaries; and
- WHEREAS, the Steering Committee is participating in Public Utility Commission dockets and projects, as well as court proceedings, and legislative activity, affecting transmission and distribution utility rates; and
- WHEREAS, the City is a member of the Steering Committee; and
- WHEREAS, the Steering Committee functions under the direction of an Executive Committee which sets an annual budget and directs interventions before state and federal agencies, courts and legislatures, subject to the right of any member to request and cause its party status to be withdrawn from such activities; and
- WHEREAS, the Executive Committee in its December 2019 meeting set a budget for 2020 that compels an assessment of seven cents (\$0.07) per capita; and
- WHEREAS, in order for the Steering Committee to continue its participation in these activities which affects the provision of electric utility service and the rates to be charged, it must assess its members for such costs.

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

I.

That the City is authorized to continue its membership with the Steering Committee of Cities Served by Oncor to protect the interests of the City of Saginaw and protect the interests of the customers of Oncor Electric Delivery Company, LLC residing and conducting business within the City limits.

II.

The City is further authorized to pay its assessment to the Steering Committee of seven cents (\$0.07) per capita based on the population figures for the City shown in the latest TML Directory of City Officials.

III.

A copy of this Resolution and the assessment payment check made payable to "*Steering Committee of Cities Served by Oncor*" shall be sent to Brandi Stigler, Steering Committee of Cities Served by Oncor, c/o City Attorney's Office, Mail Stop 63-0300, 101 S. Mesquite St., Suite 300, Arlington, Texas 76010.

PRESENTED AND PASSED on this the 3rd day of March, 2020, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Saginaw, Texas.

Todd Flippo
Mayor

ATTEST:

Janice England
City Secretary

APPROVED AS TO FORM:

Bryn Meredith
City Attorney

STEERING COMMITTEE CITIES SERVED BY ONCOR (162)

Addison	Frisco	Plano
Allen	Frost	Pottsboro
Alvarado	Gainesville	Prosper
Andrews	Garland	Ranger
Anna	Glenn Heights	Red Oak
Archer City	Grand Prairie	Rhome
Argyle	Granger	Richardson
Arlington	Grapevine	Richland
Azle	Haltom City	Richland Hills
Bedford	Harker Heights	River Oaks
Bellmead	Haslet	Roanoke
Belton	Henrietta	Robinson
Benbrook	Hewitt	Rockwall
Beverly Hills	Highland Park	Rosser
Big Spring	Honey Grove	Rowlett
Breckenridge	Howe	Sachse
Bridgeport	Hudson Oaks	Saginaw
Brownwood	Hurst	Sansom Park
Buffalo	Hutto	Seagoville
Burkburnett	Iowa Park	Sherman
Burleson	Irving	Snyder
Caddo Mills	Jolly	Southlake
Cameron	Josephine	Springtown
Canton	Justin	Stephenville
Carrollton	Kaufman	Sulphur Springs
Cedar Hill	Keene	Sunnyvale
Celina	Keller	Sweetwater
Centerville	Kennedale	Temple
Cleburne	Kerens	Terrell
Coahoma	Killeen	The Colony
Colleyville	Krum	Trophy Club
Collinsville	Lake Worth	Tyler
Colorado City	Lakeside	University Park
Comanche	Lamesa	Venus
Commerce	Lancaster	Waco
Coppell	Lewisville	Watauga
Copperas Cove	Lindale	Waxahachie
Corinth	Little Elm	Westover Hills
Cross Roads	Little River Academy	Westworth Village
Crowley	Malakoff	White Settlement
Dallas	Mansfield	Wichita Falls
Dalworthington Gardens	McKinney	Willow Park
DeLeon	Mesquite	Woodway
De Soto	Midland	Wylie
Denison	Midlothian	
Duncanville	Murchison	
Early	Murphy	
Eastland	New Chapel Hill	
Edgecliff Village	North Richland Hills	
Ennis	Northlake	
Eules	Oak Leaf	
Everman	Oak Point	
Fairview	Odessa	
Farmers Branch	O'Donnell	
Fate	Ovilla	
Flower Mound	Palestine	
Forest Hill	Pantego	
Forney	Paris	
Fort Worth	Parker	



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Janice England
City Secretary

Agenda Items: (4)(d)

E-mail: jengland@saginawtx.org

Phone: 817-230-0327

SUBJECT:

Action regarding Proposal for Radio Marketing Partnership with 95.9 The Ranch and 92.1 Hank FM for the 2020 Saginaw Train & Grain Festival

BACKGROUND/DISCUSSION:

This proposal is very similar to the partnership approved for the 2019 Saginaw Train & Grain Festival. It includes advertisement of the festival on both 95.9 The Ranch and 92.1 Hank FM through multiple announcements on air, their websites, station apps, and Facebook pages. It includes a two hour remote "experience" broadcast by 92.1 Hank FM from noon until 2:00 p.m. which includes promotion of our event and activities as well as encouraging listeners to come to the festival. The "Hank Party Patrol" will entertain the crowd with family friendly games and competitions.

The total cost for all advertisements on both radio stations, live broadcast (including prizes), artwork design for 11x17 posters, a Facebook header graphic and social media versions of the poster for web and sharing is \$9,150. The coverage area for both stations is over 3 million in population and 17+ counties. This will provide an avenue to promote our festival in a way that we can't do ourselves. It also meets the requirements for using hotel/motel tax funds because it will advertise and promote the festival outside the City. We have met with representatives of 95.9 The Ranch and 92.1 Hank FM regarding this partnership. They are excited to have the opportunity to be part of our festival again this year.

FINANCIAL IMPACT:

The financial impact will be \$9,150. Funds are available in the General Escrow Fund, Hotel/Motel Tax.

RECOMMENDATION:

Staff recommends approval of the proposed agreement.

ATTACHMENTS:

Description

Proposal for Radio Marketing Partnership--2020 T&G Festival

Saginaw
Train & Grain
Festival
Celebrating Our History



Saginaw Train and Grain Festival

Saturday, October 17th 2020

Radio Marketing Partnership with the City of Saginaw and
95.9 The Ranch and 92.1 Hank FM



2020 Saginaw Train and Grain Festival

The Ranch and Hank FM Radio Partnership



Saturday, October 17th 2020

The Ranch and Hank FM are excited to support the Saginaw Train and Grain Festival! The Ranch and Hank FM will promote and support the 2020 Saginaw Train and Grain Festival in the following ways:

- Custom 2020 Saginaw Train and Grain Festival Poster Design
- 3 Weeks of On- Air Station Promos on 92.1 Hank FM
- LIVE 2-Hour Hank FM Experience in the Kids Zone area
 - Target Time – 12noon – 2pm
- 3 Weeks of On-Air Promos on 95.9 The Ranch
- 2 Facebook posts about the event on the Hank FM page.
- 1 Facebook post about the event on The Ranch page.
- Featured Web Articles on 959theranch.com and 921hankfm.com
- In App Ads on The Hank FM and The Ranch App

Saginaw
Train & Grain
Festival
Celebrating Our History





On-Air Promos and Online Promotions on Hank FM and The Ranch

Hank FM and The Ranch will promote the Saginaw Train and Grain Festival through a :30 Second Station Promo Schedule on BOTH The Ranch and Hank FM. All Station promos run around the clock to ensure total audience reach.

The Saginaw Train and Grain Festival will receive;

KTFW – 92.1 Hank FM – 3 week Promo Schedule

- **MINIMUM 168 (:30 Second) station promos** from September 28th – October 16th - *Valued at \$12,600*
- **MATCH with 168 streaming promos** on 921hankfm.com – *Valued at \$1,200*
- **Saginaw Train and Grain Festival website article** on 921hankfm.com (more details on page 4) – *Valued at \$500*
- **MINIMUM 20,000 In App Ads** on the Hank FM App from 9/28 – 10/17 (More details on page 5) – *Valued at \$200*
- **2 Facebook Posts on the Hank FM Facebook page** promoting the Saginaw Train and Grain Festival – *Valued at \$300*

KFWR – 95.9 The Ranch – 3 week Promo Schedule

- **MINIMUM 75 (:30 Second) station promos** from September 28th – October 16th - *Valued at \$5,625*
- **MATCH with 75 streaming promos** on 959theranch.com – *Valued at \$500*
- **Saginaw Train and Grain Festival website article** on 959theranch.com (more details on page 4) – *Valued at \$500*
- **MINIMUM 20,000 In App Ads** on the Ranch App from 9/28 – 10/17 (More details on page 5) – *Valued at \$200*
- **1 Facebook Post on the Ranch Facebook page** promoting the Saginaw Train and Grain Festival – *Valued at \$150*

The approximate promotional value of the On-Air and Online portion of the proposal is over \$21,775!

Saginaw Train & Grain Festival

Celebrating Our History

2 Hour Experience on Hank FM

The Hank Party Patrol will be on site at the Saginaw Train and Grain Festival for a Hank FM Experience to entertain the crowd and hand out great prizes! The Hank FM Party Patrol will host family friendly activities with fun giveaways for all ages! 92.1 Hank FM will play loud and proud over our sound system during the entire event to keep the party going. During the event, Hank's Party Patrol will register Saginaw Train and Grain Fest attendees to win prizes, play fun, family friendly games and hang out with listeners. Our Party Patrol will lead kid friendly competitions and create a fun engaging atmosphere for all ages! Hank FM reserves the right to sell up to two 3rd party co-sponsors of the event that do not conflict with festival sponsors.

1 (2 Hour) experience on 92.1 Hank FM on Saturday, October 17th from 12noon – 2pm includes:

- **30 :30 Second Promotional announcements** 10/12 – 10/16
- Hank FM Party Patrol Crew on Site for 2-Hours with music, games, and event themed prizes.
- Inclusion on 921hankfm.com events page
- Hank FM DJ On Site for Call Ins LIVE from Event – *Talent Fee \$150*

The Approximate promotional value of the Hank FM Experience is \$7,150.

Saginaw Train and Grain Festival's Investment is only \$3,650!



959theranch.com and 921hankfm.com Featured Articles

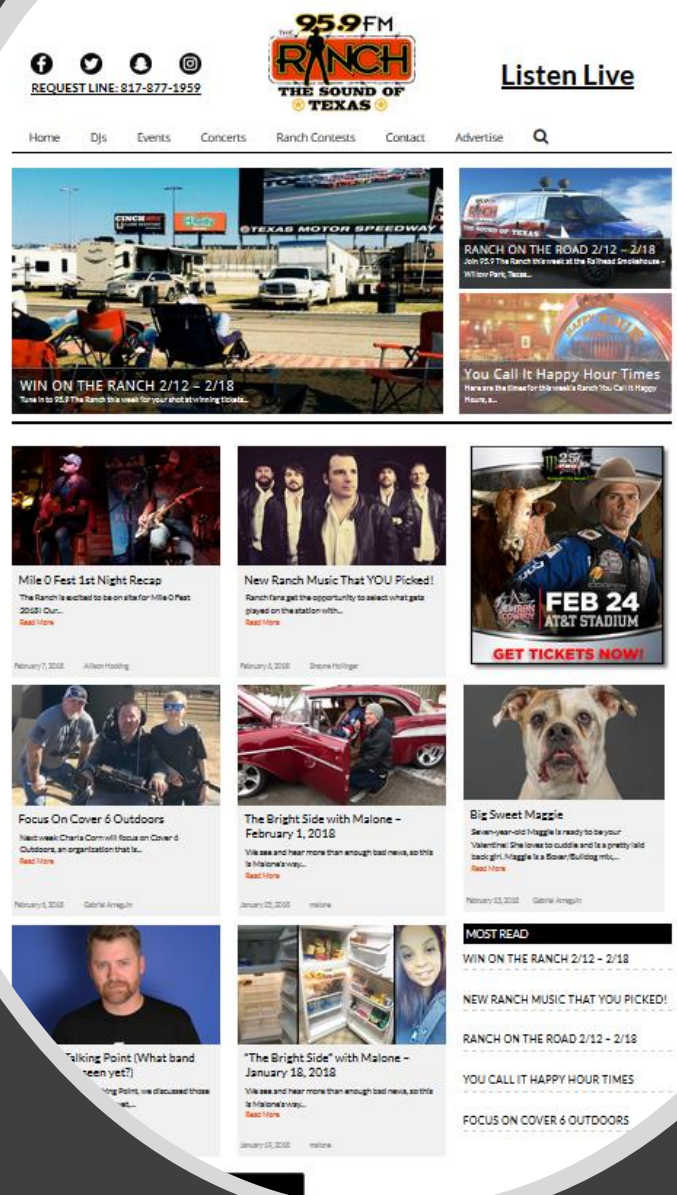
The new 959TheRanch.com and 921hankfm.com utilize news style posts to create awareness about station events and promotions.

The posts are shareable on social media and are featured prominently for a minimum of one week on the 959theranch.com and 921hankfm.com homepages.

The website articles on both stations will feature all of the family fun events going on at the Saginaw Train and Grain Festival. The posts are shareable on social media, and can link directly to the official festival website.

- Ranch Approximate Article Date – 10/5, valued at \$500
- Hank FM Approximate Article Date – 10/12, valued at \$500

The Approximate promotional value of the featured articles is \$1,000.



In App Ads

Our 95.9 The Ranch App and Hank FM app has been downloaded over 850,000 times to Apple and Android devices!

The Saginaw Train and Grain Festival can reach an interactive audience utilizing an in-app ad during the length of the promotion.

The In-App ad is up to 120 characters, and will link directly to the Saginaw Train and Grain Fest website.

The In-App ad will run from September 28th — October 17th on Hank FM and The Ranch Apps

- MINIMUM 20,000 impressions per station, for a total of **over 40,000 impressions** during the campaign!

The approximate promotional value of the in app ad is \$400!





Proposal Summary – 2020 Saginaw Train and Grain and Ranch and Hank FM Radio Partnership

KTFW – 92.1 Hank FM will provide:

- **2-Hour Hank FM Experience** from 12 noon – 2pm with music, games and prizes! – *Valued at \$7,150*
- **MINIMUM 168 (:30 Second) station promos** from September 28th – October 17th - *Valued at \$12,600*
- ***MATCH with 168 streaming promos*** on 921hankfm.com – *Valued at \$1,200*
- **Saginaw Train and Grain Festival website article** on 921hankfm.com (more details on page 4) – *Valued at \$500*
- **MINIMUM 20,000 In App Ads** on the Hank FM App from 9/28 – 10/17 (More details on page 5) – *Valued at \$200*
- **2 Facebook Posts on the Hank FM Facebook page** promoting the Saginaw Train and Grain Festival – *Valued at \$300*
- **Custom 2020 Saginaw Train and Grain Festival Poster Design** – *Valued at \$600*

KFWR – 95.9 The Ranch will provide:

- **MINIMUM 75 (:30 Second) station promos** from September 28th – October 16th - *Valued at \$5,625*
- ***MATCH with 75 streaming promos*** on 959theranch.com – *Valued at \$500*
- **Saginaw Train and Grain Festival website article** on 959theranch.com (more details on page 4) – *Valued at \$500*
- **MINIMUM 20,000 In App Ads** on the Ranch App from 9/28 – 10/17 (More details on page 5) – *Valued at \$200*
- **1 Facebook Post on the Ranch Facebook page** promoting the Saginaw Train and Grain Festival – *Valued at \$150*

The total approximate promotional value of the proposal is over \$29,525!

In exchange for the above, Hank FM and The Ranch will receive –

- **Hank FM as official Media Partner of the Saginaw Train and Grain Festival, with Hank FM logo on Tee Shirts, Website, etc.**
- **Total Cash Investment of \$9,150** (\$6,150 on Hank FM, and \$3,000 on The Ranch).



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Janice England
City Secretary

Agenda Items: (4)(e)

E-mail: jengland@saginawtx.org

Phone: 817-230-0327

SUBJECT:

Action Regarding Ordinance No.2020-05, Canceling the May 2, 2020 General Election and Declaring Each Unopposed Candidate Elected to Office

BACKGROUND/DISCUSSION:

The deadline for candidates to sign up for the May 2, 2020 election has passed. Only the incumbents signed up for each of their places (Place 4-Charles Tucker, Place 6-Mary Copeland.) Therefore, we can cancel our election. Ordinance 2020-05 cancels the election and declares the unopposed candidates elected. Both candidates will be sworn into office on May 19, 2020.

FINANCIAL IMPACT:

The financial impact will be the savings from the cancellation (approximately \$10,000).

RECOMMENDATION:

Staff recommends approval.

ATTACHMENTS:

Description

Ordinance 2020-05

ORDINANCE NO. 2020-05

AN ORDINANCE CANCELING THE MAY 2, 2020 GENERAL ELECTION AND DECLARING EACH UNOPPOSED CANDIDATE ELECTED TO OFFICE; PROVIDING THAT THE ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Saginaw is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, in accordance with law a general election has been ordered for May 2, 2020 for the purpose of electing council members to serve on the city council in the City of Saginaw; and

WHEREAS, no proposition is to appear on the ballot in that election; and

WHEREAS, the city secretary has certified in writing that each candidate on the ballot is unopposed for election to office; and

WHEREAS, the filing deadlines for placement on the ballot and declaration of write-in candidacy has passed; and

WHEREAS, in these circumstances Subchapter C of Chapter 2 of the Texas Election Code authorizes a governing body to declare each unopposed candidate elected to office and cancel the election.

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

SECTION 1.

The following candidates, who are unopposed in the May 2, 2020 general election are hereby declared elected to office, and shall be issued a certificate of election.

Council Place 4 Charles Tucker

Council Place 6 Mary Copeland

SECTION 2.

The general election previously ordered for May 2, 2020 for the purpose of electing council members to serve on the city council in the City of Saginaw is hereby cancelled.

SECTION 3.

The city secretary is directed to post a copy of this ordinance at each designated polling place on May 2, 2020.

SECTION 4. CUMULATIVE CLAUSE

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

SECTION 5. SEVERABILITY

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

SECTION 6. EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its date of passage, and it is so ordained.

PASSED AND APPROVED ON THIS 3rd DAY OF MARCH, 2020.

Todd Flippo, Mayor

ATTEST:

Janice England, City Secretary

APPROVED AS TO FORM AND LEGALTY:

Bryn Meredith, City Attorney



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Rick Trice, P.E.
Director of Public Works

Agenda Items: (4)(f)

E-mail: rtrice@saginawtx.org

Phone: (817) 230-0449

SUBJECT:

Action regarding Rejection of Bids for Finish Mowing/Grounds Maintenance of City Parks and Rights-of-Ways

BACKGROUND/DISCUSSION:

The City contracts out the majority of mowing and grounds maintenance on a biennial cycle. The FY 2019-20 Budget programmed \$160,085 for the contract.

The following bids were received for the contract on February 19, 2020:

<u>Bidder</u>	<u>Bid Amount</u>
Burly Bros Construction	\$207,500.00
Yellowstone Landscape	\$214,809.52

Based on the bids both exceeding the budgeted amount, staff is recommending that the bids be rejected and that the contract be rebid at the earliest opportunity.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

It is recommended that the bids be rejected and that the contract be rebid at the earliest opportunity.



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Gabe Reaume
City Manager

Agenda Items: (4)(g)

E-mail: greaume@saginawtx.org

Phone: 817-230-0324

SUBJECT:

Action regarding Retail Retention, Recruitment and Development Services Proposal with the Retail Coach

BACKGROUND/DISCUSSION:

The proposed agreement is a follow up to the presentation given by Aaron Farmer at the February 18, 2020 Council Meeting. It covers retail retention, recruitment and development services.

FINANCIAL IMPACT:

The financial impact is a fee of \$30,000, plus reimbursable expenses. This expenditure will be covered by funds within the existing economic development budget.

RECOMMENDATION:

Upon the advice of the City Attorney, staff recommends the City Council authorize the City Manager to enter into an agreement under the terms of the proposal.

ATTACHMENTS:

Description
Proposal



Retail Retention, Recruitment and Development Services



DATE:

February 2020

PREPARED FOR:

Saginaw, Texas

PREPARED BY:

Aaron Farmer
President

c: 662.231.0608

e: afarmer@theretailcoach.net

CONTENTS:

About The Retail Coach.....	2
Our Team & Retail Successes	3
The Retail360 Process	4
Scope of Services.....	5
Project Deliverables.....	16
Past Timeline & Pricing.....	17



WHO WE ARE

Your Retail Partner

We are a national retail consulting, market research, and development firm. Our experience combines strategy, technology, and creative marketing to execute high-impact retail recruitment and development strategies for local governments, chambers of commerce, and economic development organizations.

Since 2000, we have provided the research, relationships, and strategies needed to drive new retail developments in communities across the United States.

PROVEN RESULTS

5 million

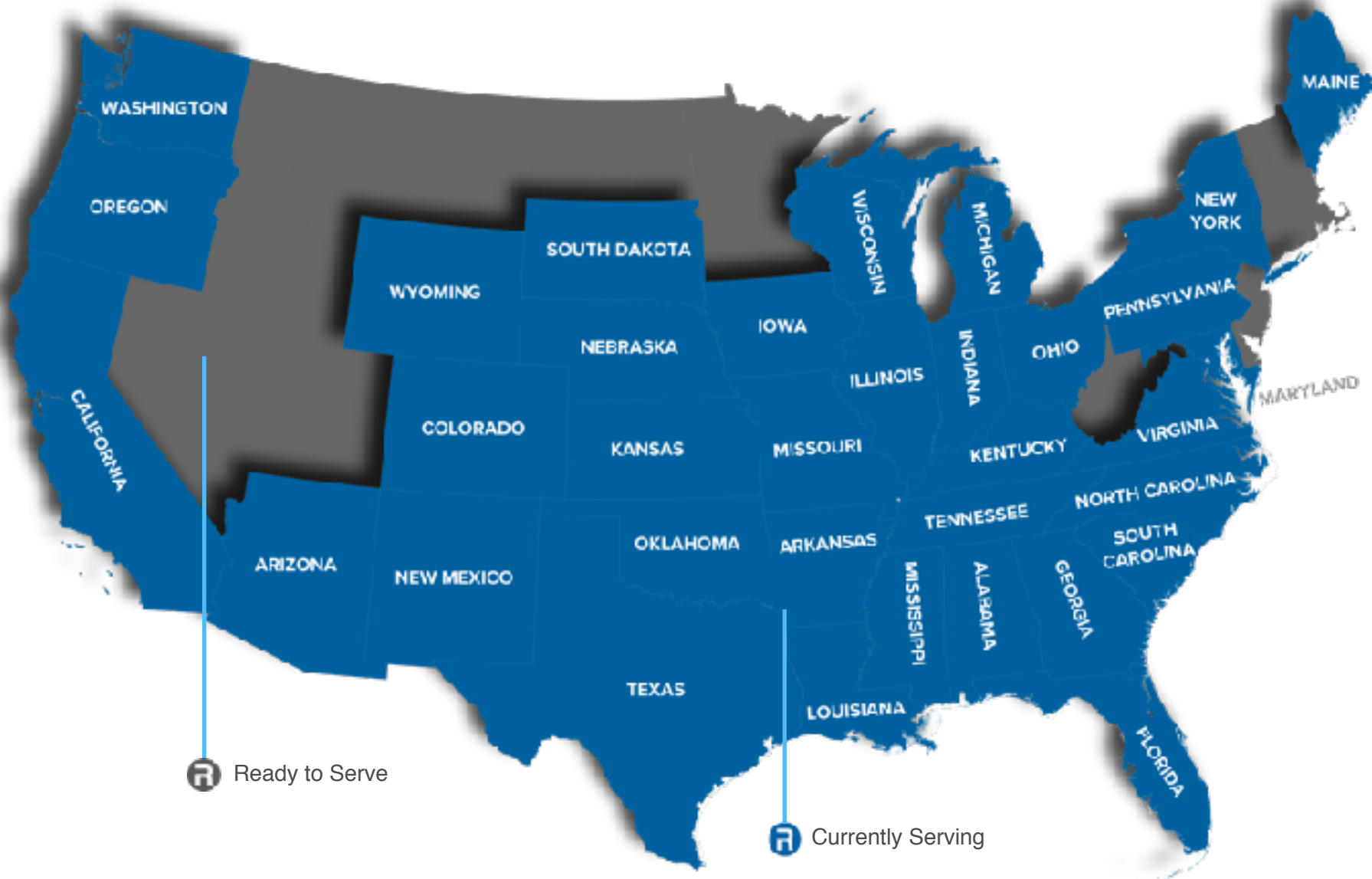
Square feet of new retail space recruited to client communities in the past five years

\$600 million

Additional sales tax dollars generated in client communities in the past five years

500+

Communities throughout the United States have trusted The Retail Coach with their retail recruitment efforts





Retail Recruitment Experts You Can Trust



- 50+ years of retail recruitment and development experience.
- We are consultants, not brokers. We have no conflicts of interest and will do what is best for the long-term growth of your community.
- Member of the most exclusive retail professional network - CCIM.

