



City Council Agenda 3/1/2022

Notice is hereby given of a regular meeting of the City Council of City of San Angelo to be held March 1, 2022 at 8:30 AM at the McNease Convention Center – South Meeting Room, 501 Rio Concho Drive, San Angelo, Texas, for the purpose of considering the following agenda items.

1. Call to Order

2. Chaplain Prayer & Pledges

3. Proclamations/Recognitions

- a. Recognition honoring Fire Chief Brian Dunn's retirement after 32 years of service with the City of San Angelo

4. Public Comment

Issues or concerns not on the Regular Agenda may be raised by the public at this time. Citizens should speak from the podium, address all comments to the dais, begin by stating their name and address or Single Member District number, and limit their remarks to less than three minutes.

5. Consent Agenda

- a. Consider approving the February 1, 2022, February 9, 2022, and February 15, 2022 City Council meeting minutes (Julia Antilley)
- b. Consider awarding REC-01-22 to Ben E. Keith Company (Ft. Worth, TX) in the amount of \$74,669.29 for Recreation-Senior Services Congregate Meal Program (Nutrition) and authorizing the City Manager to negotiate and execute all related documents (Brent Casey)
- c. Consider ratifying an increase for gap financing under the Affordable Housing Assistance Program (AHAP) from \$40,000 to \$50,000, as approved by the City of San Angelo Development Corporation Board of Directors, to cover increased construction costs (Bob Salas)
- d. Consider resolutions approving the Investment Policies for the City of San Angelo, Lake Nasworthy Trust, and Development Corporation Funds (Tina Dierschke)
- e. Second reading of an ordinance annexing into the City of San Angelo, by petition of the property owner, an unaddressed 9.278-acre tract of land out of the Deaf and Dumb Asylums Lands Survey No. 2, Abstract No. 8211, Tom Green County, Texas, located southwest of Sherwood Way and FM 2288 along the southward extension of Apaloosa Trl. (Jon James)
- f. Second reading of an ordinance for Z22-01, a request to zone a property to the Low Rise Multifamily zoning district in connection with an annexation; being 9.278 acres, located at the southwest extension of Appaloosa Trl., southwest of Sherwood Way and FM 2288 (Jon James)

- g. Second reading of an ordinance amending the Master Thoroughfare Plan to realign future arterial and collector streets, located southwest of Sherwood Way and FM 2288, including Twin Mountain Dr., Pinon Ridge Dr., and Appaloosa Trl. (Jon James)

6. Public Hearing of an Ordinance to Outlaw Abortion/Making San Angelo a Sanctuary City for the Unborn

- a. Public hearing of an ordinance as presented via petition by the Initiating Committee to Outlaw Abortion/Making San Angelo a Sanctuary City for the Unborn and action by the City Council to adopt, reject, or amend the ordinance as presented in the petition (Presentation made by City Clerk Julia Antilley)

7. Regular Agenda

Comments regarding items on the Regular Agenda may be made by the public when each item is discussed as outlined above. Applicants, proponents, and appellants are exempt from the time limit above and instead must limit their remarks to less than five minutes.

- a. Presentation of the Destination Marketing Organization and year end report (Presentation made by Vice President of the Destination Marketing Organization Diann Bayes)
- b. Consider authorizing the City Manager to negotiate and execute a Fourth Amendment to the Commercial Lease Agreement - Spring Creek Marina with Golden Antlers, Inc, Lessee, with an updated development site plan (Presentation made by Parks & Recreation Director Carl White)
- c. Consider awarding FS-03-22 Dump Trucks to multiple vendors in the amount of \$988,997, for the purchase of five units with the option to purchase two additional units (utilizing Water Reclamation operating budget and fund balance from Stormwater and General Funds), and authorizing the City Manager to negotiate and execute all related documents (Presentation made by Senior Fleet Manager Ryan Kramer)
- d. First reading and public hearing of an ordinance amending Chapter 12 "Planning & Development," Exhibit C "Land Development and Subdivision Ordinance," Chapter 9 "Land Development and Subdivision Design Policies" replacing in its entirety Section V "Sidewalks" and amending Chapter 3 "Definitions" (Presentation made by Planning & Development Services Director Jon James)
- e. First reading and public hearing of an ordinance amending Chapter 12 "Planning and Development," Exhibit C "Land Development and Subdivision Ordinance," Chapter 10 "Construction Standards and Specifications," Section III "Widths and Graphic Specifications" replacing in its entirety Subsection A "Widths" and amending Chapter 3 "Definitions" (Presentation made by Planning & Development Services Director Jon James)
- f. Consider the following as it relates to the City Council's roles through May 2023:
 - 1) selecting a Mayor Pro-Tempore
 - 2) appointing City Council Members to Boards and Committees (Presentation made by City Clerk Julia Antilley)

8. Closed Session

Executive Session under the provision of Government Code, Title 5. Open Government; Ethics, Subtitle A. Open Government, Chapter 551. Open Meetings, Subchapter D. Exceptions to Requirement that Meetings be Open under the following sections:

9. Follow Up and Administrative Issues

- a. Consider items discussed in Executive Session, if needed
- b. Consideration of approving various Board nominations
- c. Announcements and consideration of Future Agenda Items

10. Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board at City Hall in the City of San Angelo, Texas, on the 24th day of February 2022, at 2:22 p.m.



Julia Antilley, City Clerk

All agenda items are subject to action. The City Council reserves the right to consider business out of posted order and/or meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

In compliance with the Americans with Disabilities Act, the City of San Angelo will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please contact the City Clerk's Office at 325-657-4405.

Citizen requests to display materials on the city's monitors must submit the request 96 hours prior to the meeting by email to Julia.Antilley@cosatx.us. Time limits for discussion are as stated above and materials cannot exceed 10-pages. Citizens bringing materials for distribution to City Council members during the meeting must bring a minimum of 12 copies.

City Council regular meetings are broadcast on SATV Channel 17-Government Access at 10:30 a.m. and 7:00 p.m. every day, beginning the evening of the meeting until the evening of the next meeting.

Recognition

Fire Chief Brian Dunn retired from the City of San Angelo February 25, 2022, with 32 years of service. Brian was promoted to Fire Chief in January 2001 at the age of 33 and has served in the role for 21 years.

Over the years Brian has played a critical role in two Gulf Coast hurricane evacuations, the FLDS crisis of moving approximately 500 women and children to shelter at the Coliseum & Fort Concho in 2008, and the Wildcat Fire of 2011 that burned approximately 158,000 acres just outside San Angelo city limits.

Brian has remained dedicated to the Fire Department and its mission to provide the community the highest level of life safety and property conservation through training, fire prevention, emergency medical services, fire suppression, and emergency management. His work ethic, enhanced knowledge, and unwavering passion have all furthered the city of San Angelo.

Brian's work history includes many accomplishments. A few examples are establishing mutual aid agreements with Goodfellow Air Force Base for firefighting and hazmat; developing a paramedic training program with Howard College; reducing the city's fire rating from class 4 to class 1, resulting in insurance savings for the citizens in excess of \$5 million per year; and, bringing the Texas State Firefighter Olympics to San Angelo in 2009 and 2017.

Brian will be missed by many. We wish to honor him for his service and congratulate him for this well-deserved retirement. We are blessed to have had such a dedicated employee committed to the service of our great city for over three decades.

Therefore, I, Brenda Gunter, Mayor of the City of San Angelo, Texas on behalf of the City Council, recognize and applaud

BRIAN DUNN

for his achievement and positive determination to make a difference in San Angelo.

In Witness Whereof, I have set my hand and have caused the Official Seal of the City of San Angelo to be affixed this 1st day of March 2022.

Brenda Gunter
Mayor of the City of San Angelo

City of San Angelo, Texas
Regular City Council Meeting
Tuesday, February 1, 2022

Present:

Mayor Brenda Gunter
Council Member Tommy Hiebert, SMD 1
Council Member Harry Thomas, SMD 3
Council Member Lucy Gonzales, SMD 4
Council Member Larry Miller, SMD 6

1. Call to Order

With a quorum of the City Council Members present, Mayor Gunter called the regular session of the San Angelo City Council to order at 8:31 a.m. on Tuesday, February 1, 2022 in the San Angelo McNease Convention Center, 501 Rio Concho Drive, San Angelo, Texas 76903.

2. Chaplain Prayer & Pledges

An invocation was provided, and pledges were led, by San Angelo Police Department Chaplain Lorenzo Hatch.

3. Proclamations/Recognitions

Michael Hitchcock was recognized and honored for his retirement after 32 years of service with the City of San Angelo.

4. Public Comment

Communications Manager Brian Groves announced the contact information for fiber-optics companies, Frontier Communications and Vexus Fiber, is available on the city's website.

Senior Fleet Manager Ryan Kramer announced an upcoming online auction for surplus equipment.

5. Consent Agenda

- a. Approval of January 18, 2022 City Council regular meeting minutes (Julia Antilley)
- b. Termination of a lease agreement with Ranger Aviation for an aircraft storage hangar located at 8534 Hangar Rd. and authorizing the City Manager to negotiate and execute all related documents (Jeremy Valgardson)
- c. Award of FS-02-22 Quarter Ton Pickups to Jim Bass Ford (San Angelo, TX) in the amount of \$153,290, for the purchase of five units, with the option to purchase one additional unit, and authorizing the City Manager to negotiate and execute all related documents (Ryan Kramer)
- d. Award of Task Order #5 under ES-06-19 Engineering Services to Freese & Nichols Inc. in the amount of \$253,550 for Sunset Lake and Parkview Lake Dredging Design and authorizing the City Manager to negotiate and execute all related documents (Shane Kelton)
- e. Award of Task Order #2 under ES-06-19 to Plummer Associates, Inc. for Concho River Water Project TPDES Permit Processing Support and Coordination in the amount of \$123,770 and authorizing the City Manager to negotiate and execute all related documents (Allison Strube)
- f. Approval of BuyBoard contract #589-19 with Advanced Water Well Technologies for the rebuild of a high service pump in the amount of \$94,807 and authorizing the City Manager to negotiate and execute all related documents (Allison Strube)
- g. Adoption of a resolution authorizing the donation of an Emergency Management surplus trailer vehicle to Grape Creek VFD (Brian Dunn) (Pg. 26, 2022-007)

- h. Second reading and adoption of an ordinance for Z21-16, a request for approval of a rezoning from the Single-Family Residential zoning district to the General Commercial zoning district, located at 2115 and 2117 Gunter St. (Jon James) (Pg. 27, 2022-008)
- i. Second reading and adoption of an ordinance amending the budget for the fiscal year beginning October 1, 2021, and ending September 30, 2022, for projects (Tina Dierschke) (Pg. 30, 2022-009)

Motion: Council Member Thomas made a motion, seconded by Council Member Gonzales, to approve the Consent Agenda as presented. The motion carried unanimously (5) ayes to (0) nays, with no public comment.

6. Regular Agenda

- a. Acceptance of a duly certified petition in support of Outlawing Abortion/Declaring San Angelo a Sanctuary City for the Unborn, establishing a day/time for a public hearing of the ordinance, and directing staff to publish the ordinance in the newspaper at least once prior to discussion at the public hearing (Presentation made by City Clerk Julia Antilley)

Eight citizens spoke in support of making San Angelo a Sanctuary City for the Unborn and requested the public hearing be moved to February 15, 2022.

Four residents spoke in favor: Calvary Baptist Church Pastor Bobby Rogers (SMD4), Deanery Pro-life Coordinator Stephanie Socha (SMD6), John Bariou (SMD2), and Dee Herring (SMD1)

Four non-residents spoke in favor: Grape Creek resident and Immanuel Baptist Church pastor Ryan Buck, Longview resident and Right to Life Founder Mark Lee Dickson, Mertzon resident and Pro-life Director for the Catholic diocese of San Angelo Jerry Peters, and Robert Lee resident Dwayne Welch

Motion: Council Member Miller made a motion, seconded by Council Member Thomas, to accept the certified petition, as presented, holding the public hearing during the March 1, 2022 City Council meeting, and directing the required newspaper publication. The motion carried (4) ayes to (1) nay, with Council Member Gonzales casting the dissenting vote.

7. Closed Session

Executive Session under the provision of Government Code, Title 5. Open Government; Ethics, Subtitle A. Open Government, Chapter 551. Open Meetings, Subchapter D. Exceptions to Requirement that Meetings be Open under the following sections:

- a. Section 551.072 – Deliberations about real property regarding 2.3762 acres Fisher & Miller, Survey 0173, Abstract 0205

8. Follow Up and Administrative Issues

- a. Consideration and possible action regarding items discussed in Closed Session, if needed

No Action Taken on this Item.

- b. Announcements and consideration of Future Agenda Items

City Clerk Julia Antilley stated the official canvassing of the January 29th election will be held Wednesday, February 9th at 8:30 a.m. and that barring any changes from the Early Voting Ballot Board, the swearing in of Karen Hesse Smith will take place Tuesday, February 15, 2022.

9. Adjournment

Motion: Council Member Hiebert made a motion, seconded by Council Member Miller, to adjourn the meeting. The motion carried unanimously (5) ayes to (0) nays, with no public comment.

There being no further business, the meeting adjourned at 9:27 a.m.

THE CITY OF SAN ANGELO, TEXAS:

Brenda Gunter, Mayor

ATTEST:

Julia Antilley, City Clerk

In accordance with Chapter 2, Article 2.300, of the Official Code of the City of San Angelo, the minutes of this meeting consist of the preceding Minute Record and the Supplemental Minute Record. Details on Council meetings may be obtained from the City Clerk's Office or a video of the entire meeting may be purchased from the Public Information Officer at 481-2727. (Portions of the Supplemental Minute Record video tape recording may be distorted due to equipment malfunction or other uncontrollable factors.)

City of San Angelo, Texas
Special City Council Meeting
Tuesday, February 9, 2022

Present:

Council Member Tommy Hiebert, SMD 1

Council Member Harry Thomas, SMD 3

1. Call to Order

With a quorum of the City Council Members present, Council Member Thomas called the special session of the San Angelo City Council to order at 8:30 a.m. on Wednesday, February 9, 2022 in the San Angelo McNease Convention Center, 501 Rio Concho Drive, San Angelo, Texas 76903.

2. Public Comment

No public comment.

3. Special Agenda

- a. Consider a resolution canvassing the returns and declaring the results of the Special Election held January 29, 2022 (Presentation made by City Clerk Julia Antilley) (Pg. 34, 2022-010)

Motion: Council Member Thomas made a motion, seconded by Council Member Hiebert, to approve the item, as presented. The motion carried unanimously (2) ayes to (0) nays, with no public comment.

4. Follow Up and Administrative Issues

No Action Taken on this Item.

5. Adjournment

Motion: Council Member Hiebert made a motion, seconded by Council Member Thomas, to adjourn the meeting. The motion carried unanimously (2) ayes to (0) nays.

There being no further business, the meeting adjourned at 8:33 a.m.

THE CITY OF SAN ANGELO, TEXAS:

Harry Thomas, Presiding Officer

ATTEST:

Julia Antilley, City Clerk

In accordance with Chapter 2, Article 2.300, of the Official Code of the City of San Angelo, the minutes of this meeting consist of the preceding Minute Record and the Supplemental Minute Record. Details on Council meetings may be obtained from the City Clerk's Office or a video of the entire meeting may be purchased from the Public Information Officer at 481-2727. (Portions of the Supplemental Minute Record video tape recording may be distorted due to equipment malfunction or other uncontrollable factors.)

City of San Angelo, Texas
Regular City Council Meeting
Tuesday, February 15, 2022

Present:

Mayor Brenda Gunter
Mayor Pro tem Tom Thompson, SMD 2
Council Member Tommy Hiebert, SMD 1
Council Member Harry Thomas, SMD 3
Council Member Lucy Gonzalez, SMD 4
Council Member Larry Miller, SMD 6

1. Call to Order

With a quorum of the City Council Members present, Mayor Gunter called the regular session of the San Angelo City Council to order at 8:31 a.m. on Tuesday, February 15, 2022 at the San Angelo McNease Convention Center, 501 Rio Concho Drive, San Angelo, Texas 76903.

2. Chaplain Prayer & Pledges

An invocation was provided, and pledges were led, by San Angelo Police Department Chaplain Ralph Dawkins.

3. Proclamations/Recognitions

No proclamation/recognitions.

4. Public Comment

Mayor Gunter spoke regarding the Sanctuary City for the Unborn initiative and clarified there have been no Open Meetings Act violations.

City Clerk Julia Antilley explained the next steps for the petition as outlined in the Charter.

5. Old Business Consent Agenda

- a. Award of a sole source purchase to Airfield Guidancesign Manufacturers, Inc. in the amount of \$55,056.40, budgeted for purchase in fiscal year 2022, and authorizing the City Manager to negotiate and execute all related documents (Jeremy Valgardson)
- b. Ratification of a resolution by the COSADC Board authorizing a project under Chapters 501 and 505 of the Texas Local Government Code to utilize Sales and Use Tax funds in an amount not to exceed \$188,000 to fund site improvements to San Angelo Business and Industrial Park Phase 2 and approving the selection of MWC Interests, Inc. to perform brush clearing services, and authorizing the COSADC Board President to negotiate and execute all necessary documents (Bob Schneeman)
- c. Ratification of the COSADC Board's approval of the expenditure of up to \$8,000 to Centurion Planning & Design for professional engineering and planning services to prepare a replat of a portion of Block 2, Lot 1, San Angelo Gateway Addition Section 1 and authorizing the Board President or their designee to negotiate and execute all necessary documents (Bob Schneeman)
- d. Ratification of the COSADC Board's approval of the expenditure of sales and use tax funds in an amount not to exceed \$32,500 to provide an economic development incentive to 4540 Construction, LLC as authorized under Chapters 501 and 505 of the Texas Local Government Code for Type B Corporations with authorization for the Board President or their designee to negotiate and execute all necessary documents (Nolan Sosa)

- e. Approval of Tax Increment Reinvestment Zone incentive funding for three private projects in the South TIRZ area for the properties located at 17 W. Beauregard, 641 S. Chadbourne, and 643 S. Chadbourne, totaling \$111,357 and authorizing the City Manager to negotiate and execute all necessary documents (Jon James)

Motion: Council Member Thomas made a motion, seconded by Council Member Hiebert, to approve the Consent Agenda as presented. The motion carried unanimously (6) ayes to (0) nays, with no public comment.

6. **Special Agenda**

- a. Administration of Oath of Office for Single Member District 5 and presentation of Certificate of Election (Presentation made by Mayor Brenda Gunter)

The Oath of Office for Council Member Karen Hesse Smith (SMD5) was administered by City Clerk Julia Antilley, with the Certificate of Election presented by Mayor Brenda Gunter.

New Quorum Present:

Mayor Brenda Gunter

Mayor Pro tem Tom Thompson, SMD 2

Council Member Tommy Hiebert, SMD 1

Council Member Harry Thomas, SMD 3

Council Member Lucy Gonzalez, SMD 4

Council Member Karen Hesse Smith, SMD 5

Council Member Larry Miller, SMD 6

- b. Introduction of Special Guests

Council Member Hesse Smith made remarks and thanked her special guests.

Note: A reception was held immediately following the Special Agenda in Suite B on the 2nd Floor. The Regular Agenda with the newly seated Council Members began after recess for the reception.

7. **Regular Agenda**

- a. Award of the following contractors based upon scoring criteria as set forth in the Competitive Sealed Proposal procurement method and authorize the City Manager to negotiate scope and contract pricing to be brought back for future City Council consideration:
 - 1. RFP WU-05-22 Hickory New Production Wells to Hydro Resources - Mid Continent, Inc.
 - 2. RFP WU-06-22 Hickory Treatment Plant and Well Field Improvements to PLW Waterworks, LLC (Presentation made by Water Utilities Director Allison Strube)

Motion: Council Member Gonzales made a motion, seconded by Council Member Miller, to approve the item, as presented. The motion carried unanimously (7) ayes to (0) nays, with no public comment.

- b. Award of RFB ES-01-22 College Hills Blvd. Reconstruction to Reece Albert Inc in the amount of \$32,661,071.98 including \$1,500,000 in contingencies, utilizing \$4,824,660 of fund balance from the Water Reclamation Capital Fund and authorizing the City Manager to negotiate and execute all related documents (Presentation made by Executive Director of Public Works Shane Kelton)

Citizen Lane Carter (SMD5) spoke in support of the item.

Motion: Council Member Thompson made a motion, seconded by Council Member Hiebert, to approve the item, as presented. The motion carried (6) ayes to (1) nay, with Council Member Hesse Smith casting the dissenting vote.

- c. Approval of an agreement with Rust Street Ministries for the construction, use, and maintenance of a small parking area on the southeast corner of the Fort Concho property and authorizing the City Manager to negotiate and execute all related documents (Presentation made by Fort Concho Senior Manager Bob Bluthardt)

Motion: Council Member Hiebert made a motion, seconded by Council Member Thomas, to approve the item, as presented. The motion carried unanimously (7) ayes to (0) nays, with no public comment.

- d. Adoption of a resolution allowing the adjacent property owner to remove a tree in the public right-of-way adjacent to 337 W. Twohig Ave. per Section 7.02.035 of the City Code of Ordinances (Presentation made by Planning & Development Services Director Jon James) (Pg. 43, 2022-011)

Motion: Council Member Thomas made a motion, seconded by Council Member Hesse Smith, to approve the item, as presented, with an additional condition that the replacement tree must be a minimum of 8 feet to 10 feet tall at the time of planting. The motion carried unanimously (7) ayes to (0) nays, with no public comment.

- e. First reading and public hearing on an ordinance for Z22-03 to rezone a property from the Two-Family Residential zoning district to the Neighborhood Commercial zoning district; being 0.23 acres, located at 103 & 107 W. 14th St., on appeal from a denial recommendation by the Planning Commission (Presentation made by Planning & Development Services Director Jon James)

Property Owners Edward and Linda Gonzales spoke in support of the item and provided photos of the property.

Motion: Council Member Gonzales made a motion, seconded by Council Member Hiebert, to overturn the Planning Commission's denial and approve the request. The motion failed, (3) ayes to (4) nays, with Council Members Miller, Hesse Smith, and Thompson and Mayor Gunter casting the dissenting votes.

- f. Public hearing and first reading of an ordinance annexing into the City of San Angelo, by petition of the property owner, an unaddressed 9.278-acre tract of land out of the Deaf and Dumb Asylums Lands Survey No. 2, Abstract No. 8211, Tom Green County, Texas, located southwest of Sherwood Way and FM 2288 along the southward extension of Apaloosa Trail. (Presentation made by Planning & Development Services Director Jon James)

Motion: Council Member Hiebert made a motion, seconded by Council Member Thompson, to approve the item, as presented. The motion carried unanimously (7) ayes to (0) nays, with no public comment.

- g. First reading and public hearing of an ordinance for Z22-01, a request to zone a property to the Low Rise Multifamily zoning district in connection with an annexation; being 9.278 acres, located at the southwest extension of Appaloosa Trl., southwest of Sherwood Way and FM 2288 (Presentation made by Planning & Development Services Director Jon James)

Motion: Council Member Hiebert made a motion, seconded by Council Member Thomas, to approve the item, as presented. The motion carried unanimously (7) ayes to (0) nays, with no public comment.

- h. Amendment of the Master Thoroughfare Plan to realign future arterial and collector streets, located southwest of Sherwood Way and FM 2288, including Twin Mountain Dr., Pinon Ridge Dr., and Appaloosa Trl. (Presentation made by Planning & Development Services Director Jon James)

Motion: Council Member Hiebert made a motion, seconded by Council Member Hesse Smith, to approve the item, as presented. The motion carried unanimously (7) ayes to (0) nays, with no public comment.

8. Closed Session

Executive Session under the provision of Government Code, Title 5. Open Government; Ethics, Subtitle A. Open Government, Chapter 551. Open Meetings, Subchapter D. Exceptions to Requirement that Meetings be Open under the following sections:

- a. Section 551.072 - Deliberations about real property regarding 17.583 acres, Lot 9D, Blk. 2, Sec. 9A Red Arroyo Hills Addition
- b. Section 551.071 - Consultation with attorney regarding CCN amendment

9. Follow Up and Administrative Issues

- a. Consideration of items discussed in Closed Session, if needed

Motion: Council Member Hiebert made a motion, seconded by Council Member Gonzales, to authorize the City Manager to negotiate and execute an agreement with the Millersview-Doole Water Supply Corporation to amend the certificate of convenience and necessity to allow the City of San Angelo to serve specific Millersview-Doole water customers. The motion carried unanimously (7) ayes to (0) nays, with no public comment.

- b. Approval of various Board nominations:
Civic Events Advisory Board: Norma Brawner (SMD4) to a first term ending December 2023
Construction Board of Adjustments and Appeals: Roger Julien (Mayor) to a third term ending February 2024
COSADC Board: Chris Evatt (Mayor) to a first full term, Derek McIntyre (SMD1) and Joe Spano (SMD2) to a first term all ending February 2024, and Ruben Ceballos (SMD4) to an unexpired term ending February 2023
Design and Historic Review Commission: Laurie Deckers (SMD1) to a first term ending September 2023
Fort Concho Museum Board: Colleen Haddad (SMD3) to a first term ending January 2024, Paul "Monty" Stanley (SMD4) to an unexpired term ending January 2023
Keep San Angelo Beautiful: Shawn Stine (Mayor Pro Tem - Alternate) to an unexpired term ending September 2022
Planning Commission: Sam Gomez (SMD6) to a first term ending January 2024

Motion: Council Member Thompson made a motion, seconded by Council Member Gonzales, to approve the item, as presented. The motion carried unanimously (7) ayes to (0) nays, with no public comment.

- c. Announcements and consideration of Future Agenda Items

No Action Taken on this Item.

10. Adjournment

Motion: Council Member Hiebert made a motion, seconded by Council Member Gonzales, to adjourn the meeting. The motion carried unanimously (7) ayes to (0) nays.

There being no further business, the meeting adjourned at 10:46 a.m.

THE CITY OF SAN ANGELO, TEXAS:

ATTEST:

Brenda Gunter, Mayor

Julia Antilley, City Clerk

In accordance with Chapter 2, Article 2.300, of the Official Code of the City of San Angelo, the minutes of this meeting consist of the preceding Minute Record and the Supplemental Minute Record. Details on Council meetings may be obtained from the City Clerk's Office or a video of the entire meeting may be purchased from the Public Information Officer at 481-2727. (Portions of the Supplemental Minute Record video tape recording may be distorted due to equipment malfunction or other uncontrollable factors.)

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Sandra Aguilar, Recreation Supervisor - Senior Services, Senior Services, 325-481-2798

Meeting Date: March 1, 2022

Item type: Consent Item

Caption:

Consider awarding REC-01-22 to Ben E. Keith Company (Ft. Worth, TX) in the amount of \$74,669.29 for Recreation-Senior Services Congregate Meal Program (Nutrition) and authorizing the City Manager to negotiate and execute all related documents (Brent Casey)

Staff Recommendation:

Accept

Summary/History:

Recreation-Senior Services Congregate Meal program offers a hot meal for lunch for adults in the community, 60 years of age and over, from 11:00 am-12:30 pm, Monday through Friday, at Santa Fe Crossing Senior Center. A participant must be registered, and the cost is a suggested donation of \$3. Guests are welcome for lunch at a \$6 cost.

Funding Source(s):

Fund:	Account:	Project Number:	Amount Budgeted:
103 Intergovernmental	103-6700-441-06-30		\$97,579

Financial Impact:

Funding for the Senior Services Congregate Meal program comes from Title III C-1 grant received from Concho Valley Council of Governments-Area Agency on Aging and General Funds.

Other Information/Recommendation:

A Request for Bid for the purchase of food for the Senior Services Congregate Meal Program was sent out on February 1, 2022, with two potential vendors responding, Ben E. Keith Company and Sysco West Texas. The Ben E. Keith Company total cost of food expected to purchase during a year was less than Sysco West Texas. We would like to award the bid to Ben E. Keith Company due to the savings in food cost.

Attachments:

- | | |
|--------------------------------|---------------------------------|
| 1. 00 Bid Tabulation REC-01-22 | 00 Bid Tabulation REC-01-22.pdf |
|--------------------------------|---------------------------------|

Presentation:

Brent Casey

Approvals/Reviews:

Sandra Aguilar	Created/Initiated
Brent Casey	Approved
Carl White	Approved
Theresa James	Approved
Jeffrey Tomlinson	Approved
Tina Dierschke	Approved
Theresa James	Approved
Julia Antilley	Final Approval

**RFB Bid Tabulation**

REC-01-22 Senior Center Food and Nutrition

Tuesday, February 15, 2022 2:00 p.m.

INVENTORY SUMMARY	Ben E. Keith		Sysco West Texas	
	Delivery Days	Total Extended Cost	Delivery Days	Total Extended Cost
DAIRY PRODUCTS	1-5 Business Days	\$ 2,466.91	Monday	\$ 2,599.94
PRODUCE	1-5 Business Days	\$ 6,727.34	Monday	\$ 6,126.60
CANNED AND DRY	1-5 Business Days	\$ 16,914.98	Monday	\$ 19,135.49
FROZEN FOODS	1-5 Business Days	\$ 16,243.09	Monday	\$ 21,549.24
MEATS	1-5 Business Days	\$ 19,118.20	blank	\$ 15,273.14
SEAFOOD	1-5 Business Days	\$ 4,422.13	Monday	\$ 4,098.74
POULTRY	1-5 Business Days	\$ 8,776.64	Monday	\$ 10,549.40
GRAND TOTAL		\$ 74,669.29	GRAND TOTAL	\$ 79,332.55

Piggy Back Option

No

No

Payment Terms (e.g. Net 30)

Credit terms may be offered to locations upon completion of a Credit Application, if one is not already on file, a link to fill out will be sent and full credit review by our Corporate Credit Administration will be completed. Terms may be offered, depending upon the locations credit worthiness. Terms may range from pre-payment up to Net 30 days from invoice date/receipt of product or 10th EOM. Extended credit terms are not offered as part of this proposal response.

Rolling four week

Discount

None

No payment discounts.

If your pricing is based on a purchasing cooperative contract, please provide the name of the cooperative (e.g., Texas DIR, TXMAS, BuyBoard, etc.)

Pricing reflects Unity Advantage Group contract pricing on select items. If awarded, an application link will be sent to contact for completion.

Pricing not based on any coop. Please see cover letter attached to bid sheet for pricing information

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Nora Nevarez, Executive Office Coordinator, COSADC, 325-653-7197

Meeting Date: March 1, 2022

Item type: Consent Item

Caption:

Consider ratifying an increase for gap financing under the Affordable Housing Assistance Program (AHAP) from \$40,000 to \$50,000, as approved by the City of San Angelo Development Corporation Board of Directors, to cover increased construction costs (Bob Salas)

Staff Recommendation:

Approve

Summary/History:

The AHAP consists of gap financing/mortgage buydown for first time homebuyers up to **40%** of the housing unit's sales price not to exceed **\$40,000** contingent upon the execution of a deferred, non-interest bearing 2nd Lien Deed of Trust and Promissory Note due at the time the subject property is sold, proceeds from which will be used as reinvestment back into the Program. Deferred loans for the gap financing amount are forgivable starting in year five (5) and extend thru the life of the mortgage and forgiven monthly thereafter in equal amounts. Additionally, the program provides for the purchase of property which is included in the mortgage buydown.

Locally, construction costs have risen at an alarming rate which forces AHAP applicants to qualify for higher loan amounts which often will financially disqualify them, or at the very least, increase the backend ratio and place a greater cost burden on first-time homebuyers. ***Staff requests approval to increase the amount of the gap from \$40,000 to \$50,000.*** This increase will help eligible homebuyers qualify for reasonable mortgage amounts, reduce cost burdens, and increase the number of applicants.

The increased amount for gap financing will be covered by \$121,000 additional program funds received from the sale of several units that were sold prior to meeting the affordability period.

Funding Source(s):

Financial Impact:

Approval will provide up to \$50,000 gap financing for each unit built thru the AHAP, but will not affect the amount of the annual allocation for affordable housing.

Other Information/Recommendation:

This item was approved by COSADC on January 26, 2022. Thus, Staff recommends ratifying an increase for gap financing under the Affordable Housing Assistance Program (AHAP) from \$40,000 to \$50,000, as

approved by the City of San Angelo Development Corporation Board of Directors, to cover increased construction costs.

Attachments:

Presentation:

Bob Salas

Approvals/Reviews:

Nora Nevarez	Created/Initiated
Bob Salas	Approved
Guy Andrews	Approved
Tina Dierschke	Approved
Theresa James	Approved
Julia Antilley	Final Approval

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Ryan Gaddy, Assistant Finance Director, Finance, 325-657-4270

Meeting Date: March 1, 2022

Item type: Consent Item

Caption:

Consider resolutions approving the Investment Policies for the City of San Angelo, Lake Nasworthy Trust, and Development Corporation Funds (Tina Dierschke)

Staff Recommendation:

Adopt

Summary/History:

Each year, the City Council must adopt an investment policy and strategy in accordance with the Public Funds Investment Act (PFIA). The updated investment policies are attached with changes being made from last year. Changes include:

City Investments: Addendum B - Updated to include currently approved brokers.

Lake Nasworthy Trust: Addendum B - Updated to include currently approved brokers.

Development Corporation: Addendum B - Updated to include currently approved brokers.

These policies and changes have been reviewed and are recommended by the Investment Oversight Committee. Adopting these three policies will keep the City in compliance with the Public Funds Investment Act ("PFIA") which requires the City to review and adopt the policies annually.

Funding Source(s):

Financial Impact:

N/A

Other Information/Recommendation:

Staff recommends approval.

Attachments:

- | | | |
|----|--|---|
| 1. | 2022 City Investment Policy | 2022 City Investment Policy.pdf |
| 2. | 2022 Lake Nasworthy Investment Policy | 2022 Lake Nasworthy Investment Policy.pdf |
| 3. | 2022 COSADC Investment Policy | 2022 COSADC Investment Policy.pdf |
| 4. | Resolution City of San Angelo Investment Funds | Resolution City of San Angelo Investment Funds.docx |

- | | | |
|----|---|--|
| 5. | Resolution Development Corporation Investment Funds | Resolution Development Corporation Investment Funds.docx |
| 6. | Resolution Lake Nasworthy Trust Investment Funds | Resolution Lake Nasworthy Trust Investment Funds.docx |

Presentation:

Tina Dierschke

Approvals/Reviews:

Ryan Gaddy	Created/Initiated
Theresa James	Approved
Jeffrey Tomlinson	Approved
Tina Dierschke	Approved
Julia Antilley	Final Approval

CITY OF SAN ANGELO, TEXAS

INVESTMENT POLICY

2022

It is the policy of the City of San Angelo (the "City") to invest public funds in a manner which will provide the highest reasonable market return with the maximum security while meeting the daily cash flow demands of the City and conforming to all state and local statutes governing the investment of public funds.

This policy satisfies the requirement of the Public Funds Investment Act (the "Act"), Texas Government Code 2256, which requires the creation and annual adoption of a written investment policy and its addendums. The City Council shall review and adopt, no less than annually, the Investment Policy and its incorporated strategies. Any changes to the Policy will be detailed in the adopting resolution.

Section One: Scope

This investment policy applies to all the financial assets of the City except funds of Lake Nasworthy. The funds are accounted for in the City's Comprehensive Annual Financial Report and include:

- Operating Funds
- Debt Service Funds
- Bond, Capital and Special Project Funds
- Reserve Funds
- Non-expendable Trust Funds

Section Two: Investment Objectives and Standard of Care

The objectives of the City's investment program shall be, in order of priority, safety, liquidity and yield. Safety of principal shall be the foremost objective of the City's investment program. Each investment transaction shall seek to first ensure that capital losses are avoided, whether they are from securities, defaults or erosion of market value. The portfolio shall be managed with the objective of obtaining a reasonable market yield.

The standard of prudence to be used by investment officers shall be the *prudent person standard* and shall be applied in the context of managing the overall portfolio. Investments shall be made with judgment and care under circumstances then prevailing which a person of prudence, discretion and intelligence would exercise in the management of his/her own affairs with consideration given to the probable safety of capital as well as the probable income to be derived. Investments shall not be made for speculative purposes.

Investment officers acting in accordance with written procedures and the Investment Policy and exercising due diligence shall be relieved of personal liability for an individual security's credit or market risk, provided that deviations from expectations are reported in a timely fashion and

appropriate action is taken to control adverse developments.

Section Three: Investment Strategy

The City of San Angelo funds shall be commingled for investment purposes recognizing the cash flow needs of the individual funds which make up the portfolio. The total portfolio will maintain a maximum weighted average maturity of two (2) years which is based on the cash flow analysis and cash requirements of the City.

The City of San Angelo's investment portfolio shall be diversified for safety and shall consist of a variety of securities and maturities which may include any or all of the authorized investments listed in Section Four, Authorized Investments, of this Policy. In order to meet Policy objective, securities will be of the highest credit quality and marketability. The portfolio's objectives can be attained by utilization of high credit quality securities and a modified ladder structure in the short-term area to match known liabilities.

- (1) Operating Funds - Operating funds ensure that anticipated cash flows are matched for adequate liquidity on major payment obligations such as payroll.
- (2) Debt Service Funds - Debt service funds must cover the upcoming debt service obligations on the required payment dates.
- (3) Bond, Capital and Special Project Funds - Bond proceeds and special project funds are used for anticipated liabilities on the projects.
- (4) Reserve Funds - Reserve funds provide liquidity for fund obligations and generate a dependable revenue stream from securities.
- (5) Non-expendable Trust Funds - Non-expendable trust funds generate dependable revenue streams for their designated uses.

It is the City of San Angelo's intent to hold purchased securities to maturity investing in such a manner as to ensure both the safety and liquidity of such transactions. However, under conditions defined and procedures approved by the Oversight Committee, securities may be sold or "swapped" before maturity to capture capital gains and allow for reinvestment into the portfolio. Securities purchased specifically for non-expendable trust funds shall be valued continuously and may be sold prior to the stated maturity date in order to capture capital gains.