OUR TEAM OF RETAIL RECRUITMENT EXPERTS DEDICATED TO SAGINAW'S PROJECT

Project Lead



Aaron Farmer
President



Kelly Cofer, CCIM
CEO



Charles Parker
Project Director



Kyle Cofer
Project Manager



Austin Farmer
Project Director



Nancy Dees
Director of Finance



Matthew Lautensack
Director of Research & Development



Caroline Hearnberger
Retail Recruitment Specialist

RETAILERS WE'VE RECRUITED



And Hundreds More...



A PROVEN PROCESS FOR RESULTS

Retail360®: Moving Beyond Data to Bring Retail to Saginaw

Retail recruitment is a process, not an event. Through our proprietary Retail360® Process, we offer a dynamic system of products and services that enable communities to expand their retail base and generate additional sales tax revenue.



Market-Based Solutions

We understand that no two communities are the same. Each has its unique set of development or redevelopment needs. We work with our clients to determine these needs and offer custom, tailored solutions. Our strategies are data driven, and verified through our comprehensive Retail360® Process.

On-The-Ground Analysis

Just as each client has their own set of needs, we know that each client has a unique position in the marketplace as it competes to recruit new retailers. We spend time in your community with leaders and stakeholders. We are able to determine your market position and identify retailers that fit your community.

Retail Action Plan

We analyze, recommend, and execute aggressive strategies for pursuing the ideal retailers. This partnership typically produces the best results when together, we derive short-term and long-term strategies based on market data and opportunities. We coach our clients through the recruitment and development process.



Scope of Services

PHASE 1

Analyzing The Market

Custom Retail Trade Areas

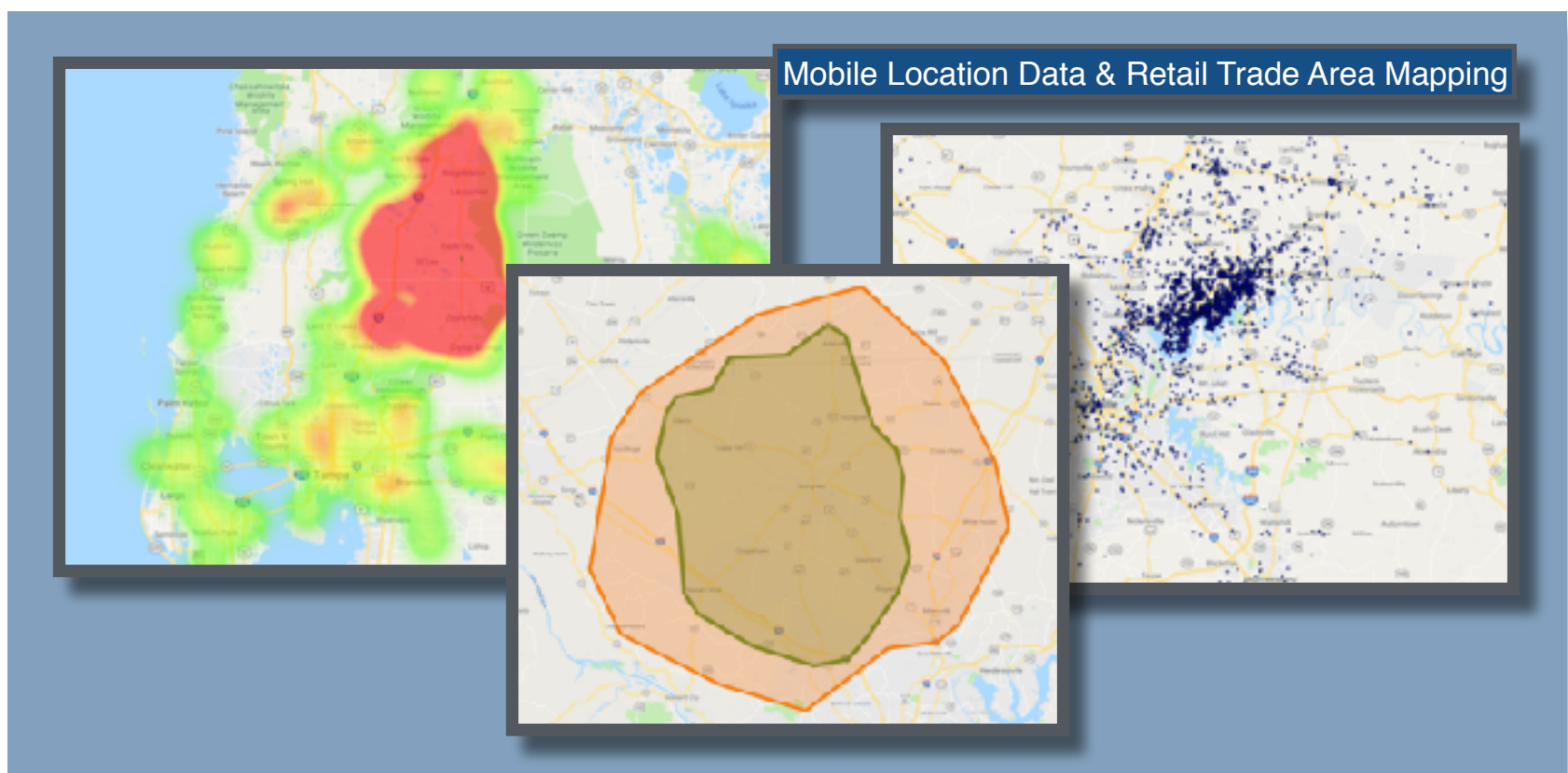
The Retail Trade Area (RTA) is the foundation of retail recruitment strategy, and its accuracy is critical. The Retail Trade Area is the geographical area from which a community's retailers derive a majority of their business. Drive times and radial analysis are not the best way to depict an accurate Retail Trade Area. To best confirm a community's Retail Trade Area, we will execute the following strategic steps:

Mobile Data for Location Decisions

The Retail Coach will utilize mobile location technology that analyzes location and behavioral data collected from mobile devices to determine consumer visits to Saginaw. This high-confidence data is used to verify Retail Trade Areas and validate retail site selection decisions.

Retail Trade Area Mapping

The Retail Coach will delineate a boundary map of the Retail Trade Area using mobile data collected.



Demographic Profiling

A community must be able to instantaneously provide information and data sets sought by retailers during the site selection and site evaluation process. The data must be accurate, current, and readily available.

The Retail Coach will create comprehensive 2010 Census, 2020, and 2025 demographic profiles for the Retail Trade Area and Saginaw community. The profile includes population and projected population growth, race, ethnicities, average and median household incomes, median age, households and household growth, and educational attainment.

Analyzing The Market

Daytime Population

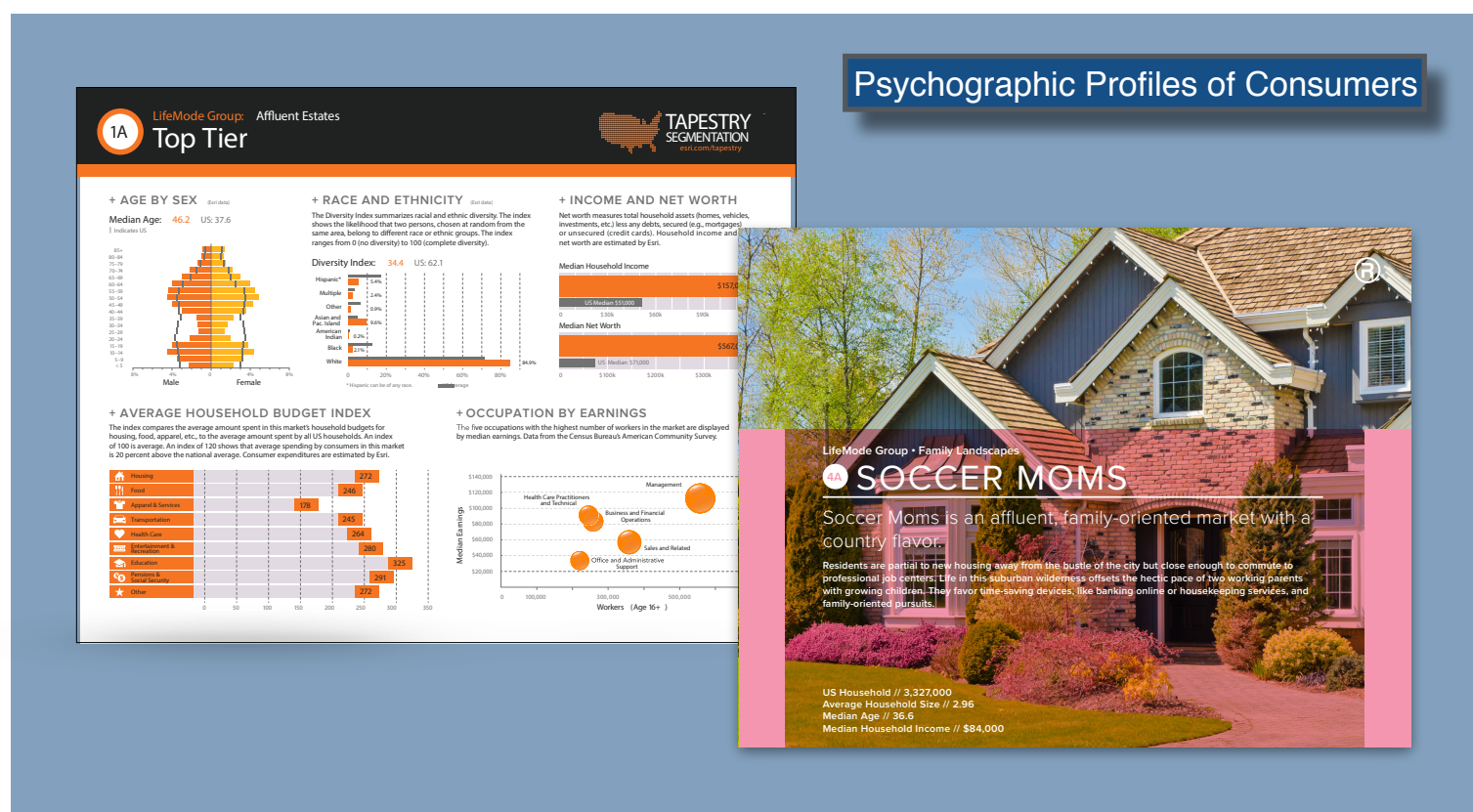
The workplace population, or daytime labor market area, is important to quick-serve and casual dining restaurants that rely heavily on lunch business.

The Retail Coach will provide an employment summary report detailing the total number of establishments, by industry, and employee counts within the designated labor market area. This report will provide insight into the “work here” population versus the “live here” population.

Psychographic Profiling

As retail site selection has evolved from an art to a science, psychographic lifestyle segmentation has become an essential element of retailers’ preferred location criteria. Understanding a consumer’s propensity to purchase certain retail goods and services—as well as specific retail brands—is valuable to national, regional, and independent retailers.

Based on the market segmentation system developed by ESRI, The Retail Coach will develop a Tapestry Segmentation profile of the households in the Retail Trade Area. This is done by using the most advanced socioeconomic and demographic data to measure consumer attitudes, values, lifestyles, and purchasing behaviors to understand the categories and brands of retailers that may be of interest.



Determining Retail Opportunities

Retail Gap Analysis

A Retail Gap Analysis (RGA) will determine the level of retail demand for a designated Retail Trade Area. The analysis computes the retail potential of the Retail Trade Area and then compares it to estimated actual sales in the community. The difference is either a leakage, where Saginaw consumers are traveling outside the community to purchase certain retail goods and services, or a surplus, where consumers are traveling from outside to Saginaw to purchase certain retail goods and services.

The Retail Coach will perform a Retail Gap Analysis to calculate the approximate flow of retail dollars in and out of Saginaw.

The Retail Gap Analysis will:

- Identify retail sales surpluses and leakages for more than 70 retail categories and sub-categories.
- Distinguish retail categories with the highest prospect for success and quantify their retail potential.

Entertainment Opportunity Analysis

An Entertainment Opportunity Analysis will determine the level of demand for a designated Entertainment Trade Area. The analysis will identify the entertainment draw for Saginaw and identify potential sales number for entertainment categories, including: movie theatre, bowling, family entertainment, etc.

Marginal Propensity to Consume Analysis

The Retail Coach will perform a Marginal Propensity Index analysis to measure the likely demand for a product or service in an area. The analysis compares the expected number of local consumers to the national demand for a particular product or service. The resulting Marginal Propensity Index (MPI) provides insight into the Saginaw consumer market and identifies key products/services that are in high demand.

Identifying Development & Redevelopment Opportunities



Retailers are interested not only in the market data on your community, but also in evaluating all available sites that fit their site selection and location preferences. A community must create and maintain a database of prime available properties along with accurate and current marketing information.

- Existing market conditions
- Traffic counts and traffic patterns
- Site-line visibility from primary & secondary traffic arteries
- Ingress/egress & adequate parking
- Site characteristics, Topography & Proximity to retail clusters

The Retail Coach will put an emphasis on analyzing and developing a re-development plan for the Wayside Middle School site.

- Property size, dimensions, and location
- Aerial photographs
- Site plan
- Demographic profile
- Traffic count
- Appropriate contact information

PHASE 4

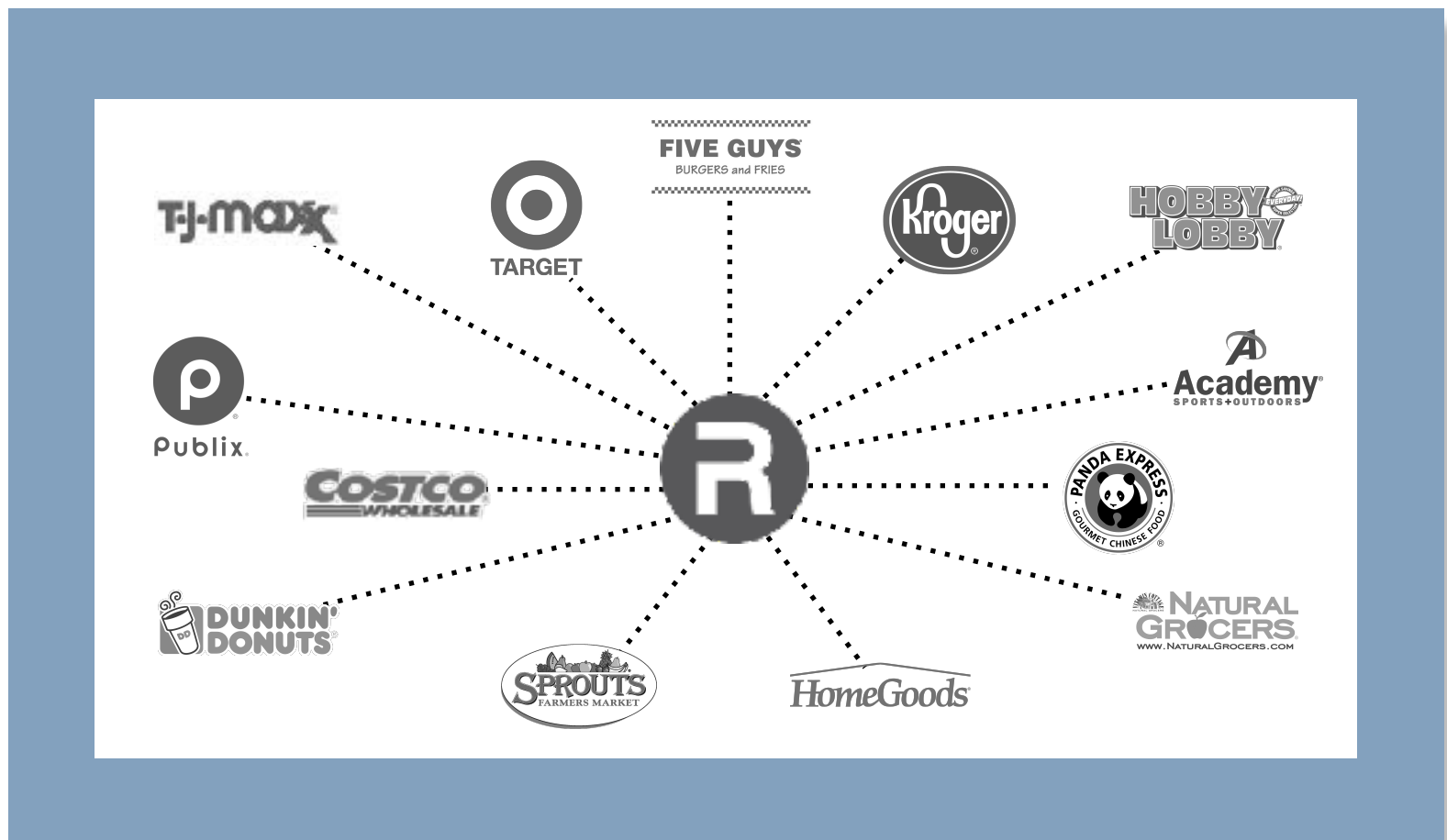
Identifying Retailers & Developers for Recruitment

The Retail Coach has been successful in recruiting leading retail brands to our client communities for more than 17 years. Our process is driven by providing accurate and current data sets as well as site-specific information to retailers, brokers, and developers.

Identification of Retail Prospects (Traditional Retail, Restaurants, Entertainment, Mixed Use)

The Retail Coach will target national and regional retail brands that are a good “fit” for the community. This means the Retail Trade Area population, disposable incomes, consumer spending habits, and education levels meet the retailers’ ideal location criteria.

The Retail Coach will review a master list with Saginaw staff and work together to prepare a final target list of retailers for recruitment.



Identification of Developer Prospects (Retail, Entertainment, and Mixed Use Developers)

Retail recruitment is relationship based. Since 2000, The Retail Coach has worked to establish a reliable network of developer contacts.

Developer networking and developer recruitment have become key components in a community’s retail recruitment and development success. Retailers have specific property requirements based on their site location criteria. A mid-to high-tier retailer might show interest in a community; however, there may not be sufficient ready-to-lease properties matching their needs and brand requirements.

In this case it is important to illustrate the need for new development / redevelopment to developers in your market.

The Retail Coach will use its network to identify retail real estate developers active in the region for recruitment.

PHASE 5

Marketing & Branding

To attract targeted retailers, the most critical step is providing accurate, current, and site-specific information on the community and its Retail Trade Area. It is important that this marketing information positively reflects your community's attributes and brand to corporate site selectors, real estate brokers, and developers.

Retail Market Profile / Flyer

The Retail Coach will develop a retail market profile tailored to the specific needs of targeted retailers' essential site selection and location criteria. The profile serves as a community introduction and includes:

- Retail Trade Area Map
- Location Map
- Traffic Count Map
- Demographic Profile Summary
- Appropriate logo and contact information



Retailer Feasibility Packages

The Retail Coach will create a retailer-specific feasibility package to address essential location criteria. The feasibility package includes:

- Community Overview
- Retail Site Profiles
- Location Map
- Retail Trade Area Map
- Existing Retailer Aerial Map
- Retailer Location Map
- Retail Trade Area Demographic Profile Summary
- Retail Gap Analysis Summary Table
- Retail Trade Area Psychographic Profile
- Retail Trade Area Demographic Profile
- Community Demographic Profile
- Area Traffic Generators
- Appropriate logo and contact information

Real Estate Developer Opportunity Package

The Retail Coach will create a developer opportunity package to highlight the need for development / redevelopment. This will include:

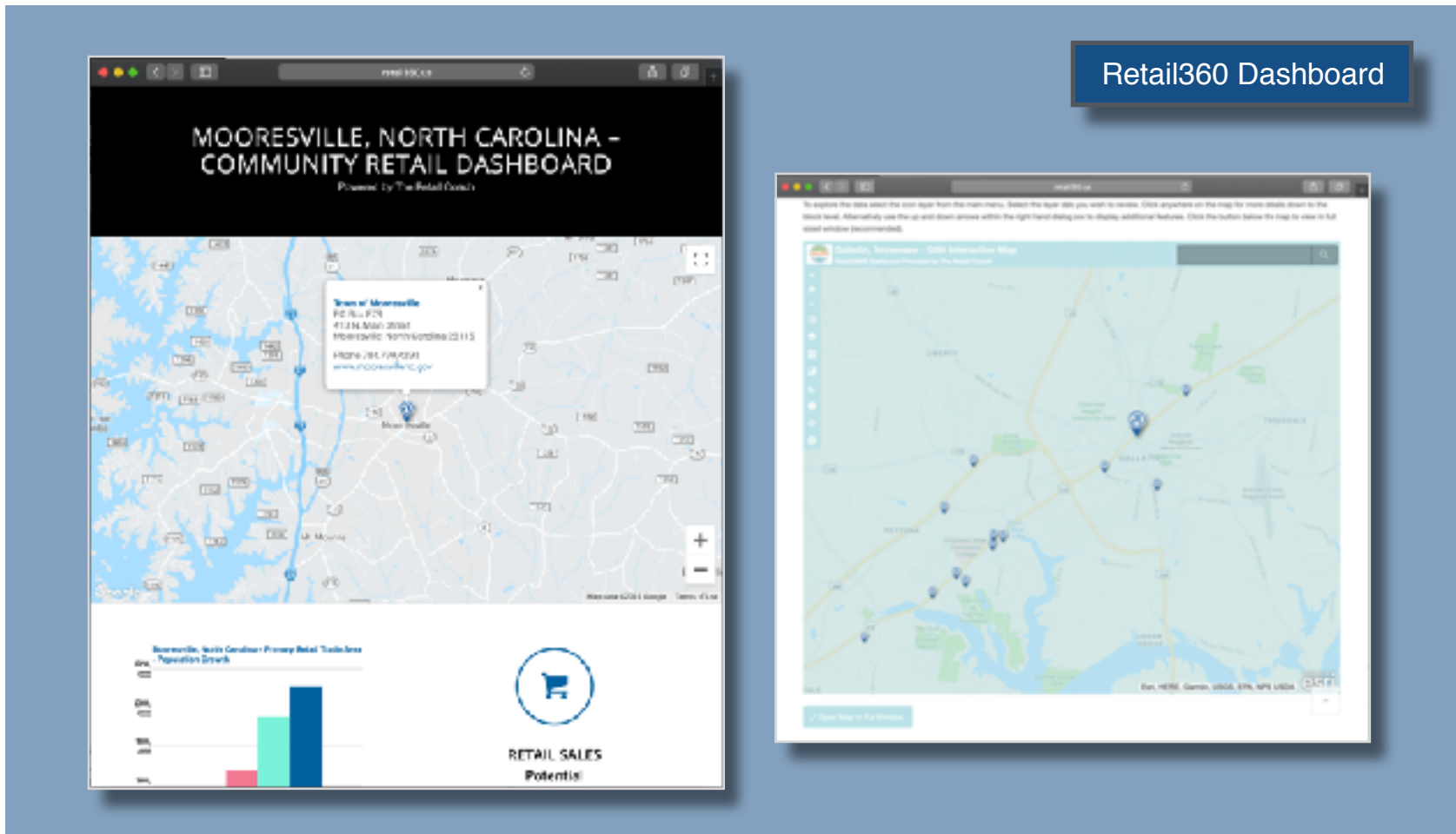
- Community Overview
- Location Map
- Retail Trade Area
- Demographic Trends
- Aerial Imagery
- Traffic Counts
- Site-line visibility from major traffic arteries
- Ingress/egress for primary traffic arteries
- Median cuts or possibilities
- Traffic signal existence or possibilities
- Site characteristics and topography
- Appropriate Zoning
- Area Retail
- Residential clustering and support
- Proximity to "anchor" retailers
- Top Employers
- Workplace Population
- Potential retail tenants

PHASE 5

Marketing & Branding

Online Retail Dashboard & Interactive Map

The Retail Coach will create an online community dashboard, which is available at Retail360.us/Saginaw-TX, for visual presentation and easy downloading of marketing information and data sets.



Site Mapping

As an accredited ESRI Partner, The Retail Coach is able to create a Retail360 Community Retail Dashboard for Saginaw. The dashboard provides easy access to the data reports and Retail Site Profiles. Considering retail site selectors do much of their research while in hotel rooms and in airports, a GIS platform that streamlines sites and data into one interactive and centralized location is a powerful tool. ®

Data can be presented by demographic, socioeconomic, psychographic, and retail spending layers that are detailed down to the block level to meet the needs of each individual user - whether that be a real estate broker, site selector, developer, or even a local entrepreneur. Additionally, this platform can be hosted as a stand-alone application on your iPad or embedded within your community's website for "touch of a button" access to important economic indicators such as: median household income, population density, population growth, psychographic lifestyle segmentation, ethnicity, median home value, and median age.

Recruiting Retailers & Developers

Recruitment of Retailers (Traditional Retail, Restaurants, Entertainment, Mixed Use)

Founded in 2000, The Retail Coach was the first national retail advisory firm to introduce retailer and developer recruitment specifically for communities. The recruitment of retailers remains one of the primary metrics of success. Today, our experience has proved a community must move beyond data.

The retailer recruitment process includes the following steps:

- Introductory emails and retail market profiles are sent to each targeted retailer.
- Personal telephone calls are placed to measure interest level.
- Personal emails and retailer feasibility packages are sent to each targeted retailer.
- Personal emails and retail site profiles for prime sites are sent to the appropriate targeted retailer.
- Personal emails are sent to inform targeted retailers of significant market changes.
- A retailer status report is provided with each retailer's complete contact information and comments resulting from recruitment activities.
- Personal emails are sent quarterly to continue to seek responses regarding their interest level.

Recruitment of Developers (Retail, Entertainment, and Mixed Use Developers)

Much of our recruitment success comes from establishing a network of national retail developers over the past 19 years.

Developer networking and developer recruitment have become key components in a community's retail recruitment and development success. Retailers have specific property requirements based on their site location criteria. A mid to high-tier retailer might show interest in a community; however, there may not be sufficient ready-to-lease properties matching their needs and brand requirements. Relationships with developers are important in these situations to capitalize on retailer interest and opportunity.

Our developer recruitment process includes the following steps:

- Introductory emails and opportunity packages are sent to developers.
- Personal telephone calls are placed to measure interest level.
- Personal emails are sent to inform developers of the status of interested retailers and any significant market changes.

A developer status report is provided with each developer's complete contact information and comments resulting from recruitment activities.

Retail Conference Representation

The Retail Coach will assist in marketing Saginaw and its retail vacancies and real estate sites to retailers and real estate sites to retailers, developers, and brokers at retail industry conferences.

The Retail Coach will attempt to set-up retailer, developer, and broker meetings for Saginaw at jointly attended conferences.

"The location of Sprouts Farmers Market was a direct result of meetings coordinated by The Retail Coach between our community and site selectors at ICSC/Recon."

Warren Unsicker, CECD
Vice President, Economic Development
Broken Arrow Economic Development



Retail Retention & Community Engagement

Focusing on Retail Retention and Community Engagement

The Retail Coach will meet with public and private stakeholders to gather input on retail recruitment and retention as well as development and redevelopment and opportunities and challenges. A community benefits from a healthy balance of national, regional, and independent retailers. Involving the community in discussions provides important feedback that can shape the retail recruitment strategy to achieve that balance.



Retailer Workshop

The Retail Coach will conduct a retail workshop to share Retail Trade Area findings, demographic and psychographic profiles, and specific retail sector opportunities. The workshop focuses on existing retail businesses that may use the data to make “informed” decisions about expanding their merchandise lines and pursuing new sector opportunities, as well as entrepreneurs who are exploring new business opportunities.

Independent retail businesses face tremendous pressure from regional and national “brick-and-mortar” retail brands, as well as online retail sales. The focus of our workshop is educational. It will utilize our market research and analysis to answer the following questions:

- Who are my customers?
- How do I compete with national brands?
- What merchandise should I carry?
- How do I market my business?

PHASE 8

Coaching & Ongoing Support

Coaching

The Retail Coach will partner with Saginaw on a long-term basis and be available when you have questions, new ideas, or need access to GIS mapping and current data and statistics. We are also available if Saginaw needs to brainstorm opportunities as your community grows and develops. Project correspondence can be conducted through The Retail Coach custom Pandora platform as part of the Retail360 dashboard. This password-protected platform will allow the Saginaw to keep track of project progress, download reports, and securely share other information over the course of the project agreement.

TRC Project Management Platforms

The screenshot displays the 'The Retail Coach' web application interface. The top navigation bar includes links for 'Download', 'User Options', 'Search', 'Add To Rssfeed', 'Show Rssfeed', and 'Logout'. Below the navigation bar, there's a filter section with 'Filter:' and 'Clear' buttons, and a 'Show 102 items on page' option. The main content area is divided into several sections:

- Map Section:** A map of 'Covington, Georgia' is shown, with a 'Update Status' button and a 'Filter' dropdown.
- Project Details:** A section titled 'PROJECT DETAIL VIEW' provides information about a specific project, including its location and status.
- Summary Table:** A table with columns 'Summary', 'Contact', and 'Type' lists various projects. The table is filtered by 'Retailer' and 'Status'.
- Project List:** A list of projects is shown, including 'Academy Sports & Outdoors', 'Abercrombie & Fitch', and 'Audi'. Each project entry includes a 'Contact' field and a 'Type' field.
- Project Details Table:** A detailed table for the 'Academy Sports & Outdoors' project, showing columns for 'Project Name', 'Contact', 'Type', 'Status', 'Location', and 'Notes'. The table lists several projects with their respective details.

Deliverables & Responsibilities

PHASE 1

Analyzing the Market

Retail Trade Area (RTA) Map based on Mobile Location Technology
Retail Trade Area & Community Demographic Profiles (Historical, Current, and Projected)
Retail Trade Area Psychographic Profiles
Daytime Population Summary

PHASE 2

Determining Retail Opportunities

Retail Gap Analysis (RGA)
Entertainment Opportunity Analysis

PHASE 3

Identifying Development Opportunities

Highest & Best Use Analysis of priority sites/vacancies
Wayside Middle School Analysis and Redevelopment Plan
10 Retail Site Profiles

PHASE 4

Identifying Retailers & Developers for Recruitment

Target list of priority retailers
Target list of real estate developers

PHASE 5

Marketing & Branding

Saginaw Retail Market Profile (RMP)
Saginaw Retail Market Flyer (RMF)
Retailer Feasibility Packages
Developer Opportunity Package
Online Retail360 Dashboard & Pandora Platform
Interactive Site Mapping with Preloaded Sites

PHASE 6

Recruiting Retailers & Developers

Proactive Retail Recruitment & Recruitment Updates
Proactive Developer Recruitment & Recruitment Updates

PHASE 7

Retail Retention & Community Engagement

Downtown / Local Retail Workshop

PHASE 8

Retail Coaching

Ongoing Coaching & Project Management through TRC Pandora Platform

“In my opinion, The Retail Coach’s strategy and assistance has netted us over 325,000 square feet of occupied retail development during one of the most significant retail downturns in the last 20 years. Money well spent.”

Samuel D. R. Satterwhite
Executive Director
Wylie EDC

“Thank you for Gallatin's partnership with Retail Coach. Charles Parker and his team have been very beneficial in helping my development find retail tenants. We have currently signed [multiple new brands] with their help and guidance.”

Brad Jolly
Developer
Gallatin, Tennessee

PROJECT EXPECTATIONS

Timeline & Pricing



REPORTING

The Retail Coach will provide written or electronic project updates on a bi-monthly basis.



COMMUNITY TRIPS

The Retail Coach team will make at least three (3) site visits to Saginaw during the project.



PROJECT TIMELINE

The Retail Coach is available to begin work immediately upon agreement of terms with a project duration of 12 months.



Project Pricing

Work Fees

The total fee for completion of this work is **\$30,000**, payable in three installments:

- a) **\$10,000** upon execution of the agreement;
- b) **\$10,000** upon 90 days following execution of contract.
- c) **\$10,000** at 180 days following execution of contract.

Reimbursable Project Expenses

It is estimated that reimbursable expenses will not exceed **\$750**. Reimbursable expenses include:

- a) All travel costs;
- b) Cost of special renderings and maps, if any;
- c) Cost of copies for reports and maps/drawings; and
- d) Cost of shipping expenses, if any.

**All Work Fees and Project expenses are payable within 30 days after receipt of the expense invoice. The Retail Coach will provide a digital copy of the deliverables.*

Optional Contract Extensions

Because we believe retail recruitment is an ongoing process, and not an event, we offer the ability to extend a standard project agreement for up to two additional years. Your agreement can be extended at any time to ensure you have the tools and resources you need to successfully recruit retailers.

Annual Contract Extension

\$20,000/yr.

Extends your agreement by an additional 12 months from previous contract execution. During that 12 month period, you will continue to receive the following:

- Updated Research, Analysis, and Reports
- Continued Recruitment of Retailers and Developers
- Coaching and Support from the The Retail Coach Team
- Designated Point of Contact for Recruitment and Data Needs
- Access to GIS Mapping and Data Resources



PLEASE CONTACT:

Aaron Farmer
President

t: 662.844.2155

e: afarmer@theretailcoach.net

Building Partnerships.
Developing Communities.



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Gabe Reaume
City Manager

Agenda Items: (5)

E-mail: greaume@saginawtx.org

Phone: 817-230-0324

SUBJECT:

Presentation of 2019 Texas Achievement in Library Excellence Award from the Texas Municipal Library

BACKGROUND/DISCUSSION:

The John Ed Keeter Public Library has been awarded the 2019 Texas Achievement in Library Excellence Award. Only 53 out of 571 Texas public library systems were awarded this honor. This means our Library is in the top 10% of public libraries in the entire State of Texas. Mayor Flippo will present the award to Library Director Ritchie and the Library Staff.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

ATTACHMENTS:

Description

Award--Texas Municipal Library Directors Assn.



Texas Municipal Library Directors Association

February 7, 2020

Todd Flippo
Mayor
City of Saginaw
355 W. McLeroy Blvd
Saginaw, TX 76179

Dear Todd Flippo:

Congratulations go to the City of Saginaw. The John Ed Keeter Public Library of Saginaw, Texas has been awarded the 2019 Texas Achievement in Library Excellence Award.

Libraries awarded this honor were required to meet a high level of excellence in their programming and services. To be considered, recipients were required to demonstrate quality services across ten criteria.

This year, only 53 Libraries out of 571 Texas public library systems were awarded this honor. This means your Library is in the top 10% of public libraries in the entire State of Texas.

Please accept our sincere congratulations to a city which values and provides quality Library services and programs for the continued education and personal enrichment of its residents.

Sincerely,

Shelley Holley, Frisco Public Library
Chair, Achievement of Library Excellence Award
Texas Municipal Library Directors Association
An Affiliate Organization of the Texas Municipal League
www.tmla.org





City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Chris Carathers
Dallas Regional Census Center

Agenda Items: (6)

E-mail:

Phone:

SUBJECT:

2020 Census Presentation.

BACKGROUND/DISCUSSION:

Mr. Carathers will give a presentation regarding the 2020 Census.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

N/A

ATTACHMENTS:

Description

2020 Census Info.

The 2020 Census at a Glance

Counting everyone once, only once, and in the right place.

The U.S. Census Bureau is the federal government's largest statistical agency. We are dedicated to providing current facts and figures about America's people, places, and economy. Federal law protects the confidentiality of all individual responses the Census Bureau collects.

The U.S. Constitution requires that each decade we take a count—or a census—of America's population.



The census provides vital information for you and your community.

- It determines how many representatives each state gets in Congress and is used to redraw district boundaries. Redistricting counts are sent to the states by March 31, 2021.
- Communities rely on census statistics to plan for a variety of resident needs including new roads, schools, and emergency services.
- Businesses use census data to determine where to open places to shop.

Each year, the federal government distributes more than \$675 billion to states and communities based on Census Bureau data.

In 2020, we will implement new technology to make it easier than ever to respond to the census. For the first time, you will be able to respond online, by phone, as well as by mail. We will use data that the public has already provided to reduce followup visits. And, we are building an accurate address list and automating our field operations—all while keeping your information confidential and safe.

United States[®]
Census
Bureau

KEY MILESTONES

- | | |
|-------------|---|
| 2018 | <ul style="list-style-type: none">● 2018 End-to-End Census Test● 2020 Census questions sent to Congress by March 31, 2018● Six regional 2020 Census offices and 40 area census offices open |
| 2019 | <ul style="list-style-type: none">● Partnership activities launch● Complete Count Committees establish● Census takers update address list in person● Remaining 248 area census offices open |
| 2020 | <ul style="list-style-type: none">● Advertising begins in January 2020● Public response (online, phone, or mail) begins● Census Day— April 1, 2020● Census takers visit households that haven't responded● Apportionment counts sent to the President by December 31, 2020 |
| 2021 | <ul style="list-style-type: none">● Redistricting counts sent to the states by March 31, 2021 |

Connect with us
[@uscensusbureau](https://twitter.com/uscensusbureau)

Overview of Census Bureau Programs

CENSUSES

- The **decennial census** is the once-a-decade population and housing count of all 50 states, the District of Columbia, Puerto Rico, and the Island Areas. The results of the census determine the number of seats for each state in the U.S. House of Representatives and are used to draw congressional and state legislative districts. Federal agencies use the results to distribute more than \$675 billion in federal funds each year.
- The **economic census** measures the nation's economy every five years, providing vital statistics for virtually every industry and geographic area in the country.
- The **Census of Governments** provides comprehensive data about the 90,000 state and local governments in the nation every five years.

SURVEYS

- The **American Community Survey** (ACS) is an ongoing national survey—sampling approximately 3.5 million addresses annually—that provides vital information about our nation's housing and people. The ACS is the only source of comparable, quality information about the people in all our communities. These data show what the U.S. population looks like and how it is changing. ACS data are used to assess the past and present and to plan for the future.
- **Demographic surveys** measure income, poverty, education, health insurance coverage, housing quality, crime victimization, computer usage, and many other subjects.
- **Economic surveys** are conducted monthly, quarterly, and yearly. They cover selected sectors of the nation's economy and supplement the economic census with more-frequent information about the dynamic economy. These surveys yield more than 400 annual economic reports, including principal economic indicators.
- **Sponsored surveys** are demographic and economic surveys that we conduct for other government agencies. They include the Current Population Survey, the National Health Interview Survey, and the National Survey of College Graduates.

For more information, go to **census.gov**.

Follow us **@uscensusbureau**

Contact us at:

Your information is protected by law

The law requires the Census Bureau to keep your information confidential and use your responses only to produce statistics. We cannot publicly release your responses in any way that could identify you. We will never share your information with immigration enforcement agencies such as ICE, law enforcement agencies such as the FBI or police, or allow it to be used to determine your eligibility for government benefits.

Our Mission

To serve as the nation's leading provider of quality data about its people and economy.

Our Vision

To be the trusted source for timely and relevant statistical information, and the leader in data-driven information.

Census History

Thomas Jefferson directed the first decennial census in 1790. As required by the U.S. Constitution, a census has been taken every 10 years thereafter. In 1840, the Census Act authorized the establishment of a centralized Census Office. In 1902, the Census Office became a permanent organization within the Department of the Interior. A year later, it was renamed the Bureau of the Census and moved to the new Department of Commerce and Labor.



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Gabe Reaume
City Manager

Agenda Items: (8)

E-mail: greame@saginawtx.org

Phone: 817-230-0324

SUBJECT:

Consideration and Action regarding Resolution No. 2020-08 Declaring Intention to Reimburse an Amount not to Exceed \$8,500,000 for Certain Capital Expenditures with Proceeds from Debt; and Placing Time Restrictions on the Issuance of Tax-Exempt Obligations.

BACKGROUND/DISCUSSION:

At the February 18th City Council Meeting, City staff presented capital projects that could be considered for design ahead of the bond election anticipated in November 2020. The City Council approved a list of projects and the estimated cost of design. They include:

Knowles Drive Reconstruction Design/Construction Documents (\$2.5 M)

Central Fire Station Design/Construction Documents (\$1.2 M)

North Old Decatur Design & Reconstruction (\$750,000)

Sidewalk and ADA Improvements (\$1 M)

Boaz/Old Decatur Intersection Improvements (\$1 M)

Saginaw Boulevard Signal Upgrade at McLeroy Blvd (\$500,000)

After opening the bids for the Bailey Boswell overpass project, the anticipated project overage of \$1,550,000 is added.

The total estimated reimbursement of fund balance from a future debt issuance is \$8,500,000.

FINANCIAL IMPACT:

The financial impact of the use of fund balance to begin these projects before the issuance of debt will be the loss of interest earnings.

RECOMMENDATION:

Staff recommends approval of Resolution No 2020-08 declaring intention to reimburse an amount not to exceed \$8,500,000 for certain capital expenditures with proceeds from debt; and placing time restrictions on the issuance of tax-exempt obligations.

ATTACHMENTS:

Description

Resolution 2020-08

RESOLUTION NO. 2020-08

A RESOLUTION DECLARING INTENTION TO REIMBURSE AN AMOUNT NOT TO EXCEED \$8,500,000 FOR CERTAIN CAPITAL EXPENDITURES WITH PROCEEDS FROM DEBT; AND PLACING TIME RESTRICTIONS ON THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS.

WHEREAS, the City of Saginaw, Texas (the “City”) is a home-rule municipality and political subdivision of the State of Texas;

WHEREAS, the City expects to pay expenditures in connection with the design, planning, acquisition and construction of the projects described on Exhibit “A” hereto (collectively, the “Project”) prior to the issuance of obligations by the City in connection with the financing of the Project from available funds;

WHEREAS, the City finds, considers, and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues obligations to finance the Project;

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAGINAW, TEXAS THAT:

Section 1. The City reasonably expects it will incur debt, as one or more series of obligations, for the purpose of reimbursing the City in an aggregate amount not to exceed \$8,500,000 for the payment of costs of the Project.

Section 2. All costs to be reimbursed pursuant hereto will be capital expenditures. No tax-exempt obligations will be issued by the City in furtherance of this Statement after a date which is later than 18 months after the later of (1) the date the expenditures are paid or (2) the date on which the property, with respect to which such expenditures were made, is placed in service.

Section 3. The foregoing notwithstanding, no tax-exempt obligation will be issued pursuant to this Statement more than three years after the date any expenditure which is to be reimbursed is paid.

PASSED AND APPROVED THIS 3RD DAY OF MARCH, 2020.

Todd Flippo, Mayor
City of Saginaw, Texas

ATTEST:

Janice England, City Secretary (Seal)

Exhibit “A”

The projects to be financed that are the subject of this Statement are:

Constructing, reconstructing and improving streets, roads and sidewalks, including related ADA improvements, drainage, utility relocation, signalization, landscaping, lighting and signage;

Constructing and equipping a fire station and related infrastructure; and

Acquiring land and interests in land necessary for such projects.



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Rick Trice, P.E.
Director of Public Works

Agenda Items: (9)

E-mail: rtrice@saginawtx.org

Phone: (817) 230-0449

SUBJECT:

Consideration and Action regarding an Individual Project Order with Kimley-Horn and Associates, Inc. for Knowles Drive Final Design

BACKGROUND/DISCUSSION:

On March 19, 2019, City Council authorized a Conceptual Design for Knowles Drive. The purpose of the design was to better define the overall scope and budget of the project for consideration in a future Bond Program.

On December 3, 2019, the City Council's selected Bond Committee made a presentation to the City Council providing the committee's priority candidate projects to be considered in a possible 2020 Bond Election. Knowles Drive was ranked second on the committee's list.

On February 18, 2020, City Council conducted a "Mid-Term Capital Improvement Project Planning" workshop to review projects that might be considered as short-term or interim projects leading up to the 2020 Bond Election. The advance design of Knowles Drive was included. Staff was directed to bring back a design contract for Council consideration.

Contract expenditures will be funded in the interim through the Fund Balance with the intent of reimbursing the Fund with a future funding mechanism.

The project will be designed and constructed in four phases, the phases are as follows:

- Phase 1 – Edwards Drive to 400' South of Woodcrest Drive
- Phase 2 – 400' South of Woodcrest Drive to W. McLeroy Boulevard
- Phase 3 – W. McLeroy Boulevard to Longhorn Road
- Phase 4 – Knowles Drive and Bailey Boswell Road Intersection Traffic Signal

KHA proposes to provide final design of the four phases on a Lump Sum basis as follows:

Basic Services (Lump Sum)

Task 1A Final Design – Phase 1	\$ 639,900
Task 2A Final Design – Phase 2	\$ 554,600
Task 3A Final Design – Phase 3	\$ 688,000
Task 4A Final Design – Phase 4	\$ 35,000
Task 5 Geotechnical Analysis	\$ 20,500
Total for Basic Services:	\$ 1,938,000

KHA will perform the following Special Services on a labor fee plus expense basis upon authorization from the Client. Labor fee will be billed on an hourly basis according to our then-current rates.

Special Services (Reimbursable)

Task 1B Bidding (Ph. 1)	\$10,500
Task 1C Construction Contract Administration (Ph.1)	\$45,500
Task 2B Bidding (Ph. 2)	\$10,500
Task 2C Construction Contract Administration (Ph. 2)	\$43,000
Task 2D Roundabout Public Involvement (Ph. 2)	\$40,000
Task 3B Bidding (Ph. 3)	\$10,500
Task 3C Construction Contract Administration (Ph. 3)	\$45,500
Task 4B Bidding (Ph. 4)	\$5,000
Task 4C Construction Contract Administration (Ph. 4)	\$10,000
Task 6 Subsurface Utility Engineering	\$50,000
Total for Special Services:	\$270,500

Total Budgetary Labor Fee: \$2,208,500

FINANCIAL IMPACT:

The Financial Impact will be \$2,208,500. Contract expenditures will be funded in the interim through the Fund Balance with the intent of reimbursing the Fund with a future funding mechanism.

RECOMMENDATION:

It is recommended that the IPO with Kimley-Horn & Associates, Inc. be approved in an amount not to exceed \$2,208,500 for the Knowles Drive Final Design.

ATTACHMENTS:

Description

KHA IPO

INDIVIDUAL PROJECT ORDER NUMBER – Knowles Drive Final Design

Describing a specific agreement between Kimley-Horn and Associates, Inc. (the Consultant or KH), and the City of Saginaw, Texas (the Client) in accordance with the terms of the Master Agreement for Continuing Professional Services dated April 17, 2012, which is incorporated herein by reference.

Identification of Project: Knowles Drive Final Design

Project Understanding:

Kimley-Horn understands that this work will include the preparation of construction documents for roadway, drainage, water and sanitary sewer relocations, pavement markings and signage, traffic control plans, traffic signal, roundabout plans, midblock pedestrian crossings, specifications, as well as project management and coordination tasks for four phases of Knowles Drive. The limits are from Longhorn Road to Edwards Drive and the Knowles Drive and Bailey Boswell Road Intersection (known as project limits).

The project will be designed and constructed in four phases, the phases are as follows:

Phase 1 – Edwards Drive to 400' South of Woodcrest Drive

Phase 2 – 400' South of Woodcrest Drive to W. McLeroy Boulevard

Phase 3 – W. McLeroy Boulevard to Longhorn Road

Phase 4 – Knowles Drive and Bailey Boswell Road Intersection Traffic Signal

A detailed Scope of Services is provided below:

Specific Scope of Basic Services:

Task 1 – Knowles Drive Phase 1 (400' South of Woodcrest Drive to W. McLeroy Boulevard)

A. Final Design – Phase 1 (Lump Sum)

1. Project Management
 - a. Conduct progress meetings to monitor the development of the project. During this phase of the project, conduct up to:
 - Eight (8) monthly project meetings with the City
 - One (1) City Council meeting
 - b. Prepare and e-mail bi-monthly progress reports to the project team (City and KH Staff).
 - c. Project Administration
 - Prepare project correspondence and invoicing documents.
2. Franchise Utility Coordination
 - a. Identify franchise utility contacts.
 - b. Send one set of plans to each franchise utility for their review. Request each franchise utility to mark up the plans to show the size, type, and location of their utilities.
 - c. Notify the City and franchise utility companies if any relocations are required.
 - d. Submit one set of each submittal (60% and 100%) during final design and the project schedule to each affected franchise utility for their review and comment.
 - e. Coordinate with franchise utility companies and inform them of necessary relocations.
 - f. Attend meetings as needed with franchise utility companies.
3. Project site visits, up to two (2), to document existing conditions and evaluate constructability.
4. Roadway
 - a. Prepare plan / profile sheets (22"x34" plan sheets at a scale of 1"=20' horizontal, and 1"=4' vertical). Items to be included:

- Plan:
 - Control data
 - Existing right-of-way
 - Existing topography
 - Existing pavement
 - Proposed centerline alignment and horizontal curve data
 - Proposed face of curb
 - Proposed sidewalk and barrier-free ramps
 - Proposed transition pavement tie-ins to existing pavement
 - Proposed storm sewer and culvert alignments and sizes
 - Existing trees to remain
 - Existing trees to be removed
 - Existing locations
 - Proposed commercial driveways
 - Existing storm drain locations
 - Existing water line locations
 - Existing sanitary sewer line locations
 - Existing franchise utility locations (relying upon information provided by franchise utilities)
- Profile:
 - Existing Ground Profile and Proposed Vertical Alignment
- b. Prepare typical sections:
 - Existing typical section for Knowles Drive
 - Proposed typical section for Knowles Drive
- c. Prepare Roundabout Plans:
 - Alignment & Plan Paving Sheets
 - Profile Sheets
 - Grading Sheets
 - Contour Sheets
- d. Develop design cross-sections:
 - Develop on 50' station intervals and at driveway and cross street centerlines.
 - Show pavement, right-of-way limits, side slopes, pavement cross slopes, curbs and sidewalks.
 - Cross-sections will be provided in the bid documents.
- e. Prepare driveway plan / profile sheets.
- f. Prepare roadway details to clarify intent of design.
- g. Compile applicable City and TxDOT standard details. Modify standard details as needed.
- 5. Drainage
 - a. Perform final storm sewer sizing and alignment design. Prepare final inlet design sheets and hydraulic design sheets for inclusion in the plans.
 - b. Prepare storm sewer plan / profile sheets depicting storm sewer lines, inlets, junction boxes, connections, manholes, utility crossings, and the hydraulic grade lines.
 - c. Prepare profiles for the proposed storm drain laterals.
 - d. Determine outfall grading requirements and provide plans and details for channel protection including concrete riprap.
 - e. Provide plan sheets and details to construct storm sewer outfalls.
 - f. Prepare drainage details to clarify intent of design. Compile applicable City standard details. Modify standard details as needed.