The City of San Angelo's investment officers, or designated investment advisors, will evaluate the City's cash position daily to determine the amount of funds available for investment and to project the term for such investments and will then decide on placement of the investment based on fund type and market conditions, fund cash flow, the offering yield for eligible investment and diversity in the portfolio

Section Four: Authorized Investments

The City shall invest only in those instruments authorized by law of the State of Texas (Texas Government Code 2256, Public Funds Investment Act) as further defined by this policy. Insofar as they meet this requirement, the City may invest in the following:

(1) Depository certificates of deposit issued by state and national banks doing business in Texas that do not exceed two (2) years to maturity from date of issue, and:

- a. are guaranteed or insured by the Federal Deposit Insurance Corporation or its successor: or
- b. are collateralized at 102% by obligations of the United States or its agencies and instrumentalities (excluding letters of credit) or direct obligations of any state, its subdivisions, or its agencies which have been rated as to investment quality by a nationally recognized investment rating firm and have received a rating of not less than "A" or the equivalent.

(2) Obligations of the United States Government, its agencies and instrumentalities not to exceed 3 years to their stated maturity date;

(3) Fully collateralized repurchase agreements having a defined termination date not to exceed six (6) months, secured by obligations of the United States or its agencies and instrumentalities, collateralized at 102%, executed under a written Master Repurchase Agreement, with securities safe-kept with a third party selected or approved by the City, and placed through a bank doing business in Texas or a primary government securities dealer as defined by the Federal Reserve. Flex repurchase agreements used for bond funds or special project funds may have a stated termination date not to exceed the estimated completion date of the project(s).

(4) Local government investment pools as defined by the Act which strive to maintain a \$1 net asset value, which are rated as to investment quality by a nationally recognized credit rating agency and have received a rating of not less than "AAA" or its equivalent. Investment in each pool must be specifically authorized by Resolution of the City Council.

(5) AAA-rated, SEC registered money market mutual funds striving to maintain a \$1 net asset value.

(6) General obligation and revenue bonds of states, agencies, counties, cities and other political subdivisions of any state rated "A" or better or its equivalent by one nationally recognized rating agency and with a stated final maturity not to exceed three (3) years.

(7) FDIC insured brokered certificate of deposit securities from banks in any US state, delivered versus payment to the City's safekeeping depository, not to exceed one year to maturity. Before purchase, the Investment Officer or advisor must verify the FDIC status of the bank on www.fdic.gov to assure that bank is FDIC insured.

(8) Fully insured or collateralized, interest bearing accounts of any bank doing business in Texas.

(9) A1/P1 domestic commercial paper with a maximum maturity of two hundred-seventy (270) days.

In order to provide diversification in the portfolio which reduces market and credit risk exposures, the following diversification parameters are established for the Portfolio. Diversification parameters must be met at the time of purchase although cash flows may change the percentages over time. Effort will be made to maintain the diversification guidelines through cyclical cash flow periods.

<u>Security Type</u>	<u>Max. % in Overall Portfolio</u>
CDs	40%
Per bank	10 %
US Treasuries	80%
US Agencies & Instrumentalities	80%
Repurchase Agreements	50%
Flex for bond funds	100 %
Constant Dollar LGIP	80%
Ownership of the pool	10 %
Money Market Mutual Funds	75 %
Municipal and State Obligations	40 %
Issuer limitation	5 %
FDIC Brokered CDs	20 %
Commercial paper	25 %
Issuer limitation	10 %

Delivery versus Payment

All security transactions (with the exception of pool or fund participation) by the City shall be purchased "delivery versus payment". That is, the City shall authorize release of its *funds* only after a purchased security has been received by its safekeeping agent or after the City has received notification from its safekeeping agent that a purchased security has been received in the City's safekeeping account.

Competitive Bidding Required

All investments shall be purchased or sold on a competitive basis with bids or offers from three City authorized broker/dealers for the best yield and maturity. Offers of new issue agencies need not be competitively bid but must be made from City authorized broker/dealers.

Loss of Rating

The City is not required to liquidate investments that were authorized investments at the time of purchase (Chapter 2256.017). However, should a security that requires a minimum rating under state law not have that required rating, the investment officer shall take all prudent measures to liquidate the security (Chapter 2256.021).

Monitoring FDIC Coverage

The Investment Officer or Investment Advisor shall monitor, on no less than a weekly basis, the status and ownership of all banks issuing brokered CDs owned by the City based upon information from the FDIC. If any bank has been acquired or merged with another bank in which brokered CDs are owned, the Investment Officer or Advisor shall immediately liquidate any brokered CD which places the City above the FDIC insurance level.

Monitoring Credit Ratings

The Investment Officer or investment advisor shall monitor, on no less than a weekly basis, the credit rating on all authorized investments in the portfolio based upon independent information from a nationally recognized rating agency. If any security falls below the minimum rating required by Policy, the Investment Officer or advisor shall notify the Finance Director and City Manager of the loss of rating, conditions affecting the rating and possible loss of principal with liquidation options available, within two weeks after the loss of the required rating.

Section Five: Collateral and Safekeeping

Time and Demand Bank Deposits Pledged Collateral

Collateralization is required on all bank time and demand deposits over the applicable FDIC insurance coverage. All securities pledged to the City for these deposits shall be held by an independent third party institution outside the holding company of the pledging bank.

In order to anticipate market changes and provide a level of additional security for all funds, the market value of the collateral will be maintained at 102% of total principal and accrued interest. The depository will be responsible for monitoring and maintaining the collateral and margins at all times. The custodian will provide monthly reports to the City detailing the collateral.

Collateral will be pledged under the terms of a written depository agreement addressing acceptance, substitution and valuation of collateral, executed under the terms of FIRREA¹. (If the custodian is the Federal Reserve the City will execute as an alternate an FRB Pledgee Agreement of Circular 7 form.) The agreement shall be approved by resolution of the bank's board or loan committee.

Acceptable collateral shall include only obligations of the U.S. Government, its agencies and instrumentalities, including mortgage backed securities passing the bank test, municipal securities rated A or better by two nationally recognized rating agencies and letters of credit. A monthly report of collateral will be provided directly from the custodian.

¹ The Financial Institutions Resource and Recovery Enforcement Act (FIRREA) governs the deliberations of the FDIC in the case of default or bankruptcy of the bank.

Repurchase Agreements Owned Collateral

Collateral under a repurchase agreement is owned by the City. It will be held by an independent third party safekeeping agent approved by the City under an executed SIFMA² Master Repurchase Agreement. Collateral with a market value totaling 102% of the principal and accrued interest is required and the counter-party is responsible for the monitoring and maintaining of collateral and margins at all times.

Safekeeping

The laws of the State, this Policy, and prudent treasury management require that all securities be settled on a delivery versus payment basis and be held in safekeeping by an independent third party financial institution approved by the City.

Securities shall not be bought from the banking services bank in order to perfect delivery versus payment separation in the transaction.

All safekeeping arrangements shall be approved by the Investment Officers and an agreement of the terms executed in writing. The third party custodian shall be required to issue original safekeeping receipts to the City listing each specific security, rate, description, maturity, cusip, and other pertinent information. Each safekeeping receipt shall be clearly marked that the security is held for the City.

Section Six: Investment Officer Designation

The City Council hereby designates the Finance Director, or his designated representative, and the Finance Department position handling the daily treasury functions (currently the Cash and Debt Analyst), as duly authorized investment officers of the City and grants to them the authority to invest City funds as outlined herein. The City may further contract with a registered investment advisor to advise in the management of the City's portfolio. No person may engage in an investment transaction except as provided under the terms of this Policy and supporting procedures. Any disbursement of City funds for the purchase of investment instruments must bear the signature of two investment officers.

The investment officers will establish written procedures for the operation of the investment program consistent with this Investment Policy.

Officers, employees and advisors involved in the investment process shall refrain from personal business activity that could conflict with proper and unbiased execution of the investment program or which could impair their ability to make impartial investment decisions. Any business or personal relationship shall be disclosed to the City Council. If the relationship falls within the second degree of blood or marriage disclosure should also be sent to the Texas Ethics Commission.

²Security Industry and Financial Markets Association, formerly the Bond Market Association.
City of San Angelo Investment Policy

Section Seven: Training

The Finance Director and all City officials designated herein as investment officers and their designated representatives within the parameters of this Policy shall attend ten hours of training within twelve months of taking the position and eight hours in each succeeding two year fiscal period (beginning on the first day of the fiscal year) relating to investment responsibilities. The training must include investment controls, security risks, strategy risks, market risks, portfolio diversification and compliance with the Act.

The training provider must be an independent source approved by the Investment Oversight Committee. A list of approved training sources is attached as Addendum A.

Section Eight: Investment Activity Reporting

Reporting for investments will be made in accordance with the state law (Chapter 2256.023). Reports of investments should be prepared and presented at least quarterly to the City Council and City Manager and should reflect the cost, term, yield, market value, purchase date, maturity date, description and cusip number for each investment. Market values shall be obtained at least monthly from the trust department of the City's depository bank or other independent source as approved by the Oversight Committee.

On a quarterly basis the investment officer, or his designee, shall prepare a series of detail and management level signed investment reports in accordance with the Act, disclosing at a minimum:

- 1) The investment activity for the previous quarter;
- 2) The book and market value of investments at the beginning and end of the quarter;
- 3) Assessments of the market value of each investment and change in market value;
- 4) Fully accrued interest and earnings for the period in accordance with generally accepted accounting principles;
- 5) The change in market value, and
- 6) Compliance with the Public Funds Investment Act and this Policy.

Prices for the valuation of securities' market value shall be obtained from an independent source.

Section Nine: Investment Oversight Committee

The City Council shall appoint an Investment Oversight Committee to review the City's investment portfolio with the Finance Director and City Manager, or his designee, at least quarterly and to then report to the City Council. The Committee shall be comprised of two City Council members, two citizens with experience as investment advisors or analysts, the City's independent auditor (as a non-voting member), the City Manager or his designee, and the City's Finance Director. The duties of the Oversight Committee shall include:

- 1) Review of the quarterly report submitted by the Investment Officers of the City,
- 2) Review and adoption of a list of authorized qualified brokers and counter-parties that have provided the required certification and are authorized to engage in investment transactions with the City,

- 3) Review of the list of authorized brokers at least annually, and
- 4) Approval of the independent training provider as required in this Policy (Addendum A).

The Oversight Committee shall have the authority, subject to City Council review, to make such rules as deemed necessary for the orderly operation of the Committee. All changes to the Policy must be reviewed and adopted by the City Council before changes are made in the investment process.

Section Ten: Audit

The City's independent auditor shall formally review the quarterly investment reports prepared in accordance with this Policy and applicable state statutes (Chapter 2256.023). The review shall be conducted annually and the results of the review shall be reported to the City Council. In addition, in conjunction with the annual audit the City shall perform a compliance audit of management controls on investments and adherence to this Policy. Results of this audit will be reported to the oversight Committee. [Chapter 2256.005(m)].

Section Eleven: Authorized Financial Institutions and Broker/Dealers

The Investment Officer and Adviser will maintain a list of financial institutions and broker/dealers authorized to do business with the City. These firms will be selected according to credit worthiness and service. Brokers may include "primary dealers" or regional dealers that qualify under the SEC's Rule 15C3-1 (uniform net capital rule). All broker/dealers must provide the Investment Officer with:

- 1) Proof of Financial Industry Regulatory Authority (FINRA) registration,
- 2) Proof of registration with the Texas State Securities Commission, and
- 3) Completed City questionnaire.

All authorized broker/dealers will be sent the Investment Policy and any changes made in the future.

In accordance with the Public Funds Investment Act [Chapter 2256.005(k)] a copy of the City's Investment Policy shall be presented to any pool in which the City participates. The pool must execute a written certificate in a form acceptable to the City that they have (1) reviewed the Investment Policy and (2) acknowledged that they have implemented reasonable procedures and controls to preclude investment transactions conducted between the City and the pool which are not authorized by the Policy.

The City Council or the Investment Oversight Committee will at least annually review, revise and adopt a list of authorized brokers authorized to engage in investment transactions. The list of authorized counter-parties is shown as Addendum B of this Policy and approved with adoption of this Policy.

Section Twelve: Policy Adoption and Revisions

The City Council will review the Policy not less than annually and adopt a resolution stating that the Policy and incorporated strategies have been reviewed and including all changes to the Policy. This Policy may be amended only by action of the City Council.

The City Manager and Oversight Committee are authorized to recommend revisions to the Policy to the City Council whenever such revisions are necessary and prudent due to changes in State Law, the needs of the City, or the economy and market opportunities. All changes to the Policy must be reviewed and adopted by the City Council before changes are made in the investment process.

ADOPTED on this the _____ day of _____, 2022.

CITY OF SAN ANGELO, TEXAS

Brenda Gunter, Mayor

ATTEST:

Julia Antilley, City Clerk

Approved as to Content:

Approved as to Form:

Tina Dierschke, Finance Director

Theresa James, City Attorney

ADDENDUM A

By adoption of this Investment Policy, the following associations and organizations are approved for Investment Officer training:

- Texas Municipal League
- Government Finance Officers Association of Texas
- Government Treasurers Organization of Texas

ADDENDUM B

Authorized Broker/Dealer List

The authorized list for City of San Angelo is shown below. Each of these firms, and the individual covering the account, are sent the current Investment Policy.

The City's Policy establishes specific criteria for the brokers and requires that the list of broker/dealers be approved annually by the City Council or Investment Committee established by the Council. The City's investment advisor, Patterson & Associates, maintains the brokerage compliance files for the City.

When any material changes are made to the Investment Policy, the new Policy is sent out for re-certification.

The broker/dealers certified by the City are:

Bank of America/Merrill Lynch
Barclays Capital Inc.
BNY Capital Markets
BOK Financial
Cantor Fitzgerald & Co.
CastleOak Securities
Citigroup Global Markets Inc.
FHN Financial
Fifth Third Securities, Inc.
Goldman Sachs & Co.
Guggenheim Securities, LLC
Hilltop Securities
ICAP Corporates, LLC
InspereX
Jefferies
JPMorgan Stanley
Keybank Capital Markets
Loop Capital Markets
MarketAxess Corporation
Mizuho Securities
Moreton Capital Markets
Morgan Stanley
Multi-Bank Securities
Nomura Securities
Oppenheimer
Piper Sandler & Co.

PNC Capital Markets, LLC
Raymond James
RBC Capital Markets
Robert W. Baird
Siebert Williams Shank
Stifel Nicolaus
Stone X Group, Inc.
Sun Trust Robinson Humphrey, Inc
UBS Financial
Wells Fargo

LAKE NASWORTHY - SAN ANGELO, TEXAS
INVESTMENT POLICY
2022

It is the policy of the City of San Angelo (the "City") to invest public funds in a manner which will provide the highest reasonable market return with the maximum security while meeting the objectives of the City and conforming to all state and local statutes governing the investment of public funds.

This policy satisfies the requirement of the Public Funds Investment Act (the "Act"), Texas Government Code 2256 which requires the creation and annual adoption of a written investment policy. The City Council shall no less than annually review and adopt the Investment Policy and its incorporated strategies. Any changes to the Policy will be detailed in the adopting resolution.

Section One: Scope

This investment policy applies solely to the financial assets applied to the maintenance and support of Lake Nasworthy, San Angelo, Texas.

Section Two: Investment Objectives and Standard of Care

The objective of the Lake Nasworthy portfolio is to produce a revenue stream which can be used in the maintenance of the Lake Nasworthy area. The principal is not intended to be used for operational purposes.

The objectives of this Investment Policy shall be, in order of priority, safety, liquidity, diversification, and yield. Safety of principal shall be the foremost objective of the City's investment program. Each investment transaction shall seek to first ensure that capital losses are avoided, whether they be from market, credit or collateral risk. Investments shall not be made for speculative purposes. The portfolio shall be managed with the objective of obtaining a reasonable market yield in keeping with the capital appreciation and cash flow requirements of the fund.

The standard of prudence to be used by investment officers shall be the prudent person standard and shall be applied in the context of managing the overall portfolio. Investments shall be made with judgment and care under circumstance then prevailing which a person of prudence, discretion and intelligence would exercise in the management of his or her own affairs with consideration given to the probable safety of capital as well as the probable income to be derived.

Investment officers acting in accordance with written procedures and the Investment Policy and exercising due diligence shall be relieved of personal liability for an individual security's credit or market risk, provided that deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

Section Three: Investment Strategy

The investment strategy for Lake Nasworthy funds will focus on utilization of high credit quality, intermediate term securities which will generate a reasonable stream of income for the ongoing maintenance of the Lake. The principal of the fund is not expected to be used for any ongoing expenditures. The investment strategy is designed to generate a revenue stream and a low degree of volatility and market risk. Securities will be of a high quality, with short to intermediate term maturities chosen to hold their market value. The portfolio will use a range of maturities dependent on market conditions.

The City, or its designated investment advisors, will evaluate cash flow needs and the portfolio's position on a regular basis to determine ongoing market strategy. Market conditions and interest rate forecasts will determine portfolio structure. Securities may be sold or "swapped" before maturity to capture capital gains and allow for reinvestment into the portfolio.

The portfolio will maintain a maximum weighted average maturity (WAM) of three (3) years and the maximum expected or stated maturity in the fund will be ten (10) years for any individual security. The benchmark for risk and performance on the portfolio will be the three year Treasury Note for the comparable period in accordance with the anticipated WAM.

Section Four: Authorized Investments

The City shall invest only in those instruments authorized by law of the State of Texas (Texas Government Code 2256, Public Funds Investment Act). Insofar as they meet this requirement, the City may invest in the following:

(1) Depository Certificates of Deposit issued by state and national banks doing business in Texas that do not exceed two (2) years to maturity from date of issue, and:

- a. are guaranteed or insured by the Federal Deposit Insurance Corporation or its successor; or
- b. are collateralized at 102% by obligations of the United States or its agencies and instrumentalities or direct obligations of the State of Texas, its subdivisions, or its agencies which have been rated as to investment quality by a nationally recognized investment rating firm and have received a rating of not less than "A" or the equivalent.

(2) Obligations of the United States Government, its agencies and instrumentalities not to exceed ten (10) years to their stated maturity date, to include mortgaged backed securities passing the bank test;

(3) Fully collateralized repurchase agreements including reverse repurchase agreements, having a defined termination date not to exceed six (6) months, secured by obligations of the United States or its agencies and instrumentalities, collateralized at 102%, executed under a written Bond Market Association Master Repurchase Agreement, safe-kept with a third party selected or approved by the City, and placed through a bank doing business in Texas or a primary government securities dealer as defined by the Federal Reserve. Flex repurchase agreements used for bond funds or special project funds may have a stated termination date not to exceed the estimated

completion date of the project(s):

(4) Local government investment pools as defined by the Act, which strive to maintain a \$1 net asset value, as amended, which are rated as to investment quality by a nationally recognized credit rating agency and have received a rating of not less than "AAA" or its equivalent. Investment in each pool must be specifically authorized by Resolution of the City Council.

(5) AAA-rated, SEC registered money market mutual funds which strive to maintain a \$1 net asset value.

(6) General obligation and revenue bonds of states, agencies, counties, cities and other political subdivisions of any state rated "A" or better or its equivalent by one nationally recognized rating agency and with a stated maturity not to exceed three (3) years.

(7) FDIC insured *brokered* certificate of deposit securities from banks in any US state, delivered versus payment to the City's safekeeping depository, not to exceed one year to maturity. Before purchase, the Investment Officer or Advisor must verify the FDIC status of the bank on www.fdic.gov to assure that bank is FDIC insured.

(8) Fully insured or collateralized, interest bearing accounts of any bank doing business in Texas.

(9) AI/PI domestic commercial paper with a maximum maturity of two hundred-seventy (270) days.

Diversification

The Fund will strive for diversification in the portfolio by market sector and maturity to reduce market and credit risk exposures.

Delivery versus Payment

All security transactions (with the exception of pool or fund participation) by the City shall be purchased "delivery versus payment". That is, the City shall authorize release of its *funds* only after a purchased security has been received by its safekeeping agent or after the City has received notification from its safekeeping agent that a purchased security has been received in the City's safekeeping account.

Competitive Bidding Required

All investments shall be purchased or sold on a competitive basis with bids or offers from three City authorized broker/dealers for the best yield and maturity. Offers of new issue agencies need not be competitively bid but must be made from City authorized broker/dealers.

Loss of Rating

The City is not required to liquidate investments that were authorized investments at the time of purchase (Chapter 2256.017). However, should a security that requires a minimum rating under state law not have that required rating, the investment officer shall take all prudent measures to

liquidate the security (Chapter 2256.021).

Monitoring FDIC Coverage

The Investment Officer or Investment Advisor shall monitor, on no less than a weekly basis, the status and ownership of all banks issuing brokered CDs owned by the City based upon information from the FDIC. If any bank has been acquired or merged with another bank in which brokered CDs are owned, the Investment Officer or Advisor shall immediately liquidate any brokered CD which places the City above the FDIC insurance level.

Monitoring Credit Ratings

The Investment Officer or investment advisor shall monitor, on no less than a weekly basis, the credit rating on all authorized investments in the portfolio based upon independent information from a nationally recognized rating agency. If any security falls below the minimum rating required by Policy, the Investment Officer or advisor shall notify the Finance Director and City Manager of the loss of rating, conditions affecting the rating and possible loss of principal with liquidation options available, within two weeks after the loss of the required rating.

Time and Demand Bank Deposits Pledged Collateral

Collateralization is required on all bank time and demand deposits over the applicable FDIC insurance coverage. All securities pledged to the City for these deposits shall be held by an independent third party institution outside the holding company of the pledging bank.

In order to anticipate market changes and provide a level of additional security for all funds, the market value of the collateral will be maintained at 102% of total principal and accrued interest. The depository will be responsible for monitoring and maintaining the collateral and margins at all times. The custodian will provide monthly reports to the City detailing the collateral.

Collateral will be pledged under the terms of a written depository agreement addressing acceptance, substitution and valuation of collateral, executed under the terms of FIRREA¹. (If the custodian is the Federal Reserve, the City will execute the Pledge Agreement of Circular 7 form.) The agreement shall be approved by resolution of the bank's board or loan committee.

Acceptable collateral shall include only obligations of the U.S. Government, its agencies and instrumentalities, including mortgage backed securities passing the bank test, municipal securities rated "A" or better by two nationally recognized rating agencies and letters of credit. A monthly report of collateral will be provided directly from the custodian.

Repurchase Agreements Owned Collateral

Collateral under a repurchase agreement is owned by the City. It will be held by an independent third party safekeeping agent approved by the City under an executed Bond Market Master Repurchase Agreement. Collateral with a market value totaling 102% of the principal and

¹ The Financial Institutions Resource and Recovery Enforcement Act governs the deliberations of the FDIC in the case of default or bankruptcy of the bank.

accrued interest is required and the counter-party is responsible for the monitoring and maintaining of collateral and margins at all times.

Safekeeping

The laws of the State, this Policy, and prudent treasury management require that all securities be settled on a delivery versus payment basis and be held in safekeeping by an independent third party financial institution approved by the City.

Securities shall not be bought from the banking services bank in order to perfect delivery versus payment separation in the transaction.

All safekeeping arrangements shall be approved by the Investment Officers and an agreement of the terms executed in writing. The third party custodian shall be required to issue original safekeeping receipts to the City listing each specific security, rate, description, maturity, cusip, and other pertinent information. Each safekeeping receipt shall be clearly marked that the security is held for the City.

Section Five: Investment Officer Designation

The City Council has designated the Finance Director, or his designated representative, and the Finance Department position handling the daily treasury functions (currently the Cash and Debt Analyst), as duly authorized investment officers of the City and grants to them the authority to invest Lake Nasworthy funds as outlined herein. The City may further contract with a registered investment advisor to advise in the management of this portfolio.

No person may engage in an investment transaction except as provided under the terms of this Policy and supporting procedures. Any disbursement of City funds for the purchase of investment instruments must bear the signature of two investment officers.

The investment officers will establish written procedures for the operation of the investment program consistent with this Investment Policy.

Officers, employees and advisors involved in the investment process shall refrain from personal business activity that could conflict with proper and unbiased execution of the investment program or which could impair their ability to make impartial investment decisions. Any business or personal relationship shall be disclosed to the City Council. If the relationship falls within the second degree of blood or marriage disclosure should also be sent to the Texas Ethics Commission.

Section Six: Training

All City officials designated herein as investment officers and their designated representatives within the parameters of this Policy shall attend ten hours of training within twelve months of taking the position and eight hours in each succeeding two fiscal year period (beginning on the first day of the fiscal year) relating to investment responsibilities. The training must include

investment controls, security risks, strategy risks, market risks, portfolio diversification and compliance with the Act.

The training provider must be an independent source approved by the Investment Oversight Committee. A list of approved training sources is attached as Addendum A.

Section Seven: Investment Activity Reporting

Reporting for investments will be made in accordance with the state law. (Chapter 2256.023) Reports of investments should be issued at least quarterly to the City Council and City Manager and should reflect the cost, term, yield, market value, purchase date, maturity date, description and cusip number for each investment. Market values shall be obtained monthly from the trust department of the City's depository bank or other independent source as approved by the Oversight Committee.

On a quarterly basis the investment officer, or his designee, shall prepare a series of detail and management level signed investment reports in accordance with the Act, disclosing at a minimum:

- 1) The investment activity for the previous quarter;
- 2) The book and market value of investments at the beginning and end of the quarter;
- 3) Assessments of the market value of each investment and change in market value;
- 4) Fully accrued interest and earnings for the period in accordance with generally accepted accounting principles;
- 5) The change in market value, and
- 6) Compliance with the Public Funds Investment Act and this Policy.

Prices for the valuation of securities' market value shall be obtained from an independent source.

Section Eight: Oversight Committee

The City Council shall appoint an Investment Oversight Committee to review the City's investment portfolio with the Finance Director and City Manager, or his designee, at least quarterly and to then report to the City Council. The Committee shall be comprised of two City Council members, two citizens with experience as investment advisors or analysts, the City's independent auditor (as a non-voting member), the City Manager or his designee, and the City's Finance Director. The duties of the Oversight Committee shall include:

- 1) Review of the quarterly report submitted by the Investment Officers of the City,
- 2) Review and adopt the list of counter-parties that have provided the required certification and are authorized to engage in investment transactions with the City,
- 3) Review of the list of authorized brokers at least annually, and
- 4) Approval of the independent training provider as required in this Policy.

The Oversight Committee shall have the authority, subject to City Council review, to make such rules as deemed necessary for the orderly operation of the Committee. All changes to the Policy must be reviewed and adopted by the City Council before changes are made in the investment

process.

Section Nine: Audit

The City's independent auditor shall formally review the quarterly investment reports prepared in accordance with this Policy and applicable state statutes (Chapter 2256.023). The review shall be conducted annually and the results of the review shall be reported to the City Council. In addition, in conjunction with the annual audit the City shall perform a compliance audit of management controls on investments and adherence to this Policy. Results of this audit will be reported to the oversight Committee. [(Chapter 2256.005(m))].

Section Ten: Authorized Financial Institutions and Broker/Dealers

The Investment Officer will maintain a list of financial institutions and broker/dealers authorized to do business with the City. These firms will be selected according to credit worthiness and service. Brokers may include "primary dealers" or regional dealers that qualify under the SEC's Rule 15C3-1 (uniform net capital rule). All broker/dealers must provide the Investment Officer with:

- 1) Proof of National Association of Securities Dealers certification,
- 2) Proof of registration with the Texas State Securities Commission, and,
- 3) Completed City questionnaire.

All authorized broker/dealers will be sent the Investment Policy and any changes made in the future.

In accordance with the Public Funds Investment Act [Chapter 2256.005(k)] a copy of the City's Investment Policy shall be presented to any pool in which Lake Nasworthy participates. The pool must execute a written certificate in a form acceptable to the City that they have (1) reviewed the Investment Policy and (2) acknowledged that they have implemented reasonable procedures and controls to preclude investment transactions conducted between the City and the pool which are not authorized by the Policy.

The City Council or the Investment Oversight Committee will at least annually review, revise and adopt a list of authorized brokers authorized to engage in investment transactions. The list of authorized counter-parties is shown as Addendum B of this Policy and approved with Council adoption of this Policy.

Section Eleven: Policy Adoption and Revisions

The City Council will review the Policy not less than annually and adopt a resolution stating that the Policy and its incorporated strategies has been reviewed and including all changes to the Policy. This Policy may be amended only by action of the City Council.

The City Manager and Oversight Committee are authorized to recommend revisions to the Policy to the City Council whenever such revisions are necessary and prudent due to changes in State Law, the needs of the City, or the economy and market opportunities. All changes to the Policy must be reviewed and adopted by the City Council before changes are made in the investment process.

ADOPTED on this the _____ day of _____, 2022.

CITY OF SAN ANGELO, TEXAS

Brenda Gunter, Mayor

ATTEST:

Julia Antilley, City Clerk

Approved as to Content:

Tina Dierschke, Finance Director

Approved as to Form:

Theresa James, City Attorney

ADDENDUM A

By adoption of this Investment Policy, the following associations and organizations are approved for Investment Officer training:

- Texas Municipal League
- Government Finance Officers Association of Texas
- Government Treasurers Organization of Texas

ADDENDUM B

Authorized Broker/Dealer List

The authorized list for City of San Angelo is shown below. Each of these firms, and the individual covering the account, are sent the current Investment Policy.

The City's Policy establishes specific criteria for the brokers and requires that the list of broker/dealers be approved annually by the City Council or Investment Committee established by the Council. The City's investment advisor, Patterson & Associates, maintains the brokerage compliance files for the City.

When any material changes are made to the Investment Policy, the new Policy is sent out for re-certification.

The broker/dealers certified by the City are:

Bank of America/Merrill Lynch
Barclays Capital Inc.
BNY Capital Markets
BOK Financial
Cantor Fitzgerald & Co.
CastleOak Securities
Citigroup Global Markets Inc.
FHN Financial
Fifth Third Securities, Inc.
Goldman Sachs & Co.
Guggenheim Securities, LLC
Hilltop Securities
ICAP Corporates, LLC
InspereX
Jefferies
JPMorgan Stanley
Keybank Capital Markets
Loop Capital Markets
MarketAxess Corporation
Mizuho Securities
Moreton Capital Markets
Morgan Stanley
Multi-Bank Securities
Nomura Securities
Oppenheimer
Piper Sandler & Co.

PNC Capital Markets, LLC
Raymond James
RBC Capital Markets
Robert W. Baird
Siebert Williams Shank
Stifel Nicolaus
Stone X Group, Inc.
Sun Trust Robinson Humphrey, Inc
UBS Financial
Wells Fargo

CITY OF SAN ANGELO DEVELOPMENT CORPORATION
INVESTMENT POLICY, STRATEGY AND BROKER/DEALER LIST
2022

It is the policy of the City of San Angelo Development Corporation (the "COSADC") to invest its funds in a manner which will provide the highest reasonable market return within security guidelines while meeting the demands of the COSADC and conforming to all state and local statutes governing the investment of public funds.

This policy satisfies the requirement of the Public Funds Investment Act (the "Act"), Texas Government Code 2256, which requires the creation and annual adoption of a written investment policy.

Section One: Scope

This investment policy applies to all the financial assets of the COSADC.

Section Two: Investment Objectives and Standard of Care

The objectives of the COSADC's investment program shall be, in order of priority, safety, liquidity and yield. Safety of principal shall be the foremost objective of the COSADC's investment program. Investment transactions shall seek to insure that capital losses are avoided, whether they are from securities, defaults or erosion of market value. The portfolio shall be managed with the objective of obtaining a reasonable market yield.

The standard of prudence to be used by investment officers shall be the *prudent person standard* and shall be applied in the context of managing the overall portfolio. Investments shall be made with judgment and care under circumstances then prevailing which a person of prudence, discretion and intelligence would exercise in the management of his/her own affairs with consideration given to the probable safety of capital as well as the probable income to be derived. Investments shall not be made for speculative purposes.

Section Three: Investment Strategy

The COSADC funds shall recognize cash flow needs and adopt a pro-active yet conservative portfolio strategy. The total portfolio will maintain a maximum weighted average maturity of two (2) year which is based on the cash requirements of the COSADC. The long term nature of some projects of the COSADC will allow a maximum maturity of five (5) years.

The COSADC investment portfolio shall be diversified for safety and shall consist of a variety of securities and maturities. In order to meet Policy objective, securities will be of the highest credit quality and marketability. The portfolio's objectives can be attained by utilization of high credit quality securities and a structure based on cash flow needs in the short and intermediate-term.

It is the intent of the COSADC to hold purchased securities to maturity. However, under conditions defined and procedures approved by the Oversight Committee securities may be traded to capture capital gains and allow for reinvestment into the portfolio.

The investment officers, or designated investment advisors, will create a strategy to project the term for such investments and will invest based on market conditions, cash flow, and diversity in the portfolio

Section Four: Authorized Investments

The COSADC fund shall invest only in those instruments authorized by law of the State of Texas (Texas Government Code 2256, Public Funds Investment Act) as further limited by this policy.

(1) Depository certificates of deposit issued by state and national banks doing business in Texas that do not exceed two (2) years to maturity from date of issue;

(2) Obligations of the United States Government, its agencies and instrumentalities excluding mortgage-backed securities, not to exceed five (5) years to their stated maturity date;

(3) Fully collateralized repurchase agreements having a defined termination date not to exceed six (6) months, secured by obligations of the United States or its agencies and instrumentalities, collateralized at 102%, executed under a written repurchase agreement, with securities safe-kept with a third party selected or approved by the COSADC, and placed through a bank doing business in Texas or a primary government securities dealer.

(4) Local government investment pools which strive to maintain a \$1 net asset value and as defined by the Act, rated AAA, or its equivalent, as to investment quality by a nationally recognized credit rating agency. Investment in each pool must be specifically authorized by Resolution of the COSADC Board.

(5) AAA-rated, SEC registered money market mutual funds which strive to maintain a \$1 net asset value.

(6) General obligation and revenue bonds of states, agencies, counties, cities and other political subdivisions of any state rated "A" or better or its equivalent by one nationally recognized rating agency and with a stated maturity not to exceed five (5) years.

(7) FDIC insured brokered certificate of deposit securities from banks in any US state, delivered versus payment to the COSADC's safekeeping depository, not to exceed one year to maturity. Before purchase, the Investment Officer or advisor must verify the FDIC status of the bank on www.fdic.gov to assure that bank is FDIC insured.

(8) Fully insured interest bearing accounts of any bank doing business in Texas.

(9) A1/P1 domestic commercial paper with a maximum maturity of two-hundred seventy (270) days.

In order to provide diversification in the portfolio which reduces market and credit risk exposures the following diversification parameters are established for the Portfolio. Diversification parameters must be met at the time of purchase although cash flows may change the percentages over time. Effort will be made to maintain the diversification guidelines through cyclical cash flow periods.

<u>Security Type</u>	<u>Max. % in Overall Portfolio</u>
Depository CDs	40 %
Per bank	10 %
US Treasuries	80 %
US Agencies & Instrumentalities	80 %
Repurchase Agreements	50 %
Constant Dollar LGIP	80 %
Ownership of the pool	10 %
Money Market Mutual Funds	75 %
Municipal and State Obligations	50 %
FDIC Brokered CDs	20 %
Commercial paper	20 %

Delivery versus Payment

All security transactions shall be purchased and settled "delivery versus payment". That is, the COSADC shall authorize release of its funds only after a purchased security has been received by its safekeeping agent.

Competitive Bidding Required

All investments shall be purchased or sold on a competitive basis with bids or offers from at least three authorized broker/dealers for the best yield and maturity. Offers of new issue agencies need not be competitively bid but must be made from COSADC authorized broker/dealers.

Loss of Rating

There is no requirement to liquidate investments that were authorized investments at the time of purchase. However, should a security that requires a minimum rating under state law not have that required rating, the investment officer shall take all prudent measures to liquidate the security.

Monitoring FDIC Coverage

The Investment Officer or Investment Advisor shall monitor, on no less than a weekly basis, the status and ownership of all banks issuing brokered CDs owned by the COSADC based upon information from the FDIC. If any bank has been acquired or merged with another bank in which brokered CDs are owned, the Investment Officer or Advisor shall immediately liquidate any brokered CD which places the COSADC above the FDIC insurance level.

Monitoring Credit Ratings

The Investment Officer or investment advisor shall monitor, on no less than a weekly basis, the credit rating on all authorized investments in the portfolio based upon independent information from a nationally recognized rating agency. If any security falls below the minimum rating required by Policy, the Investment Officer or advisor shall notify the City and the COSADC Director, within three days, of the loss of rating, conditions affecting the rating and possible loss of principal with liquidation options available.

Section Five: Collateral and Safekeeping

As a public *corporation* the COSADC is not authorized by FDIC regulations to be pledged collateral for bank deposits. As such, all time and demand deposits shall be kept below the FDIC insurance coverage in any one institution.

Repurchase Agreements Owned Collateral

Collateral under a repurchase agreement is owned by the COSADC. It will be held by an independent third party safekeeping agent approved by the COSADC under an executed master repurchase agreement. Collateral with a market value totaling 102% of the principal and accrued interest is required and the counter-party is responsible for the monitoring and maintaining of collateral and margins at all times.

Safekeeping

The laws of the State, this Policy, and prudent treasury management require that all securities be settled on a delivery versus payment basis and be held in safekeeping by an independent third party financial institution approved by the COSADC.

Securities shall not be bought from the banking services bank in order to perfect delivery versus payment separation in the transaction.

All safekeeping arrangements shall be approved by the City and COSADC Board and an agreement of the terms executed in writing. The third party safekeeping institution shall issue original safekeeping receipts to the COSADC listing each specific security, rate, description, maturity, cusip, ownership, and other pertinent information.

Section Six: Investment Officer Designation

The COSADC Board hereby designates the City authorized investment officers and investment adviser as investment officers for COSADC and grants to them the authority to invest COSADC funds as outlined herein on a non-discretionary basis.

No person may engage in an investment transaction except as provided under the terms of this Policy. Any disbursement of COSADC funds for the purchase of investment instruments must bear the signature of an investment officer.

The investment officers will establish and submit written procedures for the operation of the COSADC investment program consistent with this Investment Policy.

Officers, employees and advisors involved in the investment process shall refrain from personal business activity that could conflict with proper and unbiased execution of the investment program or which could impair their ability to make impartial investment decisions. Any business or personal relationship shall be disclosed to the COSADC Board. If the relationship falls within the second degree of blood or marriage disclosure should also be sent to the Texas Ethics Commission.