- g. Create details for connections to existing system (where applicable).
- h. Prepare erosion control plan.
- 6. Utilities
 - a. Wastewater
 - Sanitary Sewer Manhole adjustments
 - Sanitary Sewer line lowering/relocations to avoid proposed storm drain (assumed two (2) locations) will be specified in the plans.
 - b. Water
 - Minor adjustments to existing water valve boxes, meters, fire hydrants, etc. will be specified in the plans.
 - Water line lowering/relocations to avoid proposed storm drain (assume ten (10) locations) will be specified in the plans.
 - Water line crossing plan and details
 - c. Prepare utility details to clarify intent of design.
 - d. Compile applicable City standard details. Modify standard details as needed.
- 7. Traffic Control Plans
 - a. Develop suggested sequence of construction narrative and overall phasing plan.
 - b. Prepare phasing layout sheets as needed including detour plans and typical sections.
 - c. Prepare traffic control details to clarify intent of design.
 - d. Compile applicable TxDOT standard details.
- 8. Pavement Marking and Signing Plans
 - a. Prepare pavement marking layouts in accordance with City and TxDOT design standards and TMUTCD.
 - b. Prepare details to clarify intent of design.
 - c. Compile applicable City and TxDOT standard details. Modify standard details as needed.
 - d. Prepare signing layout in accordance with City design standards and the TMUTCD.
- 9. Illumination
 - a. Street lighting foundation and conduit layout in accordance with Oncor specifications (Oncor to furnish and install lighting poles, fixtures and conductors).
- 10. Prepare and submit Nationwide permit. The Consultant will perform a site visit and document any environmental impacts that need to be considered during construction. It is anticipated the channel will use a non-notification nationwide permit. Preparation of an individual permit will be considered Additional Services.
- 11. Prepare general notes and specification data. Identify and prepare special specifications and/or special provisions applicable to the project.
- 12. Compile and update the overall opinion of probable construction cost (OPCC). The Consultant has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only the Consultant's judgment as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.
- 13. Prepare a construction duration estimate using anticipated local production rates.
- 14. Interim design submittal (60%)
 - a. Submit three (3) copies to the City for review and comment.
 - b. Submittal shall include the following:
 - Interim design plans
 - Updated OPCC
- 15. Final design submittal (90%)

- a. Submit three (3) copies to the City for review and comment.
 - b. Submittal shall include the following:
 - Final design plans
 - Contract documents (*NCTCOG*), including the following:
 - City standard construction contract forms
 - Notice to bidders
 - Special instructions to bidders
 - Bid form
 - Standard construction contract
 - Performance bond
 - Payment bond
 - Maintenance bond
 - Certificate of insurance
 - General conditions
 - Special provisions
 - Technical specifications
 - OPCC
 - On behalf of the City, KH will identify and solicit the services of a Registered Accessibility Specialist (RAS) to perform the plan review and inspection on behalf of the TDLR. KH will provide one set of plans (11"x17") for review in accordance with the Elimination of Architectural Barriers Act. The registration, review and inspection fees will be paid directly by the City.
16. Incorporate the final design submittal review comments.
 17. Prepare the final OPCC.
 18. Final design submittal (100%)
 - a. Submit three (3) full-size (22"x34") and three (3) half-size (11"x17") sets of plans and specifications to the City.
 - b. Submit the final OPCC.

Task 2 – Knowles Drive Phase 2 (400' South of Woodcrest Drive to W. McLeroy Boulevard)

A. Final Design – Phase 2 (Lump Sum)

1. Project Management
 - a. Conduct progress meetings to monitor the development of the project. During this phase of the project, conduct up to four (4) additional monthly project meetings with the City.
 - b. Prepare and e-mail bi-monthly progress reports to the project team (City and KH Staff).
 - c. Project Administration
 - Prepare project correspondence and invoicing documents.
2. Franchise Utility Coordination
 - a. Identify franchise utility contacts.
 - b. Send one set of plans to each franchise utility for their review. Request each franchise utility to mark up the plans to show the size, type, and location of their utilities.
 - c. Notify the City and franchise utility companies if any relocations are required.
 - d. Submit one set of each submittal (60% and 100%) during final design and the project schedule to each affected franchise utility for their review and comment.
 - e. Coordinate with franchise utility companies and inform them of necessary relocations.
 - f. Attend meetings as needed with franchise utility companies.
3. Project site visits, up to two (2), to document existing conditions and evaluate constructability.
4. Roadway
 - a. Prepare plan / profile sheets (22"x34" plan sheets at a scale of 1"=20' horizontal, and 1"=4' vertical). Items to be included:
 - Plan:
 - Control data
 - Existing right-of-way
 - Existing topography
 - Existing pavement
 - Proposed centerline alignment and horizontal curve data
 - Proposed face of curb
 - Proposed sidewalk and barrier-free ramps
 - Proposed transition pavement tie-ins to existing pavement
 - Proposed storm sewer and culvert alignments and sizes
 - Existing trees to remain
 - Existing trees to be removed
 - Existing driveway locations
 - Proposed driveways
 - Existing storm drain locations
 - Existing water line locations
 - Existing sanitary sewer line locations
 - Existing franchise utility locations (relying upon information provided by franchise utilities)
 - Profile:
 - Existing Ground Profile and Proposed Vertical Alignment
 - b. Prepare typical sections:
 - Existing typical section for Knowles Drive
 - Proposed typical section for Knowles Drive
 - c. Roundabout at Knowles Drive and W. McLeroy Boulevard, if necessary (to be determined by the Client, assume only one option between 4.c and 4.d to be performed):

- Alignment & Plan Paving Sheets
 - Profile Sheets
 - Grading Sheets
 - Contour Sheets
- d. Traffic Signal at Knowles Drive and W. McLeroy Boulevard, if necessary (to be determined by the Client, assume only one option between 4.c and 4.d to be performed):
 - a. Prepare traffic signal layout plans.
 - b. Meet with electric service provider and Client to identify power source for traffic signal.
 - c. Final design will include complete signal design including existing conditions and removal sheets, traffic signal layout and charts, pavement markings and sign layout and all applicable standards.
 - e. Develop design cross-sections:
 - Develop on 50' station intervals and at driveway and cross street centerlines.
 - Show pavement, right-of-way limits, side slopes, pavement cross slopes, curbs and sidewalks.
 - Cross-sections will be provided in the bid documents.
 - f. Prepare driveway plan / profile sheets.
 - g. Prepare roadway details to clarify intent of design.
 - h. Compile applicable City and TxDOT standard details. Modify standard details as needed.
5. Drainage
 - a. Perform final storm sewer sizing and alignment design. Prepare final inlet design sheets and hydraulic design sheets for inclusion in the plans.
 - b. Prepare storm sewer plan / profile sheets depicting storm sewer lines, inlets, junction boxes, connections, manholes, utility crossings, and the hydraulic grade lines.
 - c. Prepare profiles for the proposed storm drain laterals.
 - d. Determine outfall grading requirements and provide plans and details for channel protection.
 - e. Provide plan sheets and details to construct storm sewer outfalls.
 - f. Prepare drainage details to clarify intent of design. Compile applicable City standard details. Modify standard details as needed.
 - g. Create details for connections to existing system (where applicable).
 - h. Prepare erosion control plan.
 6. Utilities
 - a. Wastewater
 - Sanitary Sewer Manhole adjustments
 - b. Water
 - Minor adjustments to existing water valve boxes, meters, fire hydrants, etc. will be specified in the plans.
 - Water line lowering/relocations to avoid proposed storm drain (assume three (3) locations) will be specified in the plans.
 - Water line crossing plan and details.
 - c. Prepare utility details to clarify intent of design.
 - d. Compile applicable City standard details. Modify standard details as needed.
 7. Traffic Control Plans
 - a. Develop suggested sequence of construction narrative and overall phasing plan.
 - b. Prepare phasing layout sheets as needed including detour plans and typical sections.
 - c. Prepare traffic control details to clarify intent of design.
 - d. Compile applicable TxDOT standard details.
 8. Pavement Marking and Signing Plans

- a. Prepare pavement marking layouts in accordance with City and TxDOT design standards and the TMUTCD.
 - b. Prepare details to clarify intent of design.
 - c. Compile applicable City and TxDOT standard details. Modify standard details as needed.
 - d. Prepare signing layout in accordance with City design standards and the TMUTCD.
 - e. Midblock pedestrian crossing sheets (assume 2 locations):
 - Develop paving sheets showing proposed curb ramp types and locations
 - Develop signing and signing sheets showing proposed pavement markings, standard signs and rectangular rapid flashing beacon (RRFB) assemblies.
9. Illumination
- a. Street lighting foundation and conduit layout in accordance with Oncor specifications (Oncor to furnish and install lighting poles, fixtures and conductors).
10. Prepare and submit Nationwide permit. The Consultant will perform a site visit and document any environmental impacts that need to be considered during construction. It is anticipated the channel will use a non-notification nationwide permit. Preparation of an individual permit will be considered Additional Services.
11. Prepare general notes and specification data. Identify and prepare special specifications and/or special provisions applicable to the project.
12. Compile and update the overall OPCC.
13. Prepare a construction duration estimate using anticipated local production rates.
14. Interim design submittal (60%)
- a. Submit three (3) copies to the City for review and comment.
 - b. Submittal shall include the following:
 - Interim design plans
 - Updated OPCC
15. Final design submittal (90%)
- a. Submit three (3) copies to the City for review and comment.
 - b. Submittal shall include the following:
 - Final design plans
 - Contract documents (*NCTCOG*), including the following:
 - City standard construction contract forms
 - Notice to bidders
 - Special instructions to bidders
 - Bid form
 - Standard construction contract
 - Performance bond
 - Payment bond
 - Maintenance bond
 - Certificate of insurance
 - General conditions
 - Special provisions
 - Technical specifications
 - OPCC
 - On behalf of the City, KH will identify and solicit the services of a RAS to perform the plan review and inspection on behalf of the TDLR. KH will provide one set of plans (11"x17") for review in accordance with the Elimination of Architectural Barriers Act. The registration, review and inspection fees will be paid directly by the City.
16. Incorporate the final design submittal review comments.

17. Prepare the final OPCC.
18. Final design submittal (100%)
 - a. Submit three (3) full-size (22"x34") and three (3) half-size (11"x17") sets of plans and specifications to the City.
 - b. Submit the final OPCC.

D. Roundabout Public Involvement (Reimbursable)

This task includes the Consultant performing roundabout public involvement support for this project. This task may include the following subtasks. The budget for this task is based upon 220 hours of effort.

1. Conduct one (1) public meeting.
 - a. Prepare informational materials including a visualization of the proposed roundabout.
2. Attend and present at one (1) council workshops.
 - a. Prepare and discuss general roundabout information safety, operations, pros/cons.
 - b. Obtain and document feedback.
 - c. Incorporate feedback into final design.
3. Attend up to two (2) public outings (such as Train and Grain, Concerts in the Park, etc) to discuss roundabouts with the public.
 - a. Obtain and document feedback.
4. Prepare educational information regarding roundabouts to be posted to City's website.
5. Prepare educational workshop to be hosted at a City facility such as the Recreation Center to engage children and parents into activities related to roundabouts.

Task 3 – Knowles Drive Phase 3 (W. McLeroy Boulevard to Longhorn Road)

A. Final Design – Phase 3 (Lump Sum)

1. Project Management
 - a. Conduct progress meetings to monitor the development of the project. During this phase of the project, conduct up to four (4) additional monthly project meetings with the City.
 - b. Prepare and e-mail bi-monthly progress reports to the project team (City and KH Staff).
 - c. Project Administration
 - Prepare project correspondence and invoicing documents.
2. Franchise Utility Coordination
 - a. Identify franchise utility contacts.
 - b. Send one set of plans to each franchise utility for their review. Request each franchise utility to mark up the plans to show the size, type, and location of their utilities.
 - c. Notify the City and franchise utility companies if any relocations are required.
 - d. Submit one set of each submittal (60% and 100%) during final design and the project schedule to each affected franchise utility for their review and comment.
 - e. Coordinate with franchise utility companies and inform them of necessary relocations.
 - f. Attend meetings as needed with franchise utility companies.
3. Energy Transfer Gas Coordination:
 - a. The Consultant will meet with coordinate and meet with Energy Transfer Gas Company one time to discuss design requirements necessary for the gas line to remain in place.
4. Project site visits, up to two (2), to document existing conditions and evaluate constructability.
5. Roadway
 - a. Prepare plan / profile sheets (22"x34" plan sheets at a scale of 1"=20' horizontal, and 1"=4' vertical). Items to be included:
 - Plan:
 - Control data
 - Existing right-of-way
 - Existing topography
 - Existing pavement
 - Proposed centerline alignment and horizontal curve data
 - Proposed face of curb
 - Proposed sidewalk and barrier-free ramps
 - Proposed transition pavement tie-ins to existing pavement
 - Proposed storm sewer and culvert alignments and sizes
 - Existing trees to remain
 - Existing trees to be removed
 - Existing driveway locations
 - Proposed driveway locations
 - Existing storm drain locations
 - Existing water line locations
 - Existing sanitary sewer line locations
 - Existing franchise utility locations (relying upon information provided by franchise utilities)
 - Profile:
 - Existing Ground Profile and Proposed Vertical Alignment
 - b. Prepare typical sections:
 - Existing typical section for Knowles Drive

- Proposed typical section for Knowles Drive
- c. Develop design cross-sections:
 - Develop on 50' station intervals and at driveway and cross street centerlines
 - Show pavement, right-of-way limits, side slopes, pavement cross slopes, curbs and sidewalks
 - Cross-sections will be provided in the bid documents.
- d. Prepare driveway plan / profile sheets.
- e. Prepare roadway details to clarify intent of design.
- f. Compile applicable City and TxDOT standard details. Modify standard details as needed.
- 6. Drainage
 - a. Perform final storm sewer sizing and alignment design. Prepare final inlet design sheets and hydraulic design sheets for inclusion in the plans.
 - b. Prepare storm sewer plan / profile sheets depicting storm sewer lines, inlets, junction boxes, connections, manholes, utility crossings, and the hydraulic grade lines.
 - c. Prepare profiles for the proposed storm drain laterals.
 - d. Determine outfall grading requirements and provide plans and details for channel protection.
 - e. Provide plan sheets and details to construct storm sewer outfalls.
 - f. Prepare drainage details to clarify intent of design. Compile applicable City standard details. Modify standard details as needed.
 - g. Create details for connections to existing system (where applicable).
 - h. Prepare erosion control plan.
- 7. Utilities
 - a. Wastewater
 - Sanitary Sewer Manhole adjustments
 - b. Water
 - Minor adjustments to existing water valve boxes, meters, fire hydrants, etc. will be specified in the plans.
 - Water line lowering/relocations to avoid proposed storm drain (assume seven (7) locations) will be specified in the plans.
 - Water line crossing plan and details.
 - c. Prepare utility details to clarify intent of design
 - d. Compile applicable City standard details. Modify standard details as needed.
- 8. Traffic Control Plans
 - a. Develop suggested sequence of construction narrative and overall phasing plan.
 - b. Prepare phasing layout sheets as needed including detour plans and typical sections.
 - c. Prepare traffic control details to clarify intent of design.
 - d. Compile applicable TxDOT standard details.
- 9. Pavement Marking and Signing Plans
 - a. Prepare pavement marking layouts in accordance with City and TxDOT design standards and the TMUTCD.
 - b. Prepare details to clarify intent of design.
 - c. Compile applicable City and TxDOT standard details. Modify standard details as needed.
 - d. Prepare signing layout in accordance with City design standards and the TMUTCD.
 - e. Midblock pedestrian crossing sheets (assume 2 locations):
 - Develop paving sheets showing proposed curb ramp types and locations.
 - Develop signing and signing sheets showing proposed pavement markings, standard signs and rectangular rapid flashing beacon (RRFB) assemblies.
- 10. Traffic Signal
 - a. Prepare traffic signal layout plans for the Knowles Drive and Longhorn Road.

- b. Meet with electric service provider and Client to identify power source for traffic signal.
 - c. Final design will include complete signal design including existing conditions and removal sheets, traffic signal layout and charts, pavement markings and sign layout and all applicable standards.
- 11. Illumination
 - a. Street lighting foundation and conduit layout in accordance with Oncor specifications (Oncor to furnish and install lighting poles, fixtures and conductors).
- 12. Prepare and submit Nationwide permit. The Consultant will perform a site visit and document any environmental impacts that need to be considered during construction. It is anticipated the channel will use a non-notification nationwide permit. Preparation of an individual permit will be considered Additional Services.
- 13. Prepare general notes and specification data. Identify and prepare special specifications and/or special provisions applicable to the project.
- 14. Compile and update the overall OPCC.
- 15. Prepare a construction duration estimate using anticipated local production rates.
- 16. Interim design submittal (60%)
 - a. Submit three (3) copies to the City for review and comment.
 - b. Submittal shall include the following:
 - Interim design plans
 - Updated OPCC
- 17. Final design submittal (90%)
 - a. Submit three (3) copies to the City for review and comment.
 - b. Submittal shall include the following:
 - Final design plans
 - Contract documents (*NCTCOG*), including the following:
 - City standard construction contract forms
 - Notice to bidders
 - Special instructions to bidders
 - Bid form
 - Standard construction contract
 - Performance bond
 - Payment bond
 - Maintenance bond
 - Certificate of insurance
 - General conditions
 - Special provisions
 - Technical specifications
 - OPCC
 - On behalf of the City, KH will identify and solicit the services of a RAS to perform the plan review and inspection on behalf of the TDLR. KH will provide one set of plans (11"x17") for review in accordance with the Elimination of Architectural Barriers Act. The registration, review and inspection fees will be paid directly by the City.
- 18. Incorporate the final design submittal review comments.
- 19. Prepare the final OPCC.
- 20. Final design submittal (100%)
 - a. Submit three (3) full-size (22"x34") and three (3) half-size (11"x17") sets of plans and specifications to the City
 - b. Submit the final OPCC.

Task 4 – Knowles Drive and Bailey Boswell Road Intersection Traffic Signal

A. Final Design – Phase 4 (Lump Sum)

1. Project Management
 - a. Conduct progress meetings to monitor the development of the project. During this phase of the project, conduct up to four (4) monthly project meetings with the City.
 - b. Prepare and e-mail bi-monthly progress reports to the project team (City and KH Staff).
 - c. Project Administration
 - Prepare project correspondence and invoicing documents.
1. Data Collection
 - a. Perform Field reconnaissance of the intersection to verify the information obtained from topographic survey, existing lane configurations, pavement widths, traffic control and utility locations.
 - b. Coordinate with Texas 811 and Client to mark underground utilities.
 - c. Collect 24-hr turning movements at the intersection to develop traffic signal timing.
2. Design
 - a. Conceptual design submittal (30%)
 - Prepare and submit three (3) copies to the City for review and comment.
 - Submittal shall include the following:
 - Interim design plans including preliminary locations of proposed signal equipment.
 - Conceptual OPCC
 - b. Meet with Client to discuss 30% design review comments.
 - c. Meet with electric service provider and Client to identify power source for traffic signal.
 - d. Prepare general notes and specification data. Identify and prepare special specifications and/or special provisions applicable to the project.
 - e. Final design submittal (90%)
 - Prepare and submit three (3) copies to the City for review and comment.
 - Submittal shall include the following:
 - o Final design plans
 - Final design will include complete signal design including existing conditions and removal sheets, traffic signal layout and charts, curb ramps and sidewalk layout, pavement markings and sign layout and all applicable standards.
 - o Contract documents, including the following:
 - City standard construction contract forms
 - Notice to bidders
 - Special instructions to bidders
 - Bid form
 - Standard construction contract
 - Performance bond
 - Payment bond
 - Maintenance bond
 - Certificate of insurance
 - General conditions
 - Special provisions
 - Technical specifications
 - o OPCC
 - f. Incorporate the final design submittal review comments.

- g. Prepare final OPCC.
- h. Final design submittal (100%)
 - Submit three (3) full-size (22"x34") and three (3) half-size (11"x17") sets of plans and specifications to the City.
 - Submit the final OPCC.

Task 5 – Geotechnical Analysis (provided by subconsultant) (Lump Sum)

As part of this task, the following subtasks will be performed:

1. Subsurface Exploration
 - a. Roadway – Along the roadway alignment, drill and extrude fifteen (15) sample borings to depths of 10' below existing grade using truck-mounted equipment.
 - Check samples for consistency with a hand penetrometer.
 - Stake the boring locations using normal taping procedures.
 - Backfill bore holes and plug at the surface.
 - Rock, if encountered, will be evaluated for hardness by TxDOT cone penetration field testing.
2. Laboratory Services
 - a. Considering the planned facilities, anticipated soil conditions, and geology, the following laboratory tests will be required for classification purposes and to determine strength characteristics:
 - Moisture content and soil identification
 - Liquid and plastic limit determinations
 - Unconfined compression tests to evaluate soil strengths
 - Swell test to determine swell potential and subgrade treatment requirements, including subgrade modifications (if required)
 - Unit weight determinations
 - Eades and Grim lime series tests to determine percent lime required for subgrade stabilization
 - Soluble sulfate tests (to determine lime-induced heaving potential)
3. Engineering Analysis
 - a. Prepare an engineering report presenting the following:
 - Sample boring location map
 - General soil and ground-water conditions
 - Examine samples for visible evidence of sulfates and discuss in the reports
 - Recommendations for appropriate subgrade treatment, stabilization type and concentration
 - Recommendations for subgrade modification (if required)
 - Recommended pavement section based on traffic data
 - b. Submit one (1) copy of the report to the City.

Task 6 – Subsurface Utility Engineering (SUE) (Provided by subconsultant) (Reimbursable)

1. Provide Subsurface Utility Engineering (SUE) to Quality Level A, as described below. SUE level A shall be performed on any utilities where conflicts with proposed improvements are suspected based on level B SUE. SUE shall be performed before design on all utilities and, to confirm proper relocation and clearance after utility relocation is complete, on relocated utilities. The SUE shall be performed in accordance with CI/ASCE 38-02.
 - a. Level B (as necessary)
 - Select and apply appropriate surface geophysical method(s) to search for and detect subsurface utilities within the project limits, and/or to trace a particular utility line or system.
 - Based on an interpretation of data, mark the indications of utilities on the ground surface for subsequent survey. Utilize paint or other method acceptable for marking of lines.
 - Unless otherwise directed, mark centerline of single-conduit lines, and outside edges of multi-conduit systems.
 - Resolve differences between designated utilities and utility records and surveyed appurtenances.
 - Recommend additional measures to resolve differences if they still exist. Recommendations may include additional or different surface geophysical methods, exploratory excavation, or upgrade to Quality Level A data.
 - As an alternative to the physical marking of lines, the ENGINEER may, with CITY's approval, utilize other means of data collection, storage, retrieval, and reduction, that enables the correlation of surface geophysical data to the project's survey control.
 - b. Level A
 - Expose and locate utilities at specific locations.
 - Tie horizontal and vertical location of utility to survey control.
 - Provide utility size and configuration.
 - Provide paving thickness and type, where applicable.
 - Provide general soil type and site conditions and such other pertinent information as is reasonably ascertainable from each test hole site.

Bidding and Construction Contract Administration (Applicable for Tasks 1, 2, 3 and 4)

B. Bidding Phase (Reimbursable)

1. Final bid documents submittal
 - a. Upload all plans and contract documents onto Civcast (or similar website) for access to potential bidders. Contract documents shall be uploaded in .pdf files.
 - b. Print three (3) full-size (22"x34") and three (3) half-size (11"x17") sets for City's use.
 - c. Submittal shall include the following:
 - Final plans
 - Final contract documents
 - Final OPCC
 - d. Furnishing additional copies of review documents and/or bid documents in excess of the number of the same identified above will be considered as Additional Services.
2. Maintain a list of bidders to whom bidding documents have been issued.
3. Prepare for and conduct a pre-bid meeting with prospective bidders.
4. Issue addenda as appropriate to interpret, clarify, or expand the bidding documents.
5. Attend the Bid Opening.
6. Tabulate the bids received and evaluate the compliance of the bids received with the bidding documents.
7. Prepare a written summary of this tabulation and evaluation together with a letter addressing the award of the construction contract.

C. Construction Contract Administration (Reimbursable)

1. Project Management
 - a. Project Communication
 - Conduct monthly progress/coordination meetings with the City and/or Contractor during the Construction phase of the project.
 - b. Project Administration
 - Prepare project correspondence and invoice documents.
2. *Pre-Construction Conference*. Prepare for and conduct the Pre-Construction Conference prior to commencement of Work at the Site.
3. *Visits to Site and Observation of Construction*. Consultant will provide on-site construction observation services during the construction phase. Consultant will make visits at intervals as directed by Client in order to observe the progress of the Work. Such visits and observations by Consultant are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Consultant's exercise of professional judgment. Based on information obtained during such visits and such observations, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Consultant will keep Client informed of the general progress of the Work.
 - a. The purpose of Consultant's site visits will be to enable Consultant to better carry out the duties and responsibilities specifically assigned in this Agreement to Consultant, and to provide Client a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Consultant shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall KH have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's

furnishing and performing the Work. Accordingly, Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

4. *Recommendations with Respect to Defective Work.* Consultant will recommend to Client that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Consultant believes that such work will not produce a completed Project that conforms generally to Contract Documents.
5. *Clarifications and Interpretations.* Consultant will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to Client as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by Client.
6. *Change Orders.* Consultant may recommend Change Orders to Client, and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.
7. *Contractor's Estimates.* Review and process contractor's estimates.
8. *Shop Drawings and Samples.* Consultant will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.
9. *Substitutes and "or-equal."* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities..
10. *Inspections and Tests.* Consultant may require special inspections or tests of Contractor's work as Consultant deems appropriate, and may receive and review certificates of inspections within Consultant's area of responsibility or of tests and approvals required by laws and regulations or the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Consultant shall be entitled to rely on the results of such tests and the facts being certified.
11. *Disagreements between City and Contractor.* Consultant will, if requested by Client, render written decision on all claims of Client and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the progress of Contractor's work. In rendering such decisions, Consultant shall be fair and not show partiality to Client or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
12. *Applications for Payment.* Based on its observations and on review of applications for payment and accompanying supporting documentation, Consultant will determine the amounts that Consultant recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Consultant's representation to Client, based on such observations and review, that, to the best of Consultant's knowledge, information and belief, Contractor's work has progressed to the point indicated and that such work-in-progress is generally in accordance with the Contract Documents subject to any qualifications stated in the recommendation. In the case of unit price work, Consultant's recommendations of payment will include determinations of quantities and classifications of Contractor's work, based on observations and measurements of quantities provided with pay requests.
 - a. By recommending any payment, Consultant shall not thereby be deemed to have represented that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond

the responsibilities specifically assigned to Consultant in this Agreement. It will also not impose responsibility on Consultant to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, nor to determine that title to any portion of the work in progress, materials, or equipment has passed to Client free and clear of any liens, claims, security interests, or encumbrances, nor that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.

13. *Substantial Completion.* Consultant will, promptly after notice from Contractor that it considers the entire Work ready for its intended use, in company with Client and Contractor, conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of Client, Consultant considers the Work substantially complete, Consultant will notify Client and Contractor.
14. *Final Notice of Acceptability of the Work.* Consultant will conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that Consultant may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Consultant shall also provide a notice that the Work is generally in accordance with the Contract Documents to the best of Consultant's knowledge, information, and belief based on the extent of its services and based upon information provided to Consultant upon which it is entitled to rely.
15. *Limitation of Responsibilities.* Consultant shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the Work. Consultant shall not have the authority or responsibility to stop the work of any Contractor.
16. *Record Drawings.* Prepare project "Record Drawings" based on information provided by the Contractor and/or City as to the actual field placement of the work including any changes or deletions. KH is not responsible for the accuracy of the information provided by the Contractor and/or the City. KH will provide the following deliverables:
 - a. One (1) set of reproducible (22" x 34") Record Drawings.
 - b. One (1) set of blackline (22" x 34") Record Drawings
 - c. One (1) set of .pdf file Record Drawings

Additional Services (as required and authorized):

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Construction staking
- Landscape and Irrigation Design
- Design of any offsite drainage improvements beyond the improvements identified in the scope
- Furnish additional copies of review documents and/or bid documents in excess of the number of the same identified above
- Assist the City as an expert witness in litigation in connection with the project or in hearings before approving and regulatory agencies
- Redesign to reflect project scope changes requested by the City, required to address changed conditions or change in direction previously approved by the City, mandated by changing governmental laws, or necessitated by the City's acceptance of substitutions proposed by the contractor
- Wastewater design beyond scope of services identified above
- Water line design beyond scope of services identified above
- Additional bid packages

Schedule:

Work will begin upon receipt of Notice to Proceed from the Client and will be completed in a mutually agreed upon schedule.

Terms of compensation:

Kimley-Horn will perform the following Basic Services for the total lump sum fee below. Individual task amounts are informational only. All permitting, application, and similar project fees will be paid directly by the Client.

Basic Services:

Task 1A Final Design – Phase 1	\$ 639,900
Task 2A Final Design – Phase 2	\$ 554,600
Task 3A Final Design – Phase 3	\$ 688,000
Task 4A Final Design – Phase 4	\$ 35,000
<u>Task 5 Geotechnical Analysis</u>	<u>\$ 20,500</u>
Total for Basic Services:	\$1,938,000

The Consultant will perform the services identified in the Lump Sum Tasks above for a total Lump Sum fee of \$1,948,000. Lump sum fees will be invoiced monthly based upon the overall percentage of services performed.

Kimley-Horn will perform the following Special Services on a labor fee plus expense basis upon authorization from the Client. Labor fee will be billed on an hourly basis according to our then-current rates.

Special Services (Reimbursable) (Upon Authorization):

Task 1B Bidding (Phase 1)	\$ 10,500
Task 1C Construction Contract Administration (Phase 1)	\$ 45,500
Task 2B Bidding (Phase 2)	\$ 10,500
Task 2C Construction Contract Administration (Phase 2)	\$ 43,000
Task 2D Roundabout Public Involvement (Phase 2)	\$ 40,000
Task 3B Bidding (Phase 3)	\$ 10,500
Task 3C Construction Contract Administration (Phase 3)	\$ 45,500
Task 4B Bidding (Phase 4)	\$ 5,000
Task 4C Construction Contract Administration (Phase 4)	\$ 10,000
Task 6 Subsurface Utility Engineering	\$ 50,000
Total for Special Services:	\$270,500

Total Budgetary Labor Fee: \$2,208,500

The Consultant will perform the services identified in the Reimbursable Tasks above on a labor fee plus expense (reimbursable) basis for an estimated fee of \$270,500. Labor fee will be billed on an hourly basis according to the attached rate schedule, which is subject to annual adjustment. Direct reimbursable expenses such as express delivery services, fees, and other direct expenses will be billed at 1.15 times cost. 6% of labor fee will be added to each invoice to cover certain other expenses such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project will be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Any fee projections in this Agreement are for general budgeting purposes only. Actual fees may be less or more than the projections.

Payment will be due within 25 days of your receipt of the invoice.

Special terms of compensation: The hourly rates listed below are valid through June 30, 2021.

Hourly Rates

Senior Professional I	\$190 - \$255
Senior Professional II	\$245 - \$270
Professional	\$165 - \$215
Analyst	\$110 - \$180
Senior Technical Support	\$120 - \$195
Technical Support	\$90 - \$105
Clerical/Administrative Support	\$80 - \$120

ACCEPTED:

CITY OF SAGINAW, TEXAS

KIMLEY-HORN AND ASSOCIATES, INC.

BY: _____

Gabe Reaume
City Manager

BY: _____

Scott R. Arnold, P.E.
Vice President

DATE: _____

DATE: February 18, 2020



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Gabe Reaume
City Manager

Agenda Items: (10)

E-mail: greaume@saginawtx.org

Phone: 817-230-0324

SUBJECT:

Consideration and Action regarding a Management Agreement with Community Link Mission, Inc. for the Operation and Promotion of a Farmer's Market at Saginaw SwitchYard.

BACKGROUND/DISCUSSION:

This agreement with Community Link Mission, Inc. will allow them to operate the Farmer's Market at Willow Creek Park. The responsibilities are spelled out in the agreement. The agreement will expire December 31, 2020.

FINANCIAL IMPACT:

The financial impact will be \$30,000 payable in monthly installments from April to November 2020.

RECOMMENDATION:

Staff recommends approval.

ATTACHMENTS:

Description
Agreement
Budget

**AGREEMENT BETWEEN
THE CITY OF SAGINAW AND COMMUNITY LINK MISSION, INC.
REGARDING FARMER'S MARKET AT SAGINAW SWITCHYARD**

This Agreement ("Agreement") is made and entered into by and between the City of Saginaw, Texas ("City"), a home rule Texas municipality, and Community Link Mission, Inc. ("CLM"), a Texas non-profit corporation, for the purposes and considerations stated below:

RECITALS

WHEREAS, CLM certain skills, knowledge, experience in operating farmers' markets;

WHEREAS, the City desires that CLM operate and promote a Farmer's Market at the Saginaw Switchyard; and

WHEREAS, CLM is willing to operate and promote a Farmer's Market in accordance with the terms of this Agreement.

TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the mutual benefits and promises contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

The following terms shall have the definitions ascribed to them as follows:

Affiliate means all entities, incorporated or otherwise, under common control with, controlled by or controlling CLM.

City means the City of Saginaw, Texas.

City Manager means the City Manager of the City, or their designee.

CLM means Community Link Mission, Inc. and includes any officer, principal, agent, employee, member, owner, or shareholder of that corporation.

Effective Date has the meaning ascribed to it in Part 2 of this Agreement.

Farmer's Market means a physical retail marketplace intended to sell foods directly by farmers to consumers. A farmer's market will typically consist of booths, tables or stands where farmers sell fruits, vegetables, meats, cheeses, and sometimes prepared foods and beverages. A farmer's market also includes as a secondary use the sale of hand-crafted items but expressly prohibits the sale of commercially produced items for resale.

Saginaw Switchyard means that portion of Willow Creek Park, located within the City, designated for use by food trucks, a Farmer's Market, or similar uses.

Term has the meaning ascribed to it in Part 2 of this Agreement.

Weekend means a Saturday, a Sunday, or both Saturday and Sunday.

2. Term and Termination.

a. This Agreement shall be effective as of the date of execution by all parties and will continue to be in force and effect until December 31, 2020, unless terminated earlier under the terms of this Agreement.

b. The City may terminate this Agreement without cause on thirty (30) days' written notice to CLM. The City may terminate this Agreement immediately upon any breach of this Agreement by CLM with written notice to CLM.

3. Covenants of CLM to the City.

a. In consideration of the City's grant of funds to CLM described in and in accordance with the terms and conditions of this Agreement, CLM agrees to:

- (1) operate a Farmer's Market at Saginaw Switchyard at least fourteen (14) Weekends between April 1, 2020 and November 30, 2020, under the terms and conditions of this Agreement. In the absence of bad weather or some other event beyond the control of CLM, the Farmer's Market shall be held on two Weekends a month for at least four (4) hours each Weekend;
- (2) operate the Farmer's Market at Saginaw Switchyard in a commercially reasonable manner;
- (3) not operate, and ensure that no Affiliate operates, any other farmer's market within Tarrant County during the term of this Agreement; and
- (4) require that not more than fifty percent (50%) of the vendors participating in the Farmer's Market each Saturday are non-food vendors;

b. CLM represents and warrants that it has the authority to enter into this Agreement. CLM also represents and warrants it will not violate any federal, state, or local laws in operating the Farmer's Market, and that all activity at Saginaw Switchyard under this Agreement shall conform to applicable building codes, health and safety codes, zoning regulations, and all other ordinances of the City.

c. In consideration of the privilege of using Saginaw Switchyard, during the term of this Agreement, CLM agrees to use its best efforts to prevent damage to any part or portion of Saginaw Switchyard. If, however, any part or portion of Saginaw Switchyard becomes damaged

during CLM's occupation of Saginaw Switchyard under this Agreement, CLM shall immediately notify the City Manager. CLM shall also notify the City Manager of any existing or developing hazardous or dangerous condition within and about Saginaw Switchyard. CLM further agrees to accept Saginaw Switchyard in the condition in which it is found each Saturday covered by this Agreement. The City hereby disclaims, and CLM hereby accepts the City's disclaimer, of any warranty, express or implied, of the conditions or fitness for use of any portions of Saginaw Switchyard for the Farmer's Market or of the adequacy of any on-or off-site parking for the Farmer's Market.

d. Preparation of Saginaw Switchyard for the Farmer's Market and clean-up following the market shall be the responsibility of CLM and the vendors. CLM and any vendors will be allowed access to Saginaw Switchyard no earlier than 6:30 a.m. each Saturday for a Weekend in which the Farmers Market shall be operated. The Saginaw Switchyards will be open for use for the Farmer's Market generally from 6:30 a.m. until 9:00 p.m. each Weekend. CLM agrees that it will, following each use of Saginaw Switchyard, restore it to as good a condition as existed prior to such use by CLM. CLM's failure to clean up and restore Saginaw Switchyard to the same good condition will result in the City hiring a third party to restore or clean Saginaw Switchyard to the same good condition. CLM will be responsible for all fees paid to such third party. CLM and all vendors will vacate Saginaw Switchyard no later than 9:00 p.m. each Sunday for a Weekend in which the Farmers Market shall be operated.

4. Covenants of the City to CLM.

a. The City will pay CLM Thirty Thousand Dollars (\$30,000) payable in monthly installments beginning April 1, 2020 and ending on November 1, 2020 to assist in the funding of operations and promotion for the Farmer's Market.

b. The City hereby authorizes and agrees that CLM will be allowed to operate a Farmer's Market at Saginaw Switchyard at the times specified in this Agreement. The parties agree and understand these rights are not exclusive and at any time Saginaw Switchyard is not being occupied by CLM and the Farmer's Market vendors under the terms of this Agreement, the City may permit other parties to use Saginaw Switchyard for any authorized purpose.

c. The City will promote the Farmers Market operated by CLM as the City determines in its sole discretion to be appropriate. Such promotion may include advertisement in the utility bills, posting notices and updates on the City's website, and issuing press releases.

d. The City in its sole discretion may close Saginaw Switchyard due to inclement weather that may hinder CLM from utilizing Saginaw Switchyard under the Agreement. The City will communicate with CLM regarding the closure of Saginaw Switchyard due to inclement weather. In addition, the City will have the absolute right, for any reason and with or without cause, to preempt this Agreement and cancel the Farmer's Market for not more than three (3) Saturdays. If a farmer's market is cancelled or Saginaw Switchyard is closed under the terms of this paragraph, CLM will nonetheless be credited with successful completion of a farmer's market for the purposes of Part 5(a)(1).

e. The City specifically reserves the right, to remove or exclude any vendor or other person who refuses to abide by any local, state or federal law.

5. General Breach.

Unless stated elsewhere in this Agreement, CLM shall be in default under this Agreement if CLM breaches any term or condition of this Agreement. In the event that such breach remains uncured after thirty (30) calendar days following receipt of written notice from the City referencing this Agreement, the City shall have the right to terminate this Agreement immediately by providing written notice to CLM. If this Agreement is terminated, CLM will forfeit its right to further payments by the City.

6. No Independent Contractor or Agency Relationship.

It is expressly understood and agreed that CLM shall operate as an independent contractor and not as an agent, representative or employee of the City. CLM shall have the exclusive right to control all details and day-to-day operations relative to the Farmer's Market and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, subcontractors, licensees, and invitees. CLM acknowledges that the doctrine of respondeat superior will not apply as between the City and CLM, its officers, agents, servants, employees, contractors, subcontractors, licensees, and invitees. CLM further agrees that nothing in this Agreement will be construed as the creation of a partnership or joint enterprise between the City and CLM.

7. INDEMNIFICATION.

CLM, AT NO COST TO THE CITY, AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS SERVANTS AND EMPLOYEES IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, DEMANDS, CAUSES OF ACTION, COSTS AND EXPENSES OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION AND SETTLEMENT, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS OF BUSINESS AND ANY RESULTING LOST PROFITS) AND/OR PERSONAL INJURY, INCLUDING DEATH, THAT MAY RELATE TO, ARISE OUT OF, OR BE OCCASIONED BY: (a) CLM'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT; OR (b) ANY ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF CLM, ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES, CONTRACTORS (OTHER THAN THE CITY, OR ITS EMPLOYEES, OFFICERS, AGENTS, ASSOCIATES, CONTRACTORS OR SUBCONTRACTS), OR SUBCONTRACTORS DUE OR RELATED TO OR ARISING FROM THE OPERATIONS OF THE FARMER'S MARKET, ACTIVITIES AT SAGINAW SWITCHYARD, OR THE PERFORMANCE OF THIS AGREEMENT.

8. Insurance

CLM agrees to maintain insurance for comprehensive general liability, automobile liability insurance, and workers' compensation during the term of this Agreement in the amounts specified by the City, and CLM shall furnish City with a valid Certificate of Insurance covering all workers and subcontractors. Such policies shall name the City, its officers, employees and agents as an additional insured and shall provide for a waiver of subrogation against the City.

9. Notices.

All written notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail, postage prepaid, or by hand delivery:

City:
City of Saginaw
Attn: City Manager

Address:
333 West McLeroy Blvd.

Saginaw, Texas 76179

CLM:
Community Link Mission, Inc.
Attn: Lara Gay

300 Belmont St.
Saginaw, TX 76179

10. Assignment and Successors.

CLM may at any time assign, transfer, or otherwise convey any of its rights or obligations under this Agreement to an Affiliate, so long as CLM, the Affiliate, and the City first execute an Agreement under which the Affiliate agrees to assume and be bound by all covenants and obligations of CLM under this Agreement. Otherwise, CLM may not assign, transfer or otherwise convey any of its rights or obligations under this Agreement to any other person or entity without the prior consent of the City of Saginaw. Any attempted assignment, transfer, or conveyance without the City's prior written approval shall constitute a breach and be grounds for termination of this Agreement. Any authorized assignee or successor-in-interest of CLM of all rights under this Agreement shall be deemed "CLM" for all purposes under this Agreement.

11. Compliance with Laws, Ordinances, Rules, and Regulations.

This Agreement will be subject to all applicable federal, state and local laws, ordinances, rules and regulations, including, but not limited to, all provisions of the City's Charter, codes and ordinances, as they may be amended.

12. Right to Inspect Records.

CLM agrees that the City shall have access to and the right to examine any directly pertinent books, documents, papers, and records of CLM or any Affiliate involving transactions

relating to this Agreement during the term of this Agreement. The City shall give CLM or its Affiliate reasonable advance notice of intended examination.

13. Governmental Immunity and Powers.

It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities that are outside of the terms, obligations and conditions of this Agreement.

14. No Waiver.

The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

15. Venue and Jurisdiction; Applicable Law; Limitation of Remedies.

a. *Venue.* If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas – Fort Worth Division.

b. *Applicable Law.* This Agreement shall be construed in accordance with the laws of the State of Texas and is entered into subject to the charter and ordinances of the City as they may be amended from time to time. Situs of this Agreement is agreed to be Tarrant County, Texas, for all purposes including performance and execution.

c. *No Waiver of Immunity; Limitation of Remedies.* Notwithstanding any provision of this Agreement to the contrary, nothing contained in this agreement may be construed to limit or waive any governmental or sovereign immunity of the City, or any immunity applicable to its officers, agents, servants or employees. To the extent there may be a waiver of immunity under state law, the remedies available to enforce this agreement are limited to mandamus, specific performance or injunctive relief. All other remedies (except recovery of attorney's fees as allowed below), including suits for damages are specifically waived by both parties.

d. *Attorney's Fees.* In the event it should become necessary to take legal action to interpret or enforce the terms of this Agreement, the prevailing party in such action shall be entitled to recover from the non-prevailing party reasonable attorney's fees and costs of court.

16. No Third Party Rights.

The provisions and conditions of this Agreement are solely for the benefit of the City and CLM, and any lawful assign or successor of CLM, and are not intended to create any rights, contractual or otherwise, to any other person or entity.

17. Force Majeure.

It is expressly understood and agreed by the Parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, or other circumstances which are reasonably beyond the control or knowledge of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such requirement shall be extended for a period of time equal to the period such party was delayed.

18. Interpretation.

In the event of any dispute over the meaning or application of any provision of this Agreement, this Agreement shall be interpreted fairly and reasonably, and neither more strongly for or against any party, regardless of the actual drafter of this Agreement. To the extent of any conflict between an incorporated exhibit and the body of this Agreement, the Agreement shall control.

19. Severability Clause.

It is hereby declared to be the intention of the parties that sections, paragraphs, clauses and phrases of this Agreement are severable, and if any phrase, clause, sentence, paragraph or section of this Agreement shall be declared unconstitutional or illegal by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Agreement since the same would have been executed by the parties without the incorporation in this Agreement of any such unconstitutional phrase, clause, sentence, paragraph or section. It is the intent of the Parties to provide the economic incentives contained in this Agreement by all lawful means.

20. Captions.

Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

21. Entirety of Agreement.

This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and CLM, and any lawful assign and successor of CLM, as to the matters contained in the Agreement. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement. Notwithstanding anything to the contrary in this Agreement, this Agreement shall not be amended unless the amendment is executed in writing by both parties.

22. Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

Signed this _____ day of _____ 2020.

CITY OF SAGINAW

By: _____
Gabe Reaume, City Manager

Date: _____

ATTEST:

Janice England, City Secretary

COMMUNITY LINK MISSION, INC

By: _____

Title: _____

Date: _____

ACKNOWLEDGEMENT

BEFORE ME, the undersigned authority, on this date personally appeared _____, who after being duly sworn stated that she is the _____ of Community Link Mission, Inc., and that she signed the foregoing instrument on behalf of said entity for the purposes expressed therein on the date shown.

Notary Public in and for the State of Texas

My commission expires: _____

Date: _____

COMMUNITY LINK MISSION, INC.

Budget Overview: 2020/2021 Market Budget

	January - December 2020	January - December 2021
Revenue		
Vendor Fees	10,240.00	10,240.00
City of Saginaw	30,000.00	0.00
Other Income	0.00	7,500.00
Total Revenue	\$ 40,240.00	\$ 17,740.00
Expense		
Formation Cost	8,000.00	0.00
Market Coordinator - PT	15,600.00	10,000.00
Promotion	5,000.00	2,500.00
Marketing	5,000.00	2,500.00
Vendor Materials	750.00	350.00
SNAP Expense	3,500.00	1,000.00
Liability Insurance	600.00	600.00
Accounting	750.00	750.00
Total Expense	\$ 39,200.00	\$ 17,700.00
Net Income	1,040.00	40.00



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Gabe Reaume
City Manager

Agenda Items: (11)

E-mail: greame@saginawtx.org

Phone: 817-230-0324

SUBJECT:

Consideration and Action regarding Resolution No. 2020-09 Adopting the Fiscal Year 2019-2020 Annual Strategic Project List and Work Plan.

BACKGROUND/DISCUSSION:

Resolution No. 2020-09 adopts the fiscal year 2019-2020 annual strategic project list and work plan.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

The staff recommends approval.

ATTACHMENTS:

Description

Resolution No. 2020-09

RESOLUTION NO. 2020-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAGINAW, TEXAS, ADOPTING THE FISCAL YEAR 2019-2020 ANNUAL STRATEGIC PROJECT LIST AND WORK PLAN.

WHEREAS, the City of Saginaw is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAGINAW, TEXAS, THAT:

SECTION 1.