Section Seven: Training

All officials designated as investment officers shall attend ten hours of training within twelve months of taking the position and eight hours in each succeeding two year fiscal period (beginning on the first day of the fiscal year) relating to investment responsibilities. The training must include investment controls, security risks, strategy risks, market risks, portfolio diversification and compliance with the Act.

The training provider shall be an independent source approved by the City Investment Committee.

Section Eight: Investment Activity Reporting

Reporting for investments will be made in accordance with the state law. Reports of investments are to be prepared and presented at least quarterly to the COSADC Board. Market values shall be obtained at least monthly from an independent source.

On a quarterly basis the investment officer, or investment adviser, shall prepare a series of detail and management level reports signed by the investment officers in accordance with the Act, disclosing at a minimum:

- 1) The investment activity for the previous quarter;
- 2) The book and market value of investments at the beginning and end of the quarter;
- 3) Assessments of the market value of each investment and change in market value;
- 4) Fully accrued interest and earnings for the period in accordance with GAAP;
- 5) The change in market value, and
- 6) Compliance with the Public Funds Investment Act and this Policy.

Section Nine: Audit

The COSADC independent auditor shall formally review the quarterly investment reports prepared in accordance with this Policy and applicable state statutes. The review shall be conducted annually and the results of the review shall be reported to the COSADC Board. In addition, in conjunction with the annual audit the COSADC shall perform a compliance audit of management controls on investments and adherence to this Policy. Results of this audit will be reported to the Board.

Section Ten: Authorized Financial Institutions and Broker/Dealers

The Investment Officer will maintain a list of financial institutions and broker/dealers authorized to do business with the COSADC. These firms will be selected according to credit worthiness and

service. Brokers may include "primary dealers" or regional dealers that qualify under the SEC's Rule 15C3-1 (uniform net capital rule). All broker/dealers must provide the Investment Officer with:

Proof of Financial Industry Regulatory Authority (FINRA) registration,
Proof of registration with the Texas State Securities Commission, and
Completed COSADC questionnaire.

In accordance with the Public Funds Investment Act, a copy of the COSADC's Investment Policy shall be presented to any pool with which COSADC has become a participant. The pool must execute a written certificate in a form acceptable to the COSADC that they have (1) reviewed the Investment Policy and (2) acknowledged that they have implemented reasonable procedures and controls to preclude investment transactions conducted between the COSADC and the firm which are not authorized by the Policy.

The City Investment Committee will at least annually review, revise and adopt a list of authorized brokers authorized to engage in investment transactions.

Section Eleven: Policy Adoption and Revisions

The COSADC Board will review the Investment Policy not less than annually and adopt a resolution stating that the Policy and incorporated strategies have been reviewed and including all changes to the Policy. This Policy may be amended only by action of the COSADC Board.

The COSADC Board and City Investment Oversight Committee are authorized to recommend revisions to the Policy to the COSADC Board whenever such revisions are necessary and prudent due to changes in State Law, the needs of the COSADC, or the economy and market opportunities. All changes to the Policy must be reviewed and adopted by the COSADC Board before any changes are made in the investment process.

ADOPTED on this the _____ day of _____, 2022

ADDENDUM A

Authorized Broker/Dealer List

The authorized broker/dealer list for City of San Angelo Development Corporation is shown below. Each of these firms, and the individual covering the account, are sent the current COSADC Investment Policy.

The Policy establishes specific criteria for the brokers and requires that the list of broker/dealers be approved annually by the Board. Patterson & Associates maintains the brokerage compliance files for the COSADC.

When any material changes are made to the Investment Policy the new Policy is sent out to all broker/dealers.

The broker/dealers for the City of San Angelo Development Corporation are:

Bank of America/Merrill Lynch	Raymond James
Barclays Capital Inc.	RBC Capital Markets
BNY Capital Markets	Robert W. Baird
BOK Financial	Siebert Williams Shank
Cantor Fitzgerald & Co.	Stifel Nicolaus
CastleOak Securities	Stone X Group, Inc.
Citigroup Global Markets Inc.	Sun Trust Robinson Humphrey, Inc
FHN Financial	UBS Financial
Fifth Third Securities, Inc.	Wells Fargo
Goldman Sachs & Co.	
Guggenheim Securities, LLC	
Hilltop Securities	
ICAP Corporates, LLC	
InspereX	
Jefferies	
JPMorgan Stanley	
Keybank Capital Markets	
Loop Capital Markets	
MarketAxess Corporation	
Mizuho Securities	
Moreton Capital Markets	
Morgan Stanley	
Multi-Bank Securities	
Nomura Securities	
Oppenheimer	
Piper Sandler & Co.	
PNC Capital Markets, LLC	

RESOLUTION # _____

**A RESOLUTION ADOPTING THE CITY OF SAN ANGELO
INVESTMENT POLICY AND INVESTMENT STRATEGY**

WHEREAS, the Public Funds Investment Act codified in the Texas Government Code Chapter 2256 governs local government investment; and

WHEREAS, the Public Fund Investment Act (Section 2256.005a), as amended, requires the City to adopt an investment policy and investment strategies by rule, order, ordinance or resolution governing the investment of funds under its control; and

WHEREAS, the Public Fund Investment Act (Section 2256.005e), requires the governing body to review and adopt that investment policy and investment strategies by rule, order, ordinance or resolution not less than annually, recording any changes made thereto; and

WHEREAS, the City Council has reviewed the City Policy and decided to make the following changes:

<u>Section</u>	<u>Change</u>
Addendum B	Added Barclays Capital Inc., BNY Capital Markets, CastleOak Securities, Citigroup Global Markets Inc., Fifth Third Securities, Inc., Goldman Sachs & Co., Guggenheim Securities, LLC, Hilltop Securities, ICAP Corporates, LLC, Insperex, Jefferies, Keybank Capital Markets, Loop Capital Markets, MarketAxess Corporation, Multi-Bank Securities, Nomura Securities, PNC Capital Markets, LLC, Siebert Williams Shank, Sun Trust Robinson Humphrey, Inc and removed Great Pacific Securities and Mutual Securities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SAN ANGELO:

That the City has complied with the requirements of the Public Funds Investment Act and the City's Investment Policy and adopts the Investment Policy and Investment Strategy, with the changes as shown, as the Investment Policy and Strategy of the City effective the date of this resolution.

ADOPTED this the 1st day of March, 2022.

THE CITY OF SAN ANGELO, TEXAS:

Brenda Gunter, Mayor

ATTEST:

Julia Antilley, City Clerk

APPROVED AS TO CONTENT:

Tina Dierschke, Finance Director

APPROVED AS TO FORM:

Theresa James, City Attorney

RESOLUTION # _____

**A RESOLUTION ADOPTING THE DEVELOPMENT CORPORATION INVESTMENT POLICY,
INVESTMENT STRATEGY AND AUTHORIZED BROKER/DEALERS**

WHEREAS, the Public Funds Investment Act (Texas Government Code, Chapter 2256) governs local government investment; and

WHEREAS, the Public Fund Investment Act (Section 2256.005a) requires the Development Corporation to adopt an investment policy and investment strategy by rule, order, ordinance or resolution governing the investment of funds under its control; and

WHEREAS, the Public Fund Investment Act (Section 2256.005e), requires the Board to review and adopt that investment policy and investment strategy by rule, order, ordinance or resolution not less than annually, recording any changes made thereto; and

WHEREAS, the Public Funds Investment Act (Section 2256.025) requires that the Corporation annually review, revise and adopt a list of qualified broker/dealers authorized to engage in investment transactions with the Corporation, and

WHEREAS, the Corporation Board has reviewed the Investment Policy and decided to make the following changes:

<u>Section</u>	<u>Change</u>
Addendum B	Added Barclays Capital Inc., BNY Capital Markets, CastleOak Securities, Citigroup Global Markets Inc., Fifth Third Securities, Inc., Goldman Sachs & Co., Guggenheim Securities, LLC, Hilltop Securities, ICAP Corporates, LLC, Insperex, Jefferies, Keybank Capital Markets, Loop Capital Markets, MarketAxess Corporation, Multi-Bank Securities, Nomura Securities, PNC Capital Markets, LLC, Siebert Williams Shank, Sun Trust Robinson Humphrey, Inc and removed Great Pacific Securities and Mutual Securities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SAN ANGELO:

That the Corporation has complied with the requirements of the Public Funds Investment Act and the Investment Policy and adopts the Investment Policy and Investment Strategy, with the list of broker/dealers, as the Investment Policy and Strategy of the Corporation effective the date of this resolution.

ADOPTED this the 1st day of March, 2022.

CITY OF SAN ANGELO, TEXAS:

Brenda Gunter, Mayor

ATTEST:

Julia Antilley, City Clerk

APPROVED AS TO CONTENT:

Tina Dierschke, Finance Director

APPROVED AS TO FORM:

Theresa James, City Attorney

RESOLUTION # _____

**A RESOLUTION ADOPTING THE LAKE NASWORTHY
INVESTMENT POLICY AND INVESTMENT STRATEGY**

WHEREAS, the Public Funds Investment Act codified in the Texas Government Code Chapter 2256 governs local government investment; and

WHEREAS, the Public Fund Investment Act (Section 2256.005a), as amended, requires the City to adopt an investment policy and investment strategies by rule, order, ordinance or resolution governing the investment of funds under its control; and

WHEREAS, the Public Fund Investment Act (Section 2256.005e), requires the governing body to review and adopt that investment policy and investment strategies by rule, order, ordinance or resolution not less than annually, recording any changes made thereto; and

WHEREAS, the City Council has reviewed the Lake Nasworthy Investment Policy and decided to make the following changes:

<u>Section</u>	<u>Change</u>
Addendum B	Added Barclays Capital Inc., BNY Capital Markets, CastleOak Securities, Citigroup Global Markets Inc., Fifth Third Securities, Inc., Goldman Sachs & Co., Guggenheim Securities, LLC, Hilltop Securities, ICAP Corporates, LLC, Insperex, Jefferies, Keybank Capital Markets, Loop Capital Markets, MarketAxess Corporation, Multi-Bank Securities, Nomura Securities, PNC Capital Markets, LLC, Siebert Williams Shank, Sun Trust Robinson Humphrey, Inc and removed Great Pacific Securities and Mutual Securities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SAN ANGELO:

That the City has complied with the requirements of the Public Funds Investment Act and the City's Investment Policy and adopts the Investment Policy and Investment Strategy, with the changes as shown, as the Investment Policy and Strategy of Lake Nasworthy effective the date of this resolution.

ADOPTED this the 1st day of March, 2022.

THE CITY OF SAN ANGELO, TEXAS:

Brenda Gunter, Mayor

ATTEST:

Julia Antilley, City Clerk

APPROVED AS TO CONTENT:

Tina Dierschke, Finance Director

APPROVED AS TO FORM:

Theresa James, City Attorney

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Jeff Fisher, Sr. Planner, Planning and Development Services, 325-657-4210

Meeting Date: March 1, 2022

Item type: Consent Item

Caption:

Second reading of an ordinance annexing into the City of San Angelo, by petition of the property owner, an unaddressed 9.278-acre tract of land out of the Deaf and Dumb Asylums Lands Survey No. 2, Abstract No. 8211, Tom Green County, Texas, located southwest of Sherwood Way and FM 2288 along the southward extension of Appaloosa Trl. (Jon James)

Staff Recommendation:

Adopt

Summary/History:

The applicant, Mills Development Inc., has filed this application to annex 9.278 acres out of an unplatted survey tract, and the south extension of Appaloosa Trail, south of Sherwood Way. The property is immediately south of the Boulevard Apartments. The applicant has submitted a concurrent application for zoning the land to Low Rise Multifamily Residential (RM-1) for a proposed multifamily apartment complex. RM-1 zoning also allows single and two-family homes, zero lot line homes, twinhomes, and townhomes. The city is looking at realigning the minor arterial and collector roads in the immediate area which will affect the location of future lot layouts, new streets, and utilities. At present, Staff has discussed with the applicant the need to submit a preliminary plat for the annexed property and its remainder being created; and a final plat for the annexed property to allow connection to city facilities and building permits.

Funding Source(s):

Financial Impact:

N/A

Other Information/Recommendation:

Staff recommends approval of this annexation. On February 15, 2022, City Council voted unanimously to approve this annexation by a vote of 7-0.

Attachments:

- | | |
|--|--|
| 1. Memo (Annexation Appaloosa Trail) | Memo (Annexation Appaloosa Trail).pdf |
| 2. Ordinance & Service Plan (Annexation Appaloosa Trail) | Ordinance & Service Plan (Annexation Appaloosa Trail).docx |
| 3. Appaloosa_Annexation (survey) | Appaloosa_Annexation (survey).pdf |

Presentation:

Jon James

Approvals/Reviews:

Jeff Fisher	Created/Initiated
Zachary Rainbow	Approved
Jon James	Approved
Brandon Dyson	Approved
Jon James	Approved
Theresa James	Approved
Julia Antilley	Final Approval

MEMO

**Meeting**

Date: February 15, 2022

To: City Council

From: Jeff Fisher, AICP
Chief Planner

Agenda Item: Public hearing and first reading on an ordinance annexing into the City of San Angelo, by petition of the property owner, an unaddressed 9.278-acre tract of land out of the Deaf and Dumb Asylums Lands Survey No. 2, Abstract No. 8211, Tom Green County, Texas, located southwest of Sherwood Way and FM 2288 along the southward extension of Appaloosa Trail. (Presentation made by Planning & Development Services Director Jon James)

Planning Commission Recommendation:

On January 24, 2022, the Planning Commission voted unanimously 6-0 to approve both the annexation and associated zoning to Low Rise Multifamily Residential (RM-1).

Background:

The applicant, Mills Development Inc. has filed this application to annex 9.278 acres out of an unplatted survey tract, and the south extension of Appaloosa Trail, south of Sherwood Way. The property is immediately south of the Boulevard Apartments. The applicant has submitted concurrently an application for zoning the land to Low Rise Multifamily Residential (RM-1) for a potential multifamily apartment complex. RM-1 zoning also allows single and two-family homes, zero lot line homes, twinhomes, and townhomes. The city is looking at realigning the minor arterial and collector roads in the immediate area which will affect the location of future lot layouts, new streets, and utilities. At present, Staff has discussed with the applicant the need to submit a preliminary plat for the annexed property and its remainder being created; and a final plat for the annexed property to allow connection to city facilities and building permits.

Compatibility with the City's Comprehensive Plan:

The City's 2009 Strategic Plan Update to its Comprehensive Plan sets certain policies for annexation of land into the City Limits. The property is identified in the City's Annexation Plan as "immediate". The annexation policies call to "focus immediate short-term annexation efforts on areas already served by City water system but which remain outside City limits." The property is

immediate adjacent to the Boulevard Apartments and a water and sewer line. These lines could be easily extended to service the annexed property. City Staff is continuing discussions with the property owner, consultant, and City Staff including Engineering and Water Utilities to address these issues through implementation of a Servicing Plan prior to adoption of the Zone Change and Annexation. The property has a future land use of “Neighborhood” in the Comprehensive Plan which calls to “promote neighborhood diversity and security by encouraging a mix of age, income, and housing choices within San Angelo’s neighborhoods.” The proposed RM-1 zoning will facility future single-family home construction consistent with this policy.

Annexation Process, Timeline, and Servicing Plan:

This annexation request is governed by Chapter 43, Subchapter C-3 of the Texas Local Government Code (TLGC) which authorizes a municipality under Section 43.0671 to annex an area if each owner of land in the area requests the annexation. The proposed timeline (subject to change) is as follows:

- December 7, 2021: The proposed annexation petition was accepted by City Council. If and the 90-day annexation begun.
- January 24, 2022: The Zone Change was presented to the Planning Commission for recommendation, and the annexation item will be presented for discussion only.
- February 15, 2022: The first public comment hearing of the Annexation, first hearing of the Annexation Ordinance, and first hearing of the Zone Change.
- March 1, 2022: The second reading of the Annexation Ordinance and second reading of the Zone Change.

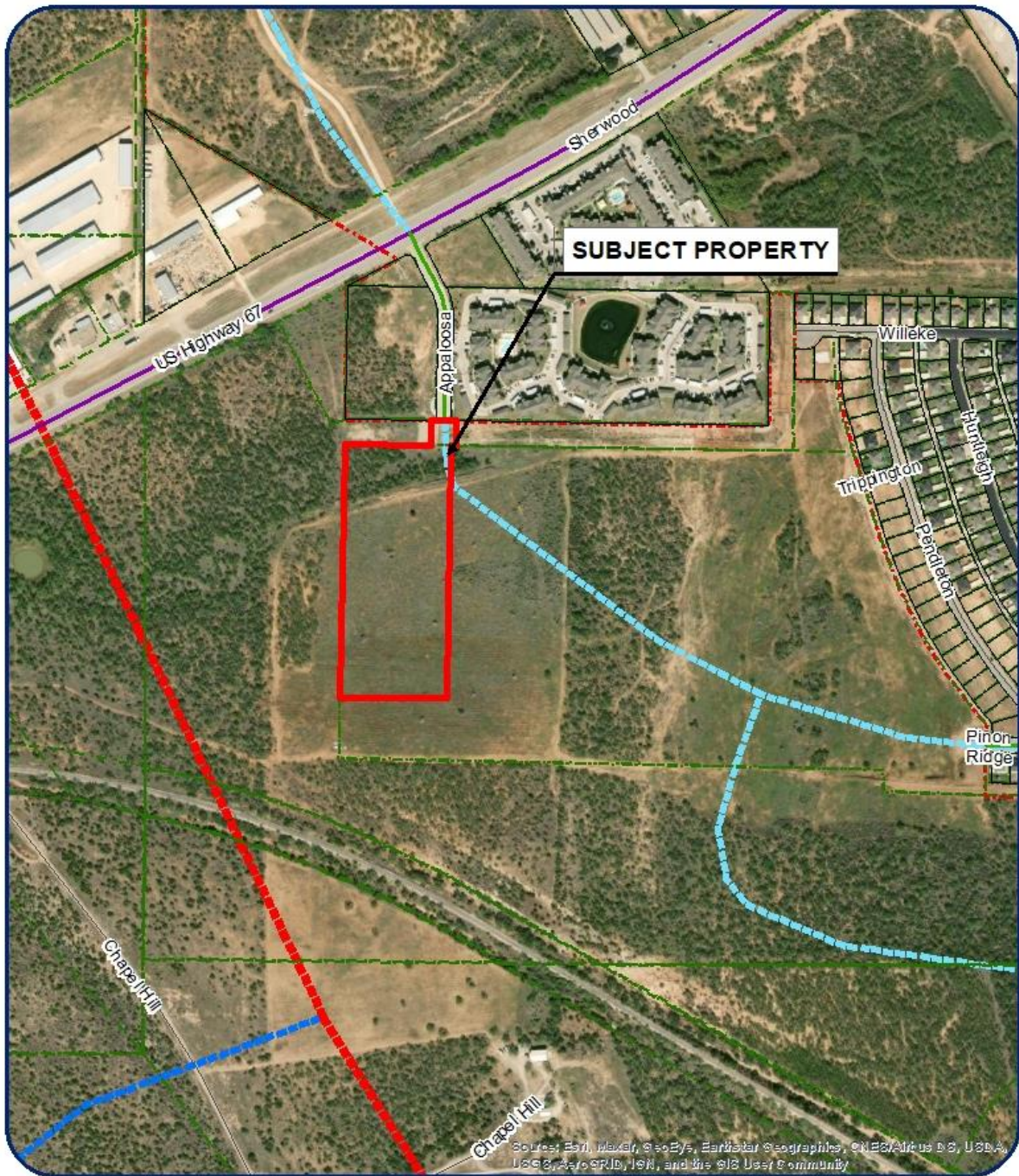
Chapter 43.0672 of the TLGC requires the City to enter into a written agreement with the owner to include a list of each service the City will provide on the effective date of annexation; and a schedule that includes the period within which the City will provide each service that is not provided on the effective annexation date. City Staff will prepare this service plan and any associated cost/benefit analysis and submit to City Council for approval prior to final approval of the annexation.

Requested Action:

APPROVE the proposed annexation request.

Attachment:

Aerial Map
Future Land Use Map
Zoning Map
Annexation Petition
Survey



Rezoning

Z22-01: Appaloosa Trail (south extension)

Council District: N/A

Neighborhood: N/A

Scale: 1" approx. = 500 ft

9.508 ac. SW of Sherwood Way/F.M. 2288

Legend

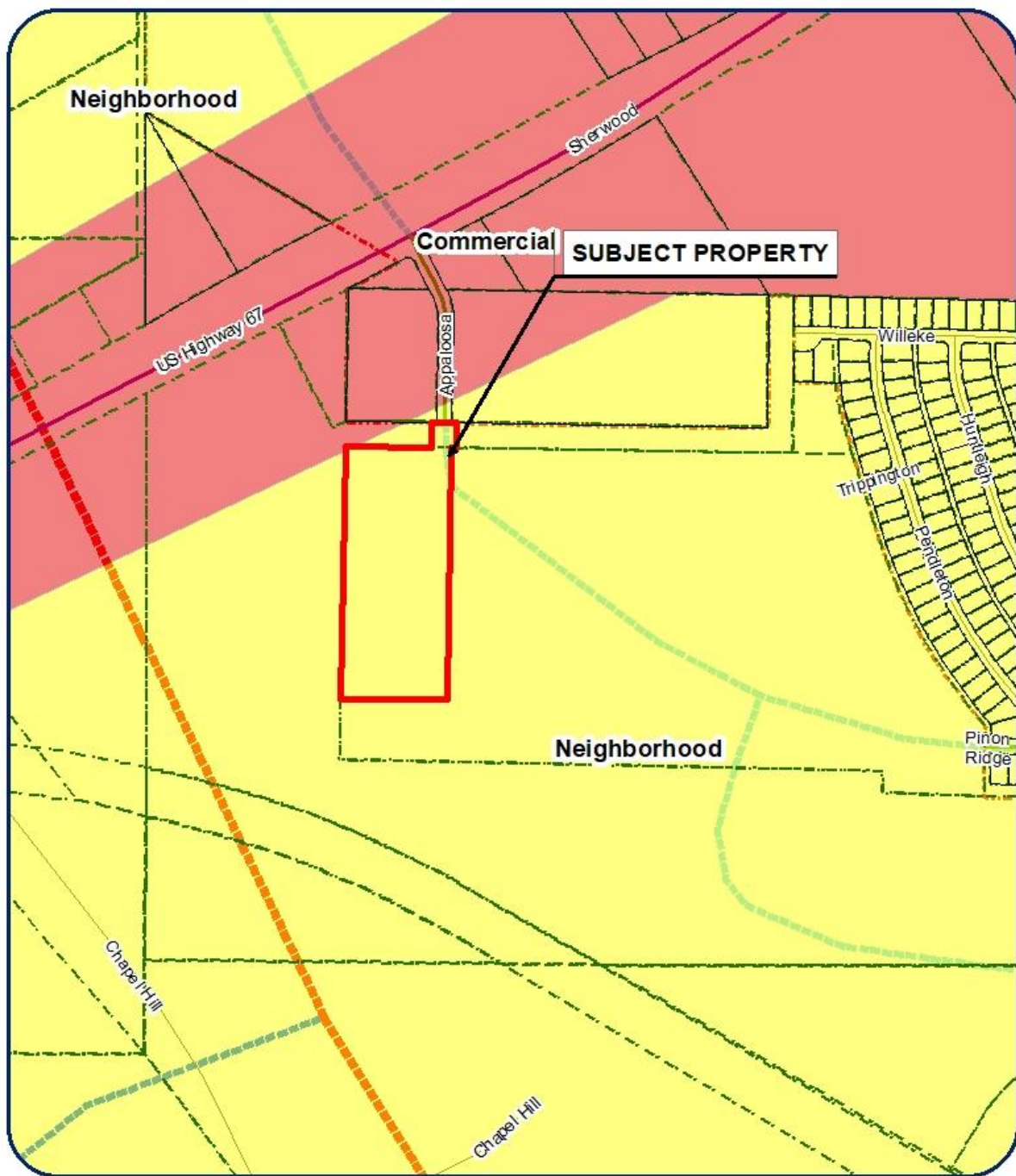
Subject Properties:

Current Zoning: N/A

Requested Zoning Change: RM-1

Vision: Neighborhood





Rezoning

Z22-01: Appaloosa Trail (south extension)

Council District: N/A

Neighborhood: N/A

Scale: 1" approx. = 500 ft

9.508 ac. SW of Sherwood Way/F.M. 2288

Legend

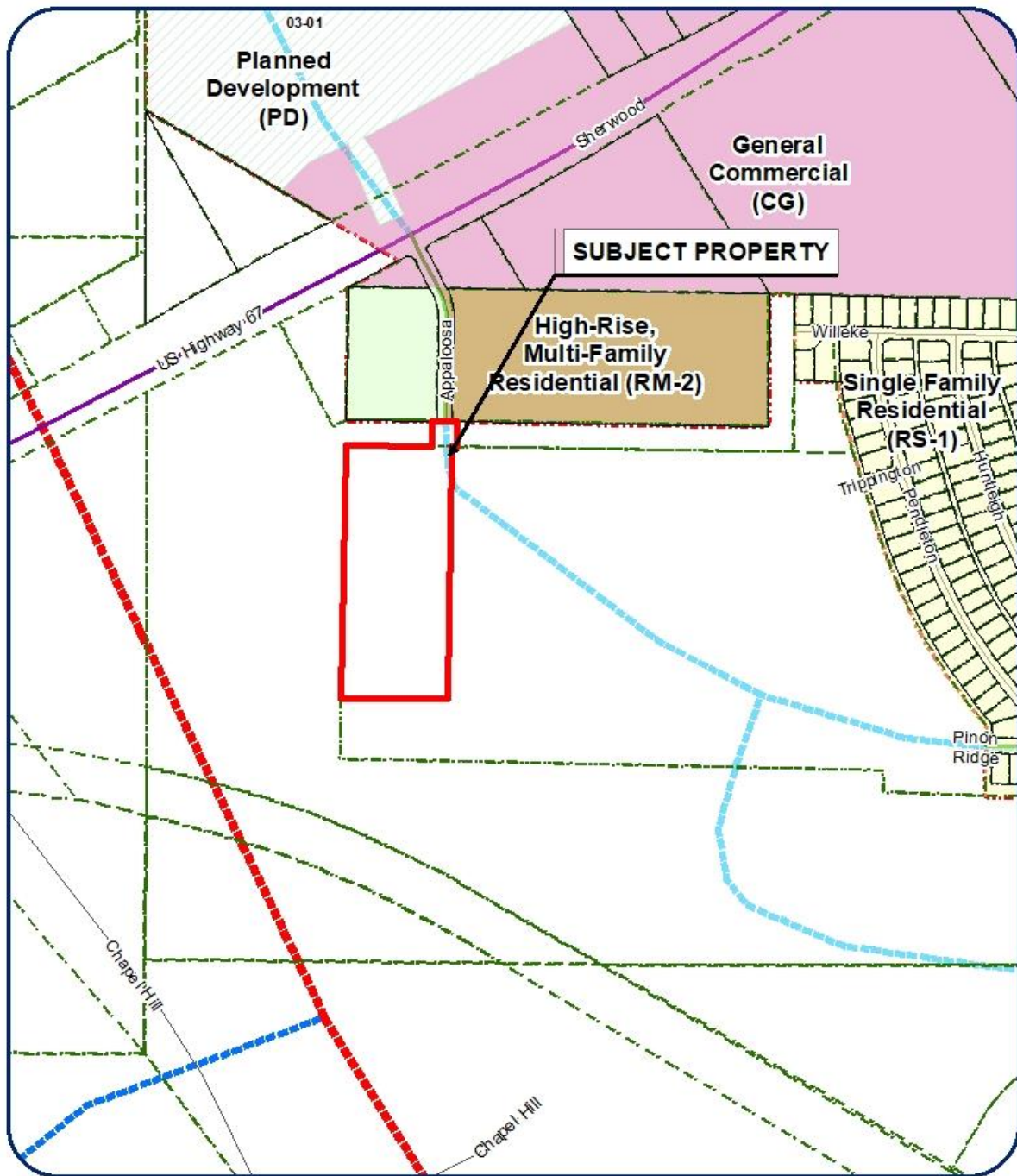
Subject Properties:

Current Zoning: **N/A**

Requested Zoning Change: **RM-1**

Vision: **Neighborhood**





Rezoning

Z22-01: Appaloosa Trail (south extension)

Council District: N/A

Neighborhood: N/A

Scale: 1" approx. = 500 ft

9.508 ac. SW of Sherwood Way/F.M. 2288

Legend

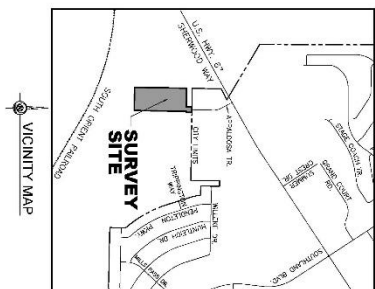
Subject Properties:

Current Zoning: N/A

Requested Zoning Change: RM-1

Vision: Neighborhood





NOTES CORRESPONDING TO SCHEDULE "B"

Received by ACOG on 12-14-2021 since we copy
 Extraction Date: January 25, 2021
 GF No. 15400033
 Commitment No. 44003631, issued February 24, 2021 12:30 AM

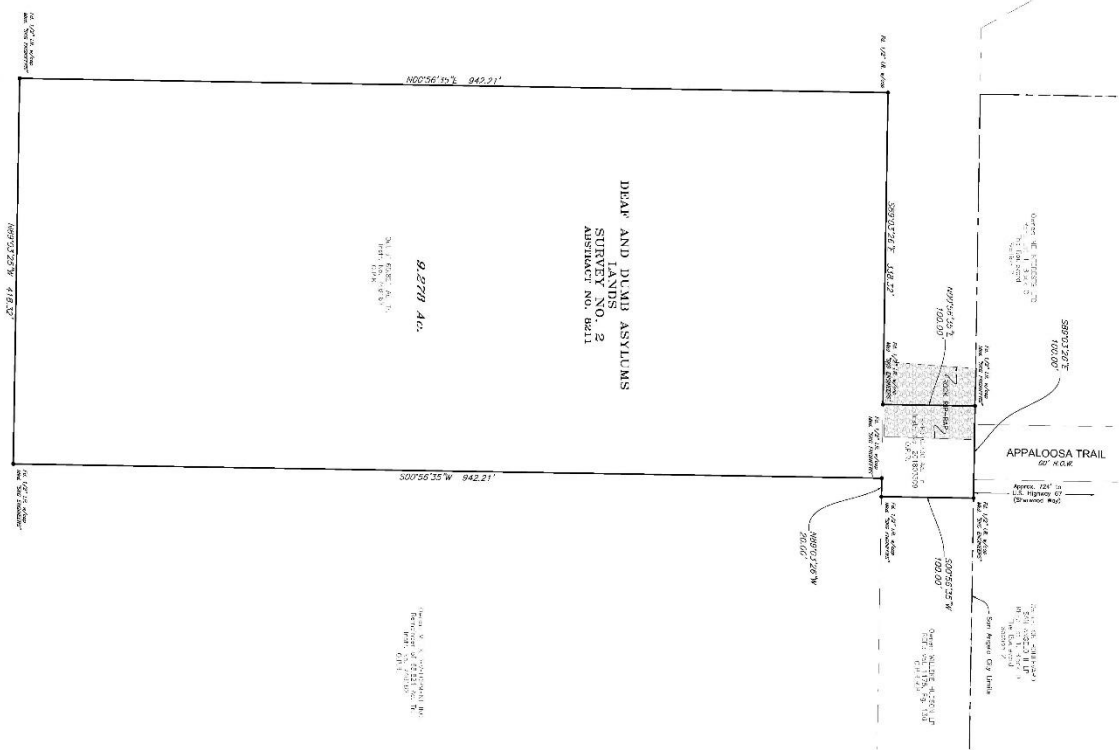
Committee: No. 154005031, issued February 24, 2021 17:30 40

0. Not a survey item

TABLE A NOTES

- [illegible]

Current: 2016-04-25 11:17:00
 File: 175_Fu_136
 000000



DEAF AND DUMB ASYLUMS
LANDS
SURVEY NO. 2
ABSTRACT NO. 6211

9.278 AC.

Oct. 1, 1985, p. 1
List. No. 1000

Chem. V. N. 107417, 1964, 11
 Polymerization of 2,2,2-Trifluoroethyl Acrylate

50. 74

ALTA/NSPS LAND TITLE SURVEY

THE SURFACE ESTATE ONLY IN AND TO: A 9.284-ACRE TRACT OF LAND OUT OF THE DEAF AND DUMB ASYLUM LANDS SURVEY 2, ABSTRACT NO. 82.11, TOWNSHIP GREEN COUNTY, TEXAS AND BEING PART OF THAT CERTAIN 65,821 ACRES OF LAND DESCRIBED IN SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DATED OCTOBER 24, 2013, TO MILLS DEVELOPMENT INC., A TEXAS CORPORATION, AND RECORDED UNDER DOCUMENT #746163, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF TOWNSHIP GREEN COUNTY, TEXAS, SEE ATTACHED FIELD NOTES.

© 2021 John Wiley & Sons, Ltd.
J. Clin. Neurophysiol. 2021, 42, 1–10.
 DOI: 10.1111/jcnp.12444

205511 - info@ingel.com
+358 9 460 4000 1400 51400 04 00, 155 55

21-5-1361

[illegible]

PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR AND GOVERNING BODY OF THE CITY OF SAN ANGELO, TEXAS

The undersigned owner(s) of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby petition(s) your honorable Body to extend the present city limits so as to include as part of the City of San Angelo, Texas, the property described in Exhibit "A", by metes and bounds and attached herein.

Rocky Templin certifies that the above described tract of land is contiguous and adjacent to the City of San Angelo, Texas, is not more than one-half mile in width, and that this petition is signed and duly acknowledged by each and every person having interest in said land.

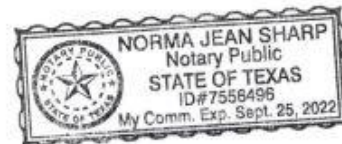
Signed: Rocky Templin
Printed Name: Rocky Templin
Title: President Date: 11-24-21

THE STATE OF TEXAS

COUNTY OF TOM GREEN

BEFORE ME, this instrument was acknowledged on 11-24-2021 by person's name or entity.

Norma Jean Sharp
Notary Public, State of Texas
My commission expires: 9-25-2022



AN ORDINANCE ANNEXING INTO THE CITY OF SAN ANGELO, TOM GREEN COUNTY, TEXAS, ON PETITION OF PROPERTY OWNERS, TERRITORY GENERALLY DESCRIBED AS AN UNADDRESSED 9.278-ACRE TRACT OF LAND OUT OF THE DEAF AND DUMB ASYLUMS LANDS SURVEY NO. 2, ABSTRACT NO. 8211, TOM GREEN COUNTY, TEXAS, SITUATED SOUTHWEST OF SHERWOOD WAY AND F.M. 2288 AT THE SOUTH EXTENSION OF APPALOOSA TRAIL; FINDING THAT ALL NECESSARY AND REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; PROVIDING FOR AMENDMENT OF THE BOUNDARIES AND OFFICIAL MAP OF THE CITY; APPROVING A SERVICE PLAN THEREFORE; SUBJECTING THE PROPERTY SITUATED THEREIN TO BEAR ITS PRO RATA PART OF TAXES LEVIED; PROVIDING RIGHTS AND PRIVILEGES AS WELL AS DUTIES AND RESPONSIBILITIES OF INHABITANTS AND OWNERS OF SAID TERRITORY; DIRECTING NOTICES AS REQUIRED BY LAW; PROVIDING A SEVERABILITY CLAUSE; DECLARING COMPLIANCE WITH OPEN MEETINGS ACT; AND, PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of San Angelo, Texas (the "City") is a home-rule municipality authorized by State law and the City Charter to annex territory lying adjacent and contiguous to the corporate limits of said City; and

WHEREAS, pursuant to Texas Local Government Code, Section 43.0671, all of the owners of a tract of land containing 9.278 acres situated immediately southwest of the City Limits, generally located southwest of Sherwood Way and F.M. 2288, more fully described in Exhibit "A," attached hereto and made a part hereof for all purposes (hereinafter the "Territory"), have petitioned the City Council in writing to annex the Territory into the corporate limits of the City; and,

WHEREAS, the Territory is not appraised for ad valorem tax purposes as land for agricultural or wildlife management use, or as timber land, and Section 43.016 of the Texas Local Government Code does not apply to the proposed annexation; and,

WHEREAS, the City Council accepted the Petition Requesting Annexation by Territory owners, and directed Planning staff to proceed with the proposed annexation schedule, at a regularly held meeting of the City Council on December 7, 2021; and,

WHEREAS, a public hearing on the annexation was held, the 15th day of February 2022, as required by law, where all interested persons were provided an opportunity to be heard on the proposed annexation of the Territory; and

WHEREAS, all notices have been issued as required by law and all public hearings have been held within the time required by law pursuant to notices duly posted and published; and

WHEREAS, a service plan has been prepared that provides for the extension of appropriate municipal services into the Territory, which plan is attached hereto, and the City is able to provide such services; and

WHEREAS, the Territory is not within the boundaries of any other municipality, lies within the extraterritorial jurisdiction of the City, and lies adjacent to and adjoins the present boundaries of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SAN ANGELO, TEXAS:

- Section 1 Findings of Fact. All of the above premises are hereby found to be true and correct and are incorporated into the body of this ordinance as if fully set forth; and all required legal conditions for annexation have been met.
- Section 2 Annexation. The Territory described in Exhibit "A," attached hereto and incorporated herein for all purposes, said Territory lying adjacent to and contiguous with the present boundaries of the City, be and is hereby added and annexed into the City, and said Territory shall hereafter be included within the corporate limits of the City, and the present boundary lines of said City, at various points contiguous with the Territory annexed, are hereby altered, extended and amended so as to include said Territory within the corporate limits of the City.
- Section 3 Amendment of Boundaries and Official Map of City. The official map and boundaries of the City, heretofore adopted and amended, shall be and are hereby amended so as to include the aforementioned annexed Territory as part of the City, and incorporated into the adjacent Single Member District No. 6 (SMD 6).
- Section 4 Service Plan. The service plan attached hereto as Exhibit "B" is hereby approved and is incorporated herein for all purposes. The City makes an affirmative determination that this service plan provides for the extension of services to the annexed Territory which are comparable to other areas within the City with similar land utilization, population density and topography. It is further found that those characteristics of land use, population density and topography which distinguish this Territory from other areas of the City are considered a sufficient basis for providing a different level of services in the annexed Territory.
- Section 5 Pro Rata Share of Taxes. The annexed Territory, being a part of the City for all purposes, shall bear its pro rata part of taxes levied by the City.
- Section 6 Rights, Privileges and Duties of Inhabitants. The inhabitants of the annexed Territory shall be entitled to all the rights and privileges of the other citizens of the City and shall be bound by the Charter, Ordinances, Resolutions and other regulations of the City.
- Section 7 Filing and Notice of Ordinance. The City Clerk is hereby directed to file a certified copy of this Ordinance with the County Clerk of Tom Green County, Texas, the Voting Registrar of Tom Green County, the Tom Green County Appraisal District, and the Texas Comptroller of Public Accounts in the manner required by law. The City Clerk is further directed to notify any service providers of services in the annexed Area, and all other parties as required by law.
- Section 8. Severability. If any part, provision, section, subsection, sentence, clause or phrase of this ordinance (or the application of same to any person or set of circumstances) is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining parts of this ordinance (or their application to other persons or sets of circumstances) shall not be affected thereby, it being the intent of City Council in adopting this ordinance, that no part thereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality of any other part hereof, and all provisions of this ordinance are declared to be severable for that purpose.