The City of Saginaw adopts the following Fiscal Year 2019-2020 Annual Strategic Project List and Work Plan to provide direction to the City Manager and Staff on a common understanding of priorities for the new budget year, 2020:

CITY COUNCIL 2020 ANNUAL STRATEGIC PROJECT LIST AND WORK PLAN

Financially Sound City Providing Superior Services

Economic Development Framework
City Facilities Master Plan
Citywide Services and Staffing
Long Range Financial Plan [with 5 year projections]
Code of Ordinances Updates

Improve Mobility and Traffic Flow

Multi-use Trail/Bike Lane System Master Plan
Traffic Signal Synchronization Plan
Knowles Road Project
East McLeroy Project
Code Enforcement/Compliance (Options, Service Levels, Focus, Funding)
Parks Master Plan: (Including ADA Assessment) and Development
Saginaw Boulevard Overlay District (Adopted)

Develop Vibrant Activity Center/Major Corridors

National Guard Armory: Relocating
Municipal Center Master Plan (Bond Program)
Cranz Farm Master Plan for Mixed-Use Development

Expand Community Quality of Life Amenities

Community Policing: Concept Definition, Best Practices, Funding, Direction

Senior Center Plan: Needs Assessment

Quality of Life Bond Package (Multi-Year Implementation)

ADOPTED AND APPROVED this ____ day of _____, 2020.

APPROVED:

Todd Flippo, Mayor

ATTEST:

Janice England, City Secretary



City of Saginaw

Meeting Date: 3/3/2020

Staff Contact: Gabe Reaume
City Manager

Agenda Items: (12)

E-mail: greaume@saginawtx.org

Phone: 817-230-0324

SUBJECT:

Consideration and Action regarding an Interlocal Agreement with Tarrant County Governing County Game Room Regulations, Permitting and Enforcement Within the City Limits.

BACKGROUND/DISCUSSION:

The proposed Interlocal Agreement with Tarrant County governs County Game Room Regulations, Permitting and Enforcement.

FINANCIAL IMPACT:

None at this time.

RECOMMENDATION:

Staff recommends approval.

ATTACHMENTS:

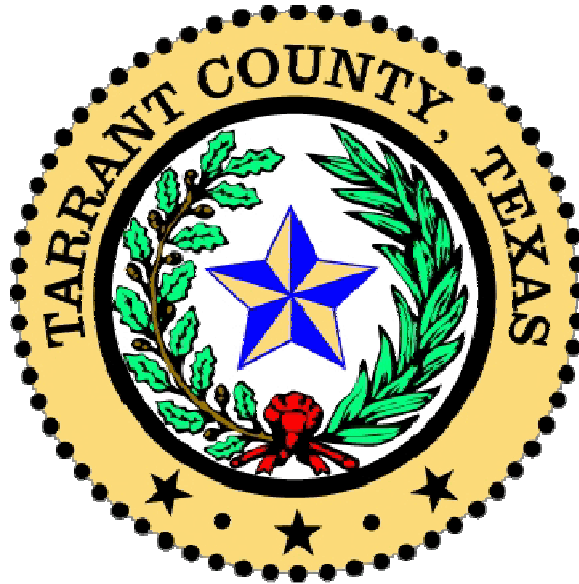
Description

Tarrant County Game Room Regulations

City Attorney Memo

ILA

TARRANT COUNTY GAME ROOM REGULATIONS



AS

ADOPTED ON _____
EFFECTIVE ON _____

TARRANT COMMISSIONERS COURT:

COUNTY JUDGE, B. GLEN WHITLEY
COMMISSIONER PRECINCT 1, ROY CHARLES BROOKS
COMMISSIONER PRECINCT 2, DEVAN ALLEN
COMMISSIONER PRECINCT 3, GARY FICKES
COMMISSIONER PRECINCT 4, J.D. JOHNSON

TARRANT COUNTY GAME ROOM REGULATIONS

Adopted by Commissioners Court: _____

NOTICE: The Game Room Regulations provided herein are in addition to any and all municipal or state regulations required for compliance with code and statutory regulations and laws, including, but not limited to, municipal zoning, building, fire, sales tax, required of the Texas Alcohol and Beverage Commission, Office of State Comptroller, Texas Secretary of State, public health, and any other governing agency, including but not limited to the compliance required to obtain licenses, required permits and certificates of occupancy.

SECTION 1. GENERALLY.

WHEREAS, the Legislature of the State of Texas has amended Chapter 234 of the Local Government Code authorizing counties to regulate Game Rooms; and,

WHEREAS, Tarrant County, Texas desires to reduce the adverse secondary effects of illicit Game Rooms, which were presented in briefings, public testimony, hearings and reports and made available to the Tarrant County Commissioners Court.

THEREFORE, THE TARRANT COUNTY COMMISSIONERS COURT FINDS:

1. Game Rooms should be separated from sensitive land uses to minimize the impact of their adverse secondary effects upon such uses, and should be separated from other Game Rooms, to minimize the adverse secondary effects associated with such uses and to prevent an unnecessary concentration of Game Rooms in one area.
2. Tarrant County, Texas has a substantial government interest in preventing and abating adverse effects that constitute a harm. The substantial government interest in preventing adverse secondary effects, which is Tarrant County, Texas' rationale for the Regulations, exists independent of any comparative analysis between legal Game Rooms and illicit Game Rooms. Tarrant County, Texas' interests in regulating Game Rooms extend to preventing future adverse secondary effects of either current or future Game Rooms that may locate to Tarrant County, Texas.

1.1. Authority to Regulate.

- (a) The Regulations are promulgated pursuant to, and in conformity with, Chapter 234 of the Local Government Code, as amended, titled County Regulation of Businesses and Occupations. According to Section 234.133 of the Local Government Code, the commissioners court of a county may regulate the operation of Game Rooms to promote the public health, safety, and welfare.
- (b) It is the purpose of the Tarrant County Commissioners Court to exercise its regulatory and police power, as established under Chapter 234 of the Local Government Code, to

establish reasonable and uniform regulations of Game Rooms, to promote the public health, safety, and welfare, and to prohibit business activities which might enable, or serve as a front for, criminal activities, including, but not limited to, organized crime, gambling and tax evasion.

- (c) The Regulations do not legalize anything prohibited under the Texas Penal Code or any other state or federal law(s) or regulation(s).

1.2. Administration.

- (a) The Tarrant County Commissioners Court hereby designates any law enforcement agency to investigate for violations of the Regulations. Any Peace Officer that is certified by the State of Texas may enforce the Regulations.
- (b) Under Section 234.138 of the Local Government Code, as amended, a Person commits a criminal offense if the Person intentionally or knowingly operates a Game Room in violation of a regulation adopted pursuant to Section 234.133. An offense under this Section is a Class A misdemeanor.
- (c) In accordance with Section 234.133 of the Local Government Code, the State of Texas has granted Tarrant County Commissioners Court authority to promote public health, safety, and welfare.
- (d) Except as provided in Subsection 1.2(e) of the Regulations, the Tarrant County Commissioners Court designates the Tarrant County Sheriff as Game Room Permit Administrator for Tarrant County, Texas. The Tarrant County Sheriff shall supervise, control, and operate the Permit Office. The Tarrant County Sheriff shall investigate, deny, issue, attach conditions to, administratively suspend, and/or revoke Game Room Permits pursuant to the Regulations and any applicable state law(s). The Tarrant County Sheriff shall notify the Tarrant County Fire Marshal and Public Health of permits issued, suspended and/or revoked.
- (e) The Tarrant County Commissioners Court allows incorporated cities or towns in Tarrant County, Texas that have executed interlocal agreements with Tarrant County, Texas to designate their own Game Room Permit Administrator. The Game Room Permit Administrator shall supervise, control, and operate the Permit Office. The Game Room Permit Administrator shall investigate, deny, issue, attach conditions to, administratively suspend, or revoke Game Room Permits pursuant to the Regulations and any applicable state law(s). The Tarrant County Sheriff shall notify the Tarrant County Fire Marshal and Public Health of permits issued, suspended and/or revoked.

1.3. Areas Covered by the Regulations.

Pursuant to Section 234.133 of the Local Government Code, the Regulations apply to all areas of Tarrant County, Texas. This includes the incorporated and unincorporated areas of Tarrant County, Texas.

1.4. Definitions.

As used in the Regulations:

- (a) “***Amusement Redemption Machine***” means any electronic, electromechanical, or mechanical contrivance designed, made, and adopted for bona fide amusement purposes that rewards the player exclusively with non-cash merchandise, prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once, or \$5, whichever amount is less.
- (b) “***Applicant***” means an individual, proprietorship, corporation, association, and/or other legal entity required to obtain a Game Room Permit and/or an individual, proprietorship, corporation, association, and/or other legal entity that has applied for a Game Room Permit.
- (c) “***County Employee***” means any individual authorized by Tarrant County, Texas to inspect a Game Room for compliance with the Regulations.
- (d) “***Current Annual Fire Inspection Report***” means a fire inspection report issued by the Tarrant County Fire Marshal or a similar inspection by the department having competent jurisdiction within the incorporated area of the county within ninety (90) days immediately preceding the date of any application for operation of a Game Room or renewal of a Game Room Permit for Fire Code compliance.
- (e) “***Fire Safety Official***” means the Tarrant County Fire Marshal or the department official having competent jurisdiction within the incorporated area of the county to conduct a fire and life safety inspection.
- (f) “***Gambling Device***” means a device described in Article 47.01(4) (A) of the Texas Penal Code.
- (g) “***Game Room***” means a for-profit business located in a building or place that contains six (6) or more:
 - (1) Amusement Redemption Machines, or
 - (2) electronic, electromechanical, or mechanical contrivances that, for consideration, afford a player the opportunity to obtain a prize or thing of value, the award of which is determined solely or partially by chance, regardless of whether the contrivance is designed, made, or adopted solely for bona fide amusement purposes.
- (h) “***Game Room Permit Administrator***” means the Sheriff of Tarrant County, Texas, the Sheriff’s designated agent, or the designated official for a cooperating municipality.

- (i) **“Game Room Permit Office”** means the primary office or place of business of the Game Room Administrator.
- (j) **“Interlocal Agreement”** means a cooperative agreement between Tarrant County, Texas and an incorporated municipality.
- (k) **“Notice”** is deemed effective on the date written notice to an Applicant, permit holder, or agent thereof is hand delivered or posted on the front exterior door of the Game Room, or upon receipt by certified mail.
- (l) To **“Operate a Game Room”** means to:
 - (1) be an Owner or Operator of a Game Room as those terms are defined by Subsection 1.4(n) and 1.4(m) of the Regulations;
 - (2) perform security services for a Game Room, including but not limited to, screening Game Room customers, regulating entry of customers into a Game Room, monitoring Game Room customers, and locking and/or unlocking a Game Room’s door(s) during business hours;
 - (3) fund the operation of a Game Room;
 - (4) have a financial interest in a Game Room;
 - (5) receive any profit from a Game Room;
 - (6) supply machines described in Subsection 1.4(g)(1)-(2) to a Game Room;
 - (7) own machines described in Subsection 1.4(g)(1)-(2) located in a Game Room;
 - (8) receive any profit from a machine described in Subsection 1.4(g)(1)-(2) located in a Game Room; or,
 - (9) have machines described in Subsection 1.4(g)(1)-(2) registered in your name with Tarrant County, Texas, the City of Fort Worth, and/or the Texas Comptroller located in a Game Room.
- (m) **“Operator”** means an individual who:
 - (1) operates a cash register, cash drawer, or other depository on the premises of a Game Room or of a business where money earned or the records of credit card transactions or other credit transactions generated in any manner by the operation of a Game Room or activities conducted in a Game Room are kept;
 - (2) displays, delivers, or provides to a customer of a Game Room; merchandise, goods, entertainment, or other services offered on the premises of a Game Room;

- (3) takes orders from a customer of a Game Room for merchandise, goods, entertainment, or other services offered on the premises of a Game Room;
 - (4) acts as a door attendant to regulate entry of customers or other persons into a Game Room; or,
 - (5) supervises or manages other persons at a Game Room in the performance of an activity listed in this Subsection.
- (n) “**Owner**” means a Person who:
- (1) has an ownership interest in, or receives the profits from, a Game Room or an Amusement Redemption Machine located in a Game Room;
 - (2) is a partner, director, or officer of a business, company, or corporation that has an ownership interest in a Game Room or in an Amusement Redemption Machine located in a Game Room;
 - (3) is a shareholder that holds more than ten (10) percent of the outstanding shares of a business, company, or corporation that has an ownership interest in a Game Room or in an Amusement Redemption Machine located in a Game Room;
 - (4) has been issued by the County Clerk an assumed name certificate for a business that owns a Game Room or an Amusement Redemption Machine located in a Game Room;
 - (5) signs a lease for a Game Room;
 - (6) opens an account for utilities for a Game Room;
 - (7) receives a certificate of occupancy or certificate of compliance for a Game Room;
 - (8) pays for advertising for a Game Room; or,
 - (9) signs an alarm permit for a Game Room.
- (o) “**Peace Officer**” means an individual described in Article 2.12 of the Texas Code of Criminal Procedure.
- (p) “**Person**” means an Owner, Operator, individual, employee, independent contractor, agent, proprietorship, corporation, association, or other legal entity.
- (q) “**Public Building**” means a building used by Federal, State, or local government that is open to the general public.
- (r) “**Regulations**” and/or “**the Regulations**” means these Regulations of Tarrant County, Texas for the operation of Game Rooms.

- (s) “**School**” means a facility, including all attached playgrounds, dormitories, stadiums, and other appurtenances that are part of the facility, used for the primary purpose of instruction or education, including primary and secondary schools, colleges, and universities, both public and private.
- (t) “**Sheriff**” means the Sheriff of Tarrant County, Texas or the Sheriff’s designated agent.

SECTION 2. GAME ROOM PERMITS.

2.1. Application.

- (a) It shall be unlawful for a Person to Operate a Game Room, use a Game Room, or maintain a Game Room in Tarrant County, Texas that has not been issued a Game Room Permit pursuant to the Regulations. A Person who violates this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (b) A complete application shall be filed with the Game Room Permit Administrator. The application shall be filed on the form provided by the Game Room Permit Administrator or on an accurate and legible copy of that form. A copy of the application can be obtained from the Tarrant County Sheriff’s Office website or from another source as determined by the Game Room Permit Administrator of a cooperating municipality.
 - (1) The Applicant shall apply in person. The Applicant shall be an Owner of the Game Room, as defined in these Regulations. The Game Room Permit Administrator shall establish the hours that an application can be submitted.
 - (2) The Game Room Permit Administrator shall provide the fee schedule and application form on the Game Room Permit Office’s website. The fee shall not exceed the annual Game Room Permit fee limit of \$1,000 as established by the Tarrant County Commissioners Court. The application fee shall be attached to the application form.
 - (3) Incomplete applications shall not be accepted. Once a complete application has been submitted, the application process will begin.
 - (4) A receipt shall be hand delivered or sent by certified mail to the Applicant within fourteen (14) days of submission of a complete application and payment of the application fee to the Game Room Permit Administrator. A receipt showing payment of the application fee is not a Game Room Permit.
 - (5) Once a complete application has been received, the Game Room Permit Administrator shall conduct up to three (3) inspections of the Applicant’s proposed Game Room to ensure compliance with the Regulations. The Applicant must be present, in person, during these inspections. Furthermore, it shall be the

responsibility of the Applicant to provide an interpreter if necessary during the inspection(s).

- i. After the initial inspection, the Applicant will be informed in writing of what corrections, if any, shall be made to the proposed Game Room in order to comply with the Regulations.
 - ii. If the proposed Game Room fails the initial inspection, a re-inspection will be performed and the Applicant will again be informed in writing of what corrections shall be made to the proposed Game Room in order to comply with the Regulations.
 - iii. If after a third (3rd) and final inspection, the Applicant's proposed Game Room fails to comply with the Regulations, the Game Room Permit Administrator shall deny the application.
 - iv. If the proposed Game Room passes inspection, the Game Room Permit Administrator shall approve the application.
- (6) The Applicant has sixty (60) days from the initial inspection to complete the inspection process. Failure to complete the inspection process within these sixty (60) days shall result in denial of the application. It is the duty of the Applicant to ensure that the process is completed in the requisite sixty (60) days.
- (7) Failure to provide any information required by this Section, or a determination by the Game Room Permit Administrator that inaccurate, erroneous, and/or incomplete information has been submitted, the Game Room Permit application shall be denied.
- (c) In municipalities which have elected to adopt the Regulations, and where the Tarrant County Commissioners Court has approved an Interlocal Agreement between the municipality and Tarrant County, Texas, the municipality shall designate an entity to receive and process Game Room applications. The municipality shall adopt a common operating procedure with requirements and processes reasonably similar to those set out by the Regulations. The municipality shall provide the application along with a description of the application and inspection process on the municipality's website.
- (d) Each application shall be accompanied by:
- (1) a Current Annual Fire Inspection Report from a Fire Safety Official showing compliance with all applicable Fire Safety Codes and showing all corrections have been made that were ordered by the Fire Safety Official;
 - (2) a copy of the certificate of occupancy and/or certificate of compliance issued by the appropriate entity for the proposed Game Room;

- (3) a copy of the diagram and/or floorplan to include the designed occupancy load prepared by a licensed architect or engineer and approved by the entity with competent jurisdiction;
- (4) a true and correct copy of the assumed name certificate filed in the office of the Tarrant County Clerk, bearing the file mark or stamp that evidences its filing, if the Game Room will be operating under an assumed name;
- (5) a copy of the formative legal documents for the applicable legal entity(s) (e.g., the Articles of Incorporation);
- (6) a non-refundable application fee of \$1,000 (the amount established by the Tarrant County Commissioners Court);
- (7) a photocopy of the Applicant's driver's license or government-issued photo identification;
- (8) proof as required by Subsection 3.13 that the proposed Game Room is exempt from the requirements set forth in Subsection 3.2 of the Regulations;
- (9) proof as required by Subsection 3.13 that the proposed Game Room is exempt from the requirements set forth in Subsection 3.4 of the Regulations;
- (10) proof as required by Subsection 3.13 that the proposed Game Room is exempt from the requirements set forth in Subsection 3.5 of the Regulations;
- (11) proof as required by Subsection 3.13 that the proposed Game Room is exempt from, or will be located in compliance with, the requirements set forth in Subsection 3.9 of the Regulations;
- (12) a copy of the current and valid lease agreement between the owner of the real property where the proposed Game Room is planning to operate from, and the Applicant, with the Applicant listed as an Owner of the Game Room, or proof that the Applicant owns the real property where the proposed Game Room is planning to operate;
- (13) a complete and accurate list of all Owner(s), Operator(s), employee(s), independent contractor(s), agent(s), and any other individual(s), proprietorship(s), corporation(s), association(s), or other legal entity(s) acting for, or acting on behalf of the Game Room along with a photocopy of the individual(s) driver's license or government-issued identification or incorporation papers as applicable;
- (14) a copy of the State of Texas coin-operated machine occupation tax record(s) and the State of Texas coin-operated machine license or registration certificate(s) for each machine exhibited or displayed, or permitted to be exhibited or displayed, in the Game Room in a spread sheet format. Records shall include information

detailing each machine found on the premises of the Game Room by identifying the machine by:

- i. the name of the manufacturer;
- ii. the serial number;
- iii. the type of machine;
- iv. the State of Texas Tax Stamp including the year of expiration of each tax stamp required;
- vi. the name of the individual(s), proprietorship(s), corporation(s), association(s), and/or other legal entity(s) that own, receive profits from, and has registered the machine in their name with the Texas Comptroller along with a description of their ownership and financial interest in the machine.

- (15) the Game Room Applicant's Federal Employer Identification Number (FEIN);
 - (16) a certification that none of the Owner(s), Operator(s), employee(s), independent contractor(s), agent(s), and any other individual(s), acting for, or acting on behalf of the Game Room have been convicted of any level of any of the offenses listed in Subsection 2.2(b)(1) of the Regulations; and,
 - (17) a certification that all of the contents of the application, and the material presented above, are true and correct under the penalty of Perjury as defined by Section 37.02 of the Texas Penal Code. Additionally, any misrepresentation by the Applicant on his/her application is a third (3rd) degree felony offense as defined by Section 37.10 of the Texas Penal Code.
- (e) A Game Room application shall be rejected upon failure to produce all documents required in Subsection 2.1(d), except for the exemptions listed in Subsection 2.1(d)(8)-(11). Failure to provide proof required by Subsection 2.1(d)(8)-(11) will result in denial of the specific exemption described in that particular Subsection.
 - (f) A GAME ROOM SHALL NOT OPERATE DURING THE PENDENCY OF THE APPLICATION AND SHALL NOT OPERATE UNTIL THE GAME ROOM APPLICATION HAS BEEN APPROVED AND THE GAME ROOM PERMIT ISSUED.
 - (g) A Game Room Permit, in accordance with the Regulations, is not transferable, assignable, or divisible, and it is a violation of the Regulations for any Person to attempt to do so. If ownership of a Game Room changes, the Game Room shall be deemed unpermitted and the new Owner(s) must reapply and must do so before the Game Room may operate.

- (1) A Person commits a Class A misdemeanor if they intentionally or knowingly transfer, assign, or divide a Game Room Permit issued pursuant to the Regulations, or attempt to do so. Further, they shall be assessed a civil penalty not to exceed \$10,000 per violation. Each Game Room Permit that is transferred, assigned, or divided or attempted to be transferred, assigned, or divided is a separate violation.
- (h) An Applicant who submits an application under the Regulations must swear and affirm the truth of the contents therein under the penalty of Perjury as defined by Section 37.02 of the Texas Penal Code. Additionally, any misrepresentation on the application is a third degree felony offense as defined by Section 37.10 of the Texas Penal Code.

2.2. Grounds for Denial, Revocation, or Suspension of a Game Room Permit.

- (a) Any violation of any Section or Subsection of the Regulations, or failure to meet all requirements of any Section or Subsection of the Regulations, where applicable, shall be grounds for denial, revocation, or suspension of a Game Room Permit. If a Game Room's Permit has been denied, revoked, or suspended, the Game Room shall not operate during the pendency of any appeal to the hearing examiner from the denial, revocation, or suspension of a Game Room Permit.
- (b) **Denial of a Game Room Permit.** A Game Room Permit shall be denied upon a finding by the Game Room Permit Administrator of any of the following facts:
 - (1) an Applicant, Owner(s), Operator(s), employee(s), independent contractor(s), agent(s), or any other individual(s), acting for or on behalf of the Game Room, has previously violated, or been convicted of, any level of offense for the following crimes:
 - i. gambling, gambling promotion, keeping a gambling place, communicating gambling information, possession of gambling devices or equipment, or possession of gambling paraphernalia, as described by Chapter 47 of the Texas Penal Code;
 - ii. forgery, credit card abuse, or commercial bribery as described by Chapter 32 of the Texas Penal Code;
 - iii. any criminal offense described by Chapter 34 of the Texas Penal Code;
 - iv. criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or any other offense to the laws of another state or of the United States that, if committed in this State, would have been punishable as one or more of the aforementioned offenses; and,

- A. less than two (2) years has elapsed since the date of the violation, or of the conviction, or of the date of release from confinement imposed by the conviction, whichever is the later date, if the violation or conviction was a misdemeanor offense; or,
 - B. less than five (5) years has elapsed since the date of the violation, or conviction, or the date of release from confinement imposed by the conviction, whichever is the later date, if the violation or conviction was a felony offense.
- (2) an Applicant makes a misleading statement in the application for a Game Room Permit; provides false, fraudulent, or untruthful information in the application for a Game Room Permit; and/or withholds pertinent information in the application for a Game Room Permit;
- (3) an Applicant is under eighteen (18) years of age;
- (4) an Applicant, Owner(s), Operator(s), employee(s), independent contractor(s), agent(s), or any other individual(s), acting for or on behalf of, the Game Room, has had a Game Room Permit revoked within the one hundred and eighty (180) day period immediately preceding the date the application was filed;
- (5) an Applicant, Owner(s), Operator(s), employee(s), independent contractor(s), agent(s), and any other individual(s), acting for, or on behalf of, the Game Room, is delinquent in the payment to the county of taxes, fees, fines, or penalties assessed or imposed regarding the operation of a Game Room;
- (6) an application or renewal fee required by the Regulations has not been paid;
- (7) an Applicant fails to pass any and all required Fire Code, public health or other required inspections of the Permit Administrator or fails to complete the inspection process within the sixty (60) day period described in Subsection 2.1 of the Regulations;
- (8) an offense described in Subsection 2.2(b)(1) or Subsection 3.12(b) of the Regulations was committed at the Game Room or another Game Room at the same location within one (1) year prior to the application; or,
- (9) any violation of Section 2 or 3 of the Regulations.
- (c) If the Game Room Permit Administrator denies a Game Room Permit application, the Game Room Permit Administrator shall document the denial and provide Notice to the Applicant of the denial within twenty-one (21) days from the date on which the denial was documented by the Game Room Permit Administrator. The denial letter shall provide the reason(s) for the action.

- (d) **Revocation or Suspension of a Game Room Permit.** The Game Room Permit Administrator shall have the authority and power to initiate a proceeding to revoke, or administratively suspend, a Game Room Permit if one (1) or more of the following events or conditions has occurred:
- (1) any violation of any of the offenses described in Subsection 2.2(b)(1), or Subsection 3.12(b), of the Regulations has occurred on the premises of the Game Room;
 - (2) the Applicant made a misleading statement in the application for the Game Room Permit; provided false, fraudulent, or untruthful information in the application for a Game Room Permit; and/or withheld pertinent information in the application for a Game Room Permit;
 - (3) the Game Room Permit should not have been issued pursuant to the Regulations;
 - (4) an Owner(s), Operator(s), employee(s), independent contractor(s), agent(s), or any other individual(s), acting for or on behalf of, the Game Room, has failed to make corrections ordered by a Fire Safety Official;
 - (5) an Applicant, Owner(s), Operator(s), employee(s), independent contractor(s), agent(s), or any other individual(s), acting for or on behalf of the Game Room, has violated any of the offenses described in Subsection 2.2(b)(1), or Subsection 3.12(b), of the Regulation; and/or,
 - (6) any violation(s) of Section 2 or 3 of the Regulations.
- (e) If any of the stated events or conditions providing a basis for revocation or suspension of a Game Room Permit under Subsection 2.2(d) has occurred, the Game Room Permit Administrator shall document the violation and provide Notice to the Applicant or permit holder of revocation or suspension within twenty-one (21) days from the date on which the violation was documented by the Game Room Permit Administrator. The revocation or suspension letter shall provide the reason(s) for the action. A revocation or suspension of a Game Room Permit by the Game Room Permit Administrator shall become final on the seventh (7th) day after Notice, except for situations outlined in Subsection 2.2(f) of the Regulations.
- (f) A revocation or suspension of a Game Room Permit by the Game Room Permit Administrator shall take immediate effect upon Notice by the Game Room Permit Administrator if:
- (1) an Applicant, Owner(s), Operator(s), employee(s), independent contractor(s), agent(s), or any other individual(s), acting for or on behalf of the Game Room violated any offense described in Subsection 2.2(b)(1) or Subsection 3.12(b) of the Regulations;

- (2) a violation of any offense described in Subsection 2.2(b)(1) or Subsection 3.12(b) of the Regulations has occurred on the premises of the Game Room;
- (3) there is a necessity for immediate action to protect the public from injury or imminent danger; or,
- (4) a Game Room Permit was issued based on a misrepresentation in the application, and but for the misrepresentation, the Game Room Permit would not have been issued.

2.3. Game Room Permit Appeal Hearings.

- (a) If the Game Room Permit Administrator denies a Game Room Permit application, revokes a Game Room Permit, or administratively suspends a Game Room Permit, the Applicant or permit holder shall have the opportunity to make a written request for a hearing before a hearing examiner appointed by the Tarrant County Commissioners Court. The hearing examiner shall not have participated in any investigation of the alleged grounds for denial, revocation, or suspension.
- (b) All requests for hearings must be in writing and delivered to the Game Room Permit Administrator within fourteen (14) days following Notice to the Applicant or permit holder. The Applicant or permit holder waives the right to a Game Room Permit appeal hearing if the request is not timely received by the Game Room Permit Administrator.
- (c) The Game Room Permit appeal hearing shall be held within twenty-one (21) days from the Game Room Permit Administrator's receipt of the request for a Game Room Permit appeal hearing. The Applicant, permit holder, and Game Room Permit Administrator shall be provided an opportunity to present evidence, cross-examine witnesses, and be represented by legal counsel at the appeal hearing. The formal rules of evidence do not apply.
- (d) It shall be the responsibility of the Applicant or permit holder to incur the cost of a court reporter and an interpreter, if necessary, for the Game Room Permit appeal hearing before the hearing examiner.
- (e) The Applicant or permit holder shall be present, in person, at the Game Room Permit appeal hearing. If the Applicant or permit holder is not present, in person, at the Game Room Permit appeal hearing, his or her Game Room Permit shall be automatically denied or revoked.
- (f) The hearing examiner has the power to uphold or reverse the denial, revocation, or suspension of the Game Room Permit. The hearing examiner shall issue a written order based on his or her determination within twenty-one (21) days from the date of the Game Room Permit appeal hearing.

- (g) If the hearing examiner determines, based upon the nature of the violations, that a suspension in lieu of revocation is appropriate, operation of the Game Room shall be suspended for a period not to exceed one hundred and eighty (180) days. The hearing examiner shall issue a written order suspending the Game Room Permit and attaching conditions, if applicable, and the suspension shall become effective on the date the hearing examiner issues his or her order.
- (h) Upon a finding by the hearing examiner that Subsection 2.2(d)(1), 2.2(d)(2), 2.2(d)(3), 2.2(d)(4), and/or 2.2(d)(5) of the Regulations has been violated, revocation of the Game Room Permit shall be mandatory.
- (i) The decision of the hearing examiner shall be final. On final decision by the hearing examiner, the losing party may appeal the decision by filing a petition in a district court in the county, with jurisdiction, within thirty (30) days after the date of the decision by the hearing examiner. Appeals to the district court shall be governed by the substantial evidence rule defined by Section 2001.174 of the Government Code.

2.4. Game Room Operation During the Pendency of an Appeal to District Court.

- (a) If the Applicant's or permit holder's appeal to the hearing examiner for revocation or suspension is unsuccessful, the Game Room shall not operate during the pendency of an appeal to the district court.
- (b) If the Applicant's or permit holder's appeal to the hearing examiner for denial, revocation, or suspension is successful, the Game Room may resume operation and may operate during the pendency of an appeal to the district court.
- (c) No Game Room may operate pending an appeal for denial of a Game Room Permit to the district court.

2.5. Reapplication.

- (a) After the hearing examiner's final ruling of permit denial or revocation, an Applicant may reapply for a Game Room Permit after the expiration of one hundred and eighty (180) days from the date of his or her ruling.
- (b) This application will be considered a new application in regard to the application timelines and fee established in Subsection 2.1 and for the distance requirements set forth in Subsection 3.9.

2.6. Permit Renewal; Permit Fee—Levied; Amount; Payment.

- (a) A Game Room Permit may be renewed for the following year starting sixty (60) days before expiration of the current permit by filing a complete application for a Game Room Permit with the Game Room Permit Administrator and paying the applicable fee set forth in the Regulations. A renewal application shall be subject to the same requirements in the

Regulations as are required for a Game Room Permit application. As long as the completed renewal application was submitted within this sixty (60) day period, the previous permit will remain in effect until the Game Room Permit Administrator makes a determination in accordance with the Regulations as to whether the Game Room Permit will be renewed.

- (b) An Applicant shall pay a non-refundable Game Room Permit fee of \$1,000 as established by Tarrant County Commissioners Court. The Game Room Permit fee shall be paid in person to the Game Room Permit Administrator upon application renewal. A receipt of payment and of renewal application submission shall be hand delivered or sent by certified mail to the Applicant within fourteen (14) days of the receipt of the non-refundable fee.

2.7. Contents of a Game Room Permit.

When the application process is complete and the proposed Game Room has met all the requirements set forth in the Regulations, the Game Room Permit Administrator shall give the Applicant a signed certificate. The certificate constitutes a Game Room Permit to operate the proposed Game Room for one (1) year from the date the Game Room Permit is issued.

- (a) The Game Room Permit shall contain the following information:
 - (1) The identity of the issuing Game Room Permit Administrator;
 - (2) The date of issue and the date of expiration;
 - (3) The name of the permit holder;
 - (4) The name and physical address of the Game Room;
 - (5) If the permit holder is a corporation or other legal entity, the individual(s) asserting control over the legal entity; and
 - (6) Any and all exemptions to the requirements of Section 3 of the Regulations for which the permit holder has qualified for.
- (b) The Game Room Permit Administrator shall keep a signed copy of the Game Room Permit for his or her records.

2.8. Penalty for Operating a Game Room without a Game Room Permit.

- (a) A Person who Operates a Game Room without first paying the fee and securing a Game Room Permit pursuant to the Regulations, or who Operates a Game Room after the Game Room Permit has been revoked or suspended, shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.

- (b) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (c) A violation of Section 2 of the Regulations is grounds for denial, revocation, or suspension of a Game Room Permit.

2.9. Effect.

Each Applicant, Owner(s), Operator(s), employee(s), independent contractor(s), agent(s), or any other individual(s) acting for or on behalf of a Game Room must meet and comply with all requirements of all applicable law(s). The issuance of a Game Room Permit pursuant to the Regulations shall not excuse any Applicant, Owner(s), Operator(s), employee(s), independent contractor(s), agent(s), any other individual(s) acting for or on behalf of a Game Room, or any patrons of such premises from compliance with such law(s) or regulation(s).

SECTION 3. GAME ROOMS.

3.1. Inspection by a Peace Officer.

- (a) **Inspection.** Peace Officers, Fire Safety Officials, code compliance officers, and/or designated County Employees are authorized to inspect any business in Tarrant County, Texas for violations of the Regulations. The Regulations do not authorize admittance that is otherwise prohibited by law. Peace Officers, Fire Safety Officials, code compliance officers, and/or designated County Employees may enter a business with consent, with a warrant, or under exigent circumstances. A Game Room Permit issued pursuant to the Regulations gives Peace Officers, Fire Safety Officials, code compliance officers, and/or designated County Employees implied consent to enter and to inspect any Game Room for violations of the Regulations.
- (b) **Unpermitted Game Rooms.** An unpermitted business that holds itself out as a Game Room by sign, advertisement, word-of-mouth, by offering memberships, and/or by offering for play or displaying six (6) or more machines described in Subsection 1.4(g)(1)-(2), is subject to inspection by any Peace Officer, Fire Safety Official, code compliance officers, and/or designated County Employee and is a Game Room under the Regulations.
 - (1) Refusal to allow any Peace Officer, Fire Safety Official, code compliance officers, and/or designated County Employee entry to inspect such unpermitted Game Room may be considered in establishing probable cause for the issuance of a search warrant to inspect for violations of the Regulations.
 - (2) An unpermitted Game Room is subject to the Regulations and will be held liable for all civil and criminal penalties listed herein.

- (c) **Compliance Inspection.** Any Peace Officer, Fire Safety Official, code compliance officers, and/or designated County Employee may inspect a permitted Game Room located within their jurisdiction to determine whether or not the Game Room is in compliance with the Regulations.
- (d) **Consent to Entry.** A Person who does not allow a Peace Officer, Fire Safety Official, code compliance officers, and/or designated County Employee to inspect a Game Room commits an offense. If a Person Operates a Game Room in violation of this Subsection, they shall be assessed a civil penalty not to exceed \$10,000 per violation. Each Peace Officer, Fire Safety Official, code compliance officers, and/or designated County Employee denied entry will be considered a separate violation.
- (e) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

3.2. Game Room Sign Required.

- (a) It shall be the duty of an Owner or Operator to ensure compliance with this Subsection.
- (b) In addition to visible street address numbers prominently posted on the building or structure, a Game Room shall have each outside door marked with a sign that:
 - (1) reads "GAME ROOM" in four (4) inch or larger block lettering;
and,
 - (2) is legible and visible at all times from a distance of twenty-five (25) feet from the outside door.
- (c) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each outside door not marked is considered a separate violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (d) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (e) A Game Room that has been issued an exemption pursuant to Subsection 3.13 of the Regulations is exempt from the Game Room sign requirements.
- (f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

3.3. Fire and Life Safety.

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall provide entry and exit doors that are readily accessible without the use of a key, special knowledge, or effort during business hours or any other hours of operation.
- (c) A Game Room shall comply with all construction and fire codes, and shall pay any court-approved fee(s) associated with a fire and life safety inspection, plan review, occupancy load calculation, or complaint.
- (d) All construction and fire code regulations will be strictly enforced and Game Rooms shall provide any Fire Safety Official with immediate access to the premises at all times.
- (e) A Game Room shall not use electronic locks to prevent entry during business hours.
- (f) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (g) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (h) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

3.4. Transparent and Uncovered Windows and Doors Required.

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall provide at least one (1) window in the front of the building and at least one (1) other window on one (1) other side meeting the criteria set forth in Subsection (c), allowing a clear and unobstructed view of all machines described in Subsection 1.4(g)(1)-(2) located in the Game Room.
- (c) It shall be unlawful for a Person to exhibit or display, or to permit to be exhibited or displayed, any machine described in Subsection 1.4(g)(1)-(2) in a Game Room unless the required transparent walls or windows of the Game Room:
 - (1) are located on at least two (2) sides of the Game Room, and each machine described in Subsection 1.4(g)(1)-(2) located therein is visible through such walls or windows; and,
 - (2) at the lowest point are not more than four (4) feet above the adjacent sidewalk or ground level; and,

- (3) at the highest point are at least eight (8) feet higher than the adjacent sidewalk or ground level; and,
- (4) are at least four (4) feet wide.
- (d) A Game Room shall provide transparent uncovered glass in each exterior Game Room window or door.
- (e) It shall be unlawful for a Person to cover or tint a Game Room window or door, or otherwise block a Game Room window or door, so as to obscure the view of any machine described in Subsection 1.4(g)(1)-(2) located in a Game Room, or the interior of the location from a sidewalk through a Game Room window or door.
- (f) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (g) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (h) A Game Room that has been issued an exemption pursuant to Subsection 3.13 of the Regulations is exempt from the Game Room windows requirements.
- (i) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

3.5. Hours of Operation.

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall operate only between the hours of 8 a.m. and 10 p.m.
- (c) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each hour of the day that a Game Room is operating during prohibited hours in violation of the Regulations is a separate violation.
- (d) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (e) A Game Room that has been issued an exemption pursuant to Subsection 3.13 of the Regulations is exempt from the Game Room hours of operation requirements.
- (f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

3.6. Display of a Game Room Permit.

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall post or display the current, original Game Room Permit in plain sight in a common area accessible to the public without having to enter into a controlled area of the business.
- (c) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (d) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (e) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

3.7. Recordkeeping.

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room shall maintain, onsite, and produce to any Peace Officer, Fire Safety Official, and/or designated County Employee for inspection:
 - (1) a record for each employee that contains the name, address, date of birth, state identification number or social security number, job function, W-2 or W-4 form, a copy of the application of employment with the Game Room, a copy of the Form I-9 filed as part of Employment Eligibility Verification for the Department of Homeland Security, and a photograph of the employee;
 - (2) a daily register that contains the name, date of birth, state identification number or social security number, and job function of each employee and/or independent contractor present at the establishment that day. Every Owner, Operator, employee, independent contractor, agent, and/or any other individual acting for or acting on behalf of the Game Room is required to sign the daily register with the information required above immediately upon entering the Game Room; and,
 - (3) a copy of the Tarrant County and State of Texas tax record forms detailing each machine found on the premises of the Game Room by identifying the machine by name of manufacturer, serial number, type of machine, the serial number of the State of Texas Tax stamp to include the year of expiration of each tax stamp required, the Tarrant County Tax Stamp to include the year of expiration of each tax stamp required, and the name of the individual(s), proprietorship(s), corporation(s), association(s), or other legal entity(s) that owns, receives profits from, and has registered the machine in their name with the Texas Comptroller

with a brief description of their ownership and financial interest in the machine in a spread sheet format.

- (c) A Game Room shall preserve the daily register required by Subsection (b)(2) for ninety (90) days after the date the register was made. The register must be maintained at the Game Room, it must be accessible by any Person on duty at the Game Room, and must be made available to any Peace Officer, Fire Safety Official, and/or designated County Employee upon request.
- (d) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each record required under this Subsection that is missing and/or is deficient is considered a separate violation. Each day the record is missing and/or is deficient is considered a separate violation.
- (e) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

3.8. Prohibited Employment.

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) It shall be unlawful for any Owner, Operator, employee, independent contractor, agent, and/or any other individual acting for, or on behalf of, a Game Room to have been previously convicted of, entered a plea of nolo contendere or guilty, or received deferred adjudication for any offense set forth in Subsection 2.2(b)(1).
- (c) It is the responsibility of any Owner or Operator to conduct a criminal background check on every Owner, Operator, employee, independent contractor, and/or any other individual acting for, or on behalf of, a Game Room.
- (d) Failure to comply with any of the requirements of this Subsection shall result in a violation and be punishable by a civil penalty assessed against any Owner or Operator not to exceed \$10,000 per violation. Every prohibited Owner, Operator, employee, independent contractor, and/or any other individual acting for, or on behalf of, a Game Room that was convicted of, entered a plea of nolo contendere or guilty, or received deferred adjudication for any offense set forth in Subsection 2.2(b)(1) and/or not subjected to a criminal background check is considered a separate violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (e) An Owner or Operator commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

- (f) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

3.9. Distance Restrictions.

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) A Game Room in operation shall not be located:
 - (1) within 1,500 feet from any existing or planned school, regular place of religious worship, and/or residential neighborhood. “Planned” means that steps have been taken toward the facility’s or structure’s development including but not limited to a permit received, a plat approved, design work started, a bond received, or an order approved by a governmental entity’s governing body; or,
 - (2) within a distance of 2,000 feet from another Game Room.
- (c) For the purposes of this Subsection, measurements shall be made in a straight line from the nearest portion of the building or appurtenances used by the Game Room to the nearest portion of the building or appurtenances that are used for the purposes identified in Subsection (b) above.
- (d) Game Rooms are exempt from the distancing restrictions upon proof that the Applicant continuously owned, operated the Game Room, and is in good standing with the municipality in which the Game Room is located, at the same location, and under the same name prior to October 15, 2019. If the Game Room changes its name, its Owner, and/or adds another Owner after this date, or if the Game Room Permit is thereafter suspended or revoked, or if the Game Room Permit is thereafter denied renewal, or if the Game Room Permit is allowed to lapse, then the Game Room will be considered a new Game Room and not exempt from the distance requirements outlined in this Subsection. **All applications claiming a distance exemption under this Subsection must have been submitted on or before December 31, 2019.** However, this subsection does not exempt or otherwise preempt the compliance of a Game Room of any and all other municipal or state regulations required for compliance with code and statutory regulations and laws, including, but not limited to, municipal zoning, building, fire, sales tax, required of the Texas Alcohol and Beverage Commission, Office of State Comptroller, Texas Secretary of State, public health, and any other governing agency, including but not limited to the compliance required to obtain licenses, required permits and certificates of occupancy.
- (e) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (f) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.

- (g) The following Game Rooms are exempt from the distancing requirements set forth in this Subsection:
 - (1) Game Rooms that meet the requirements of Subsection 3.13(c) below; and,
 - (2) Game Rooms that meet the requirements of Subsection 3.9(d) above.
- (h) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

3.10. Game Room Memberships.

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) Game Room memberships are prohibited for any purpose.
- (c) A Game Room shall not restrict entry to a Game Room and/or prohibit the participation in any activity inside a Game Room by a patron through the requirement of a Game Room membership.
- (d) Game Rooms shall not issue membership cards to any individual for any purpose.
- (e) Game Rooms shall not have, make use of, employ, and/or require check-in procedures of any kind prior to entering or before exiting a Game Room.
- (f) A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each person denied entry is considered a separate violation. Each membership card issued is considered a separate violation. Each individual subjected to any check-in procedure prior to entering or before exiting a Game Room is considered a separate violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (g) A Person commits a Class A misdemeanor offense if they intentionally or knowingly Operate a Game Room in violation of this Subsection.
- (h) Any violation of this Subsection is grounds for denial, revocation, or suspension of a Game Room Permit.

3.11. *(reserved for future use)*

3.12. Illegal Machines.

- (a) It shall be the duty of any Owner or Operator to ensure compliance with this Subsection.
- (b) It shall be unlawful for a Game Room to keep, exhibit, operate, display, or maintain any gambling device that is prohibited by the Constitution of this state or Chapter 47 of the Texas Penal Code, GAMBLING.

- (c) Any Person who Operates a Game Room with a machine described in Subsection 1.4(g)(1)-(2) that is being used and/or has been used for illegal gambling shall be assessed a civil penalty not to exceed \$10,000. Each machine described in Subsection 1.4(g)(1)-(2) that is being used or has been used for illegal gambling shall be a separate violation.
- (d) If a law enforcement agency determines, through an investigation(s), that a Game Room was operating in violation of Chapter 47 of the Texas Penal Code, then every machine described in Subsection 1.4(g)(1)-(2) that is located in the Game Room shall be considered in violation of this Subsection. A Person who Operates a Game Room in violation of this Subsection shall be assessed a civil penalty not to exceed \$10,000 per violation. Each day a violation occurs or continues to occur is considered a separate violation.
- (e) Any violation of this Subsection is grounds for mandatory denial and/or mandatory revocation of a Game Room Permit.
- (f) An individual's compliance with the Regulations, including Operating a Game Room under a permit issued pursuant to the Regulations, is not a defense to prosecution for an offense under Chapter 47 of the Texas Penal Code.

3.13. Requirements to Qualify for Food and Beverage Sales or Charitable Bingo Exemptions.

A Game Room permit holder may apply for multiple exemptions as provided in this subsection. However, this subsection does not exempt or otherwise preempt the compliance of a Game Room of any and all other municipal or state regulations required for compliance with code and statutory regulations and laws, including, but not limited to, municipal zoning, building, fire, sales tax, required of the Texas Alcohol and Beverage Commission, Office of State Comptroller, Texas Secretary of State, public health, and any other governing agency, including but not limited to the compliance required to obtain licenses, required permits and certificates of occupancy.

- (a) Any exemption granted must be clearly stated on the Game Room permit.
- (b) Charitable Bingo Exemption. An Applicant is qualified for a charitable bingo exemption if the Applicant can show a valid and current Texas Lottery Commission Charitable Bingo License ("Charitable Bingo License") as described in Chapter 2001 of the Texas Occupations Code. An original certificate or copy of a Charitable Bingo License presented with the complete Game Room permit application at the time of application or permit renewal is sufficient to make this showing.
- (c) Food and Beverage Sales Exemption. An Applicant is qualified for a Food and Beverage Sales exemption if the Applicant meets all requirements of Subsections (1)-(7) below:

- (1) The following words and terms, when used in this Subsection, shall have the following meaning unless the context clearly indicates otherwise:
 - i. Food or Beverage Service - cooking or assembling food on premises, primarily for on-premises consumption. Commercially pre-packaged items which require no heating, cooking, or assembly and which may be purchased off-premises do not constitute food or beverage service under this section;
 - ii. Entrée - main dish of a meal;
 - iii. Multiple Entrées - no fewer than eight different entrees per meal period must be available to customers; and,
 - iv. Food Service Facilities - a portion of the licensed premises where food is stored and prepared primarily for on premises consumption.
- (2) An Applicant is qualified for a Food and Beverage Sales exemption if the following conditions are satisfied:
 - i. with respect to the operation of a Game Room, the Applicant's primary business on the premises is Food or Beverage Service;
 - ii. multiple entrees are available to customers;
 - iii. Food Service Facilities are maintained on the premises;
 - iv. the hours of operation for sale and Food or Beverage Service are the same as the hours of operation of the Game Room; and,
 - v. at least 51 percent of the Game Room's total net income is derived from the sale of food or beverages.
- (3) An Applicant for a Food and Beverage Sale Exemption shall submit a sworn statement attesting that Food or Beverage Service is maintained on the premises and is the primary business on the premises. The Applicant shall furnish the following:
 - i. the menu or, if no menu is available, a listing of the food and beverage items;
 - ii. hours of operation of Food or Beverage Service;
 - iii. sales data or, if not available, projection of sales. The projection or data should include sufficient breakdown of revenues of food, alcoholic beverages, and Game Room operation proceeds;

- iv. listing of equipment used in preparation and Food or Beverage Service versus the equipment used in operation of a Game Room;
 - v. copies of floorplans of the licensed premises indicating areas devoted primarily to the preparation and Food and Beverage Service and those devoted primarily to operation of a Game Room;
 - vi. if alcoholic beverages are served, the TABC license or permit, as applicable, with the TABC food and beverage certificate, as applicable; and,
 - vii. the Food Service permit from the appropriate entity.
- (4) Applicants for renewal of Food and Beverage Sales Exemptions shall resubmit the information required in Subsection 3.13(c)(3)(a)-(g) above.
 - (5) Failure to meet all requirements of this Subsection or accurately maintain required records is grounds for denial or revocation of a Food and Beverage Sales Exemption.
 - (6) In verifying that the exemption holder is maintaining Food or Beverage Service as the primary business on the premises, the Game Room Permit Administrator may examine all books, papers, records, documents, supplies, and equipment of the exemption holder.
 - (7) Recordkeeping requirements for holders of food and beverage sales exemptions include:
 - i. each holder of a food and beverage sales exemption shall maintain records to reflect separate totals for beverage sales, food sales, and other major sales categories at the location, including proceeds from machines described in Subsection 1.4(g)(1)-(2) located in the Game Room. Purchase invoices must be maintained to reflect the total purchases of beverages, food, and other major purchase categories;
 - ii. complimentary food and beverages, including alcoholic beverages, shall not be calculated in determining whether the premises meets the 51 percent or more food or beverage sales threshold;
 - iii. all records are required to be maintained for four years and made available to authorized representatives of the Game Room Permit Administrator upon reasonable request; and,
 - iv. in examining the food or beverage sales, the Game Room Permit Administrator may compute and determine the percentage of food and beverage sales upon the basis of information filed with the Game Room

Permit Administrator or held by the permit holder, but if such information is insufficient, the computation and determination of the percentage of sales may be based upon any records or information which is available.