Section 9. Open Meeting Act Compliance. The City Council for the City of San Angelo hereby finds and declares that the meetings at which this ordinance was introduced and finally passed were open to the public as required by law and that public notice of the time, place and purpose of said meetings was given as require by the Open Meetings Act, Chapter 551 of the Texas Government Code.

Section 10. Effective Date. This ordinance will become effective on, from and after its date of adoption.

INTRODUCED with public hearing on the 15th day of February, 2022, and finally PASSED, APPROVED AND ADOPTED on this the 1st day of March, 2022.

THE CITY OF SAN ANGELO

By: _____
Brenda Gunter, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Julia Antilley, City Clerk

Theresa James, City Attorney

[illegible]

Call Number: 154025031, Issue February 24, 2021 12:00 AM

3 Map of delivery chain

As a laboratory animal, the rat is often used in the study of the effects of drugs on the central nervous system. The rat is a small, easy to handle, and inexpensive animal that can be used in a wide variety of experiments. The rat is also a good model for the study of human disease. The rat is a mammal, and its physiology and anatomy are similar to those of humans. The rat is also a social animal, and its behavior can be studied in a variety of ways. The rat is a good model for the study of human disease because it is a mammal, and its physiology and anatomy are similar to those of humans. The rat is also a social animal, and its behavior can be studied in a variety of ways. The rat is a good model for the study of human disease because it is a mammal, and its physiology and anatomy are similar to those of humans. The rat is also a social animal, and its behavior can be studied in a variety of ways.

7. **WOLFF** **W 300** **1** **2**

DEAF AND DUMB ASYLUMS
LANDS
STREET NO. 2
ABSTRACT NO. 8211

N0056357 242.21

9.278 F01

0-800-222-2222
www.222.com

ALTA/NSPS LAND TITLE SURVEY

THE SURFACE ESTATE ONLY IN AND TO: A 9.24± ACRES TRACT OF LAND OUT OF THE DEEP AND DUNE ASHLAWS LANDS SURVEY, 2 ABSTRACT NO. 8213, T20N, R10E, GREEN COUNTY, TEXAS AND BEING PART OF THAT CERTAIN 65.821 ACRES OF LAND DEPOSITED IN SPECIAL WARRANTY DEED WITH VENDOR'S LIES DATED OCTOBER 24, 2013, TO MILLS DEVELOPMENT INC., A TEXAS CORPORATION, AND RECORDED UNDER DOCUMENT #746185, TARRANT COUNTY, TEXAS, TO THE PUBLIC RECORDS OF TARRANT COUNTY, TEXAS, SEE ATTACHED FIELD NOTES.

[illegible][illegible]

210

Exhibit "A" (Legal Description and Survey)

Being an area of 9.278 acres of land out of Deaf and Dumb Asylums Lands Survey No. 2, Abstract No. 8211, Tom Green County, Texas and said 9.278 acre tract also being out of that certain 65.821 acre tract described and recorded in Instrument No. 746162, Official Public Records of Tom Green County, Texas and that certain 0.230 acre tract described and recorded in Instrument No. 201803309, Official Public Records of Tom Green County, Texas and said 9.278 acre tract being more particularly described by metes and bounds as follows:

Beginning at a $\frac{1}{2}$ " iron rod with cap found for the west northwest corner of this tract and northwest corner of said 65.821 acre tract;

Thence with the north line of said 65.821 acre tract and a westerly north line of this tract, S. $89^{\circ} 03' 26''$ E. 338.32 feet to a $\frac{1}{2}$ " iron rod with cap marked "SKG ENGINEERS" set for an ell corner of this tract and the southwest corner of said 0.230 acre tract;

Thence with the west line of said 0.230 acre tract, N. $00^{\circ} 56' 35''$ E. 100.00 feet to a $\frac{1}{2}$ " iron rod with cap marked "SKG ENGINEERS" set for the northwest corner of said 0.230 acre tract and the north northwest corner of this tract and being in the south line of certain Lot 1, Block C, The Boulevard San Angelo Section 2 as per plat recorded in Instrument No. 201405259, Official Public Records of Tom Green County, Texas;

Thence with the north line of said 0.230 acre tract and most northerly line of this tract and south line of said Lot 1, S. $89^{\circ} 03' 26''$ E. at 20.00 feet pass the southwest corner of Appaloosa Trail of said Section 2 and southeast corner of said Lot 1, at 80.00 feet pass the southeast corner of said Appaloosa Trail and southwest corner of certain Lot 1, Block D, said Section 2, in all a total distance of 100.00 feet to a $\frac{1}{2}$ " iron rod with cap marked "SKG ENGINEERS" set for the northeast corner of said 0.231 acre tract and this tract;

Thence with the east line of this tract and said 0.231 acre tract, S. $00^{\circ} 56' 35''$ W. 100.00 feet to a $\frac{1}{2}$ " iron rod with cap marked "SKG ENGINEERS" set for the southeast corner of said 0.230 acre tract and ell corner of this tract and being in the north line of said 65.821 acre tract;

Thence with the south line of said 0.230 acre tract and north line of said 65.821 acre tract, N. $89^{\circ} 03' 26''$ W. 20.00 feet to $\frac{1}{2}$ " iron rod with cap marked "SKG ENGINEERS" set for a reentrant corner of this tract;

Thence with the southerly east line of this tract and across said 65.821 acre tract, S. $00^{\circ} 56' 35''$ W. 942.21 feet to a $\frac{1}{2}$ " iron rod with cap marked "SKG ENGINEERS" set for the southeast corner of this tract;

Thence with the south line of this tract, N. $89^{\circ} 03' 25''$ W. 418.32 feet to a $\frac{1}{2}$ " iron rod with cap marked "SKG ENGINEERS" set for the southwest corner of this tract in the west line of said 65.821 acre tract;

Thence with the west line of this tract and said 65.821 acre tract, N. $00^{\circ} 56' 35''$ E. 942.21 feet to the place of beginning and containing an area of 9.278 acres of land.

EXHIBIT B

SERVICE PLAN AGREEMENT. This Agreement, including the following Service Plan, constitutes the service plan agreement between the parties and supersedes all prior oral and written agreements between said parties. This Agreement shall not be amended unless executed in writing by both parties.

COMMENCEMENT OF SERVICES. Except as otherwise provided herein, the City will provide the municipal services set forth below commencing on the effective date of annexation. As used in this Agreement, "providing services" includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable city ordinances, rules, regulations, and policies.

SERVICES NOT PROVIDED. Pursuant to Texas Local Government Code Section 43.0672(c), it is understood and agreed that the City is not required to provide a municipal service that is not included in this Agreement.

AGREEMENT RUNS WITH THE LAND. This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns. The terms of this Agreement constitute covenants running with the land comprising the Territory and is binding on the Owner(s).

Executed on the ____ day of March, 2022, to be effective on the effective date of annexation of the Territory.

CITY OF SAN ANGELO

By: _____
Daniel Valenzuela
City Manager

Attest:

Julia Antilley, City Clerk

MILLS DEVELOPMENT, INC. (OWNER)

By: _____
Rocky Templin
President

Approved as to Form and Legality:

Theresa James, City Attorney

Approved as to Content:

Jon James, Planning &
Development Services Director

SERVICE PLAN FOR EXTENSION OF MUNICIPAL SERVICES TO AN AREA DESCRIBED AS FOLLOWS:

Generally located southwest of Sherwood Way and F.M. 2288 at the south extension of Appaloosa Trail, and specifically described as an unaddressed 9.278-acre tract of land out of the Deaf and Dumb Asylums Lands Survey No. 2, Abstract No. 8211, Tom Green County, Texas, being more particularly described by metes and bounds, in Tom Green County, Texas (Mills Development, Inc.).

SERVICE PROVIDED ON THE EFFECTIVE DATE OF ANNEXATION:

1. POLICE PROTECTION

Existing Services: None

Services to be provided:

The City of San Angelo, Texas and its Police Department will provide police protection to the newly annexed territory at the same or similar service now being provided to other areas of the City of San Angelo, Texas.

Patrolling, radio and dispatch responses to calls, traffic enforcement, and other routine police services will be provided.

2. FIRE PROTECTION AND EMERGENCY SERVICES

Existing Services: Emergency medical services provided by the City of San Angelo currently extend to medical emergencies county wide. No other services currently provided.

Services to be provided:

The City of San Angelo, Texas and its Fire Department will provide fire protection and emergency medical service to the newly annexed territory at the same or similar level of service now being provided to other areas of the City of San Angelo, Texas which exhibit land use and population densities similar to that of the newly annexed area.

The City of San Angelo Fire Department will respond to all dispatched calls (including those for emergency medical services) and other requests for service or assistance within the newly annexed area, the same as it would within other areas inside the City limits of San Angelo.

Topography, land use, and population density will not affect fire or emergency services. The newly annexed area has provided plans and a proposed installation schedule for new water hydrants to service the area.

The Office of Fire Prevention will provide permitting and inspection services upon annexation. This includes issuing permits and conducting fire sprinkler, fire alarm, commercial hood or special agent system inspections as well as occupancy and maintenance inspections for any new construction and remodeling projects, as well as any other applicable enforcement of adopted codes and standards within the City of San Angelo.

3. SOLID WASTE COLLECTION

Existing Services: None

Services to be provided:

The same regular solid waste collection services now provided within the city will be extended to the newly annexed area after the effective date of annexation.

4. MAINTAINING WATER AND WASTEWATER FACILITIES

Existing Services: None

Services to be provided:

Water and sanitary sewer service to the area will be provided in accordance with the City Code of Ordinances and departmental policy. When other property develops in the adjacent area, water and sanitary sewer service shall be extended in accordance with the City of San Angelo Code of Ordinances and departmental policy. Prior to future development, a subdivision plat(s) shall be approved by the City and recorded with Tom Green County that includes any required provisions for water and sanitary sewer service.

As part of the subdivision plat, the developer/owner shall prepare and submit plans for approval of a looped water main system or approved deferral process, illustrating the proposed installation of a water main and complete the installation in accordance with the approved version of these plans prior to plat recordation.

5. MAINTAINING ROADS, STREETS, AND ALLEYWAYS

Existing Services: None

Services to be provided:

Developers of land within the newly annexed territory will be required to provide streets in accordance with applicable ordinances of the City of San Angelo, and such street improvements shall comply with specifications required by the City of San Angelo, for properly dedicated streets. Any and all roads, streets or alleyways which have been properly dedicated to the public shall be maintained to the same degree and extent that other roads, streets and alleyways are maintained in areas with similar land use, population density and topography.

6. MAINTAINING PARKS, PLAYGROUNDS, AND SWIMMING POOLS

Existing Services: None

Services to be provided:

Upon annexation, the owners and residents of property located within the annexed area shall be entitled to the use of all municipal parks and recreational facilities, subject to the same restrictions, fees, and availability that pertains to the use of those facilities by other citizens of the City.

Private parks, playgrounds, and/or swimming pools will remain under private ownership and will be maintained under private ownership and responsibility.

7. BUILDING INSPECTION

Existing Services: None

Services to be provided:

The Building Inspection Department will provide building permitting services upon annexation. This includes issuing building, electrical and plumbing permits for any new construction and remodeling, and enforcing all other applicable codes which regulate building construction within the City of San Angelo.

8. PLANNING AND ZONING

Existing Services: None

Services to be provided:

The Planning Division's responsibility for regulating development and land use through the administration of the City of San Angelo Zoning Ordinance and Comprehensive Plan will extend to this area on the effective date of the annexation. The property will also continue to be regulated under the requirements of the City of San Angelo Subdivision Ordinance. These services can be provided within the department's current budget.

9. CODE COMPLIANCE

Existing Services: None

Services to be provided:

The Code Compliance Division generally enforces compliance with the City's Codes and Ordinances, largely on a complaint basis. This includes inspection of properties to ensure such compliance.

10. MAINTAINING OTHER PUBLIC OWNED FACILITIES OR BUILDINGS

Existing Services: None

Services to be provided:

In the event any such publicly-owned facility or building does exist and are public facilities or buildings, the City of San Angelo shall maintain such facilities or buildings to the same extent and degree that it maintains similar municipal facilities and buildings now incorporated in the City of San Angelo, Texas. Subject to funding by Council.

The City Council of the City of San Angelo, Texas is not aware of the existence of any publicly-owned facility or building now located in the area proposed for annexation.

Upon annexation, the owners and residents of property located within the newly annexed areas shall be entitled to the use of all municipal facilities, buildings, and services, subject to the same restrictions, fees, and availability that pertains to the use of those.

11. STORM WATER MANAGEMENT

Existing Services: None

Services to be provided:

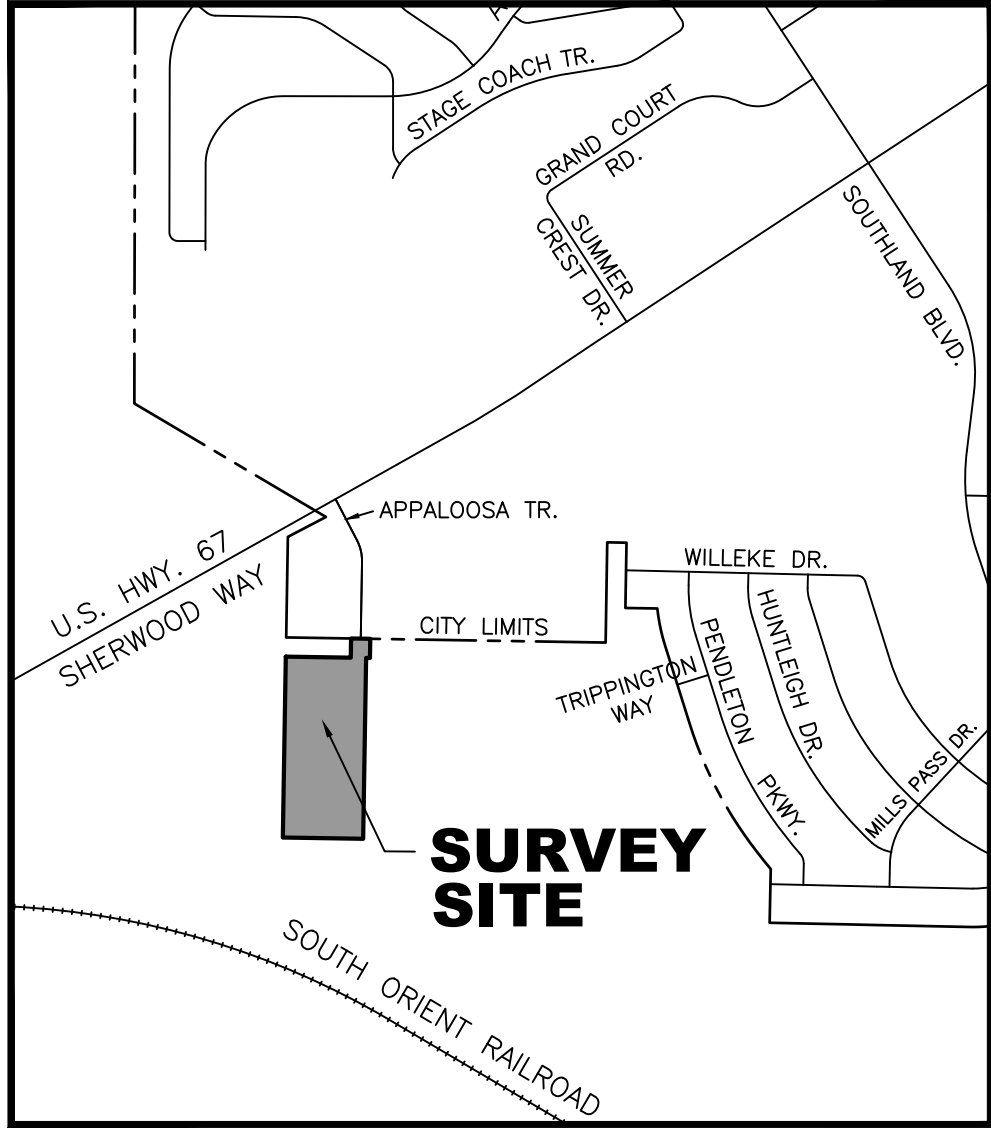
Developers will provide storm water drainage at their own expense and will be inspected by the City Engineers at time of completion. Upon approval and acceptance by the City, the City will then be responsible for ongoing maintenance of drainage facilities.

12. STREET LIGHTING

Existing Services: None

Services to be provided:

The City of San Angelo will coordinate any request for improved street lighting with the local electric provider in accordance with standard policy for all areas within the city limits of the



NOTES CORRESPONDING TO SCHEDULE "B"

Fidelity National Title Insurance Company
Effective Date: January 25, 2021
GF No. 154000031
Commitment No. 154000031, issued February 24, 2021 12:00 AM

10.
a. Not a survey item.

TABLE A NOTES

- Monuments are as shown on this survey.
- According to Tom Green County Central Appraisal District, the address for this site is unassigned.
- This entire tract is located within the limits of Zone "X" as determined by Federal Emergency Management Agency Flood Insurance Rate Map Number 48451C0470E, effective date June 19, 2012.
- Gross land area = 9.278 acres.
- Subject property has no Zoning Classification at the time of this survey.
- No buildings exist.
- No buildings exist.
- No buildings exist.
- Substantial features observed in the process of conducting the survey are as shown.
- HUD survey-related requirements are as shown on this survey.
- Names of adjoining land owners of platted lands are as shown.
- The distance to the nearest intersecting street is as shown.
- There is no evidence of recent earth moving work, building construction or building additions observed in the process of conducting the fieldwork.
- At the time of this survey, there was no proposed change in street right-of-way lines.
- Plottable offsite easements or servitudes benefiting surveyed property that are disclosed in the record documents provided to the surveyor and are observed in the process of conducting the survey are as shown.
- Professional liability insurance in the amount of \$1,000,000 was in effect throughout the term of conducting this survey.

Owner: WILLEKE HUDSON LP
REF.: Vol. 1175, Pg. 136
O.P.R.P.

DEAF AND DUMB ASYLUMS LANDS SURVEY NO. 2 ABSTRACT NO. 8211

9.278 Ac.

Out of 65.821 Ac. Tr.
Instr. No. 746162
O.P.R.

Owner: MILLS DEVELOPMENT INC
Remainder of 65.821 Ac. Tr.
Instr. No. 746162
O.P.R.

ALTA/NSPS LAND TITLE SURVEY

THE SURFACE ESTATE ONLY IN AND TO: A 9.28± ACRE TRACT OF LAND OUT OF THE DEAF AND DUMB ASYLUMS LANDS SURVEY 2, ABSTRACT NO. 8211, TOM GREEN COUNTY, TEXAS AND BEING PART OF THAT CERTAIN 65.821 ACRES OF LAND DESCRIBED IN SPECIAL WARRANTY DEED WITH VENDOR'S LIEN DATED OCTOBER 24, 2013, TO MILLS DEVELOPMENT INC., A TEXAS CORPORATION, AND RECORDED UNDER DOCUMENT #746163, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY OF TOM GREEN COUNTY, TEXAS. SEE ATTACHED FIELD NOTES.

To: Mills Development, Inc., a Texas Corporation and Fidelity National Title Insurance Company:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 6(b), 7(a), 7(b), 7(c), 12, 13, 14, 16, 17, 18 and 19 of Table A thereof. The field work was completed on September 15, 2021.

Date of Plat or Map: October 4, 2021.



RUSSELL T. GULLY (rg@skge.com)
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5636

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Jeff Fisher, Sr. Planner, Planning and Development Services, 325-657-4210

Meeting Date: March 1, 2022

Item type: Consent Item

Caption:

Second reading of an ordinance for Z22-01, a request to zone a property to the Low Rise Multifamily zoning district in connection with an annexation; being 9.278 acres, located at the southwest extension of Appaloosa Trl., southwest of Sherwood Way and FM 2288 (Jon James)

Staff Recommendation:

Adopt

Summary/History:

The applicants have submitted this zoning request to zone a property to the Low Rise Multifamily (RM-1) Zoning District in connection with an annexation request. The 9.278-acre tract is currently outside the city limits. The annexation and this rezoning will be presented to City Council on February 15, 2022. A subsequent subdivision plat will be required prior to development.

Funding Source(s):

Financial Impact:

N/A

Other Information/Recommendation:

On February 15, 2022, City Council voted unanimously to approve this item by a vote of 7-0.

On January 24, 2022, the Planning Commission recommended unanimous approval of the rezoning by a vote of 6-0.

Attachments:

- | | | |
|----|-----------------------|---------------------------|
| 1. | Ordinance (Z22-01) | Ordinance (Z22-01).docx |
| 2. | Staff Report (Z22-01) | Staff Report (Z22-01).pdf |

Presentation:

Jon James

Approvals/Reviews:

Jeff Fisher

Created/Initiated

Zachary Rainbow
Jon James
Brandon Dyson
Jon James
Theresa James
Julia Antilley

Approved
Approved
Approved
Approved
Approved
Final Approval

AN ORDINANCE AMENDING CHAPTER 12, EXHIBIT "A" OF THE CODE OF ORDINANCES, CITY OF SAN ANGELO, TEXAS, WHICH ADOPTS ZONING REGULATIONS, USE DISTRICTS AND A ZONING MAP, IN ACCORDANCE WITH A COMPREHENSIVE PLAN, BY ZONING AND CLASSIFYING THE FOLLOWING PROPERTIES: **BEING 9.278 ACRES OUT OF THE DEAF AND DUMB ASYLUMS LANDS SURVEY NO. 2, ABSTRACT NO. 8211, LOCATED SOUTHWEST OF SHERWOOD WAY AND F.M. 2288**; FROM UNZONED LAND TO THE LOW-RISE MULTIFAMILY RESIDENTIAL (RM-1) ZONING DISTRICT IN CONNECTION WITH AN ANNEXATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Z22-01: South Extension of Appaloosa Trail

WHEREAS, on the 24th day of January, 2022, the Planning Commission for the City of San Angelo in compliance with the City Charter, City ordinance and state law, and after holding a public hearing thereon, caused to be prepared and delivered a report and recommendation to City Council to approve the proposed Low-Rise Multifamily Residential (RM-1) Zoning District; and,

WHEREAS, on the 15th day of February 15, 2022, City Council held a public hearing on Z22-01, pursuant to published notice, and has considered the application, comments, reports and recommendations of the Planning Commission and staff, public testimony, and other relevant support materials;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SAN ANGELO:

SECTION 1: The basic zoning ordinance for the City of San Angelo, as enacted by the governing body for the City of San Angelo effective January 4, 2000, and included within Exhibit "A" of Chapter 12 of the Code of Ordinances of the City of San Angelo, and zoning map be and the same are hereby amended to designate the following described properties permanently zoned LOW-RISE MULTIFAMILY RESIDENTIAL (RM-1) Zoning District:

The real properties located southwest of Sherwood Way and F.M. 2288, being 9.278 acres out of the Deaf and Dumb Asylums Lands Survey No. 2, Abstract No. 8211, San Angelo, Tom Green County, Texas.

SECTION 2: The Director of the Planning & Development Department, or his/her designee, is hereby directed to correct zoning district maps in the office of the Planning

& Development Department, to implement the zoning provision adopted herein, as further depicted on **Exhibit A** of this Ordinance.

SECTION 3: In all other respects, the use of the hereinabove described property shall be subject to all applicable regulations contained in Chapter 12 of the Code of Ordinances for the City of San Angelo, as amended.

SECTION 4. The remaining provisions of Chapter 12 of the Code of Ordinances of the City of San Angelo, Texas, not amended under Sections 1 and 2 of this Ordinance shall remain in full force and effect.

SECTION 5 The terms and provisions of this Ordinance shall be deemed to be severable in that, if any portion of this Ordinance shall be declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION 6: This Ordinance shall be effective on, from and after the date of adoption.

INTRODUCED with public hearing on the **15th day of February 15, 2022**, and finally PASSED, on this the **1st day of March, 2022**.

THE CITY OF SAN ANGELO

Brenda Gunter, Mayor

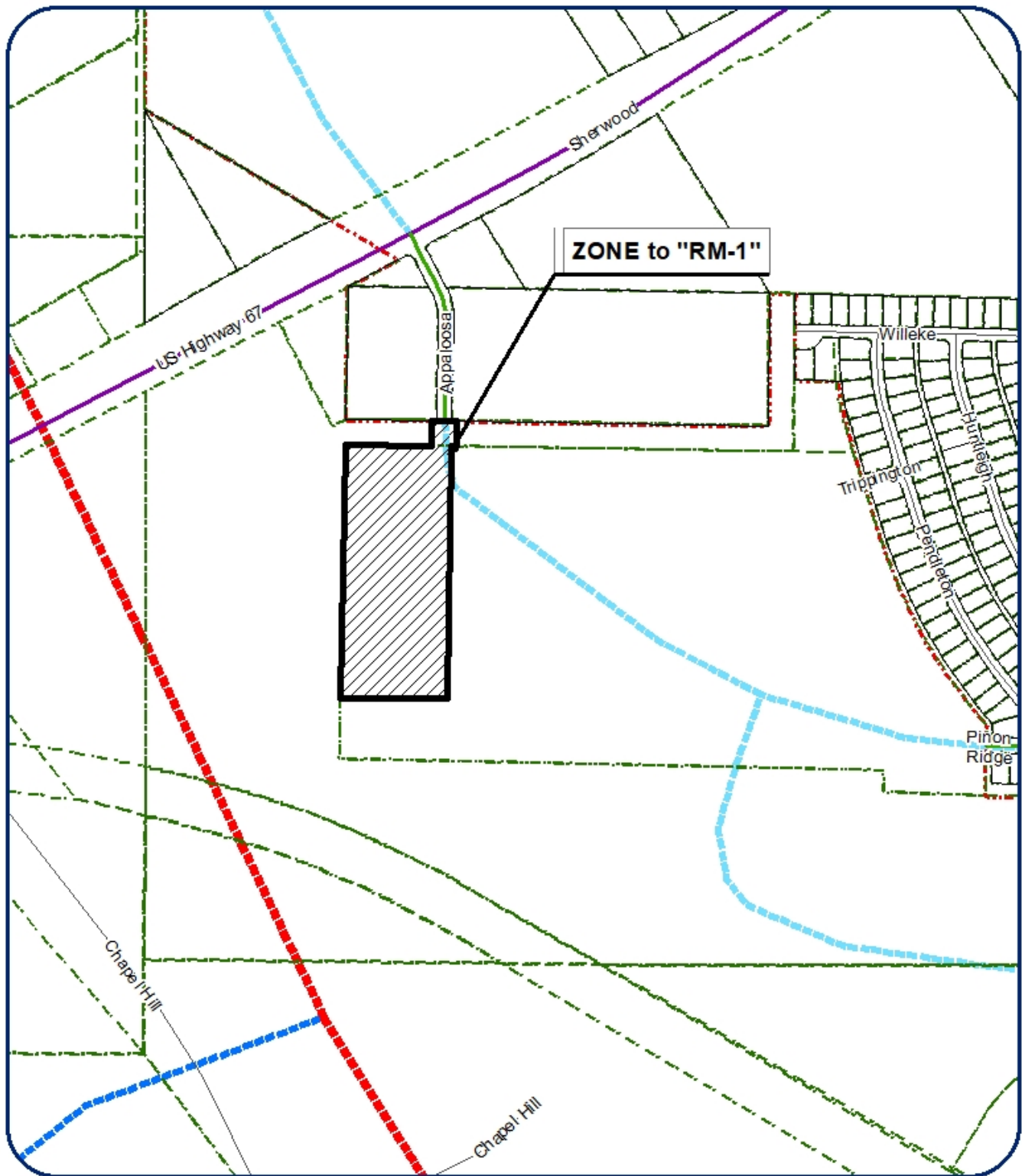
ATTEST:

APPROVED AS TO FORM:

Julia Antilley, City Clerk

Theresa James, City Attorney

EXHIBIT "A"



Rezoning

Z22-01: Appaloosa Trail (south extension)

Council District: N/A

Neighborhood: N/A

Scale: 1" approx. = 500 ft

9.508 ac. SW of Sherwood Way/F.M. 2288

Legend

Subject Properties:

Current Zoning: **N/A**

Requested Zoning Change: **RM-1**

Vision: **Neighborhood**





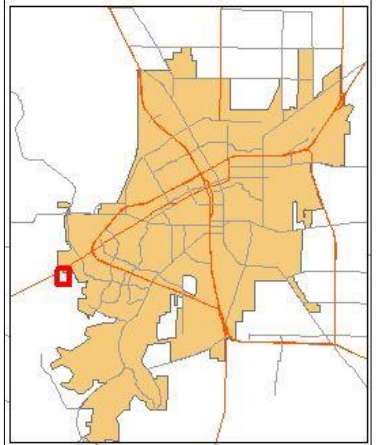
STAFF REPORT - Z22-01

Scheduled Hearings:

Planning Commission: January 24, 2022

City Council 1st reading: February 15, 2022

City Council 2nd reading: March 1, 2022

APPLICATION TYPE:		CASES:	
Zoning		Z22-01: South extension of Appaloosa Trail	
SYNOPSIS:			
The applicants have submitted this zoning request to zone a property to the Low Rise Multifamily (RM-1) Zoning District in connection with an annexation request. The 9.278-acre tract is currently outside the city limits. The annexation, and this rezoning will be presented to City Council on February 15, 2022. A subsequent subdivision plat will be required prior to future construction. On January 24, 2022, the Planning Commission recommended unanimous approval of the rezoning by a vote of 6-0.			
LOCATION:		LEGAL DESCRIPTION:	
Southwest of Sherwood Way and F.M. 2288		9.278 acres out of the Deaf and Dumb Asylums Lands Survey No. 2, Abstract No. 8211.	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District – N/A (future District 6 – Miller) Neighborhood – N/A (future Bonham)	N/A (proposed RM-1)	N – Neighborhood	9.278 acres
NOTIFICATIONS:			
5 notifications for Z22-01 were mailed within a 200-foot radius on January 6, 2021. One response was received in support and none in opposition to date (see attached response).			
STAFF RECOMMENDATION:			
Staff recommends APPROVAL of a request to zone a property to the Low Rise Multifamily (RM-1) Zoning District in connection with an annexation; being 9.278 acres, located at the southwest extension of Appaloosa Trail, southwest of Sherwood Way and F.M. 2288.			
PROPERTY OWNER/PETITIONER:			
<i>Property Owner and Applicant:</i> Rocky Templin, Mills Development Inc.			
STAFF CONTACT:			
Jeff Fisher, AICP Chief Planner (325) 657-4210, Extension 1550 jeff.fisher@cosatx.us			

Rezoning: Section 212(G) of the Zoning Ordinance requires that the Planning Commission and City Council consider, at minimum, seven (7) factors in determining the appropriateness of any rezoning request as outlined in #1 through #7 below:

1. **Compatible with Plans and Policies.** *Whether the proposed amendment is compatible with the Comprehensive Plan and any other land use policies adopted by the Planning Commission or City Council.* The property is located within a “Neighborhood” Future Land Use designation in the City’s Comprehensive Plan, updated in 2009. The neighborhood policies call to “promote neighborhood diversity and security by encouraging a mix of age, income, and housing choices within San Angelo’s neighborhoods. The RM-1 zone would conform to this policy, allowing for a wide range of housing types including single and two-family homes, zero lot line homes, townhomes, and apartment complexes.
2. **Consistent with Zoning Ordinance.** *Whether and the extent to which the proposed amendment would conflict with any portion of this Zoning Ordinance.* The property has a minimum lot frontage of 100 feet connecting to the south extension of Appaloosa Trail, a lot depth of 942.21 feet, and a total area of 9.278 acres. These dimensions comply with and well exceed the minimums in the RM-1 zoning for the most intense housing type, multifamily housing, requiring a minimum frontage of 60 feet, lot depth of 100 feet, and lot area of 7,000 sq. ft.
3. **Compatible with Surrounding Area.** *Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.* The RM-1 zoning is compatible with the surrounding area and would provide a transition between the Prestonwood single-family neighborhood to the east, and Sherwood Way commercial corridor to the north. The property is immediately south of The Boulevard which is also a multifamily housing complex, zoned RM-2.
4. **Changed Conditions.** *Whether and the extent to which there are changed conditions that require an amendment.* The owner and applicant is seeking to annex the property for future residential development.
5. **Effect on Natural Environment.** *Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment, including but not limited to water and air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.* Staff does not anticipate any adverse environmental affects at this time. A review of drainage, grading, and stormwater will be conducted by Engineering Services at time of platting to address any environmental issues.
6. **Community Need.** *Whether and the extent to which the proposed amendment addresses a demonstrated community need.* Staff believes there is a need for more multifamily housing in this area and RM-1 zoning would allow this option. The recent 2019 *San Angelo ResIntel Housing Study* indicates that duplex, triplex and four-plex units account for only 4% of all housing units in San Angelo with an occupancy of 95.6% almost to capacity. It further indicates that rents increased by

25% in the past two years, that 54% of these were high end units, and only 1,111 multifamily units have been built in the past 10 years. Staff believes that based on these statistics, a new zoning to allow additional housing units will improve this situation and provide potential multifamily housing in San Angelo.

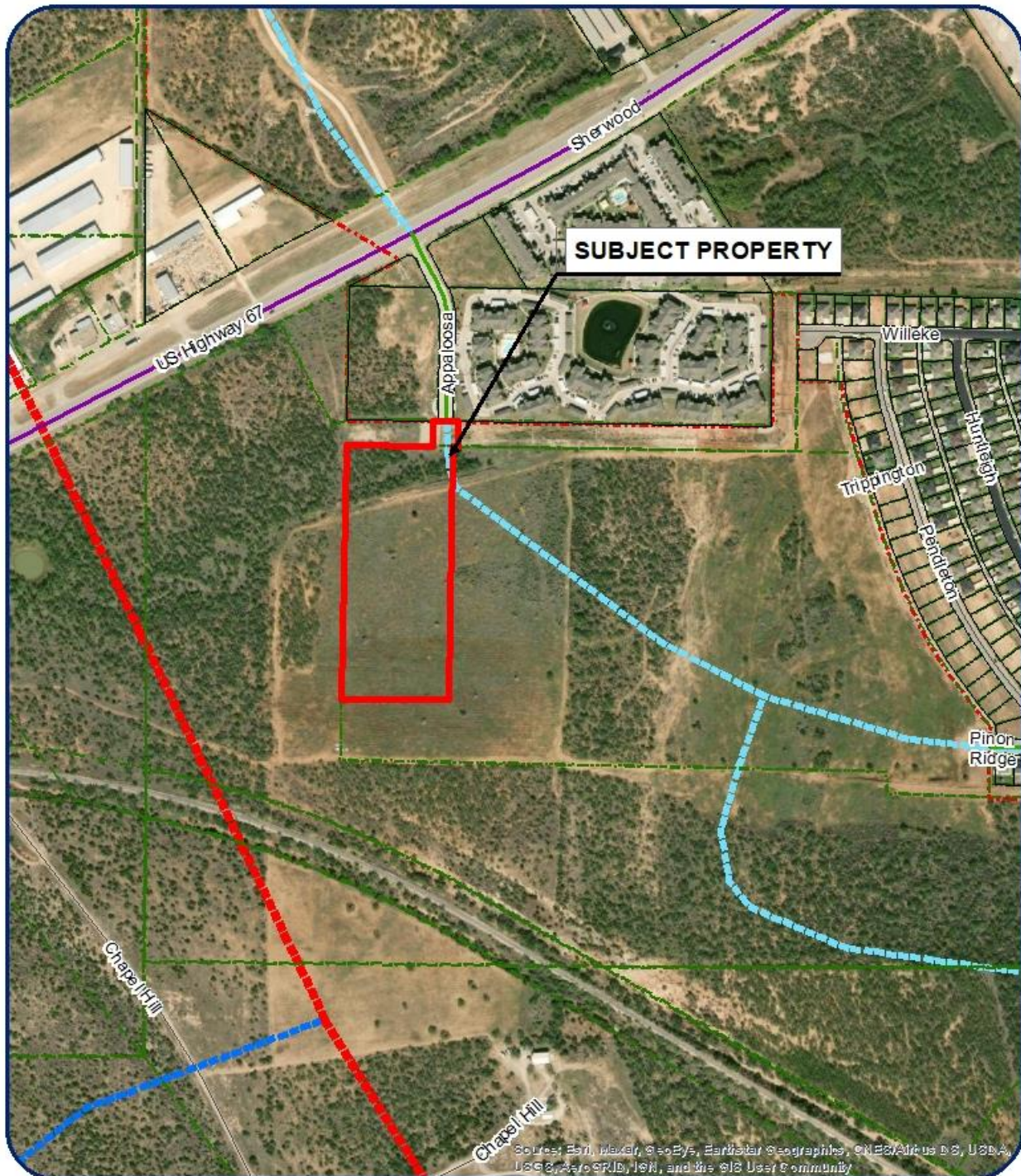
7. **Development Patterns.** *Whether and the extent to which the proposed amendment would result in a logical and orderly pattern of urban development in the community.* The property is located within the southerly extension of Appaloosa Trail, a future minor collector road. The road has direct access to Sherwood Way, a major arterial road designed to accommodate large traffic volumes. It is noted that the applicant has had discussions with the city about future realignments and extensions of this road in future. Any future subdivision plat will need to address these changes to the road network.

Recommendation:

Staff recommends **APPROVAL** of a request to zone a property to the Low Rise Multifamily (RM-1) Zoning District in connection with an annexation; being 9.278 acres, located at the southwest extension of Appaloosa Trail, southwest of Sherwood Way and F.M. 2288.

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Survey of Property
Photographs
Response Letter
Application



Rezoning

Z22-01: Appaloosa Trail (south extension)

Council District: N/A

Neighborhood: N/A

Scale: 1" approx. = 500 ft

9.508 ac. SW of Sherwood Way/F.M. 2288

Legend

Subject Properties:

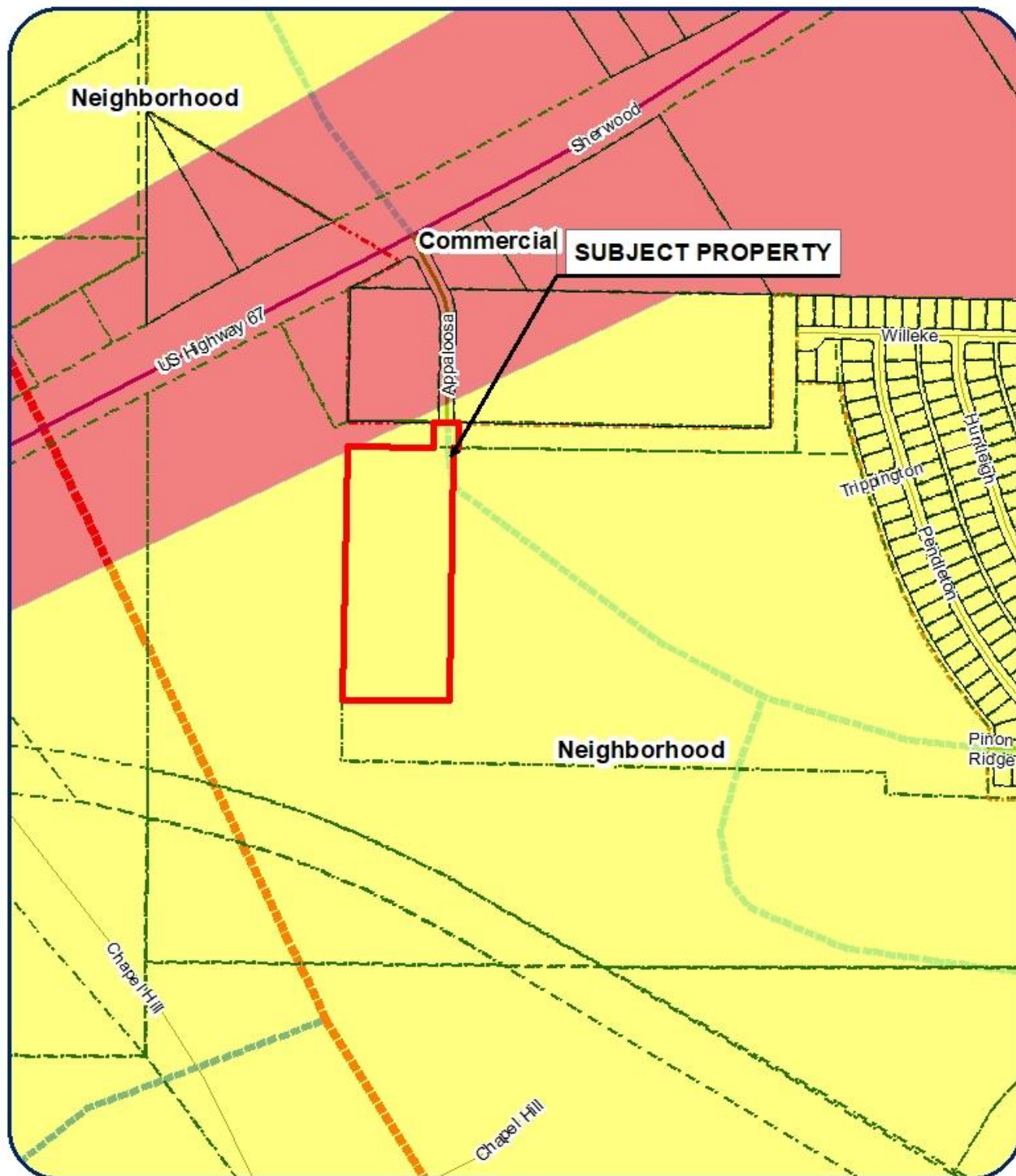
Current Zoning: N/A

Requested Zoning Change: RM-1

Vision: Neighborhood



Sources: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Rezoning

Z22-01: Appaloosa Trail (south extension)

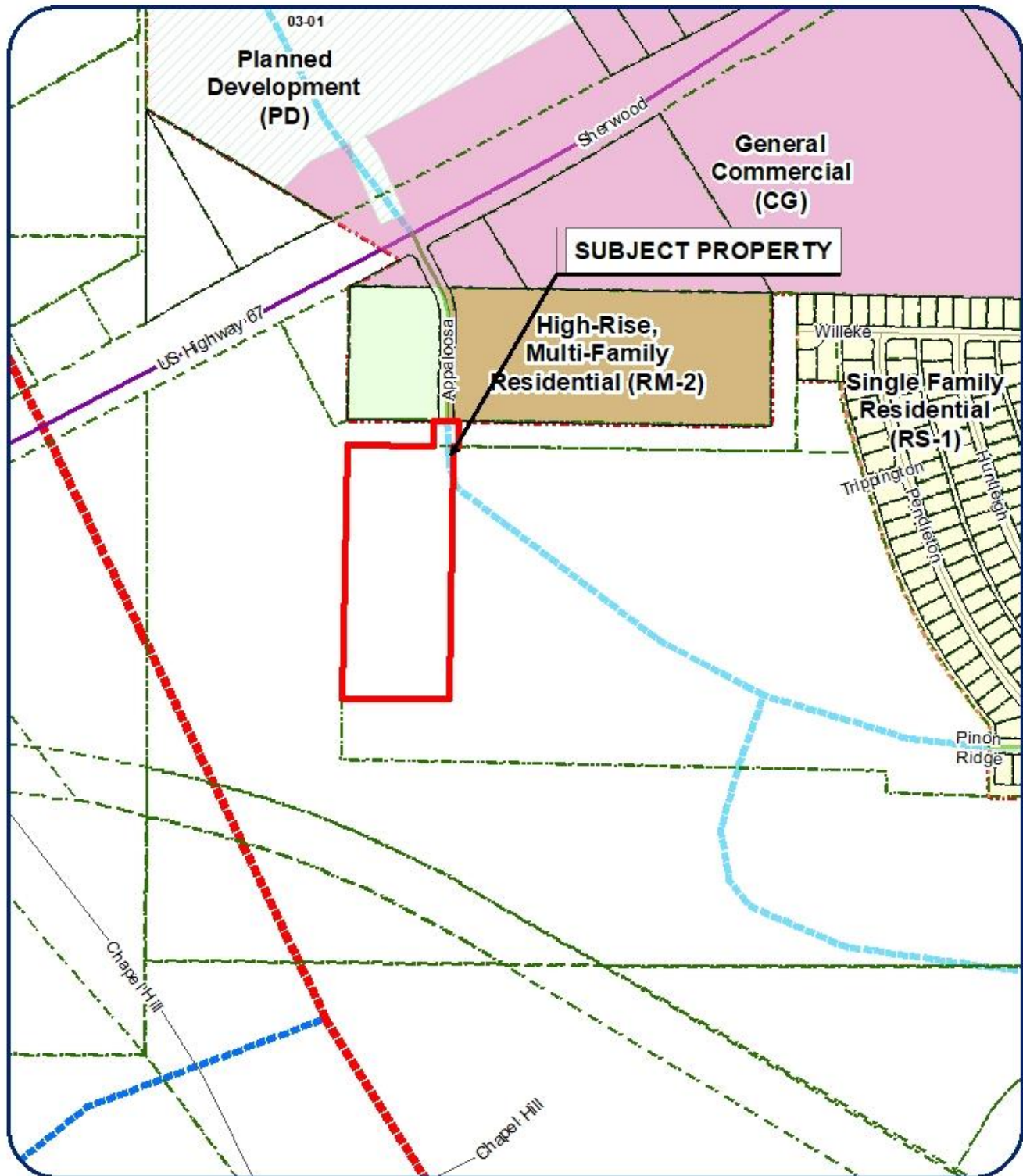
Council District: N/A
Neighborhood: N/A
Scale: 1" approx. = 500 ft

9.508 ac. SW of Sherwood Way/F.M. 2288

Legend

Subject Properties: 
Current Zoning: N/A
Requested Zoning Change: RM-1
Vision: Neighborhood





Rezoning

Z22-01: Appaloosa Trail (south extension)

Council District: N/A

Neighborhood: N/A

Scale: 1" approx. = 500 ft

9.508 ac. SW of Sherwood Way/F.M. 2288

Legend

Subject Properties: 

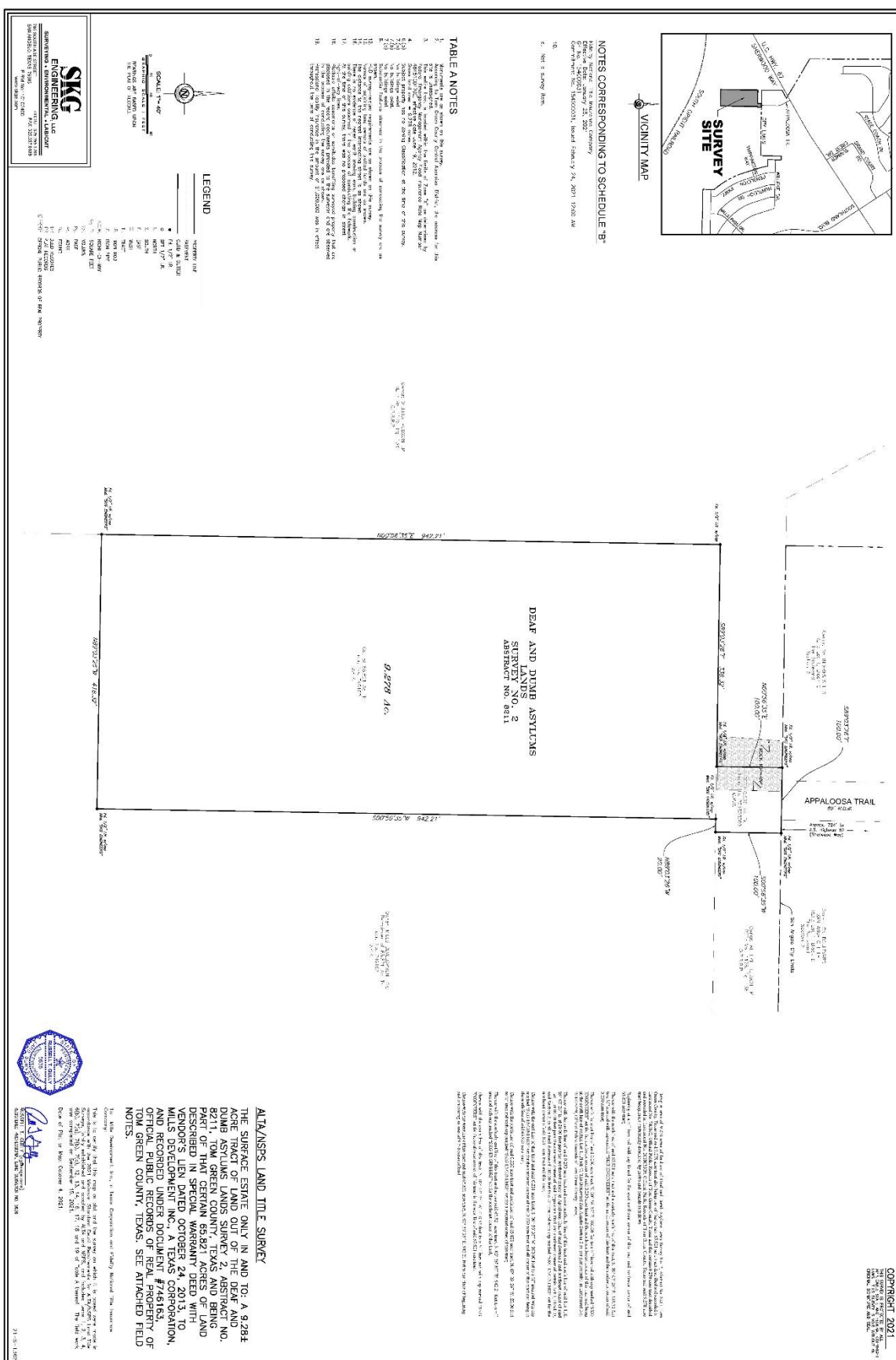
Current Zoning: **N/A**

Requested Zoning Change: **RM-1**

Vision: **Neighborhood**



Survey of property



Photos of Site and Surrounding Area

SOUTH ON APPALOOSA TRAIL



EAST AT BOULEVARD APARTMENTS



WEST AT VACANT LAND



NORTH ON APPALOOSA TRAIL



SOUTH AT SUBJECT PROPERTY



Responses

For the PLANNING COMMISSION

Please call (325) 657-4210 if you have any questions about this notice.

CASE #: Z22-01

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: MILLS DEVELOPMENT INC

Parcel I.D.: 3

Address: 3845 LAKE RIDGE DR

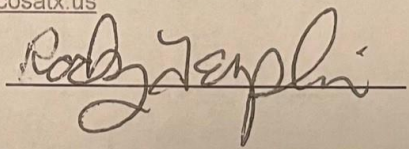
Mailing To: ATTN: Planning and Development Services
52 W. College Ave
San Angelo TX 76903

Email: planning@cosatx.us

I am in favor ☒

I am opposed ☐

Additional Comments:

Signature: 

Jeff Effective January 3, 2017

	City of San Angelo, Texas – Planning Division 52 West College Avenue Application for Approval of a Zone Change	
Section 1: Basic Information		
Name of Applicant(s): <u>Mills Development Inc.</u>		
☒ Owner ☐ Representative (Notarized Affidavit Required)		
<u>3845 Lake Ridge Drive</u> <u>San Angelo</u> <u>Texas</u> <u>76904</u> Mailing Address City State Zip Code		
<u>(325) 944-1174</u> <u>rockytemplin@suddenlink.net</u> Contact Phone Number Contact E-mail Address		
<u>Appaloosa Trail</u> <u>San Angelo</u> <u>TX</u> <u>76901</u> Subject Property Address City State Zip Code		
Abst: A-8211 S-0002, Survey: A WILLEKE, 65.821 ACRES; Abst: A-8211 S-0002, Survey: A WILLEKE, 0.230 ACRES		
Legal Description (can be found on property tax statement or at www.tomorrenacad.com)		
Existing Zoning: <u>nothing</u> Proposed Zoning: <u>RM-1</u> Lot size: <u>9.28 acres</u>		
(Zoning Map available on City Maps)		
Section 2: Site Specific Details		
Existing Use of Property: <u>Vacant</u>		
*Proposed Use of Property: <u>The proposed property is a multi-family apartment development consisting of two-story apartment buildings.</u>		
*Use separate attachment if necessary		
Section 3: Applicant(s) Acknowledgement		
(By checking the boxes you indicate that you understand below rules and regulations for the Planning Commissions case.)		
☒ An application for a zone change on a property may only be made by the owner of that property, an authorized representative of the property owner, the Planning Director, the Planning Commission or City Council. An authorized representative shall present a notarized affidavit from the property owner;		
☒ No application will be processed if a zoning violation exists on the property, unless such processing is authorized by City Council. Use of the subject property for any new activity (not allowed by present zoning) cannot occur before City Council's approval of the requested zone change. Any such unauthorized use of the subject property is subject to prosecution in Municipal Court.		
☒ If approved, a zone change is applied to the property, not the property owner.		
☒ The Planning Commission makes recommendations to City Council. If the Planning Commission recommends approval of a zone change request, the case must still go before City Council for final action.		
☒ If a zone change request is granted by City Council, permits for building construction and/or utility connection may be obtained from the City's Permits and Inspections Department.		
☒ Certain minimum building setbacks from some or all property lines must be maintained, and room for a minimum number of off-street parking spaces must be reserved on a subject property, based on that property's zoning classification and the nature of its proposed use. A privacy fence may also be required between more restrictive and less restrictive zoning districts. These requirements are outlined in San Angelo's Zoning Ordinance. It is to the applicant's benefit to make sure that any proposed development will fit into the subject property, in compliance with these and other applicable requirements of the City's Code of Ordinances.		
☒ One or more notice sign(s) will be placed on the subject property by the Planning Department. However, it is the applicant's responsibility to ensure that the notice sign(s) has/have been posted at least ten (10) days prior to the Planning Commission meeting. If notice sign(s) is/are not posted accordingly, City Council may delay a request. The Planning Department will also notify, in writing, owners of property within 200-feet of the subject property of the zone change request.		
☒ If the Planning Commission recommends denial of a request, the applicant will have ten (10) days to appeal this decision, in writing, to the City Council. If an appeal is made within three (3) days from the Planning Commission meeting, no re-notification fee will be required. Otherwise, there will be a nonrefundable \$35 fee to re-notify owners of nearby property of City Council's public hearing date. If Planning Commission's recommendation of denial is not appealed, it will be the final action on a request.		

Effective January 3, 2017

Section 3 continued : Applicant(s) Acknowledgement

☒ The applicant or an authorized representative should attend public hearing(s) pertaining to his/her request, prepared to present his/her case and to answer any relevant questions from Planning Commission or City Council members.

I/We the undersigned acknowledge that the information provided above is true and correct.

Mills Development Inc. Rocky Gerpin President 11-22-21
 Owner Name (Print) Signature Company/Organization (If Applicable) Date

 Representative Name (Print) Signature Company/Organization Date

FOR OFFICE USE ONLY:

☐ Verified Complete ☐ Verified Incomplete

Date of Application: ____/____/____

Case No.: Z ____ -- ____

Fully-dimensioned site plan: ☐

Nonrefundable fee: \$ _____ Receipt #: _____ Date paid: ____/____/____

Sign Deposit \$37.50 Receipt #: _____ Date paid: ____/____/____

Affidavit attached? ☐ Yes ☐ No ☐ N/A Applicant's signature on information sheet? ☐ Yes ☐ No

Previous Zone Change Inquiry? ☐ Yes ☐ No If yes, ZCI case no.: ____ -- ____

River Corridor Commission? ☐ Yes ☐ No If yes, RCC meeting date: ____/____/____

Planning Commission hearing date: 1 / 24 / 22 Date notifications due: ____/____/____

City Council hearing date: 1 / 18 / 22 Packets due date: ____/____/____

Publication date: ____/____/____

Reviewed/Accepted by: _____ Date: ____/____/____

2/15/22
 3/1/22

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Rafael Alvarado, Planner, Planning and Development Services,

Meeting Date: March 1, 2022

Item type: Consent Item

Caption:

Second reading of an ordinance amending the Master Thoroughfare Plan to realign future arterial and collector streets, located southwest of Sherwood Way and FM 2288, including Twin Mountain Dr., Pinon Ridge Dr., and Appaloosa Trl. (Jon James)

Staff Recommendation:

Adopt

Summary/History:

Staff is recommending this amendment to the Master Thoroughfare Plan after consultation with the property owners in the area and reviewing their development plans. These proposed changes accommodate future street connectivity through the area (the purpose of the Thoroughfare Plan) while accommodating the property owners' plans for the area. This amendment changes the proposed routing of the minor arterial, Twin Mountain Drive, and two minor collectors, Pinon Ridge Drive and Appaloosa Trail.

The timing of this proposed amendment is in coordination with a proposed annexation in this area and will ensure that the future development related to that annexation is consistent with the adopted Master Thoroughfare Plan.

Funding Source(s):

Financial Impact:

N/A

Other Information/Recommendation:

On January 24th, 2022, the Planning Commission voted to recommend approval of this MTP Amendment unanimously (6-0).

On February 15th, 2022, City Council voted to approve this MTP Amendment unanimously (7-0).

Attachments:

1. Ordinance (Twin Mountain Dr & Appaloosa Trail) Ordinance (Twin Mountain Dr & Appaloosa Trail) (2) (2).docx
2. REPORT - Twin Mountain Dr & Appaloosa Trail REPORT - Twin Mountain Dr & Appaloosa Trail.pdf

Presentation:

Jon James

Approvals/Reviews:

Rafael Alvarado	Created/Initiated
Zachary Rainbow	Approved
Jon James	Approved
Brandon Dyson	Approved
Jon James	Approved
Theresa James	Approved
Julia Antilley	Final Approval

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN ANGELO, TEXAS **AMENDING THE MASTER THOROUGHFARE PLAN AND MAP OF THE COMPREHENSIVE PLAN**; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Master Thoroughfare Plan Amendment: Twin Mountain Dr. & Appaloosa Trail

WHEREAS, the City of San Angelo is a Home Rule municipal corporation operating under a municipal charter adopted as authorized by Article XI, Section 5 of the Texas Constitution; and,

WHEREAS, in 2003, pursuant to the authority under Chapter 213 of the Texas Local Government Code, the City of San Angelo adopted a Comprehensive Plan for promoting the long range sound development of the City and promoting public health, safety and welfare, updated in 2009 with the adoption of a strategic plan; and,

WHEREAS, the Comprehensive Plan includes the Master Thoroughfare Plan (MTP) and map; and,

WHEREAS, the City Planning and Development Services Department has examined removing, relocating, or maintaining the existing route of a minor arterial, Twin Mountain Drive, and minor collectors, Appaloosa Trail and Pinion Ridge, in order to provide for improved public safety, traffic efficiency, and to accommodate for future growth in southwest San Angelo; and,

WHEREAS, the City Planning and Development Services Department has conducted an analysis of existing and projected future development in the area; demand on the existing street network; existing zoning and future land trends; potential land acquisitions; the relocation of buildings, structures, and utilities; and proposed alternate routes for the subject roads; and,

WHEREAS, the City Planning and Development Services Department has consulted with other relevant City departments, the County Commissioner for this area, and the San Angelo Metropolitan Planning Organization (SA-MPO); and,

WHEREAS, on January 24, 2022, a public meeting was held at the Planning Commission to provide the public an opportunity to comment on the proposed amendment; and, and after holding said public hearing thereon, caused to be prepared and delivered a report and recommendation to City Council that the MTP be amended; and,

WHEREAS, proper notice of public hearing upon this ordinance has been posted in accordance with applicable law; and,

WHEREAS, City Council has conducted the necessary public hearing thereon and concurs with the Planning Commission's recommendation to amend the planning of the future minor arterial and minor collector roadway facilities in the MTP as set forth in Exhibit "A" to this Ordinance.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF SAN ANGELO:

Section 1 The recitals set forth above are deemed to be the findings and determinations made by the City Council and are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2 The Master Thoroughfare Plan and map component of the Comprehensive Plan is hereby amended as set forth in **Exhibit "A"** to this Ordinance, as if fully set forth herein.

Section 3 The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance shall be declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

Section 4. This ordinance shall be effective from and after the date of its adoption.

INTRODUCED on the **15th day of February, 2022**, and finally PASSED, APPROVED AND ADOPTED on this the **1st day of March, 2022**.

THE CITY OF SAN ANGELO

Brenda Gunter, Mayor

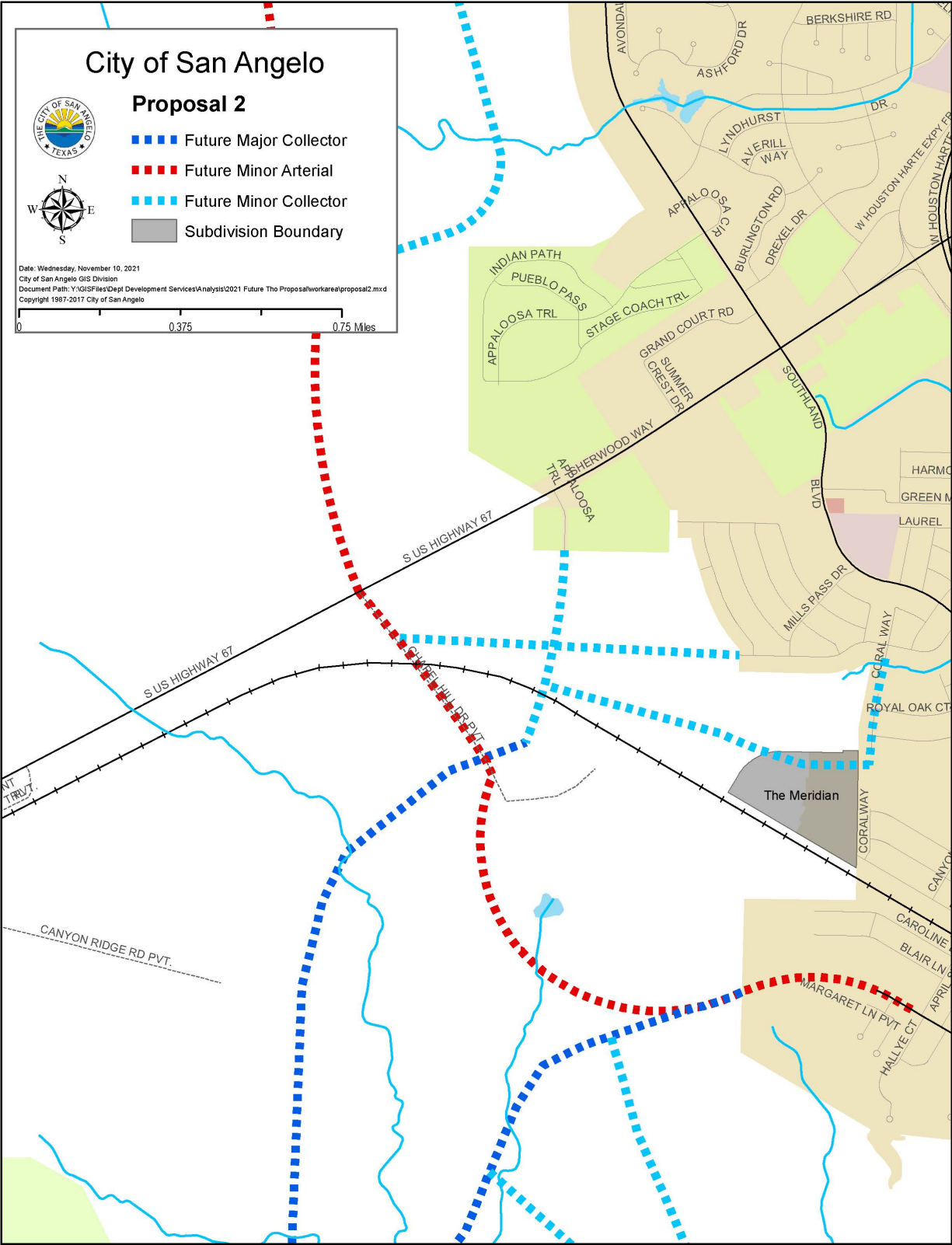
ATTEST:

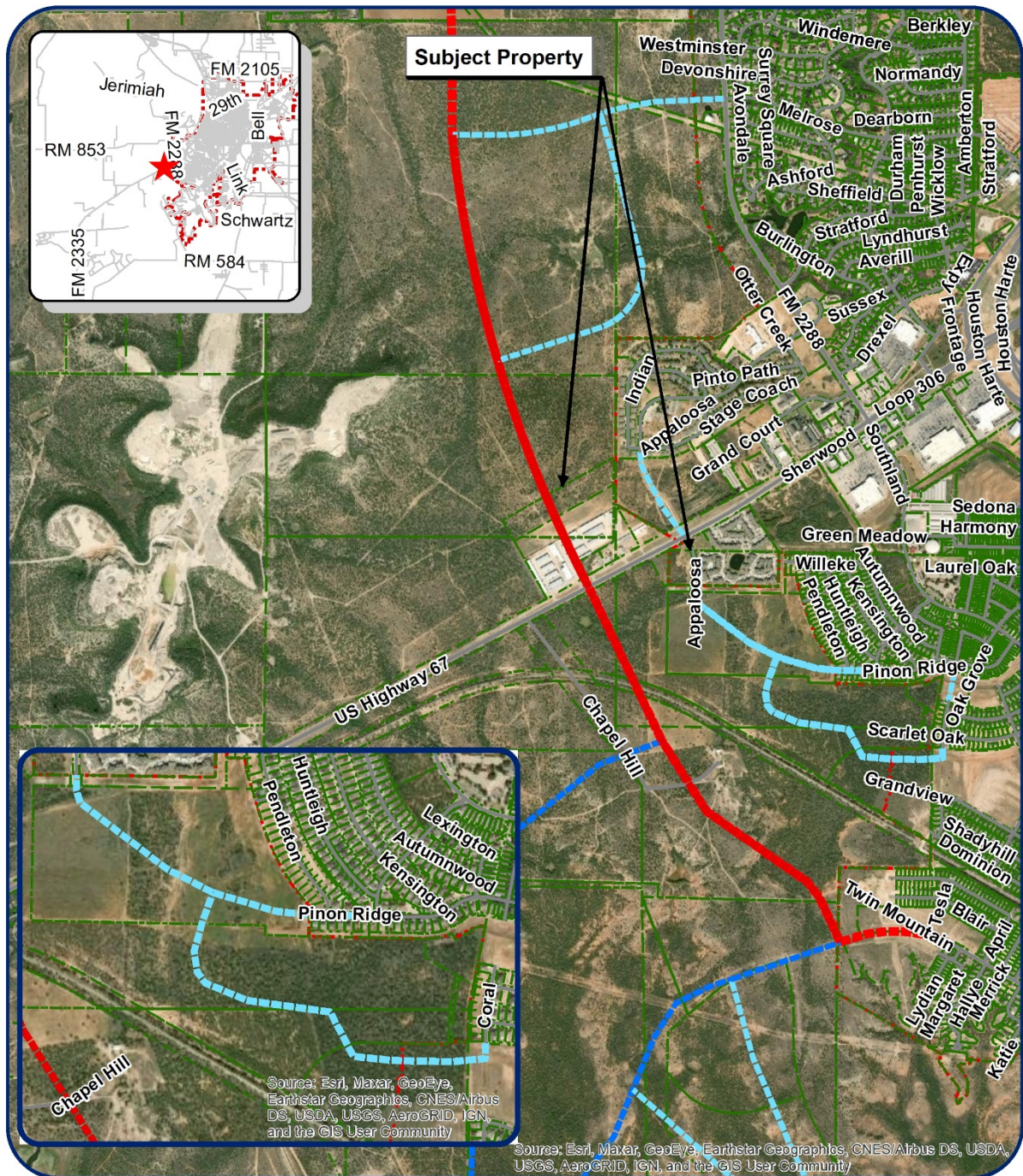
APPROVED AS TO FORM:

Julia Antilley, City Clerk

Theresa James, City Attorney

EXHIBIT A





Master Thoroughfare Plan

Twin Mountain Dr. & Appaloosa Trail

Council District: N/A

Neighborhood: N/A

Scale: 1" approx. = 1,917 ft

Legend

Subject Properties: ———
 Future Minor Arterial: - - - - -
 Future Minor Collector: - - - - -
 Notified Properties: ■





STAFF REPORT

Planning Commission: January 24th, 2022
City Council 1st reading: February 15th, 2022
City Council 1st reading: March 1st, 2022

APPLICATION TYPE:		CASE:	
Master Thoroughfare Plan Amendment		Twin Mountain & Appaloosa Trail	
SUMMARY:			
An amendment to the Master Thoroughfare Plan to realign future arterial and collector streets, located southwest of Sherwood Way and FM 2288, including Twin Mountain Drive, Pinon Ridge Drive, and Appaloosa Trail, one minor arterial and two minor collectors respectively.			
LOCATION:		LEGAL DESCRIPTION:	
South and west of city limits, south of Highway 67		N/A	
SM DISTRICT / NEIGHBORHOOD:	ZONE DISTRICT:	VISION PLAN:	SIZE:
Outside of District 6: Larry Miller Outside of Bluffs Neighborhood	Outside of city limits	Neighborhood (Commercial buffer around S US 67)	2,626 acres (total notified acreage)
NOTIFICATIONS:			
64 notifications were mailed to property owners within 200-feet of the existing future thoroughfare routes			
THOROUGHFARE PLAN			
Twin Mountain: Future Minor Arterial, 80' ROW required, 64' pavement required Appaloosa Trail: Future Minor Collector, 60' ROW required (60' Existing), 50' pavement required (50' Existing) Pinion Ridge: Future Minor Collector, 60' ROW required (60' Existing), 50' pavement required (50' Existing)			
STAFF RECOMMENDATION:			
Staff recommends approval of the proposed amendments to the Master Thoroughfare Plan for Twin Mountain Drive (minor arterial), Appaloosa Trail (minor collector, and Pinion Ridge Drive (minor collector).			
PROPERTY OWNER/PETITIONER:			
Owner: <i>City of San Angelo</i>			
STAFF CONTACT:			
Rafael Alvarado Planner (325) 657-4210, Extension 1533 rafael.alvarado@cosatx.us			

Master Thoroughfare Plan Amendment:

The San Angelo Comprehensive Plan, adopted in 2003 and updated in 2009, includes the Master Thoroughfare Plan (MTP) that designates the functional classification of existing transportation facilities in the City of San Angelo. The functional classification in the MTP shows both the existing and future planned path of new freeways, arterial, collector, and local streets. Staff periodically reviews areas and proposes amendments based on new information or changing development patterns.

A review of the MTP for the Twin Mountain Dr. and Appaloosa Trail area is being done in conjunction with a proposed annexation and zone change for the area in anticipation of future development. The proposed changes are to re-route Twin Mountain Drive, a minor arterial, Pinion Ridge, a minor collector, and Appaloosa Trail, a minor collector.

Minor Arterial

Twin Mountain Trail is a Minor Arterial with a future extension that requires amending due to physical conditions along its proposed path. There is now a storage facility that has been built in the recent past, located along US 67. This development is located right in the path of the currently proposed location of the future Minor Arterial extension of Twin Mountain Drive. Furthermore, there is a hill feature in the geography of the land where the future Minor Arterial is proposed to be built that is significant enough to deter building the roadway along the previous proposed path. Therefore, staff is recommending adjusting the proposed path of the roadway around the topography.

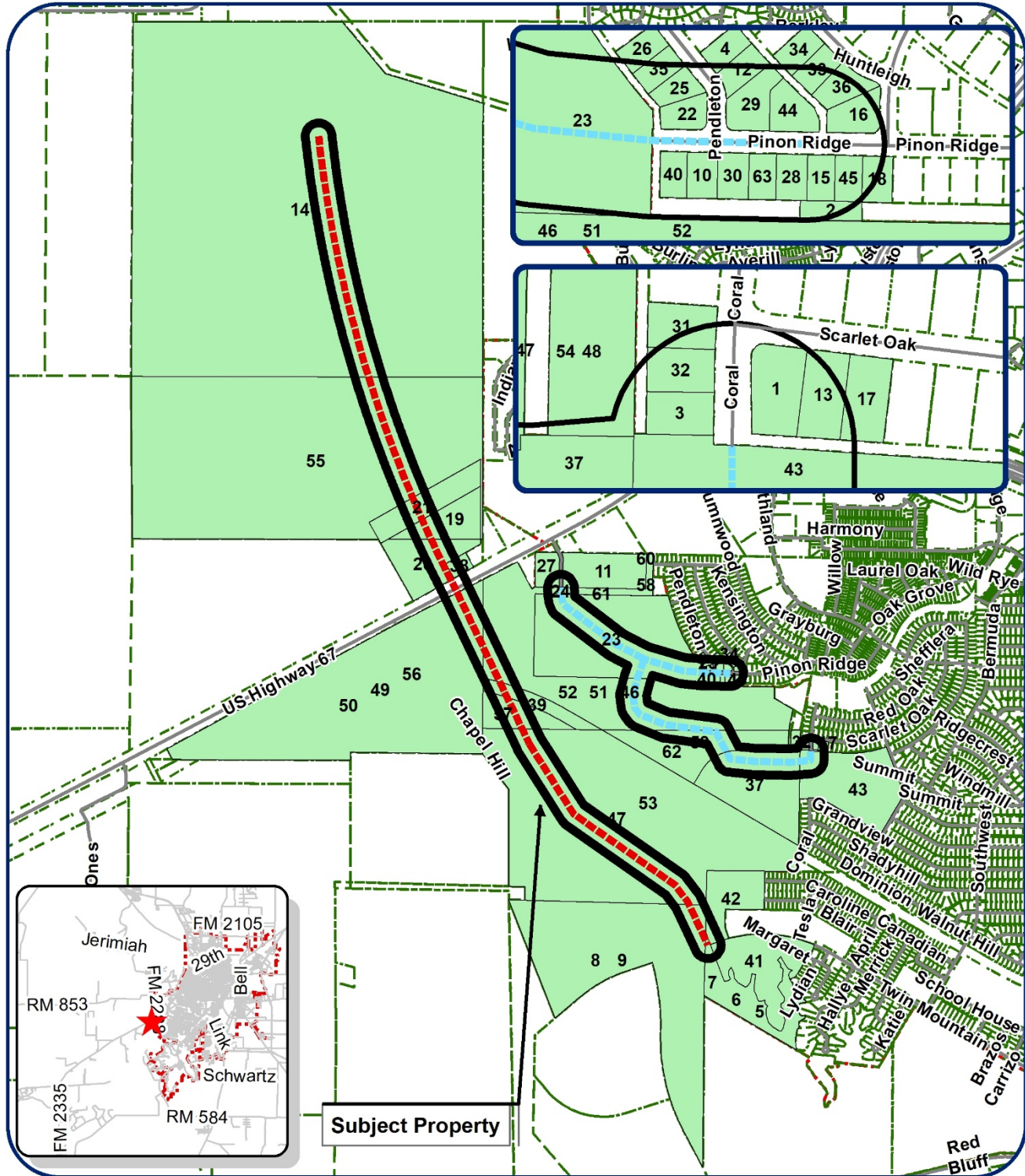
Minor Collectors

The adjustments to the Minor Collector roadway facilities come in conjunction with proposed land subdivisions and annexations in the area. The Meridian, a preliminary plat that was approved in 2020 will build Royal Oak Drive, a minor collector. This future roadway will connect to the existing Minor Collector, Coral Way. The presence of the Texas Pacifico railroad to the South causes major connectivity problems. The proposals both include an extension of Appaloosa Trail across the railroad to connect to a future Major Collector, outside of City Limits. In addition, both proposals feature an extension to the Minor Collector, Pinion Ridge, to connect it to the future Minor Arterial, Twin Mountain Drive. Staff considered these 2 proposed alternatives, but both staff and the property owners in the area preferred this recommended alternative (Proposal 2).