3.14. Owners of an Illegal Game Room.

It is not a defense to prosecution under this Section if an individual does not have the DBAs in his/her name and/or does not lease the property in his/her name.

3.15. Injunction; Civil Penalty; Fees.

- (a) **Injunction.** Pursuant to Section 234.137 of the Local Government Code, Tarrant County, Texas, or its designee or assignee by interlocal agreement, is authorized to file suit in district court seeking injunctive relief to prohibit the violation or threatened violation of the Regulations.
 - (1) **Parties Subject to Injunction.** Tarrant County, Texas or its designee or assignee by interlocal agreement, may file suit in district court seeking an injunction prohibiting the violation or threatened violation of the Regulations against any Owner, Operator, or other person or entity who maintains, owns, uses, is a party to the use, or who owns the real property where the violation or threatened violation of the Regulations is occurring and/or has occurred.
 - (2) **Notice.** As a prerequisite to filing a suit seeking injunctive relief under Subsection 3.15(a), Tarrant County, Texas, or its designee or assignee by interlocal agreement, shall give written Notice to the party from which relief is sought at least thirty (30) days before filing suit. This written Notice will advise the party from which relief is sought of the violation or threatened violation occurring on the premises.
 - (3) **Abatement.** A person or entity against whom a suit is pending who does not receive written Notice, as outlined in Subsection 3.15(a)(2), may file a plea in abatement not later than the thirtieth (30th) day after the date the person or entity files an original answer in the court in which the suit is pending. The court shall abate the suit if the court, after a hearing, finds that the person or entity is entitled to an abatement because Notice was not provided as required by Subsection 3.15(a)(2). The court shall abate the suit no longer than thirty (30) days.
- (b) **Civil Penalty.** Pursuant to Section 234.137 of the Local Government Code, a person who violates a Section or Subsection of the Regulations is liable to Tarrant County, Texas for a civil penalty of not more than \$10,000 for each violation. Each day a violation continues is considered a separate violation for purposes of assessing a civil penalty. Tarrant County, Texas may bring suit in district court to recover a civil penalty.
- (c) **Fees.** Pursuant to Section 234.137 of the Local Government Code, Tarrant County, Texas or its designee or assignee by interlocal agreement, is entitled to recover

reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both including reasonable attorney's fees, court costs, and investigatory costs.

SECTION 4. CUMULATIVE EFFECT OF REGULATIONS; SEVERABILITY.

4.1. Cumulative Effect.

Authority under the Regulations is cumulative of other authority that Tarrant County, Texas and its incorporated municipalities have to regulate Game Rooms and does not limit that authority.

4.2. Severability Clause.

If a Section or Subsection of the Regulations, or certain applications of a Section or Subsection, is found unconstitutional, the remaining Sections or Subsections, or applications of those Sections or Subsections, will continue in force as law.

BRYN D. MEREDITH
bmeredith@toase.com

February 26, 2020

Via Email

Mr. Gabe Reaume
City of Saginaw
333 West McLeroy Blvd.
Saginaw, Texas 76179

Re: Interlocal Agreement with Tarrant County for the regulation of Game Rooms

Dear Gabe:

As background information regarding this interlocal agreement it is important to understand Tarrant County's authority to regulate game rooms. The legislature has recently authorized all counties in the State of Texas to regulate game rooms, which are defined in Chapter 234 of the Local Government Code as businesses that have six or more amusement redemption machines or other electronic, electromechanical, or mechanical contrivances that award prizes. This would include 8 liners. Counties who choose to regulate game rooms can require licenses or permits to operate; restrict the location of game rooms to specified areas of the county, including the unincorporated area of the county; prohibit game rooms within a specified distance from schools, places of religious worship, and residential neighborhoods; and restrict the number of game rooms allowed in an area.

Tarrant County adopted county-wide regulations in November, 2019. Those regulations go into effect on April 1, 2020 and the county is proposing to enter into separate interlocal agreements with the cities in Tarrant County to provide that each city will act as the permitting agency under the county regulations ("the Regulations"). The Regulations designate the sheriff as the Game Room Permit Administrator with the authority to investigate, deny, issue, attach conditions to, administratively suspend, and/or revoke game room permits; however, the Regulations allow any city who has entered into an interlocal agreement with the county to designate their own Game Room Permit Administrator to perform those functions.

STATUTORY AUTHORITY FOR COUNTY REGULATIONS

As stated above, Tarrant County has been given broad authority to regulate game rooms within the county. However, the enabling legislation (Chapter 234, Local Government Code) is not clear on whether the county regulations would apply within the city limits of incorporated municipalities. Section 234.133 provides:

Sec. 234.133. **AUTHORITY TO REGULATE.** To promote the public health, safety, and welfare, the commissioners court of a county may regulate the operation of game rooms and may:

- (1) restrict the location of game rooms to specified areas of the county, including the unincorporated area of the county;
- (2) prohibit a game room location within a certain distance, prescribed by the commissioners court, of a school, regular place of religious worship, or residential neighborhood; or
- (3) restrict the number of game rooms that may operate in a specified area of the county.

The statement in paragraph (1) above – “including the unincorporated area of the county” – is not precise in its intent. Of course, counties have authority to regulate in the unincorporated areas of their county. That’s what they routinely do. The question is whether they have also been given the authority to enforce their regulations in the incorporated areas of the county which are under the jurisdiction of cities. They don’t routinely do that because that would allow for conflicting regulations to exist. What would have been clearer is if the legislature had said, “including incorporated areas of the county” or even better, “including incorporated and unincorporated areas of the county.”¹

Regardless, Tarrant County is interpreting this legislation to allow them to regulate within the city limits of incorporated municipalities and has clearly stated in Section 1.3 of the Regulations: “Pursuant to Section 234.133 of the Local Government Code, the Regulations apply to all areas of Tarrant County, Texas. This includes the incorporated and unincorporated areas of Tarrant County, Texas.” The Regulations are worded in an attempt to make them apply to city officials who perform similar actions as the sheriff or other county employees who are charged with implementation and enforcement of the

¹ Chapter 234 grants multiple authority for counties to regulate businesses and occupations. Subchapter A authorizes the regulation of automotive wrecking and salvage yards, junkyards, recycling businesses, flea markets, demolition businesses, and outdoor resale businesses **in the unincorporated area** of the county. Subchapter B allows certain counties to regulate slaughterers **only in the unincorporated area** of a county. Subchapter C allows counties to contract with municipalities for the county to inspect day-care centers or group day-care homes **in the municipality**. Subchapter D allows a county to regulate massage parlors **in the unincorporated area** of the county. Therefore, the language “**including the unincorporated area** of the county” arguably was intended to have a different meaning; yet it is less than clear that the legislature intended for the county’s game room regulations to apply within incorporated areas.

Regulations. There are a number of mistakes and inconsistencies in how the Regulations are worded, but the intent seems to be to allow city employees to substitute for county employees. I will discuss below, however, how some of these inconsistencies leave questions that need to be answered.

CITY REGULATORY AUTHORITY

Contrary to the broad authority to regulate game rooms that has been given to counties, such broad authority has not been specifically given to cities. The definition of amusement redemption machines in Chapter 234 of the Local Government Code includes machines such as 8 liners, which, depending on how they are used, could also fall under the definition of skill or pleasure coin-operated machines in Chapter 2153 of the Occupations Code. Section 2153.001 states, “The purpose of this chapter is to provide comprehensive and uniform statewide regulation of music and skill or pleasure coin-operated machines.” Section 2153.452 limits city authority to regulate music and skill or pleasure coin-operated machines as follows:

Sec. 2153.452. ZONING.

(a) For purposes of zoning, a political subdivision of this state shall treat the exhibition of a music or skill or pleasure coin-operated machine in the same manner as the political subdivision treats the principal use of the property where the machine is exhibited.

(b) Subsection (a) does not prohibit a municipality from restricting the exhibition of a coin-operated amusement machine within 300 feet of a church, school, or hospital.

The City of Fort Worth is currently involved in a lawsuit challenging its authority to regulate the location of game rooms due in part to these limitations in Chapter 2153. That lawsuit is currently pending in the Texas Supreme Court. Therefore, to the extent the City desires to regulate the location and permitting of game rooms, until the Supreme Court give us some guidance it may be preferable to utilize the county Regulations for those purposes.

TARRANT COUNTY REGULATIONS

In this discussion of the Tarrant County Regulations, it should be understood that what the Regulations allow and what the interlocal agreement actually does are two different things. The Regulations were adopted on November 12, 2019, and go into effect on April 1, 2020. In order for a Game Room to operate, it must have a permit. A violation incurs a civil penalty of \$10,000. Tarrant County is allowed to execute interlocal agreements within the county for purposes of having cities handle the permitting process for Game Rooms in each city. A city can charge a fee not to exceed \$1,000. (The fee

must reasonably approximate the costs incurred by the city in processing applications for permits, which would include conducting inspections, reviewing site plans, giving notices of deficiencies, etc.) You must (or may – depending on which section you read) post the fee schedule on your website.) There are specific due process permitting requirements that the City would have to follow, with appeals, etc. These procedures adopted by Tarrant County appear to be standard due process procedures, but I have not carefully scrutinized them to assure they comport with minimum constitutional guarantees.

The Regulations authorize Peace Officers, Fire Safety Officials, Code Compliance Officers, and designated County Employees to inspect Game Room premises for compliance. The Regulations define Peace Officers and Fire Safety Officials to include city officers and officials, but there is no definition of Code Compliance Officer in the Regulations so it is not clear if city code compliance officers are included; and of course, any references to County Employees would not include city employees. This is another one of the places the Regulations are not clearly worded. It is my opinion, however, that the overall intent of the Regulations is to authorize a city to utilize its employees for these purposes if it executes the interlocal agreement.

Section 3 of the Regulations also requires: i) the posting of a “Game Room” sign on each door; ii) readily accessible entry and exit doors; iii) transparent windows; iv) operation of the Game Room only between 8 a.m. and 10 p.m.; v) display of the Game Room permit; and vi) keeping records on employees and machines on the premises. The owners and employees of a Game Room cannot have been convicted of certain offenses. The Regulations prohibit a Game Room from requiring membership or other check-in procedures for anyone to enter the Game Room.

One of the more important regulations is the distance restrictions. A Game Room may not be located within 1,500 feet of a school, place of religious worship or residential neighborhood; nor within 2,000 feet of another Game Room. In your city limits this will be measured from lot line to lot line. Any Game Room that was operating prior to October 15, 2019, is exempt from complying with these distance restrictions as long as it does not change. To be entitled to the exemption, however, such a Game Room must apply for the exemption before April 15, 2020.

Finally, the Regulations specifically make it unlawful to have any illegal gambling device (such as an 8 liner) in a Game Room.

There is one more issue I want to bring to your attention. The statute authorizing these county regulations provides in Section 234.137:

A **county** may sue in district court for an injunction A person who violates this subchapter or a regulation adopted under Section 234.133 is liable to the **county** for a civil penalty of not more than \$10,000 for each violation... . A **county** may bring suit in district court to recover a civil

penalty The **county** is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, under this section, including reasonable attorney's fees, court costs, and investigatory costs.

There is no mention in the statute of a city being able to take these actions or recover these penalties and expenses. In fact, nowhere in the statute does it contemplate a county contracting with a city to allow the city to enforce the county's game room regulations. In spite of this, Tarrant County has adopted regulations with the specific intent of authorizing incorporated cities to enforce them within their city limits. Moreover, Tarrant County specifically authorizes the following:

Pursuant to Section 234.137 of the Local Government Code, Tarrant County, Texas, or its designee or assignee by interlocal agreement, is authorized to file suit in district court seeking injunctive relief

Pursuant to Section 234.137 of the Local Government Code, a person who violates a Section or Subsection of the Regulations is liable to Tarrant County, Texas for a civil penalty of not more than \$10,000 for each violation... .

Pursuant to Section 234.137 of the Local Government Code, Tarrant County, Texas, or its designee or assignee by interlocal agreement, is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including reasonable attorney's fees, court costs, and investigatory costs.

Whether or not it has the authority to do so, Tarrant County specifically authorizes cities to seek injunctive relief and recover reasonable expenses, including attorney's fees and court costs. For whatever reason, however, they have not authorized cities to collect the \$10,000 civil penalty.

THE INTERLOCAL AGREEMENT

The interlocal agreement is quite simple and does not implement all the authority contemplated by the Regulations. Under the Regulations, the Tarrant County Sheriff is the Game Room Permit Administrator for purposes of issuing permits and taking other actions. The Agreement states that the Sheriff designates this role to the City. The Regulations actually state that the Tarrant County Commissioners Court allows cities that have executed an interlocal agreement to designate their own Game Room Permit Administrator. It does not require the Sheriff to designate this role; nor is the Sheriff a party to this Agreement which would allow him to do so. I have therefore modified the Agreement to have the County designate the City to perform this role.

If you enter into this Agreement, you will need to designate an entity (such as the Police Department) to oversee the permitting process. The City also needs to determine

who is going to be the Game Room Permit Administrator. This could logically be the police chief if the City is going to use its police department for permitting and overseeing Game Room operations. The city council will also need to appoint a hearings examiner to hear appeals from the denial, revocation or suspension of a Game Room Permit. That would logically be done at the time the city council approves the Agreement. I have added language to the Agreement that designates the city manager as the hearing examiner. This designation is subject to change from time to time by the city council.

Article II, Section B of the Agreement provides for enforcement. This section states that the Tarrant County District Attorney's Office retains the full authority granted in Section 234.137 of the Local Government Code to sue in district court for an injunction and to obtain civil penalties. The effect of this is that the City's role under the interlocal agreement is merely to process the permitting of Game Rooms. City employees will do inspections, reviews of applications, and the determination of compliance with the Regulations and city ordinances. However, the City will not be taking any enforcement action against noncompliant Game Rooms. You may be okay with this but the Regulations provide that the county or its designee or assignee by interlocal agreement may file suit to seek injunctive relief and may recover reasonable expenses in connection therewith. I have drafted alternative language that could be added to the Agreement to allow the City to perform this function if you want to have this authority. Remember, however, that the Regulations do not authorize the City to collect civil penalties (\$10,000 per violation).

The effect of the Agreement is merely to authorize the City to administer the issuance of Game Room Permits and to collect a fee of \$1,000 for such purposes. The permit is subject to annual renewal and another \$1,000 can be charged each year. The City does not need to separately adopt this fee or any other regulations regarding Game Rooms, as it is simply performing the functions of the county pursuant to the interlocal agreement. The fee being collected is the county fee, not a City fee, and the regulations and procedures being applied are county regulations and procedures. If you deem it advisable to adopt additional regulations applicable to game rooms you could do so, but it is not required. In processing Game Room Permits you will utilize the county Regulations and any applicable City regulations (such as zoning) to determine if a permit should be granted.

I have attached a redlined version of the Agreement showing revisions and corrections I would recommend. Please let me know if you would like additional information about the regulation of game rooms or the proposed interlocal agreement.

Very truly yours,

Bryn D. Meredith

Attachment: As noted

**INTERLOCAL AGREEMENT FOR COUNTY GAME ROOM REGULATIONS PERMITTING
AND ENFORCEMENT WITHIN CITY LIMITS**

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This **Interlocal Agreement** (“Agreement”) is made on the countersignature date between the City of Saginaw, Texas, a home rule city of the State of Texas located in Tarrant County, Texas (the “City”) and Tarrant County, a body corporate and politic under the laws of the State of Texas (the “County”). This Agreement is made in accordance with the Interlocal Cooperation Act, Tex. Gov’t Code Ann. Ch. 791.

RECITALS:

WHEREAS, the Tarrant County Commissioners Court, through authority granted to it pursuant to Section 234.133 of the Texas Local Government Code to promote the public health, safety, and welfare, has adopted regulations relating to the operation of game rooms; and

WHEREAS, the Interlocal Cooperation Act provides authorization for local governments to contract with one another and with agencies of the state to perform governmental functions and services under the terms of the Act; and

WHEREAS, both the County and the City are willing to provide such services as necessary for the uniform enforcement of the County’s game room regulations within the City.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements stated herein, the parties agree as follows:

TERMS:

**ARTICLE 1
DEFINITIONS**

A. As used in this Agreement, the following terms have the meanings set out below:

1. “Agreement” means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Commissioners Court.
2. “Chief” means the Chief of the City of Saginaw Police Department, or the person he or she designates.
3. “City” is defined in the preamble of this Agreement and includes its successors and assigns.
4. “Countersignature Date” means the date countersigned by the Tarrant County Controller on the signature page of this Agreement. The Countersignature Date is the effective date of this Agreement.
5. “County” is defined in the preamble of this Agreement and includes its successors and assigns.
6. “City Manager” means the City Manager of the City of Saginaw, or the person he or she designates.
7. “Game Room” has the meaning assigned in Section 1.4 of the Regulations.
8. “Party” or “Parties” means the County and the City, individually or collectively.
9. “Regulations” means the County’s Game Room Regulations, adopted by the Tarrant County Commissioners Court on November 12, 2019, as may be amended from time to time.
10. “Sheriff” means the Tarrant County Sheriff, or the person he or she designates.

ARTICLE II RIGHTS AND DUTIES OF THE COUNTY

A. Permitting

1. For the purpose of enabling the City to perform its obligations under this Agreement, the County designates the role of Game Room Permit Administrator to the City for all permits issued within the City limits.
2. The Sheriff shall immediately direct all inquiries for County Game Room Permit applications within City limits to the City.

B. Enforcement

1. The Tarrant County Criminal District Attorney's Office retains the full authority granted in Section 234.137 of the Texas Local Government Code to sue in district court for an injunction to prohibit the violation or threatened violation of the Regulations and to obtain civil penalties.
2. However, nothing prevents the Tarrant County Criminal District Attorney's Office from contracting with outside attorneys or with another city's attorneys' office to provide this enforcement function on behalf of such Tarrant County Criminal District Attorney's office, pursuant to the Texas Government Code.

ARTICLE III RIGHTS AND DUTIES OF THE CITY

A. Permitting

1. As the Game Room Permit Administrator, the City shall supervise, control, and operate the Permit Office and issue County permits within the City limits on behalf of the County as set out in Section 2 of the Regulations. The City, in consultation with the Sheriff, shall promulgate requirements for issuing a County permit for Game Rooms within the City limits based on the Regulations and City ordinances.
2. The City shall be the designated agent for conducting criminal background checks as required under Section 2 of the Regulations for all permits issued within the City limits.
3. The City hereby adopts the procedures set out in Sections 2.2 through 2.5 of the Regulations for review of applications and conducting hearings for the denial, suspension, and revocation of County permits within the City limits. The City designates the City Manager as the hearing examiner for the purpose of appeals pursuant to those proceedings. The designation of a hearing examiner may be changed by the City Council from time to time without amending this Agreement.

B. Enforcement

1. City peace officers and other City employees designated by the Chief to enforce the Regulations shall inspect Game Rooms within the City limits. City peace officers may arrest violators pursuant to Section 3 of the Regulations.
2. The City may require those inspections required for code compliance within the City as a condition for issuing a Permit and may define terms and phrases as may be needed and helpful to provide applicants adequate notice of Permit application requirements within the City.

DRAFT

**ARTICLE IV
FUNDING AND COMPENSATION**

- A.** The Parties each understand and agree that neither the County nor the City has certified funds to fulfill their obligations under this Agreement. It is the intent of the Parties that the cost of services shared with each entity will be of equal value and benefit.
- B.** The parties agree that the non-refundable annual permit fee established in Section 2 of the Regulations shall be paid by a County permit applicant directly to the City, as the County's designated agent for permitting, to compensate the City for costs incurred pursuant to this Agreement. If either Party receives any permit fees for Game rooms within the other Party's permitting jurisdiction from an applicant, it shall remit those funds to the appropriate Party at its address for notices.

**ARTICLE V.
TERM AND TERMINATION**

- A.** The term of this Agreement is one-year and begins on the Countersignature Date. It is the intent of the Parties that this Agreement shall automatically renew annually for ten (10) successive one-year terms, unless earlier terminated.
- B.** Either party may terminate its participation in this Agreement by giving at least thirty (30) days written notice to the other Party.

**ARTICLE VI.
DOCUMENTS EXCHANGED**

- A.** The Parties may exchange documents in the course of this Agreement. Each Party agrees to keep confidential, to the extent allowed by law, all documents and to provide prior notice to the other of any requests or releases of such documents.

**ARTICLE VII.
NOTICES**

- A.** The Parties intend that any notice may be delivered personally, by certified or registered mail, return-receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, addressed as follows:

If to the County: Tarrant County Administrator's Office
 Attn: G.K. Maenius, County Administrator
 100 E. Weatherford Street, Suite 404
 Fort Worth, Texas 76196

If to the City: City of Saginaw
 Attn: Gabe Reaume, City Manager
 333 West McLeroy Blvd.
 Saginaw, Texas 76179

Or to such other persons or places as either Party may from time to time designate by written notice to the other Party.

ARTICLE VIII.
NO LIABILITY AND NO THIRD-PARTY BENEFICIARY

- A. Nothing herein shall be construed as creating any liability on any party of any officer or agent of any public body that may be a Party hereto. The Parties agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or liability that any Party may have by operation of law. The Parties further agree that no provision of this Agreement extends the liability of any Party beyond the liability provided in the Texas Constitution and the laws of the State of Texas. Neither the execution of this Agreement nor any other conduct of any Party relating to this Agreement shall be considered a waiver of any right or defense under the Texas Constitution or the laws of the State of Texas.

ARTICLE IX.
MISCELLANEOUS

- A. **No Partnership.** This Agreement is not intended to and shall not create a joint enterprise between the City and the County. The personnel of one Party shall not be considered employees, agents, partners, joint ventures, or servants of the other Party to this Agreement. The Parties are undertaking governmental functions or services under this Agreement and the purpose hereof is solely to further the public good, rather than any pecuniary purpose. The Party undertaking work under this Agreement shall have a superior right to control the direction and management of such work and the responsibility of day-to-day management and control of such work, except as may expressly be provided herein.
- B. **Compliance with Law.** In performing services pursuant to this Agreement, each Party shall comply with all applicable federal, state, County, and City statutes, regulations, rules, and ordinances. To the extent allowed under applicable laws, each Party intends to notify the other Party of any violation of law, regulation, or ordinance that relate to services or data obtained or provided under this Agreement immediately after the noticing Party, its employees, subcontractors or agents become aware of it and without regard to whether the noticing Party or its employees, subcontractors or agents are involved or merely witnesses.
- C. **Captions.** The captions used in this Agreement are for convenience only and do not limit or amplify any provisions contained in this Agreement.
- D. **Venue.** This Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the Parties created hereunder are performable in Tarrant County, Texas. Venue for any litigation arising out of or related to this Agreement shall lie solely in a court of appropriate jurisdiction located in Tarrant County, Texas.
- E. **Assignment.** This agreement shall not be assignable, in whole or in part.
- F. **Severability.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.
- G. **Entire Agreement.** This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes any prior written or oral agreement.

H. Amendments. The County and the City may amend this Agreement at any time provided that such amendments are executed in writing and approved by the governing bodies of both Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiples to be effective as of the effective date set forth in this Agreement.

SIGNED AND EXECUTED this _____ day of _____, 2020.

**COUNTY OF TARRANT
STATE OF TEXAS**

B. Glen Whitley
County Judge

APPROVED AS TO FORM:

Criminal District Attorney's Office*

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

Gabe Reaume,
City Manager, City of Saginaw

Bryn D. Meredith
City Attorney