Recommendation: Staff's recommendation is for the Planning Commission to recommend **approval** of the Master Thoroughfare Plan Amendment and for City Council to grant final approval.

Attachments:

Parcels Map
Satellite Map
Proposal 1
Proposal 2



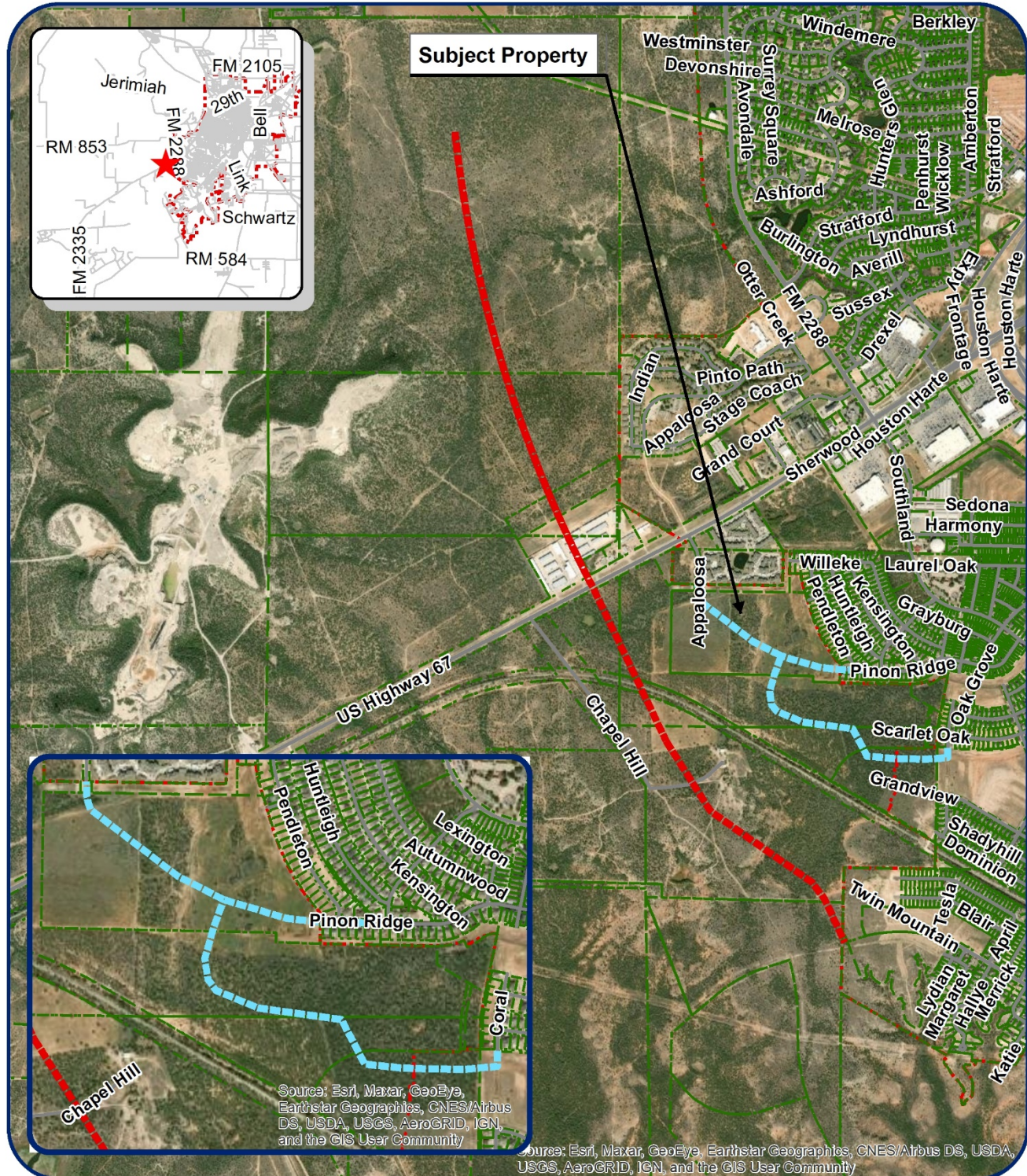
Master Thoroughfare Plan **Twin Mountain Dr. & Appaloosa Trail**

Council District: N/A
 Neighborhood: N/A
 Scale: 1" approx. = 1,917 ft

Legend

Subject Properties: 
 Future Minor Arterial: 
 Future Minor Collector: 
 Notified Properties: 

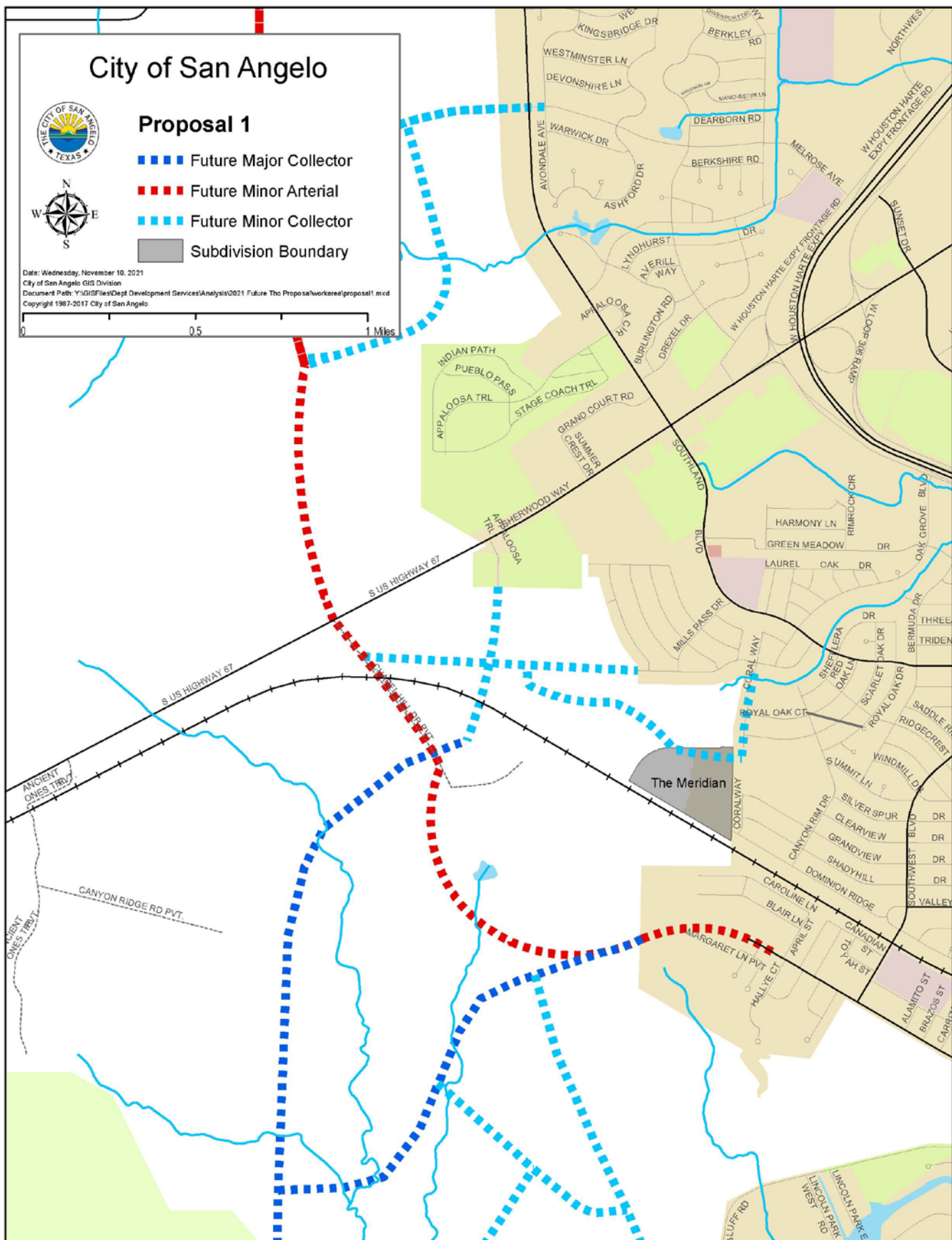


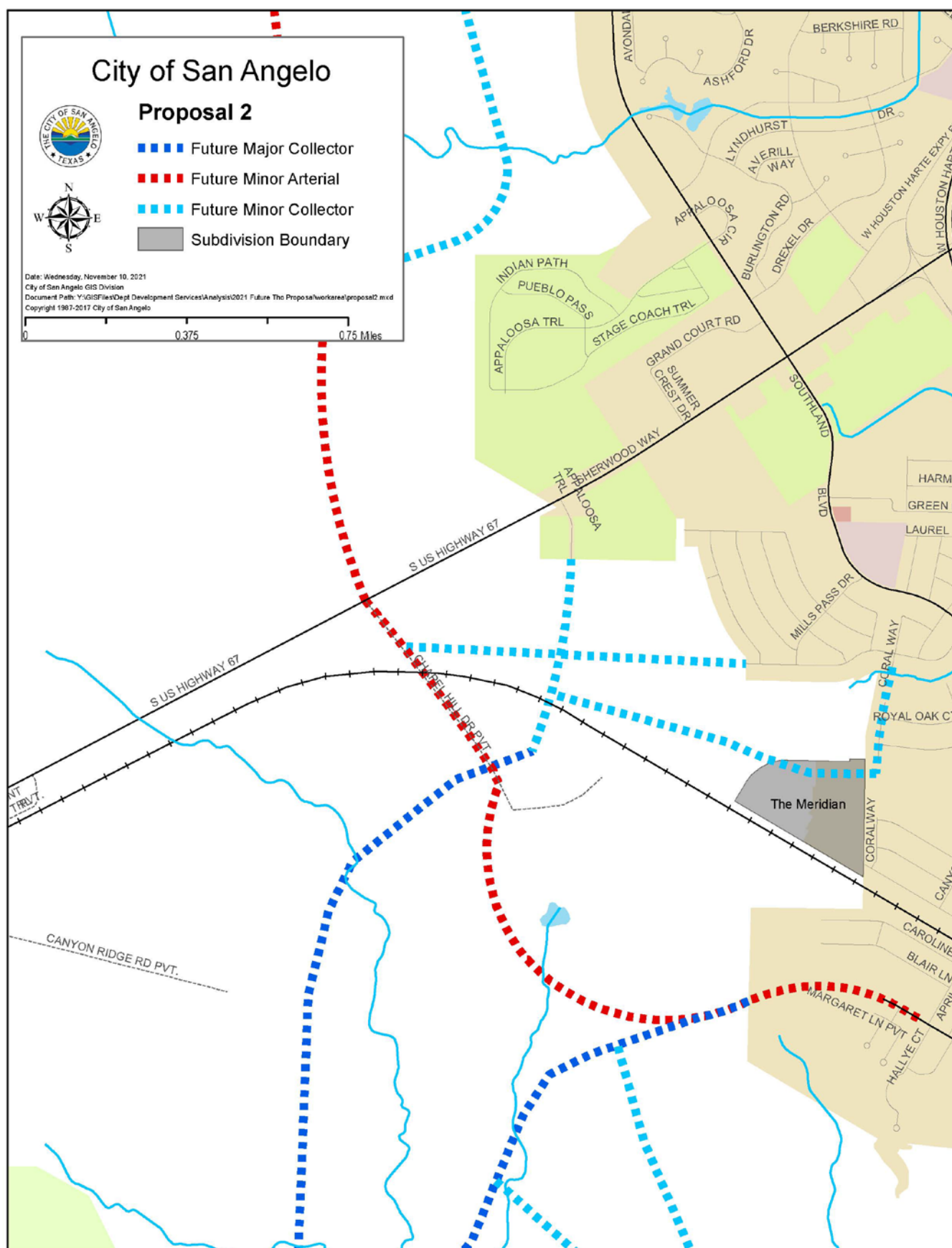


Master Thoroughfare Plan
Twin Mountain Dr. & Appaloosa Trail
 Council District: N/A
 Neighborhood: N/A
 Scale: 1" approx. = 1,917 ft

Legend
 Subject Properties: —
 Future Minor Arterial: —
 Future Minor Collector: —
 Notified Properties: —







REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Julia Antilley, City Clerk, City Clerk, 325-657-4405

Meeting Date: March 1, 2022

Item type: Regular Item

Caption:

Public hearing of an ordinance as presented via petition by the Initiating Committee to Outlaw Abortion/Making San Angelo a Sanctuary City for the Unborn and action by the City Council to adopt, reject, or amend the ordinance as presented in the petition (Presentation made by City Clerk Julia Antilley)

Staff Recommendation:

Direction from Council

Summary/History:

The Initiating Committee obtained sufficient signatures (1,512 minimum) as outlined in Section 47 of the Charter to bring this item to a public hearing. Official notice was given in the February 16th edition of the Standard Times and certified letters were sent to the Initiating Committee to alert them of today's hearing where "hearing and consideration shall be open to the public, and the public shall be permitted to present arguments for or against such proposed ordinance or resolution."

Today the City Council shall do the following according to the Charter:

- 1) adopt the ordinance
- 2) reject the ordinance
- 3) pass the ordinance in an amended form from that presented in the petition

Following today's action, the Initiating Committee (or majority thereof) may require the ordinance (original or amended form) be submitted to a vote of the voters.

Funding Source(s):

Financial Impact:

Election costs vary based on the number of entities holding a joint election and the number of polling locations/poll workers required.

The newspaper advertisement, required prior to the public hearing, was \$9,339.50.

Other Information/Recommendation:

Attachments:

- | | |
|--------------------------------|----------------------------------|
| 1. English - legal publication | English - legal publication.docx |
| 2. Spanish - legal publication | Spanish - legal publication.docx |

3. Charter - Section 47 Initiative & Referendum Charter - Section 47 Initiative & Referendum.pdf

Presentation:

Julia Antilley

Approvals/Reviews:

Julia Antilley	Created/Initiated
Tina Dierschke	Approved
Theresa James	Approved
Julia Antilley	Final Approval

ORDINANCE OUTLAWING ABORTION, DECLARING SAN ANGELO A SANCTUARY CITY FOR THE UNBORN, MAKING VARIOUS PROVISIONS AND FINDINGS, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY OF SAN ANGELO, TEXAS THAT:

A. FINDINGS

The City of San Angelo finds that:

- (1) Human life begins at conception.
- (2) Abortion is an act of violence that purposefully and knowingly terminates an unborn human life.
- (3) Unborn human beings are entitled to the full and equal protection of the laws that prohibit violence against other human beings.
- (4) The State of Texas has never repealed its pre-*Roe v. Wade* statutes that outlaw and criminalize abortion unless the mother's life is in danger. *See* West's Texas Civil Statutes, articles 4512.1 – 4512.6 (1974); *see also* Act of June 14, 1973, ch. 399, §§ 5–6, 1973 Tex. Acts 883, 995–96; *see also id.* 996a, 996e (including the Texas abortion laws in the table indicating the "Disposition of Unrepealed Articles of the Texas Penal Code of 1925 and Vernon's Penal Code.").
- (5) The Texas Legislature has reaffirmed the continued existence and validity of the State's pre-*Roe v. Wade* criminal abortion statutes. *See* Senate Bill 8, 87th Leg., § 2 (2021) ("The legislature finds that the State of Texas never repealed, either expressly or by implication, the state statutes enacted before the ruling in *Roe v. Wade*, 410 U.S. 113 (1973), that prohibit and criminalize abortion unless the mother's life is in danger.").
- (6) The law of Texas therefore continues to define abortion as a criminal offense except when necessary to save the life of the mother. *See* West's Texas Civil Statutes, article 4512.1 (1974); Senate Bill 8, 87th Leg., § 2 (2021).
- (7) The law of Texas also imposes felony criminal liability on anyone who "furnishes the means for procuring an abortion knowing the purpose intended," *see* West's Texas Civil Statutes, article 4512.2 (1974), as well as anyone who aids or abets an abortion performed in violation of Texas law, *see* Tex. Penal Code section 7.02.
- (8) The Supreme Court's judgment in *Roe v. Wade* did not cancel or formally revoke the Texas statutes that outlaw and criminalize abortion, and the judiciary has no power to erase a statute that it believes to be unconstitutional. *See Pidgeon v. Turner*, 538 S.W.3d 73, 88 n.21 (Tex. 2017) ("When a court declares a law unconstitutional, the law remains in place unless and until the body that enacted it repeals it"); *Texas v. United States*, 945 F.3d 355, 396 (5th Cir. 2019) ("The federal courts have no authority to erase a duly enacted law from the statute books, [but can only] decline to enforce a statute in a particular case or controversy." (citation and internal quotation marks omitted)).
- (9) The Supreme Court's pronouncements in *Roe v. Wade* and subsequent cases may temporarily limit the ability of State officials to impose penalties on those who violate the Texas abortion statutes, but they do not veto or erase the statutes themselves, which continue to exist as the law of Texas until they are repealed by the legislature that enacted them. The State's temporary inability to prosecute or punish those who violate its abortion statutes on account of *Roe v. Wade* does not change the fact that abortion is defined as a criminal act under Texas law.
- (10) The Texas murder statute defines the crime of "murder" to include any act that "intentionally or knowingly causes the death" of "an unborn child at every stage of gestation from fertilization until birth." *See* Texas Penal Code § 19.02; Texas Penal Code § 1.07. Although the statute exempts "lawful medical procedures" from the definition of murder, *see* Texas Penal Code § 19.06(2), an abortion is not

a “lawful medical procedure” under Texas law unless the life of the mother is in danger, *see* West’s Texas Civil Statutes, article 4512.1 (1974).

(11) The law of Texas also prohibits abortions unless they are performed in a facility that meets the minimum standards for an ambulatory surgical center, and by a physician who holds admitting privilege at a nearby hospital. *See* Texas Health and Safety Code § 171.0031, 245.010(a). The Supreme Court’s ruling in *Whole Woman’s Health v. Hellerstedt*, 136 S. Ct. 2292 (2016), did not alter or revoke these requirements of state law; it merely enjoined state officials from enforcing the penalties established in those statutes against the abortion providers who violate them. *Whole Woman’s Health v. Hellerstedt* does not change the fact that abortion is not a “lawful medical procedure” under Texas law unless it complies with sections 171.0031 and 245.010(a) of the Texas Health and Safety Code, and it does not change the fact that the Texas murder statute prohibits abortions that fail to comport with these still-existing requirements of Texas law.

(12) The Texas abortion laws are severable in each of their discrete applications, and they are severable as applied to each individual person, group of persons, or circumstances. *See* Tex. Gov’t Code § 311.032(c); Tex. Gov’t Code § 311.036(c) (“Every statute that regulates or prohibits abortion is severable in each of its applications to every person and circumstance. If any statute that regulates or prohibits abortion is found by any court to be unconstitutional, either on its face or as applied, then all applications of that statute that do not violate the United States Constitution and Texas Constitution shall be severed from the unconstitutional applications and shall remain enforceable, notwithstanding any other law, and the statute shall be interpreted as if containing language limiting the statute’s application to the persons, group of persons, or circumstances for which the statute’s application will not violate the United States Constitution and Texas Constitution.”). These laws therefore remain enforceable against any individual or entity that aids or abets an abortion performed in Texas, so long as the prosecution of the particular individual or entity that aids or abets the abortion will not impose an “undue burden” on abortion patients.

(13) The City of San Angelo finds it necessary to supplement the existing state-law prohibitions on abortion with its own prohibitions on abortion, and to empower city officials and private citizens to enforce these prohibitions to the maximum extent permitted by state law and the Constitution. *See* Tex. Local Gov’t Code §§ 54.001(b)(1); 54.004.

(14) The law of Texas explicitly allows municipalities and political subdivisions to outlaw and prohibit abortion, and to establish penalties and remedies against those who perform or enable unlawful abortions. *See* Tex. Gov’t Code § 311.036(b) (“A statute may not be construed to restrict a political subdivision from regulating or prohibiting abortion in a manner that is at least as stringent as the laws of this state unless the statute explicitly states that political subdivisions are prohibited from regulating or prohibiting abortion in the manner described by the statute.”).

(15) To protect the health and welfare of all residents within the City of San Angelo, including the unborn, the City finds it necessary to outlaw abortion under city law, to outlaw acts that aid or abet abortions, and to establish penalties and remedies as provided in this ordinance. *See* Tex. Local Gov’t Code §§ 54.001(b)(1); 54.004.

B. DECLARATIONS

(1) We declare San Angelo, Texas to be a Sanctuary City for the Unborn.

(2) Abortion at all times and at all stages of pregnancy is declared to be an act of murder unless the mother’s life is in danger.

(3) Abortion-inducing drugs are declared to be contraband, and we declare the possession of abortion-inducing drugs within city limits to be an unlawful act.

(4) Abortions performed anywhere in the state of Texas are criminal acts under Texas law, unless

the abortion is procured or attempted by medical advice for the purpose of saving the life of the mother. *See* West's Texas Civil Statutes, articles 4512.1 – 4512.6 (1974); *see also* Senate Bill 8, 87th Leg., § 2.

(5) Any person who “furnishes the means for procuring an abortion knowing the purpose intended,” or who otherwise aids or abets an abortion performed in Texas, is a criminal and a felon subject to prosecution and imprisonment under article 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code, unless the abortion is procured or attempted by medical advice for the purpose of saving the life of the mother.

(6) The City of San Angelo urges the district attorney of Tom Green County to investigate and prosecute any individual or organization that “furnishes the means for procuring” an elective abortion, or that otherwise aids or abets such abortions, including:

- (a) employers and insurers who arrange for coverage of abortions in Texas;
- (b) individuals and organizations that knowingly provide transportation to or from a Texas abortion provider;
- (c) individuals and organizations that knowingly pay for another person's abortion in Texas, including abortion funds and abortion-assistance organizations;
- (d) individuals who knowingly donate money to abortion funds and abortion-assistance organizations that aid or abet abortions performed in Texas;
- (e) individuals and organizations that offer or provide “abortion doula” services in Texas.

(7) The City of San Angelo urges all of its citizens to regard those who perform or assist elective abortion in Texas as criminals, consistent with the abortion laws of Texas, and to report these criminal activities to the relevant district attorneys for investigation and criminal prosecution.

C. AMENDMENTS TO CITY CODE

The San Angelo Code of Ordinances is amended by adding Article 8.12 to read as follows:

ARTICLE 8.12 — ABORTION

Sec. 8.12.001. Definitions

(a) For the purposes of this article, the following definitions shall apply:

(1) “Abortion” means the act of using or prescribing an instrument, a drug, a medicine, or any other substance, device, or means with the intent to cause the death of an unborn child of a woman known to be pregnant. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. An act is not an abortion if the act is done with the intent to:

- (A) save the life or preserve the health of an unborn child;
- (B) remove a dead, unborn child whose death was caused by accidental miscarriage; or
- (C) remove an ectopic pregnancy.

(2) “Unborn child” means a natural person from the moment of conception who has not yet completely left the womb.

(3) “Abortion-inducing drugs” includes mifepristone, misoprostol, and any drug or medication that is used to terminate the life of an unborn child. The term does not include birth-control devices or oral contraceptives, and it does not include Plan B, morning-after pills, or emergency contraception. The term also does not include drugs or medications that are possessed or distributed for a purpose that

does not include the termination of a pregnancy.

Sec. 8.12.002. Abortion Prohibited

(a) It shall be unlawful for any person to procure or perform an abortion of any type and at any stage of pregnancy in the city of San Angelo, Texas.

(b) It shall be unlawful for any person to knowingly aid or abet an abortion that occurs in the city of San Angelo, Texas. This section does not prohibit referring a patient to have an abortion which takes place outside the city limits of San Angelo, Texas. The prohibition in this section includes, but is not limited to, the following acts:

(1) Knowingly providing transportation to or from an abortion provider;

(2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;

(3) Providing money with the knowledge that it will be used to pay for an abortion or the costs associated with procuring an abortion;

(4) Providing or arranging for insurance coverage of an abortion;

(5) Providing "abortion doula" services; and

(6) Coercing or pressuring a pregnant mother to have an abortion against her will.

(c) It shall be an affirmative defense to the unlawful acts described in Subsections (a) and (b) if the abortion was in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(d) It shall be unlawful for any person to possess or distribute abortion-inducing drugs in the city of San Angelo, Texas.

(e) No provision of this section may be construed to prohibit any action which occurs outside of the jurisdiction of the city of San Angelo, Texas.

(f) No provision of this section may be construed to prohibit any conduct protected by the First Amendment of the U.S. Constitution, as made applicable to state and local governments through the Supreme Court's interpretation of the Fourteenth Amendment, or by Article 1, Section 8 of the Texas Constitution.

(g) Under no circumstance may the mother of the unborn child that has been aborted, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(h) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(i) Neither the City of San Angelo, nor any of its officers or employees, nor any district or county attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in Subsection (h) unless and until:

(1) The Supreme Court overrules Roe v. Wade, 410 U.S. 113 (1973), and Planned Parenthood v. Casey, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition, or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that

committed the unlawful act described in Subsection (h) will not impose an “undue burden” on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in Subsection (h) lacks third-party standing to assert the rights of women seeking abortions in court.

(j) The penalty provided in Subsection (h) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(k) The non-imposition of the penalties described in Subsection (h) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in Section 8.12.006, or the criminal penalties for abortion set forth in article 4512.1 of the Revised Civil Statutes and sections 1.07 and 19.02(b) of the Texas Penal Code. Abortion remains and is to be regarded as an illegal act under city law and a criminal act under state law, except when abortion is necessary to save the life of the mother. And abortion remains outlawed under both city and state law, despite the temporary and partial inability of city and state officials to punish those who violate the abortion laws on account of the Supreme Court’s decision making.

(l) Mistake of law shall not be a defense to the penalty established Subsection (h).

Sec. 8.12.003. Abortion Coverage Prohibited in Employer-Provided Health Insurance or Benefits

(a) It shall be unlawful for any employer in the city of San Angelo, Texas, and for any person acting on that employer’s behalf, to offer, provide, or arrange for coverage of abortion in any health-insurance policy or plan, flexible spending account, health savings account, or any other benefit provided to its employees, except for abortions performed in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

(b) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(c) Any official of the city of San Angelo, Texas, who becomes aware that an employer is aiding or abetting abortions by providing coverage of abortions in an employee-benefits package shall report that employer to the district attorney of Tom Green County, and to all other district attorneys with jurisdiction over that employer, for criminal prosecution under article 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code.

Sec. 8.12.004. Abortions Performed Outside San Angelo, Texas

(a) It is the policy of San Angelo, Texas to protect its unborn residents from individuals and organizations that aid or abet the killing of unborn children, and to protect the unborn from those who seek to kill or otherwise harm them, to the maximum extent permissible under state and federal law.

(b) Except as provided by Subsections (c), (d), (e), and (f), it shall be unlawful for any person to knowingly aid or abet an abortion performed on a resident of San Angelo, Texas, or to attempt to aid or abet such an abortion, regardless of where the abortion is or will be performed. The prohibition in this subsection includes, but is not limited to:

(1) Offering or knowingly providing transportation to or from an abortion provider;

(2) Giving instructions over the telephone, the internet, or any other medium of communication

regarding self-administered abortion;

(3) Offering or providing money with the knowledge that it will be used to pay for, offset, or reimburse the costs of an abortion or the costs associated with procuring an abortion;

(4) Providing or arranging for insurance coverage of an abortion;

(5) Offering or providing “abortion doula” services;

(6) Providing referrals to an abortion provider;

(7) Coercing or pressuring a pregnant mother to have an abortion; and

(8) Engaging in any of the conduct that would make one an accomplice to abortion under section 7.02 of the Texas Penal Code.

(c) This section may not be construed to impose civil or criminal liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court’s interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution.

(d) This section may not be construed to prohibit conduct that San Angelo, Texas, is forbidden to prohibit or regulate under state or federal law.

(e) It shall be an affirmative defense if the unlawful acts described in Subsection (b) were taken in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(f) Under no circumstance may the woman upon whom the abortion was performed, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(g) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(h) Neither the City of San Angelo, nor any of its officers or employees, nor any district or county attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in Subsection (g) unless and until:

(1) The Supreme Court overrules Roe v. Wade, 410 U.S. 113 (1973), and Planned Parenthood v. Casey, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition, or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in Subsection (g) will not impose an “undue burden” on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in Subsection (g) lacks third-party standing to assert the rights of women seeking abortions in court.

(i) The penalty provided in Subsection (g) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(j) The non-imposition of the penalties described in Subsection (g) does not in any way legalize the conduct that has been outlawed by this section, and it

does not in any way limit or affect the availability of the private-enforcement remedies established in Section 8.12.006. Abortion remains and is to be regarded as an illegal act under city law and a criminal act under state law, except when abortion is necessary to save the life of the mother.

(k) Mistake of law shall not be a defense to the penalty established Subsection (g).

(l) Any official of the city of San Angelo, Texas, who becomes aware that an individual or organization is aiding or abetting abortions performed in Texas by engaging in the conduct described in subsection (b) shall report that individual or organization to the district attorney of Tom Green County, or to the district attorneys with jurisdiction over that individual or organization, for criminal prosecution under article 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code.

Sec. 8.12.005. Abortions Performed in Violation of Texas Law

(a) It is the policy of the city of San Angelo to ensure that the Texas abortion laws are enforced to the maximum possible extent consistent with the Constitution and existing Supreme Court doctrine.

(b) Except as provided by subsections (d), (e), (f), and (g), it shall be unlawful for any person to perform an abortion in violation of any statute enacted by the Texas legislature, including article 4512.1 of the Revised Civil Statutes, as well as sections 171.0031(a)(1) and 245.010(a) of the Texas Health & Safety Code.

(c) Except as provided by subsections (d), (e), (f), and (g), it shall be unlawful for any person to knowingly aid or abet an abortion performed in violation of any statute enacted by the Texas legislature, including article 4512.1 of the Revised Civil Statutes, as well as sections 171.0031(a)(1) and 245.010(a) of the Texas Health & Safety Code. The prohibition in this subsection includes, but is not limited to:

(1) Offering or knowingly providing transportation to or from an abortion provider;

(2) Giving instructions over the telephone, the internet, or any other medium of communication regarding self-administered abortion;

(3) Offering or providing money with the knowledge that it will be used to pay for, offset, or reimburse the costs of an abortion or the costs associated with procuring an abortion;

(4) Providing or arranging for insurance coverage of an abortion;

(5) Offering or providing "abortion doula" services;

(6) Providing referrals to an abortion provider;

(7) Coercing or pressuring a pregnant mother to have an abortion; and

(8) Engaging in conduct that makes one an accomplice to abortion under section 7.02 of the Texas Penal Code.

(d) This subsection may not be construed to impose civil or criminal liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution.

(e) This section may not be construed to prohibit conduct that San Angelo, Texas, is forbidden to prohibit or regulate under state or federal law.

(f) It shall be an affirmative defense if the unlawful acts described in Subsection (b) were taken in response to a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed. The defendant shall have the burden of proving this affirmative defense by a preponderance of the evidence.

(g) Under no circumstance may the woman upon whom the abortion was performed, or the pregnant woman who seeks to abort her unborn child, be subject to prosecution or penalty under this section.

(h) Whoever violates this section shall be subject to the maximum penalty permitted under Texas law for the violation of a municipal ordinance governing public health, and each violation shall constitute a separate offense.

(i) Neither the City of San Angelo, nor any of its officers or employees, nor any district or county attorney, nor any executive or administrative officer or employee of any state or local governmental entity, may impose or threaten to impose the penalty described in Subsection (h) unless and until:

(1) The Supreme Court overrules Roe v. Wade, 410 U.S. 113 (1973), and Planned Parenthood v. Casey, 505 U.S. 833 (1992), and permits states and municipalities to punish anyone who violates an abortion prohibition, or

(2) A state or federal court enters a declaratory judgment or otherwise rules that the imposition or threatened imposition of this penalty upon the particular person, corporation, or entity that committed the unlawful act described in Subsection (h) will not impose an "undue burden" on women seeking abortions; or

(3) A state or federal court enters a declaratory judgment or otherwise rules that the person, corporation, or entity that committed the unlawful act described in Subsection (h) lacks third-party standing to assert the rights of women seeking abortions in court.

(j) The penalty provided in Subsection (h) may not be imposed or threatened against any individual or entity if a previous decision of the Supreme Court of the United States established that the conduct of that individual or entity was constitutionally protected at the time it occurred.

(k) The non-imposition of the penalties described in Subsection (h) does not in any way legalize the conduct that has been outlawed by this section, and it does not in any way limit or affect the availability of the private-enforcement remedies established in Section 8.12.006. Abortion remains and is to be regarded as an illegal act under city law and a criminal act under state law, except when abortion is necessary to save the life of the mother.

(l) Mistake of law shall not be a defense to the penalty established Subsection (h).

(m) Any official of the city of San Angelo, Texas, who becomes aware that an individual or organization is performing or aiding or abetting abortions in violation of in violation of any statute enacted by the Texas legislature, including articles 4512.1 and 4512.2 of the Revised Civil Statutes, as well as sections 171.0031(a)(1) and 245.010(a) of the Texas Health & Safety Code, shall report that individual or organization to the district attorney of Tom Green County, or to the district attorneys with jurisdiction over that individual or organization, for criminal prosecution under articles 4512.1 and 4512.2 of the Revised Civil Statutes and section 7.02 of the Texas Penal Code.

Sec. 8.12.006. Private Right of Action

(a) Any person, other than an officer or employee of a state or local governmental entity in this state, may bring a civil action in state court against any person who violates or intends to violate sections 8.12.002, 8.12.003, 8.12.004, or 8.12.005.

(b) If a claimant prevails in an action brought under this section, the court shall award:

(1) injunctive relief sufficient to prevent the defendant from violating section 8.12.002, 8.12.003, 8.12.004, or 8.12.005 in the future;

(2) statutory damages in an amount of not less than \$10,000 for each violation of section 8.12.002, 8.12.003, 8.12.004, or 8.12.005 that the defendant committed; and

(3) costs and attorney's fees.

(c) Notwithstanding Subsection (b), a court may not award relief under this section if the defendant demonstrates that the defendant previously paid statutory damages in a previous action for the particular conduct that violated section 8.12.002, 8.12.003, 8.12.004, or 8.12.005.

(d) There is no statute of limitations for an action brought under this section.

(e) The following are not a defense to an action brought under this section:

(1) ignorance or mistake of law;

(2) a defendant's belief that the requirements of this section, or the requirements of sections 8.12.002, 8.12.003, 8.12.004, or 8.12.005, are unconstitutional or were unconstitutional;

(3) a defendant's reliance on any court decision that has been overruled on appeal or by a subsequent court, even if that court decision had not been overruled when the defendant engaged in conduct that violates sections 8.12.002, 8.12.003, 8.12.004, or 8.12.005;

(4) a defendant's reliance on any state or federal court decision that is not binding on the court in which the action has been brought;

(5) nonmutual issue preclusion or nonmutual claim preclusion;

(6) the consent of the unborn child's mother to the abortion; or

(7) any claim that the enforcement of sections 8.12.002, 8.12.003, 8.12.004, or 8.12.005 or the imposition of civil liability against the defendant will violate the constitutional rights of third parties, except as provided by section 8.12.007.

(f) An action under this section must be brought in state court and not in the local or municipal courts;

(g) This section may not be construed to impose liability on any speech or conduct protected by the First Amendment of the United States Constitution, as made applicable to the states through the United States Supreme Court's interpretation of the Fourteenth Amendment of the United States Constitution, or by Article 1, Section 8 of the Texas Constitution;

(h) Neither the city of San Angelo, Texas, nor any state or local official may intervene in an action brought under this section. This subsection does not prohibit a person or entity described by this subsection from filing an amicus curiae brief in the action.

(i) A civil action under this section may not be brought by any person who impregnated the abortion patient through an act of rape, sexual assault, incest, or any other unlawful act.

(j) Under no circumstance may a civil action under this section be brought against the mother of the unborn child that has been aborted, or the pregnant woman who seeks to abort her unborn child.

Sec. 8.12.007. Civil Liability: Undue Burden Defense

(a) A defendant against whom an action is brought under Section 8.12.006 does not have standing to assert the rights of women seeking an abortion as a defense to liability under that section unless:

(1) the United States Supreme Court or the Supreme Court of Texas holds that the courts of this state must confer standing on that defendant to assert the third-party rights of women seeking an abortion in state court as a matter of federal or state constitutional law; or

(2) the defendant has standing to assert the rights of women seeking an abortion under the tests for third-party standing established by the United States Supreme Court.

(b) A defendant in an action brought under Section 8.12.006 may assert an affirmative defense to liability under this section if:

(1) the defendant has standing to assert the third-party rights of a woman or group of women

seeking an abortion in accordance with Subsection (a); and

(2) the defendant demonstrates that the relief sought by the claimant will impose an undue burden on that woman or that group of women seeking an abortion, or otherwise violate the rights of women seeking abortions under the United Constitution.

(c) A court may not find an “undue burden” under Subsection (b) unless the defendant introduces evidence proving that:

(1) an award of relief will prevent a woman or a group of women from obtaining an abortion; or

(2) an award of relief will place a substantial obstacle in the path of a woman or a group of women who are seeking an abortion.

(d) A defendant may not establish an “undue burden” under this section by:

(1) merely demonstrating that an award of relief will prevent women from obtaining support or assistance, financial or otherwise, from others in their effort to obtain an abortion; or

(2) arguing or attempting to demonstrate that an award of relief against other defendants or other potential defendants will impose an undue burden on women seeking an abortion.

(e) The affirmative defense under Subsection (b) is not available if the United States Supreme Court overrules Roe v. Wade, 410 U.S. 113 (1973), or Planned Parenthood v. Casey, 505 U.S. 833 (1992).

(f) Nothing in this section shall in any way limit or preclude a defendant from asserting the defendant’s personal constitutional rights as a defense to liability under Section 8.12.006, and a court may not award relief under Section 8.12.006 if the conduct for which the defendant has been sued was an exercise of state or federal constitutional rights that personally belong to the defendant.

Sec. 8.12.008. Severability

(a) Mindful of Leavitt v. Jane L., 518 U.S. 137 (1996), in which in the context of determining the severability of a state statute regulating abortion the United States Supreme Court held that an explicit statement of legislative intent is controlling, the provisions and applications of this article shall be severable as follows:

(1) It is the intent of the city that every section, provision, subsection, sentence, clause, phrase, or word in this article, and every application of the provisions in this article, are severable from each other. If any application of any provision in this article to any person, group of persons, or circumstances is found by a court to be invalid or unconstitutional, then the remaining applications of that provision to all other persons and circumstances shall be severed and may not be affected. All constitutionally valid applications of the provisions in this article shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the city’s intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this article to impose an undue burden in a large or substantial fraction of relevant cases, the applications that do not present an undue burden shall be severed from the remaining applications and shall remain in force, and shall be treated as if the city had enacted an provision limited to the persons, group of persons, or circumstances for which the provision’s application do not present an undue burden. The city further declares that it would have enacted this article, and each provision, section, subsection, sentence, clause, phrase, or word, and all constitutional applications of this article, irrespective of the fact that any provision, section, subsection, sentence, clause, phrase, or word, or applications of this article were to be declared unconstitutional or to represent an undue burden.

(2) If any court declares or finds a provision in this article facially unconstitutional, when there are discrete applications of that provision that can be enforced against a person, group of persons, or

circumstances without violating the Constitution, then those applications shall be severed from all remaining applications of the provision, and the provision shall be interpreted, as a matter of city law, as if the city had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate the Constitution.

(3) If any provision of this article is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force, consistent with the declarations of the city's intent in Subsections (a)(1) and (a)(2), and the provision shall be interpreted, as a matter of city law, as if the city had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application do not present constitutional vagueness problems.

(4) No court may decline to enforce the severability requirements in Subsections (a)(1), (a)(2), and (a)(3) on the ground that severance would "rewrite" the ordinance or involve the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a locality or government official from enforcing a subset of an ordinance's applications is never "rewriting" an ordinance, as the ordinance continues to say exactly what it said before. A judicial injunction or declaration of unconstitutionality is nothing more than a non-enforcement edict that can always be vacated by later courts if they have a different understanding of what the Constitution requires; it is not a formal amendment of the language in a statute or ordinance. A judicial injunction or declaration of unconstitutionality no more "rewrites" an ordinance than a decision by an executive official not to enforce a duly enacted statute or ordinance in a limited and defined set of circumstances.

(5) If any federal or state court ignores or declines to enforce the requirements of Subsections (a)(1), (a)(2), (a)(3), or (a)(4), or holds a provision of this article invalid or unconstitutional on its face after failing to enforce the severability requirements of Subsections (a)(1), (a)(2), (a)(3) and (a)(4), for any reason whatsoever, then the Mayor shall hold delegated authority to issue a saving construction of this article that avoids the constitutional problems or other problems identified by the federal or state court, while enforcing the provisions of this article to the maximum possible extent. The saving construction issued by the Mayor shall carry the same force of law as an ordinance; it shall represent the authoritative construction of this article in both federal and state judicial proceedings; and it shall remain in effect until the court ruling that declares invalid or enjoins the enforcement of the original provision in this article is overruled, vacated, or reversed.

(6) The Mayor must issue the saving construction described in Subsection (a)(5) within 20 days after a judicial ruling that declares invalid or enjoins the enforcement of a provision of this article after failing to enforce the severability requirements of Subsections (a)(1), (a)(2), (a)(3), and (a)(4). If the Mayor fails to issue the saving construction required by Subsections (a)(5) within 20 days after a judicial ruling that declares invalid or enjoins the enforcement of a provision of this article after failing to enforce the severability requirements of Subsections (a)(1), (a)(2), (a)(3), and (a)(4), or if the Mayor's saving construction fails to enforce the provisions of the article to the maximum possible extent permitted by the Constitution or other superseding legal requirements, as construed by the federal or state judiciaries, then any person may petition for a writ of mandamus requiring the Mayor to issue the saving construction described in Subsection (a)(5).

D. EFFECTIVE DATE

This ordinance shall take effect upon: (1) approval by the City Council, or (2) approval by the voters, whichever occurs sooner.

ORDENANZA QUE PROHIBE EL ABORTO Y DECLARA A SAN ANGELO A CIUDAD SANTUARIO PARA LOS NO NACIDOS, HACIENDO DISTINTAS DISPOSICIONES Y HALLAZGOS, PREVISIÓN DE DIVISIBILIDAD Y ESTABLECIMIENTO DE UN FECHA EFECTIVA

ORDENE POR LA CIUDAD DE SAN ANGELO, TEXAS QUE:

A. HALLAZGOS

La ciudad de San Angelo determina que:

- (1) La vida humana comienza en la concepción.
- (2) El aborto es un acto de violencia que intencionalmente y a sabiendas pone fin a una vida humana no nacida.
- (3) Los seres humanos por nacer tienen derecho a la protección plena e igualitaria de las leyes que prohíben la violencia contra otros seres humanos.
- (4) El estado de Texas nunca ha derogado sus estatutos anteriores a *Roe v. Wade* que prohíben y penalizar el aborto a menos que la vida de la madre esté en peligro. Ver *West's Texas Civil Estatutos*, artículos 4512.1 – 4512.6 (1974); véase también Ley de 14 de junio de 1973, cap. 399, §§ 5–6, 1973 Texas Acts 883, 995–96; véase también identificación 996a, 996e (incluyendo Texas leyes de aborto en el cuadro que indica la “Disposición de los artículos no derogados de la Código Penal de Texas de 1925 y Código Penal de Vernon”).
- (5) La Legislatura de Texas ha reafirmado la existencia continua y la validez de la Estatutos estatales de aborto penal antes de *Roe v. Wade*. Ver Proyecto de Ley del Senado 8, 87 Leg., § 2 (2021) (“La legislatura determina que el estado de Texas nunca derogó, ni expresa o implícitamente, los estatutos estatales promulgados antes del fallo en *Roe v. Wade*, 410 US 113 (1973), que prohíben y penalizan el aborto a menos que el la vida de la madre está en peligro”).
- (6) Por lo tanto, la ley de Texas continúa definiendo el aborto como un delito penal excepto cuando sea necesario para salvar la vida de la madre. Ver *West's Texas Civil Estatutos*, artículo 4512.1 (1974); Proyecto de Ley del Senado 8, Legislatura 87, § 2 (2021).
- (7) La ley de Texas también impone responsabilidad penal por delitos graves a cualquier persona que “brinde los medios para procurar un aborto sabiendo el propósito pretendido”, véase *West's Estatutos Civiles de Texas*, artículo 4512.2 (1974), así como cualquier persona que ayude o sea cómplice de un aborto realizado en violación de la ley de Texas, consulte la sección 7.02 del Código Penal de Texas.
- (8) La sentencia de la Corte Suprema en *Roe v. Wade* no canceló ni revocó formalmente los estatutos de Texas que prohíben y criminalizan el aborto, y el poder judicial no tiene facultad de anular una ley que crea inconstitucional. Véase *Pidgeon v. Turner*, 538 S.W.3d 73, 88 n.21 (Tex. 2017) (“Cuando un tribunal declara una ley Página 1 de 18 inconstitucional, la ley permanece vigente a menos y hasta que el organismo que la promulgó lo deroga”); *Texas v. United States*, 945 F.3d 355, 396 (5th Cir. 2019) (“The federal los tribunales no tienen autoridad para borrar una ley debidamente promulgada de los libros de estatutos, [pero sólo puede] negarse a hacer cumplir una ley en un caso o controversia en particular.” (citación y se omiten las comillas internas)).
- (9) Los pronunciamientos de la Corte Suprema en *Roe v. Wade* y casos subsiguientes pueden limitar temporalmente la capacidad de los funcionarios del Estado para imponer sanciones a quienes violan los estatutos de aborto de Texas, pero no los vetan ni borran los estatutos mismos, que continúan existiendo como la ley de Texas hasta que sean derogados por la legislatura que los promulgó. La incapacidad temporal del Estado para perseguir o castigar a quienes violan sus estatutos sobre el aborto a causa de *Roe v. Wade* no cambiar el hecho de que el aborto se define como un acto criminal bajo la ley de Texas.

- (10) El estatuto de asesinato de Texas define el delito de “asesinato” para incluir cualquier acto que “intencionalmente o a sabiendas causa la muerte” de “un niño por nacer en cada etapa de gestación desde la fecundación hasta el nacimiento”. Ver Código Penal de Texas § 19.02; Penal de Texas Código § 1.07. Aunque el estatuto exime a los “procedimientos médicos legales” de la definición de asesinato, consulte el Código Penal de Texas § 19.06(2), un aborto no es un “procedimiento médico” bajo la ley de Texas a menos que la vida de la madre esté en peligro, ver Estatutos Civiles de Texas de West, artículo 4512.1 (1974).
- (11) La ley de Texas también prohíbe los abortos a menos que se realicen en un centro que cumpla con los estándares mínimos para un centro quirúrgico ambulatorio, y por un médico que tiene privilegio de admisión en un hospital cercano. Ver Salud de Texas y Código de Seguridad § 171.0031, 245.010(a). La sentencia de la Corte Suprema en *Whole Woman’s Salud contra Hellerstedt*, 136 S. Ct. 2292 (2016), no modificó ni derogó estas requisitos de la ley estatal; simplemente ordenaba a los funcionarios estatales que hicieran cumplir las penas establecidas en dichos estatutos contra los proveedores de servicios de aborto que violen ellos. *Whole Woman’s Health v. Hellerstedt* no cambia el hecho de que el aborto es no es un “procedimiento médico legal” bajo la ley de Texas a menos que cumpla con las secciones 171.0031 y 245.010(a) del Código de Salud y Seguridad de Texas, y no cambiar el hecho de que el estatuto de asesinato de Texas prohíbe los abortos que no cumplir con estos requisitos aún existentes de la ley de Texas.
- (12) Las leyes de aborto de Texas son separables en cada una de sus aplicaciones discretas, y son divisibles según se aplican a cada persona individual, grupo de personas o circunstancias. Ver Código del Gobierno de Texas § 311.032(c); Código del Gobierno de Texas § 311.036(c) (“Cada estatuto que regula o prohíbe el aborto es separable en cada una de sus aplicaciones a cada persona y circunstancia. Si alguna ley que regule o prohíba el aborto cualquier tribunal determina que es inconstitucional, ya sea en su forma o en su aplicación, entonces todas aplicaciones de ese estatuto que no violen la Constitución de los Estados Unidos y La Constitución de Texas se separará de las solicitudes inconstitucionales y se seguirá siendo ejecutable, no obstante cualquier otra ley, y el estatuto será interpretarse como si contuviera un lenguaje que limitara la aplicación de la ley a la personas, grupo de personas o circunstancias por las cuales la aplicación del estatuto no violar la Constitución de los Estados Unidos y la Constitución de Texas”). estas leyes por lo tanto, siguen siendo exigibles contra cualquier individuo o entidad que ayude o incite a un aborto realizado en Texas, siempre y cuando el enjuiciamiento de la persona en particular o entidad que ayude o instigue el aborto no impondrá una “carga indebida” a pacientes de aborto.
- (13) La ciudad de San Angelo considera necesario complementar la ley estatal existente prohibiciones del aborto con sus propias prohibiciones del aborto, y empoderar a la ciudad funcionarios y ciudadanos particulares para hacer cumplir estas prohibiciones en la máxima medida permitido por la ley estatal y la Constitución. Consulte el código de gobierno local de Texas §§ 54.001(b)(1); 54.004.
- (14) La ley de Texas permite explícitamente a los municipios y subdivisiones políticas proscribir y prohibir el aborto, y establecer penas y remedios contra quienes que practican o permiten abortos ilegales. Ver Código de Gobierno de Texas § 311.036(b) (“A estatuto no puede ser interpretado para restringir que una subdivisión política regule o prohibir el aborto de una manera que sea por lo menos tan estricta como las leyes de este estado a menos que el estatuto establezca explícitamente que las subdivisiones políticas están prohibidas de regular o prohibir el aborto en la forma descrita por el estatuto”).
- (15) Para proteger la salud y el bienestar de todos los residentes dentro de la Ciudad de San Angelo,

incluidos los no nacidos, la ciudad considera necesario prohibir el aborto según la ley de la ciudad, proscribir los actos que ayuden o instiguen al aborto, y establecer sanciones y remedios dispuesto en esta ordenanza. Ver Código de Gobierno Local de Texas §§ 54.001(b)(1); 54.004.

B. DECLARACIONES

- (1) Declaramos a San Angelo, Texas como una Ciudad Santuario para los No Nacidos.
- (2) El aborto en todo momento y en todas las etapas del embarazo se declara como un acto de asesinato a menos que la vida de la madre esté en peligro.
- (3) Las drogas que inducen el aborto se declaran de contrabando, y declaramos la posesión de drogas que inducen el aborto dentro de los límites de la ciudad como un acto ilegal.
- (4) Los abortos practicados en cualquier parte del estado de Texas son actos criminales bajo la ley de Texas, a menos que el aborto sea procurado o intentado por consejo médico para el propósito de salvar la vida de la madre. *Ver los Estatutos Civiles de Texas de West, artículos 4512.1 – 4512.6 (1974); véase también el Proyecto de Ley del Senado 8, 87 Leg., § 2.*
- (5) Toda persona que “proporcione los medios para procurar un aborto a sabiendas de la propósito previsto”, o que de otra manera ayuda o incita a un aborto realizado en Texas, es un delincuente y un delincuente sujeto a enjuiciamiento y prisión en virtud del artículo 4512.2 de los Estatutos Civiles Revisados y la sección 7.02 del Código Penal de Texas, a menos que el aborto sea procurado o intentado por consejo médico con el propósito de salvar la vida de la madre.
- (6) La ciudad de San Angelo insta al fiscal de distrito del condado de Tom Green a investigar y enjuiciar a cualquier individuo u organización que “proporcione los medios para procurar” un aborto electivo, o que de otra manera ayuda o instiga a tales abortos, incluso:
 - (a) empleadores y aseguradoras que organizan la cobertura de abortos en Texas;
 - (b) personas y organizaciones que, a sabiendas, proporcionen transporte hacia o de un proveedor de servicios de aborto de Texas;
 - (c) individuos y organizaciones que a sabiendas pagan por la propiedad de otra persona aborto en Texas, incluidos los fondos para el aborto y la asistencia para el aborto organizaciones;
 - (d) individuos que a sabiendas donan dinero a fondos de aborto y Organizaciones de asistencia para el aborto que ayudan o incitan a los abortos realizados en Texas;
 - (e) individuos y organizaciones que ofrecen o brindan “doula de aborto” servicios en Texas.
- (7) La Ciudad de San Angelo insta a todos sus ciudadanos a considerar a aquellos que realizan o ayudar al aborto electivo en Texas como criminales, de acuerdo con las leyes de aborto de Texas, y reportar estas actividades criminales a los fiscales de distrito correspondientes para investigación y persecución penal.

C. ENMIENDAS AL CÓDIGO DE LA CIUDAD

El Código de Ordenanzas de San Angelo se modifica agregando el Artículo 8.12 para que se lea como sigue:

ARTÍCULO 8.12 — ABORTO

Segundo. 8.12.001. Definiciones

- (a) A los efectos de este artículo, se aplicarán las siguientes definiciones:
 - (1) “Aborto” significa el acto de usar o prescribir un instrumento, una droga, un medicamento, o cualquier otra sustancia, dispositivo o medio con la intención de

causar la muerte de un hijo por nacer de una mujer que se sabe que está embarazada. El término no incluye dispositivos anticonceptivos o anticonceptivos orales, y no incluye Plan B, píldoras del día después, ni emergencias. anticoncepción. Un acto no es un aborto si el acto se hace con el intentar:

- (A) salvar la vida o preservar la salud de un niño por nacer;
- (B) sacar a un niño no nacido muerto cuya muerte fue causada por aborto espontáneo accidental; o
- (C) eliminar un embarazo ectópico.

(2) “Niño por nacer” significa una persona física desde el momento de la concepción que aún no ha salido completamente del útero.

(3) “Fármacos que inducen el aborto” incluye mifepristona, misoprostol y cualquier droga o medicamento que se usa para terminar con la vida de un nonato niño. El término no incluye dispositivos de control de la natalidad ni anticonceptivos, y no incluye Plan B, píldoras del día después, ni Anticoncepción de emergencia. El término tampoco incluye drogas o medicamentos que se poseen o distribuyen con un propósito que no incluye la terminación de un embarazo.

Segundo. 8.12.002. Aborto Prohibido

(a) Será ilegal para cualquier persona procurar o practicar un aborto de cualquier tipo y en cualquier etapa del embarazo en la ciudad de San Angelo, Texas.

(b) Será ilegal que cualquier persona ayude o incite a sabiendas a un aborto que ocurre en la ciudad de San Angelo, Texas. Esta sección no prohíbe remitir a una paciente a un aborto que se lleva a cabo fuera de la ciudad límites de San Angelo, Texas. La prohibición en esta sección incluye, pero es sin limitarse a, los siguientes actos:

- (1) proporcionar transporte a sabiendas hacia o desde un proveedor de servicios de aborto;
- (2) Dar instrucciones por teléfono, Internet o cualquier otro medio de comunicación sobre el aborto autoadministrado;
- (3) Proporcionar dinero a sabiendas de que se utilizará para pagar un aborto o los costos asociados con la obtención de un aborto;
- (4) Proporcionar o hacer arreglos para la cobertura de seguro de un aborto;
- (5) Proporcionar servicios de “doula de aborto”; y
- (6) Coaccionar o presionar a una madre embarazada para que aborte contra su voluntad.

(c) Será una defensa afirmativa a los actos ilícitos descritos en Las subsecciones (a) y (b) si el aborto fue en respuesta a una amenaza para la vida condición física agravada por, causada por o derivada de un embarazo que, certificado por un médico, pone a la mujer en peligro de muerte o de riesgo de deterioro sustancial de una función corporal importante a menos que un aborto es interpretado. El demandado tendrá la carga de probar esta afirmación defensa por preponderancia de las pruebas.

(d) Será ilegal que cualquier persona posea o distribuya drogas abortivas en la ciudad de San Angelo, Texas.

(e) Ninguna disposición de esta sección puede ser interpretada para prohibir cualquier acción que ocurre fuera de la jurisdicción de la ciudad de San Angelo, Texas.

(f) Ninguna disposición de esta sección puede ser interpretada para prohibir cualquier conducta protegido por la Primera Enmienda de la Constitución de los EE. aplicables a los gobiernos estatales y locales a través de la Corte Suprema interpretación de la Decimocuarta Enmienda, o por el Artículo 1, Sección 8 de la Constitución de Texas.

(g) Bajo ninguna circunstancia la madre del niño por nacer que ha sido abortado, o la mujer embarazada que busca abortar a su hijo por nacer, sea sujeto a enjuiciamiento o sanción bajo esta sección.

(h) Quien viole esta sección estará sujeto a la pena máxima permitido bajo la ley de Texas por la violación de una ordenanza municipal que gobiernan la salud pública, y cada violación constituirá una ofensa.

(i) Ni la Ciudad de San Angelo, ni ninguno de sus funcionarios o empleados, ni ningún fiscal de distrito o condado, ni ningún funcionario ejecutivo o administrativo o empleado de cualquier entidad gubernamental estatal o local, puede imponer o amenazar con imponer la sanción descrita en la subsección (h) a menos y hasta que:

(1) La Corte Suprema anula *Roe v. Wade*, 410 US 113 (1973), y *Planned Parenthood v. Casey*, 505 US 833 (1992), y autoriza estados y municipios sancionarán a quien viole el aborto prohibición, o

(2) Un tribunal estatal o federal dicta una sentencia declaratoria o de otro modo dispone que la imposición o amenaza de imposición de esta pena a la persona, corporación o entidad particular que cometió el acto ilegal descrito en la Subsección (h) no impondrá una “indebida carga” sobre las mujeres que buscan abortos; o

(3) Un tribunal estatal o federal dicta una sentencia declaratoria o de otro modo establece que la persona, corporación o entidad que cometió el acto ilegal descrito en la subsección (h) carece de capacidad de tercero para hacer valer los derechos de las mujeres que buscan abortar en los tribunales.

(j) La pena dispuesta en el inciso (h) no podrá imponerse ni amenazarse contra cualquier persona o entidad si una decisión previa de la Corte Suprema de los Estados Unidos estableció que la conducta de ese individuo o entidad estaba protegido constitucionalmente en el momento en que ocurrió.

(k) La no imposición de las sanciones descritas en el inciso (h) no legalizar de ninguna manera la conducta que ha sido proscrita por esta sección, y no limita ni afecta de ninguna manera la disponibilidad de la ejecución privada los recursos establecidos en el Artículo 8.12.006, o las sanciones penales por aborto previsto en el artículo 4512.1 de los Estatutos Civiles Refundidos y apartados 1.07 y 19.02(b) del Código Penal de Texas. El aborto permanece y debe ser considerado como un acto ilegal bajo la ley de la ciudad y un acto criminal bajo la ley estatal, excepto cuando el aborto sea necesario para salvar la vida de la madre. y el aborto sigue estando fuera de la ley bajo la ley de la ciudad y el estado, a pesar de la temporal y incapacidad parcial de los funcionarios de la ciudad y del estado para castigar a quienes violan leyes de aborto debido a la decisión de la Corte Suprema.

(l) El error de derecho no será excepción a la pena establecida en el inciso (h).

Segundo. 8.12.003. Cobertura de aborto prohibida en la salud provista por el empleador

Seguro o Beneficios

(a) Será ilegal para cualquier empleador en la ciudad de San Angelo, Texas, y para cualquier persona que actúe en nombre de ese empleador, para ofrecer, proporcionar o arreglar para cobertura de aborto en cualquier plan o póliza de seguro de salud, flexible cuenta de gastos, cuenta de ahorros para la salud, o cualquier otro beneficio proporcionado a su empleados, a excepción de los abortos realizados en respuesta a una amenaza para la vida condición física agravada por, causada por o derivada de un embarazo que, certificado por un médico, pone a la mujer en peligro de muerte o de riesgo de deterioro sustancial de una función corporal importante a menos que un aborto es interpretado.

(b) Quien viole esta sección estará sujeto a la pena máxima permitido bajo la ley de Texas por la violación de una ordenanza municipal que gobiernan la salud pública, y cada violación constituirá una ofensa.

(c) Cualquier funcionario de la ciudad de San Angelo, Texas, que tenga conocimiento de que un el empleador está ayudando o siendo cómplice de abortos proporcionando cobertura de abortos en

un paquete de beneficios para empleados deberá informar a ese empleador al distrito abogado del condado de Tom Green, y a todos los demás fiscales de distrito con jurisdicción sobre ese empleador, para la persecución penal en virtud del artículo 4512.2 de los Estatutos Civiles Revisados y la sección 7.02 del Código Penal de Texas.

Segundo. 8.12.004. Abortos realizados fuera de San Angelo, Texas

(a) Es política de San Angelo, Texas, proteger a sus residentes por nacer de Individuos y organizaciones que ayudan o son cómplices en la matanza de niños por nacer, y para proteger a los no nacidos de aquellos que buscan matar o dañar de otra manera ellos, en la máxima medida permitida por las leyes estatales y federales.

(b) Salvo lo dispuesto en las subsecciones (c), (d), (e) y (f), será ilegal para que cualquier persona a sabiendas ayude o sea cómplice de un aborto realizado en un residente de San Angelo, Texas, o para intentar ayudar o instigar dicho aborto, independientemente del lugar donde se realiza o se realizará el aborto. La prohibición en este subsección incluye, pero no se limita a:

- (1) Ofrecer o proporcionar a sabiendas transporte hacia o desde un proveedor de servicios de aborto;
- (2) Dar instrucciones por teléfono, Internet o cualquier otro medio de comunicación sobre el aborto autoadministrado;
- (3) Ofrecer o proporcionar dinero a sabiendas de que se utilizará para pagar, compensar o reembolsar los costos de un aborto o los costos asociado con procurar un aborto;
- (4) Proporcionar o hacer arreglos para la cobertura de seguro de un aborto;
- (5) Ofrecer o proporcionar servicios de “doula de aborto”;
- (6) Proporcionar referencias a un proveedor de servicios de aborto;
- (7) Coaccionar o presionar a una madre embarazada para que aborte; y
- (8) Participar en cualquiera de las conductas que lo convertirían a uno en cómplice al aborto bajo la sección 7.02 del Código Penal de Texas.

(c) Esta sección no puede interpretarse en el sentido de imponer responsabilidad civil o penal a cualquier discurso o conducta protegida por la Primera Enmienda de los Estados Unidos Constitución, tal como se hizo aplicable a los estados a través de los Estados Unidos La interpretación de la Corte Suprema de la Decimocuarta Enmienda de los Estados Unidos Constitución de los Estados Unidos, o por el Artículo 1, Sección 8 de la Constitución de Texas.

(d) Esta sección no puede interpretarse para prohibir la conducta que San Angelo, Texas, tiene prohibido prohibir o regular bajo la ley estatal o federal.

(e) Será una defensa afirmativa si los hechos ilícitos descritos en La subsección (b) se tomaron en respuesta a una condición física que amenaza la vida agravado por, causado o derivado de un embarazo que, según lo certificado por un médico, pone a la mujer en peligro de muerte o en grave riesgo de deterioro sustancial de una función corporal importante a menos que un aborto sea realizado. El demandado tendrá la carga de probar esta afirmación defensa por preponderancia de las pruebas.

(f) Bajo ninguna circunstancia la mujer a quien se le hizo el aborto realizado, o la mujer embarazada que busca abortar a su hijo por nacer, ser sujeto a enjuiciamiento o sanción bajo esta sección.

(g) Quien viole esta sección estará sujeto a la pena máxima permitido bajo la ley de Texas por la violación de una ordenanza municipal que gobiernan la salud pública, y cada violación constituirá una ofensa.

(h) Ni la Ciudad de San Angelo, ni ninguno de sus funcionarios o empleados, ni ningún fiscal de distrito o condado, ni ningún funcionario ejecutivo o administrativo o empleado de cualquier entidad gubernamental estatal o local, puede imponer o amenazar con imponer la sanción descrita en la subsección (g) a menos y hasta que:

(1) La Corte Suprema anula *Roe v. Wade*, 410 US 113 (1973), y *Planned Parenthood v. Casey*, 505 US 833 (1992), y autoriza estados y municipios sancionarán a quien viole el aborto prohibición, o

(2) Un tribunal estatal o federal dicta una sentencia declaratoria o de otro modo dispone que la imposición o amenaza de imposición de esta pena a la persona, corporación o entidad particular que cometió el acto ilegal descrito en la Subsección (g) no impondrá una “indebida carga” sobre las mujeres que buscan abortos; o

(3) Un tribunal estatal o federal dicta una sentencia declaratoria o de otro modo establece que la persona, corporación o entidad que cometió el acto ilegal descrito en la subsección (g) carece de capacidad de terceros para hacer valer los derechos de las mujeres que buscan abortar en los tribunales.

(i) La sanción prevista en el inciso (g) no podrá imponerse ni amenazarse contra cualquier persona o entidad si una decisión previa de la Corte Suprema de los Estados Unidos estableció que la conducta de ese individuo o entidad estaba protegido constitucionalmente en el momento en que ocurrió.

(j) La no imposición de las sanciones descritas en el inciso (g) no legalizar de ninguna manera la conducta que ha sido proscrita por esta sección, y no limita ni afecta de ninguna manera la disponibilidad de la ejecución privada remedios establecidos en la Sección 8.12.006. El aborto permanece y debe ser considerado como un acto ilegal bajo la ley de la ciudad y un acto criminal bajo la ley estatal, excepto cuando el aborto sea necesario para salvar la vida de la madre.

(k) El error de derecho no será una excepción a la pena establecida Subsección (g).

(l) Cualquier funcionario de la ciudad de San Angelo, Texas, que tenga conocimiento de que un individuo u organización está ayudando o instigando abortos realizados en Texas al participar en la conducta descrita en la subsección (b) deberá informar que individuo u organización al fiscal de distrito del condado de Tom Green, o al los fiscales de distrito con jurisdicción sobre ese individuo u organización, para la persecución penal en virtud del artículo 4512.2 de los Estatutos Civiles Refundidos y la sección 7.02 del Código Penal de Texas.

Segundo. 8.12.005. Abortos realizados en violación de la ley de Texas

(a) Es política de la ciudad de San Angelo garantizar que el aborto en Texas las leyes se aplican en la máxima medida posible de conformidad con las Constitución y doctrina existente de la Corte Suprema.

(b) Salvo lo dispuesto en las subsecciones (d), (e), (f) y (g), será ilegal que cualquier persona realice un aborto en violación de cualquier estatuto promulgado por la legislatura de Texas, incluido el artículo 4512.1 de los Estatutos Civiles Revisados, así como las secciones 171.0031(a)(1) y 245.010(a) de Texas Health & Código de seguridad.

(c) Salvo lo dispuesto en las subsecciones (d), (e), (f) y (g), será ilegal para cualquier persona que a sabiendas ayude o sea cómplice de un aborto realizado en violación de cualquier estatuto promulgado por la legislatura de Texas, incluido el artículo 4512.1 de la Estatutos Civiles revisados, así como las secciones 171.0031(a)(1) y 245.010(a) de el Código de Salud y Seguridad de Texas. La prohibición en este inciso incluye, pero no se limita a:

(1) Ofrecer o proporcionar a sabiendas transporte hacia o desde un proveedor de servicios de aborto;

(2) Dar instrucciones por teléfono, Internet o cualquier otro medio de comunicación sobre el aborto autoadministrado;

(3) Ofrecer o proporcionar dinero a sabiendas de que se utilizará para pagar, compensar o reembolsar los costos de un aborto o los costos asociado con procurar un aborto;

(4) Proporcionar o hacer arreglos para la cobertura de seguro de un aborto;

(5) Ofrecer o proporcionar servicios de “doula de aborto”;

(6) Proporcionar referencias a un proveedor de servicios de aborto;

- (7) Coaccionar o presionar a una madre embarazada para que aborte; y
- (8) Participar en una conducta que lo convierte a uno en cómplice del aborto bajo la sección 7.02 del Código Penal de Texas.

(d) Esta subsección no puede interpretarse para imponer responsabilidad civil o penal sobre cualquier discurso o conducta protegida por la Primera Enmienda de los Estados Unidos Constitución de los Estados Unidos, tal como se hizo aplicable a los estados a través de los Estados Unidos La interpretación de la Corte Suprema de los Estados Unidos de la Decimocuarta Enmienda de la Constitución de los Estados Unidos, o por el Artículo 1, Sección 8 de la Texas Constitución.

(e) Esta sección no puede interpretarse para prohibir la conducta que San Angelo, Texas, tiene prohibido prohibir o regular bajo la ley estatal o federal.

(f) Será una defensa afirmativa si los actos ilícitos descritos en La subsección (b) se tomaron en respuesta a una condición física que amenaza la vida agravado por, causado o derivado de un embarazo que, según lo certificado por un médico, pone a la mujer en peligro de muerte o en grave riesgo de deterioro sustancial de una función corporal importante a menos que un aborto sea realizado. El demandado tendrá la carga de probar esta afirmación defensa por preponderancia de las pruebas.

(g) Bajo ninguna circunstancia la mujer a quien se le hizo el aborto realizado, o la mujer embarazada que busca abortar a su hijo por nacer, ser sujeto a enjuiciamiento o sanción bajo esta sección.

(h) Quien viole esta sección estará sujeto a la pena máxima permitido bajo la ley de Texas por la violación de una ordenanza municipal que gobiernan la salud pública, y cada violación constituirá una ofensa.

(i) Ni la Ciudad de San Angelo, ni ninguno de sus funcionarios o empleados, ni ningún fiscal de distrito o condado, ni ningún funcionario ejecutivo o administrativo o empleado de cualquier entidad gubernamental estatal o local, puede imponer o amenazar con imponer la sanción descrita en la subsección (h) a menos y hasta que:

(1) La Corte Suprema anula *Roe v. Wade* , 410 US 113 (1973), y *Planned Parenthood v. Casey* , 505 US 833 (1992), y autoriza estados y municipios sancionarán a quien viole el aborto prohibición, o

(2) Un tribunal estatal o federal dicta una sentencia declaratoria o de otro modo dispone que la imposición o amenaza de imposición de esta pena a la persona, corporación o entidad particular que cometió el acto ilegal descrito en la Subsección (h) no impondrá una “indebida carga” sobre las mujeres que buscan abortos; o

(3) Un tribunal estatal o federal dicta una sentencia declaratoria o de otro modo establece que la persona, corporación o entidad que cometió el acto ilegal descrito en la subsección (h) carece de capacidad de tercero para hacer valer los derechos de las mujeres que buscan abortar en los tribunales.

(j) La pena dispuesta en el inciso (h) no podrá imponerse ni amenazarse contra cualquier persona o entidad si una decisión previa de la Corte Suprema de los Estados Unidos estableció que la conducta de ese individuo o entidad estaba protegido constitucionalmente en el momento en que ocurrió.

(k) La no imposición de las sanciones descritas en el inciso (h) no legalizar de ninguna manera la conducta que ha sido proscrita por esta sección, y no limita ni afecta de ninguna manera la disponibilidad de la ejecución privada remedios establecidos en la Sección 8.12.006. El aborto permanece y debe ser considerado como un acto ilegal bajo la ley de la ciudad y un acto criminal bajo la ley estatal, excepto cuando el aborto sea necesario para salvar la vida de la madre.

(l) El error de derecho no será excepción a la pena establecida en el inciso (h).

(m) Cualquier funcionario de la ciudad de San Angelo, Texas, que tenga conocimiento de que un individuo u organización está realizando o ayudando o instigando abortos en violación de cualquier estatuto promulgado por la legislatura de Texas, incluyendo los artículos 4512.1 y 4512.2 de los Estatutos Civiles Refundidos, así como las secciones 171.0031(a)(1) y 245.010(a) del Código de Salud y

Seguridad de Texas, informará de esa persona u organización al fiscal de distrito de Tom Condado de Green, o a los fiscales de distrito con jurisdicción sobre esa persona u organización, para su enjuiciamiento penal en virtud de los artículos 4512.1 y 4512.2 de los Estatutos Civiles Revisados y la sección 7.02 del Código Penal de Texas.

Segundo. 8.12.006. Derecho Privado de Acción

- (a) Cualquier persona, que no sea un funcionario o empleado de un estado o local entidad gubernamental en este estado, puede iniciar una acción civil en un tribunal estatal contra cualquier persona que viole o intente violar las secciones 8.12.002, 8.12.003, 8.12.004 o 8.12.005.
- (b) Si un demandante gana en una acción iniciada bajo esta sección, el tribunal otorgará:
 - (1) medida cautelar suficiente para evitar que el acusado viole sección 8.12.002, 8.12.003, 8.12.004 o 8.12.005 en el futuro;
 - (2) daños estatutarios en una cantidad de no menos de \$10,000 por cada violación de la sección 8.12.002, 8.12.003, 8.12.004 o 8.12.005 que el acusado cometió; y
 - (3) costas y honorarios de abogados.
- (c) No obstante lo dispuesto en la subsección (b), un tribunal no puede otorgar reparación en virtud de esta sección si el demandado demuestra que el demandado pagó previamente daños y perjuicios estatutarios en una acción anterior por la conducta particular que violó la sección 8.12.002, 8.12.003, 8.12.004 o 8.12.005.
- (d) No hay estatuto de limitaciones para una acción presentada bajo esta sección.
- (e) Lo siguiente no es una defensa a una acción presentada bajo esta sección:
 - (1) ignorancia o error de ley;
 - (2) la creencia del acusado de que los requisitos de esta sección, o la requisitos de las secciones 8.12.002, 8.12.003, 8.12.004 o 8.12.005, son inconstitucionales o fueron inconstitucionales;
 - (3) la confianza del acusado en cualquier decisión judicial que haya sido anulada en apelación o por un tribunal posterior, incluso si esa decisión judicial no hubiera ha sido anulada cuando el acusado incurrió en una conducta que viola secciones 8.12.002, 8.12.003, 8.12.004 o 8.12.005;
 - (4) la confianza del acusado en cualquier decisión de un tribunal estatal o federal que no sea vinculante para el órgano jurisdiccional ante el que se haya interpuesto la acción;
 - (5) exclusión de emisión no mutua o exclusión de reclamación no mutua;
 - (6) el consentimiento de la madre del niño por nacer para el aborto; o
 - (7) cualquier reclamo de que la aplicación de las secciones 8.12.002, 8.12.003, 8.12.004, o 8.12.005 o la imposición de responsabilidad civil contra el demandado violará los derechos constitucionales de terceros, excepto según lo dispuesto por la sección 8.12.007.
- (f) Una acción en virtud de esta sección debe iniciarse en un tribunal estatal y no en el tribunales locales o municipales;
- (g) Esta sección no puede interpretarse como una imposición de responsabilidad por cualquier discurso o conducta protegida por la Primera Enmienda de la Constitución de los Estados Unidos, como se hizo aplicable a los estados a través de la Corte Suprema de los Estados Unidos interpretación de la Decimocuarta Enmienda de los Estados Unidos Constitución, o por el Artículo 1, Sección 8 de la Constitución de Texas;
- (h) Ni la ciudad de San Angelo, Texas, ni ningún funcionario estatal o local podrá intervenir en una acción iniciada bajo esta sección. Esta subsección no prohibir que una persona o entidad descrita en esta subsección presente un amicus curiae breve en la acción.
- (i) Una acción civil bajo esta sección no puede ser iniciada por ninguna persona que dejó embarazada a la paciente del aborto a través de un acto de violación, agresión sexual, incesto, o cualquier otro acto ilegal.

(j) Bajo ninguna circunstancia podrá entablarse una acción civil en virtud de esta sección contra la madre del niño por nacer que ha sido abortado, o la mujer embarazada que busca abortar a su hijo por nacer.

Segundo. 8.12.007. Responsabilidad Civil: Defensa de Carga Indevida

(a) Un acusado contra quien se inicia una acción en virtud de la Sección 8.12.006 no tiene legitimación para hacer valer los derechos de las mujeres que buscan un aborto como defensa a la responsabilidad bajo esa sección a menos que:

- (1) la Corte Suprema de los Estados Unidos o la Corte Suprema de Texas sostiene que los tribunales de este estado deben conferir legitimación a ese acusado para hacer valer los derechos de terceros de las mujeres que buscan un aborto en el estado corte como una cuestión de derecho constitucional federal o estatal; o
- (2) el acusado tiene legitimación para hacer valer los derechos de las mujeres que buscan un aborto bajo las pruebas de legitimación de terceros establecidas por la Tribunal Supremo de los Estados Unidos.

(b) Un demandado en una acción iniciada bajo la Sección 8.12.006 puede hacer valer una defensa afirmativa a la responsabilidad bajo esta sección si:

- (1) el demandado tiene legitimación para hacer valer los derechos de terceros de un mujer o grupo de mujeres que buscan un aborto de acuerdo con Subsección (a); y
- (2) el demandado demuestra que la reparación solicitada por el demandante imponer una carga indebida a esa mujer o a ese grupo de mujeres en busca de un aborto, o de otra manera violar los derechos de las mujeres que buscan abortos bajo la Constitución de los Estados Unidos.

(c) Un tribunal no puede encontrar una "carga indebida" bajo la Subsección (b) a menos que el El demandado presenta pruebas que prueban que:

- (1) una concesión de alivio impedirá que una mujer o un grupo de mujeres obtener un aborto; o
- (2) la concesión de una reparación colocará un obstáculo sustancial en el camino de una mujer o un grupo de mujeres que buscan un aborto.

(d) Un demandado no puede establecer una "carga indebida" bajo esta sección al:

- (1) simplemente demostrando que una concesión de reparación evitará que las mujeres de obtener apoyo o asistencia, financiera o de otro tipo, de otros en su afán por abortar; o
- (2) argumentar o intentar demostrar que una concesión de reparación contra otros acusados u otros posibles acusados impondrán una multa indebida carga sobre las mujeres que buscan un aborto.

(e) La defensa afirmativa bajo la Subsección (b) no está disponible si el La Corte Suprema de los Estados Unidos anula *Roe v. Wade* , 410 US 113 (1973), o *Planned Parenthood v. Casey* , 505 US 833 (1992).

(f) Nada en esta sección limitará o impedirá que un acusado de hacer valer los derechos constitucionales personales del acusado como una defensa a responsabilidad bajo la Sección 8.12.006, y un tribunal no puede otorgar alivio bajo Sección 8.12.006 si la conducta por la cual se ha demandado al acusado fue un ejercicio de derechos constitucionales estatales o federales que pertenezcan personalmente al acusado.

Segundo. 8.12.008. Divisibilidad

(a) Mindful of *Leavitt v. Jane L.* , 518 US 137 (1996), en el que en el contexto de determinar la separabilidad de una ley estatal que regula el aborto La Corte Suprema de los Estados Unidos sostuvo que una declaración explícita de la intención es controlar, las disposiciones y aplicaciones de este artículo serán divisible como sigue:

- (1) Es la intención de la ciudad que cada sección, disposición, subsección, oración, cláusula, frase o palabra en este artículo, y cada aplicación de lo dispuesto en este artículo, son separables entre sí. Si alguna aplicación de cualquier disposición en este artículo a cualquier persona, grupo de personas o circunstancias es declarado por un tribunal como inválido o

inconstitucional, entonces las restantes aplicaciones de esa disposición a todas las demás personas y circunstancias serán separadas y no podrán ser afectado. Todas las aplicaciones constitucionalmente válidas de las disposiciones de este artículo se separará de cualquier solicitud que un tribunal considere inválida, quedando en vigor las solicitudes válidas, porque es de la ciudad intención y prioridad de que las solicitudes válidas se mantengan en pie solo. Incluso si un tribunal de revisión considera que una disposición de este artículo imponer una carga indebida en una fracción grande o sustancial de los casos, las solicitudes que no presenten una carga indebida serán separado de las aplicaciones restantes y permanecerá en vigor, y será tratado como si la ciudad hubiera promulgado una disposición limitada a la personas, grupo de personas o circunstancias por las cuales la disposición solicitud no presenten una carga indebida. La ciudad declara además que hubiera promulgado este artículo, y cada disposición, sección, inciso, oración, cláusula, frase o palabra, y todas las disposiciones constitucionales aplicaciones de este artículo, independientemente del hecho de que cualquier disposición, sección, subsección, oración, cláusula, frase o palabra, o aplicaciones de este artículo fuera declarado inconstitucional o representara una carga indebida.

- (2) Si cualquier tribunal declara o encuentra una disposición en este artículo facialmente inconstitucional, cuando hay aplicaciones discretas de esa disposición que puede hacerse valer contra una persona, grupo de personas o circunstancias sin violar la Constitución, entonces esas Las aplicaciones se separarán de todas las aplicaciones restantes de la disposición, y la disposición se interpretará, como una cuestión de ciudad ley, como si la ciudad hubiera promulgado una disposición limitada a las personas, grupo de personas o circunstancias por las cuales la aplicación de la disposición no violar la Constitución.
- (3) Si algún tribunal determina que alguna disposición de este artículo es inconstitucionalmente vaga, entonces las aplicaciones de esa disposición que no presenten problemas de vaguedad constitucional serán separados y permanecer en vigor, de acuerdo con las declaraciones de intención de la ciudad en Las subsecciones (a)(1) y (a)(2), y la disposición se interpretarán, como una cuestión de ley de la ciudad, como si la ciudad hubiera promulgado una disposición limitada a la personas, grupo de personas o circunstancias por las cuales la disposición aplicación no presentan problemas de vaguedad constitucional.
- (4) Ningún tribunal puede negarse a hacer cumplir los requisitos de separabilidad en Las subsecciones (a)(1), (a)(2) y (a)(3) sobre la base de que la indemnización “reescribirá” la ordenanza o involucraría a la corte en decisiones legislativas o actividad legislativa. Un tribunal que se niega a hacer cumplir o ordena un localidad o funcionario del gobierno de hacer cumplir un subconjunto de una ordenanza aplicaciones nunca es “reescribir” una ordenanza, como la ordenanza continúa diciendo exactamente lo que dijo antes. Una orden judicial o declaración de inconstitucionalidad no es más que una edicto de no ejecución que siempre puede ser anulado por tribunales posteriores si tienen una comprensión diferente de lo que exige la Constitución; no es una enmienda formal del lenguaje en un estatuto u ordenanza. Una medida cautelar o declaración de inconstitucionalidad no más “reescribe” una ordenanza que una decisión de un funcionario ejecutivo de no hacer cumplir una ley u ordenanza debidamente promulgada en un conjunto limitado y definido de circunstancias
- (5) Si cualquier tribunal federal o estatal ignora o se niega a hacer cumplir la requisitos de las subsecciones (a)(1), (a)(2), (a)(3), o (a)(4), o tiene una disposición de este artículo inválida o inconstitucional en su faz después de no hacer cumplir los requisitos de separabilidad de las subsecciones (a)(1), (a)(2), (a)(3) y (a)(4), por cualquier motivo, entonces el Alcalde tendrá autoridad delegada para emitir una construcción de ahorro de este artículo que evita los problemas constitucionales u otros problemas identificado por el tribunal federal o estatal,

mientras se hacen cumplir las disposiciones de este artículo en la mayor medida posible. La construcción salvadora emitida por el Alcalde tendrá la misma fuerza de ley que una ordenanza; representará la interpretación autorizada de este artículo en ambos procedimientos judiciales federales y estatales; y seguirá vigente hasta que se dicte sentencia judicial que declare la nulidad o prohíba la ejecución de la disposición original de este artículo sea anulada, anulada o invertido

- (6) El Alcalde debe emitir la construcción de ahorro descrita en la Subsección (a)(5) dentro de los 20 días siguientes a la sentencia judicial que declara nula o ordena la aplicación de una disposición de este artículo después de no haber hacer cumplir los requisitos de separabilidad de las subsecciones (a)(1), (a)(2), (a)(3) y (a)(4). Si el Alcalde no emite la construcción de ahorro requerido por las subsecciones (a)(5) dentro de los 20 días posteriores a una decisión judicial que declare inválida o prohíba la ejecución de una disposición de este artículo después de no hacer cumplir los requisitos de separabilidad de Las subsecciones (a)(1), (a)(2), (a)(3) y (a)(4), o si el ahorro del Alcalde construcción no hace cumplir lo dispuesto en el artículo a la máxima medida posible permitida por la Constitución u otras reemplazando los requisitos legales, según lo interpretado por el gobierno federal o estatal judiciales, entonces cualquier persona puede solicitar un auto de mandamus exigiendo al Alcalde que emita la construcción de ahorro descrita en Subsección (a)(5).

D. FECHA DE VIGENCIA

Esta ordenanza entrará en vigor cuando: (1) sea aprobada por el Concejo Municipal, o (2) aprobación de los votantes, lo que ocurra primero.

SECTION 47. - INITIATIVE AND REFERENDUM:

Any proposed ordinance may be submitted to the Council for adoption, and any ordinance or resolution passed by the Council may be submitted to the people for repeal. In either event, the ordinance or resolution proposed to be adopted or repealed shall be set out in written or printed instrument which shall be filed with the City Clerk, and at the time of filing such written or printed instrument, and attached thereto, there shall be filed a statement signed by not less than five (5) voters of the City stating that they have proposed such ordinance or resolution for adoption or repeal, as the case may be, before any signatures are procured to the petitions hereafter provided for.

In the event the ordinance or resolution is one proposed to be adopted, such voters shall be regarded as the initiating committee and in the event it is desired to repeal an ordinance or resolution already existing, such voters shall be regarded as the referring committee.

Before any such ordinance or resolution may be submitted to the Council for action, it shall be necessary that a petition signed by not less than 25% of the number voting at the last regular municipal mayoral election shall be presented to the Council referring to such resolution or ordinance and requesting its adoption or repeal, as the case may be, subject to the following rules:

- A. All such petitions circulated for signatures shall be uniform in character;
- B. The signatures need not be on the same page but to each page shall be attached an affidavit by the circulator of that page, stating:
 - (1) the number of signatures on the page, and
 - (2) that the signatures are genuine, and
 - (3) that the signatures were made in the presence of the affiant;
- C. In order for a petition signature to be valid, a petition must comply with state law;
- D. The petition shall be submitted to the City Clerk for verification of signatures within sixty (60) days from the date of filing the statement of the initiating or referring committee;
- E. Within thirty (30) days thereafter, the City Clerk shall certify to the validity and sufficiency of the signatures; a discrepancy between signature and address on the petition and the name or address on the voter registration list shall not be grounds for invalidation of a signature if the voter registration number is the same;
- F. In the event the City Clerk shall determine there to be a sufficient number of valid signatures, the petition shall be certified and delivered to the Council;
- G. If the City Clerk should find that an insufficient number of valid signatures have been submitted, the City Clerk shall immediately notify the committee specifying the deficiency; within ten (10) days following receipt of said notice, the committee may file an amended

petition. Within ten (10) days after receipt of the amended petition, the City Clerk shall certify to the Council that the petitions are sufficient or insufficient and, if they are sufficient, shall deliver the same to the Council;

- H. Once the Council shall receive a petition duly certified to be valid, the Council shall cause a copy of the proposition presented to be printed in a newspaper of general circulation in the City at least once prior to consideration of the proposition in public hearing and the City Clerk shall mail to each of the members of such initiating committee or referring committee a notice of the time of the regular meeting of the Council when such ordinance or resolution and its adoption or repeal shall be considered or a time then set by such Council for its consideration, which hearing and consideration shall be open to the public, and the public shall be permitted to present arguments for or against such proposed ordinance or resolution.

After such presentation of the petition and public hearing, the Council shall, within thirty (30) days from the date of the submission of such petition, take final action upon the same by either adopting or rejecting the ordinance or resolution thus sought to be referred, and in either event, the action of the Council shall be noted in the minutes. If the Council refuses to pass or repeal the proposed ordinance or resolution or passes the same in a form amended from that presented in the petition, or repeals only a part of such ordinance or resolution, instead of repealing the same in the manner set out in such petition or reference, then in either event, such initiating committee or such referring committee, or a majority thereof, may require that such ordinance or resolution, either in its original or amended form, be submitted to a vote of the voters.

When an ordinance or resolution proposed by petition is to be submitted to the voters for adoption or repeal, after the Council has acted upon same, as provided for in the preceding paragraph, then such initiating or referring committee, as the case may be, upon a majority vote of such committee, shall certify their desire to have the same submitted for adoption or repeal, within twenty (20) days after the Council shall have taken action on the same, and shall file such certificate and statement with the City Clerk. After receipt of such certificate and the certified copy of the proposed ordinance or resolution, the City Clerk shall present such certificate and certified copy of the proposed ordinance or resolution to the Council at its next regular meeting. If any election is to be held, Council shall order a special election in accordance with state law to submit such to the voters.

The form of the ballot for use in an election held for the adoption of any initiated ordinance shall state the title of the ordinance and contain a succinct statement of its nature and purpose and below such statement, in separate lines, there shall be printed the words: FOR THE ORDINANCE - AGAINST THE ORDINANCE. If a majority of the voters in such election shall vote in favor thereof, it shall thereupon become an ordinance of the City when the result of such election shall have been declared.

The form of ballot for use in an election held for the repeal of any referred ordinance or resolution shall state the title of the ordinance or resolution and contain a succinct statement of the nature and purpose of the ordinance or resolution sought to be repealed, and below such statement, in separate lines, there shall be printed the words: FOR THE REPEAL OF THE ORDINANCE (OR RESOLUTION) - AGAINST THE REPEAL OF THE ORDINANCE (OR RESOLUTION). If a majority of the voters in such election shall vote in favor of the repeal of such ordinance or resolution, then the same shall be considered repealed, when the result of such election shall be declared.

Provided, however, that nothing contained in this section shall affect the manner of calling elections to determine whether or not franchises shall be granted.

The foregoing Section providing the remedy of Initiative and Referendum shall not apply in such a way as to bring about the repeal of any Ordinance or Resolution on the authority of, which any sale, contract or conveyance shall have been made by said City.

(Amended 5-6-89, 11-16-07, 5-18-10 and 11-12-15)

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Carl White, Parks and Recreation Director, Parks and Recreation, 325-657-4450

Meeting Date: March 1, 2022

Item type: Regular Item

Caption:

Consider authorizing the City Manager to negotiate and execute a Fourth Amendment to the Commercial Lease Agreement - Spring Creek Marina with Golden Antlers, Inc, Lessee, with an updated development site plan (Presentation made by Parks & Recreation Director Carl White)

Staff Recommendation:

Approve

Summary/History:

Golden Antlers, LLC, lessee of the Spring Creek Marina, is requesting approval of a modified site plan for development of the newly leased area. Attached is the current lease showing the presently approved site plan, which is Exhibit "A-3". Also attached is the requested modified site plan. Adjustments to the site plan include: shifting one row of RV spaces away from the water's edge, the restroom location moved near to the center of the site (near the lift station), the splash pad location shifted nearer to the tip of the property, the parking area slightly adjusted, a dog run added, the pavilion location shifted to the east, a water tank added for fire suppression, and the dining area near the tip of the site modified.

As required by the Planned Development Zoning and Ordinance, this modified site plan was considered and approved by the Planning Commission earlier this winter. The Planning Commission had one condition of approval, "The applicant shall submit a revised concept plan to the Planning Director for approval that removes the former proposed restroom building in front of the west parking lot." In addition and referring to the "natural buffer" area on the site plan, the Planning Commission reiterated, "No development shall take place within this natural buffer."

We are bringing this request to modify the site plan to Council for consideration of approval because our lease with Golden Antlers, LLC states, "Lessee's development shall be limited to the improvements and related infrastructure depicted in the Site Plan presented and finally approved by City Council at its regular meeting on October 1, 2019, which is attached hereto and incorporated herein for all purposes as Exhibit 'A-3'. Deviations from the Site Plan shall require written approval by City Council."

Funding Source(s):

Financial Impact:

There is no new fiscal impact associated with this item.

Other Information/Recommendation:

Attachments:

- | | | |
|----|--|--|
| 1. | Second Amendment to Spring Creek Marina agreement for additional property executed | Second Amendment to Spring Creek Marina agreement for additional property executed.pdf |
| 2. | spring.creek.rev (1) | spring.creek.rev (1).pdf |
| 3. | Spring Creek Marina site plan amendment | Spring Creek Marina site plan amendment.pptx |

Presentation:

Carl White

Approvals/Reviews:

Carl White	Created/Initiated
Allison Strube	Approved
Theresa James	Approved
Tina Dierschke	Approved
Julia Antilley	Final Approval

**SECOND AMENDMENT TO
COMMERCIAL LEASE AGREEMENT
SPRING CREEK MARINA**

THIS SECOND AMENDMENT TO COMMERCIAL LEASE AGREEMENT SPRING CREEK MARINA (the "First Amendment") is made and entered into by and between the CITY OF SAN ANGELO, a Texas municipal corporation (Lessor), whose address is 72 West College, San Angelo, Tom Green County, Texas 76903; and, GOLDEN ANTLERS CORP, a Foreign For-Profit Corporation, (Lessee), effective the 3rd day of November, 2020.

WHEREAS, the City of San Angelo and Lee Brown and wife, Gale Brown entered into a certain lease agreement, entitled COMMERCIAL LEASE AGREEMENT SPRING CREEK MARINA, dated November 20, 2015, (the "Lease Agreement") wherein Lessee leased premises consisting of approximately 12.025 acres at Lake Nasworthy commonly known as Spring Creek Marina and R.V. Park; and,

WHEREAS, said Lease was transferred by Lee Brown and wife, Gale Brown to Seven K's Enterprises of WY, Inc., a Wyoming corporation, doing business in Texas as Spring Creek Marina Inc., by Permission to Transfer Lake Nasworthy Lease, dated December 16, 2015, and recorded as Instrument Number 20151178, Official Public Records, Tom Green County, Texas; and,

WHEREAS, said Lease was transferred by Seven K's Enterprises of WY, Inc. to Golden Antlers Corp, by Permission to Transfer Commercial Lease Agreement Spring Creek Marina at Lake Nasworthy, dated June 27, 2019, and recorded as Instrument Number 201908510, Official Public Records, Tom Green County, Texas; and,

WHEREAS, a first amendment to the Lease effective November 1, 2019 was approved by Council and allowed for an additional 25.35 acres to be added to the leased area with requirements for Council approval for concerts or similar events requiring staging, amplified sound systems; and,

WHEREAS, Lessor and Lessee desire to amend the Lease Agreement to allow concerts or similar events to occur on the premises without additional Council approval and to adjust the consideration paid for the additional leased premises; and,

NOW THEREFORE, for and in consideration of the premises undertakings and mutual covenants of the parties set forth herein, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by each of the parties, it is agreed by and between the parties hereto that the Lease Agreement is amended as follows:

A. Section entitled "TERM AND CONSIDERATION", Subsection 1., is hereby amended as follows:

TERM AND CONSIDERATION

1.

- a. **Initial Term. Tract 1:** This lease is granted for a period of twenty (20) years beginning November 1, 2015 and ending October 31, 2035 in consideration of (1) the annual payment of Eleven Thousand Three Hundred Forty-Six Dollars (\$11,346.00) during the first ten (10) years of the lease, subject to a twenty percent (20%) rent adjustment at the end of this time, based upon a two percent (2%) per year increase with the annual fee to be Thirteen Thousand Six Hundred Fifteen Dollars (\$13,615.00) for the period of November 1, 2025 to October 31, 2035, which payment is payable in advance quarterly installments, the first installment being due and payable on November 1, 2025; (2) the payment of Two Hundred Dollars (\$200.00) granting fee at the time of executing this lease; and (3) Lessee's compliance with the stipulations and conditions hereinafter set forth.
- b. **Initial Term. Tract 2:** This lease is granted for the period beginning November 1, 2019 and ending October 31, 2035. Rent concerning Tract 2 shall be calculated in accordance with the following schedule:

<u>Time Period</u>	<u>Annual Rent</u>
November 1, 2019 – October 31, 2023	\$2,390.50
November 1, 2023 – October 31, 2025	\$21,346.74
November 1, 2025 – October 31, 2035	\$25,616.09*

B. The Section entitled "PROHIBITED EVENTS" is hereby amended and shall read as follows: "In no event shall the Leased Premises be utilized to host concerts or similar events requiring variances from City Ordinance requirements unless otherwise authorized by City Council through the Special Events process. A traffic and security plan and all necessary health approvals shall be acquired in writing from the San Angelo Police Department and the Tom Green County Health Department prior to any event to which the general public is invited or tickets are sold.

C. In the event of conflict between the terms or conditions of this Second Amendment and the Lease Agreement or First Amendment, the terms or conditions of this Second Amendment shall prevail. In all other respects, the terms and conditions of the Lease Agreement and First Amendment shall remain in full force and effect.

(Signature Page to Follow)

EXECUTED this 16th day of December, 2020.

LESSOR:
CITY OF SAN ANGELO

BY: [Signature]
Daniel Valenzuela, City Manager

LESSEE:
GOLDEN ANTLERS CORP

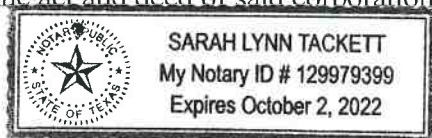
BY: [Signature]
Raymond Broadway, President

Attest:

[Signature]
Julia Antilley, City Clerk

STATE OF TEXAS §
COUNTY OF TOM GREEN §

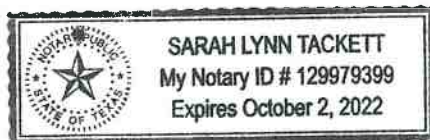
This instrument was acknowledged before me on the 16th day of December, 2020, by **RAYMOND BROADWAY**, President of **GOLDEN ANTLERS CORP**, a Nevada corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to met that he had executed the same for the purposes and considerations therein expressed, as the act and deed of said corporation, and in the capacity therein stated.



[Signature]
Notary Public, State of Texas

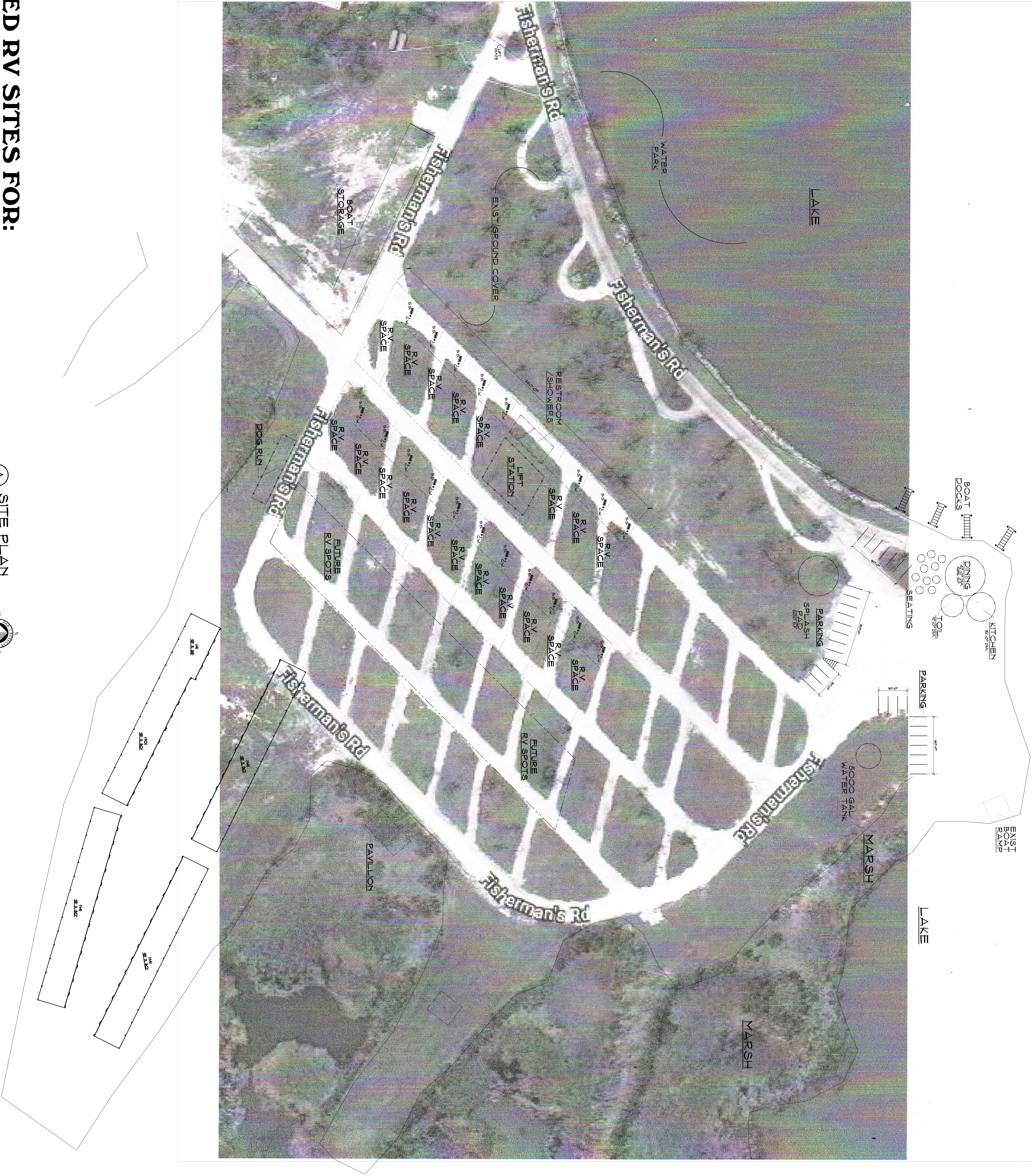
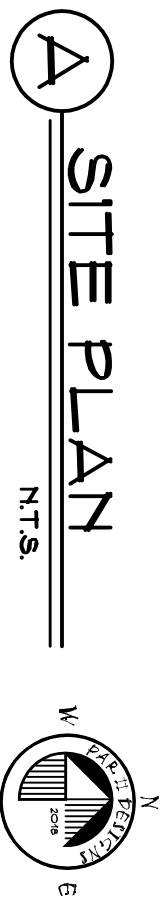
STATE OF TEXAS §
COUNTY OF TOM GREEN §

This instrument was acknowledged before me on the 8th day of December, 2020, by **DANIEL VALENZUELA**, as City Manager, of the **CITY OF SAN ANGELO**, a Texas municipal corporation, on behalf of said corporation.



[Signature]
Notary Public, State of Texas

PROPOSED RV SITES FOR:
SPRING CREEK MARINA
SAN ANGELO, TEXAS



DATE ISSUED: NOVEMBER 30, 2021 REVISED:	PREPARED BY: PAR 11 DESIGNS P.O. BOX 441 ODESSA, TEXAS 79760 OFFICE: (432) 340-4106 FAX: (432) 272-5166
SHEET NO. A-1 OF 1 A SHEETS	

© COPYRIGHT, PAR 11 DESIGNS 2018. FEDERAL COPYRIGHT PROTECTION EXTENDS TO DERIVATIVE PLANS. IS APPLICABLE TO INTERIOR & EXTERIOR ARCHITECTS AND PROVIDES FOR SPECIFIC STATUTORY DAMAGES BOTH CIVIL & CRIMINAL. UNAUTHORIZED REPRODUCTION IN ANY FORM IS STRICTLY PROHIBITED & FORFEITS.
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PROPOSED RV SITES FOR: SPRING CREEK MARINA 2680 CAMPER RD. SAN ANGELO TEXAS	THE GENERAL CONTRACTOR AND/OR ALL SUBCONTRACTORS WORKING FROM THESE PLANS AND SPECIFICATIONS ARE NOT TO SCALE. SUCH INFORMATION SHOULD BE OBTAINED FROM THE RELEVANT MEASUREMENTS. IF SUCH MEASUREMENTS DO NOT APPEAR CORRECT, AND UP PROPERTY OR SCALE CORRECTLY TO THE INDICATED SIZE.
---	--





City Council

March 1, 2022

Spring Creek Marina
Site plan amendment

Carl White
Parks & Recreation

Spring Creek Marina

- **Planning Commission approved the Major Site Plan within PD18-03 allowing for additional accessory uses: new restaurant, water tank and additional parking**
- **One condition was removal of proposed restroom by west parking area**
- **Final site plan submitted**
- **“Natural buffer” area to have no development**

Spring Creek Marina

- **Site plan adjustments:**
 - **Shifted one row of RV spaces away from water's edge**
 - **Restroom location moved near to center of site, near lift station**
 - **Splash pad location shifted nearer to tip**
 - **Parking area slightly adjusted**
 - **Dog run added**

Spring Creek Marina

- **Site plan adjustments, continued:**
 - **Pavilion location shifted**
 - **Water tank added for fire suppression**
 - **Dining area modified**

Spring Creek Marina

- This item before Council for consideration because Section D of the First Amendment to our lease that added this property states, “Deviations from the Site Plan shall require written approval by City Council.”

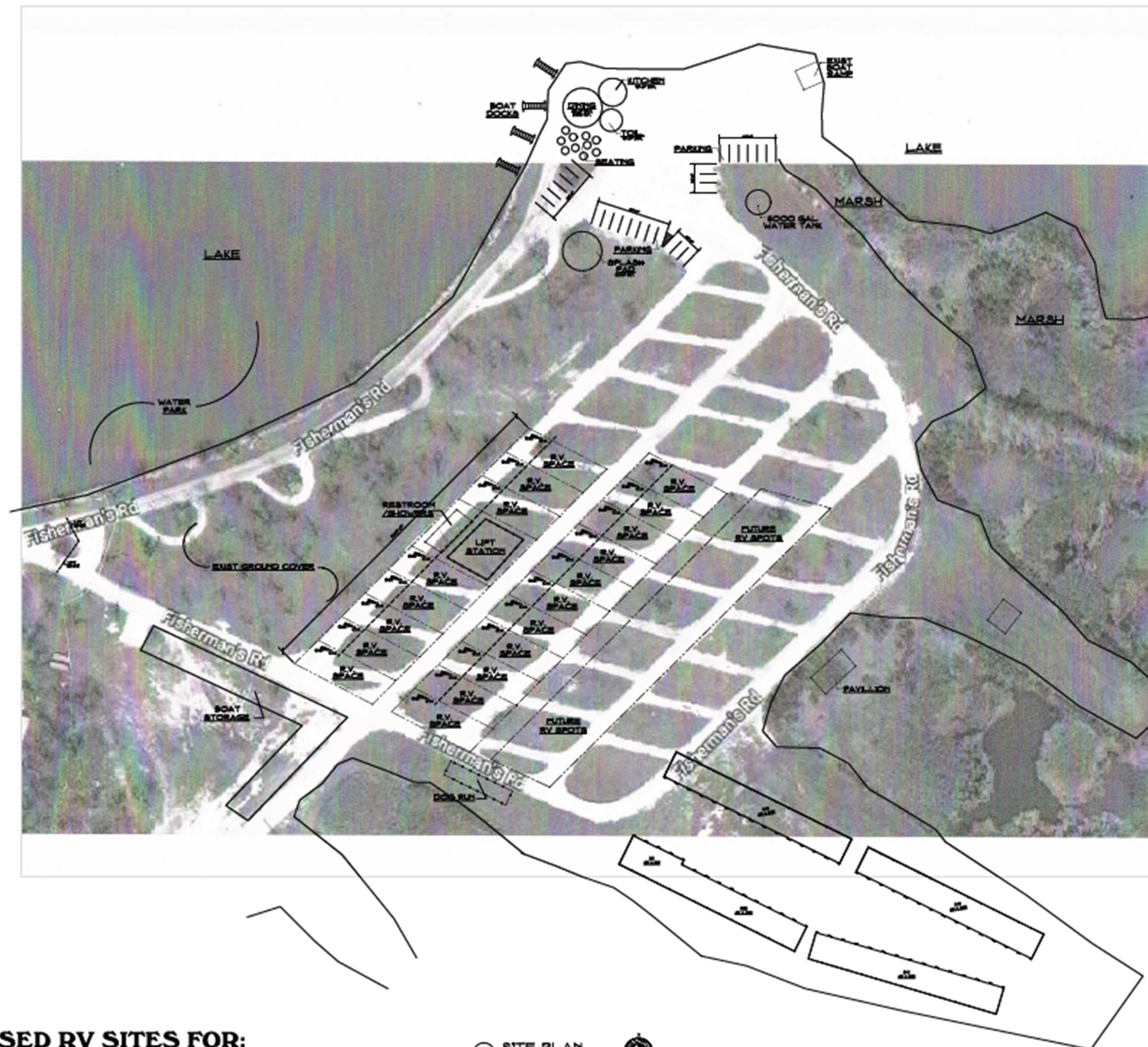
The site plan for Spring Creek Marina shows a layout of proposed RV sites, boat storage areas, and other facilities. Key features include:

- RV Sites:** A large area designated for RV sites, with individual sites numbered 1 through 100.
- Boat Storage:** Several areas labeled "BOAT STORAGE" are shown, including a large area near the center and smaller areas near the water.
- Facilities:** A "RESTROOM / SHOWERS" building, a "CANTINA", and a "BOAT TRAILER PARKING" area are located near the top of the plan.
- Water Features:** The marina is situated on a lake, with a "WATER PARK" area to the left. "BOAT DOCKS" are shown along the shoreline.
- Access:** "FISHERMAN'S ROAD" is shown as the main access road to the marina.
- Other Features:** A "PLAY AREA" is located near the RV sites, and an "EXISTING RESIDENCE" is shown at the bottom left.

The plan also includes a north arrow and a scale bar indicating a distance of 100 feet.

**PROPOSED RV SITES FOR:
SPRING CREEK MARINA
SAN ANGELO, TEXAS**

Revised site plan



PROPOSED RV SITES FOR:
SPRING CREEK MARINA
SAN ANGELO, TEXAS

Ⓐ SITE PLAN
N/A

Spring Creek Marina

- **Approval of the site plan adjustments – amending lease amendment Exhibit A-3**
- **Direction on lease language requiring Council approval for site plan “deviations”**

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Ryan Kramer, Sr. Fleet Manager, Fleet Services, 325-657-4329

Meeting Date: March 1, 2022

Item type: Regular Item

Caption:

Consider awarding FS-03-22 Dump Trucks to multiple vendors in the amount of \$988,997, for the purchase of five units with the option to purchase two additional units (utilizing Water Reclamation operating budget and fund balance from Stormwater and General Funds), and authorizing the City Manager to negotiate and execute all related documents (Presentation made by Senior Fleet Manager Ryan Kramer)

Staff Recommendation:

Approve

Summary/History:

Bids were requested and received for the purchase of dump trucks. This RFB was sent to multiple local and out-of-town vendors, with two responses received (TNTX Truck Group, San Angelo and Roberts Truck Center, San Angelo). The units purchased under this award will replace units that have exceeded their intended life expectancy or for use as needed.

The trucking industry is experiencing unprecedented delays and lack of availability of new vehicles. Pricing on new units is also extremely volatile with pricing increases being assessed frequently. Thus, Staff requests award to multiple vendors for the purchase of all trucks currently available. While Staff is taking advantage of availability and pricing now, current units are in need of replacement, nonetheless.

One truck will be purchased using Water Reclamation capital funds. Two trucks will be purchased using Stormwater fund balance. One truck will be purchased using funding from the General Fund Equipment Replacement Fund Balance, and one truck from General Fund Equipment Replacement FY'23 allocation. The option to purchase two additional trucks due to unforeseen circumstances is also requested .

Due to market inflation and extended delivery times, surcharges from the manufacturer or body builder could be added before the trucks are delivered. Council award does allow up to a 20% price increase due to these factors. If pricing changes more than 20%, Council approval will be needed.

Funding Source(s):

Fund:	Account:	Project Number:	Amount Budgeted:
270	27054008000742		\$143,436.97
240	24058008000742		\$286,873.94
501	50132008000742		\$271,812

Financial Impact:

Award of FS-03-22 Dump Trucks to multiple vendors in the amount of \$988,997, for the purchase of five units (\$702,122.91) with the option to purchase two additional units (\$286,874.09). Purchases will be made from Water Reclamation capital funds, FY'22 General Fund Equipment Replacement Fund Balance, allocated FY'23 General Fund Equipment Replacement Funding, and Stormwater Fund Balance.

Other Information/Recommendation:

Staff recommends awarding FS-03-22 Dump Trucks to multiple vendors in the amount of \$988,997, for the purchase of five units (\$702,122.91) with the option to purchase two additional units (\$286,874.09) due to unforeseen circumstances.

Attachments:

- | | | |
|----|-------------------------|-----------------------------|
| 1. | FS-03-22 Bid Tabulation | FS-03-22 Bid Tabulation.pdf |
| 2. | Fleet Services BA Memo | Fleet Services BA Memo.pdf |

Presentation:

Ryan Kramer

Approvals/Reviews:

Ryan Kramer	Created/Initiated
Patrick Frerich	Approved
Shane Kelton	Approved
Theresa James	Approved
Jeffrey Tomlinson	Approved
Tina Dierschke	Approved
Theresa James	Approved
Julia Antilley	Final Approval

**RFB Bid Tabulation**

FS-03-22 • Dump Trucks II: New and Unused 12 Yard Dump Truck

Tuesday, February 15, 2022 2:30 p.m.

Item Number	Item	Quantity Required	ROBERTS TRUCK CENTER		TNTX TRUCK GROUP SAN ANGELO	
			Unit Price	Comment	Unit Price	Comment
#1-1	New and Unused 12 Yard Dump Truck	2	\$ 135,936.97	12-14 Months out	\$ 131,554.00	ETA build of (1) unit in 3rd qtr and (1) unit in the 4th qtr of 2022. Allow 30 to 45 days after completion by the trk mfg for Davis Body to install the body(s) and 15 days to have units delivered to customer. Please note: Delays caused by supply chain issues that are beyond our control, are not the dealer nor the manufacturers responsibility. Material and components surcharges may be applied after order date and documentation of those increase will be provided by said vendors to the city. If the city decides not to accept the charges, the order can be canceled without recourse.
#1-2	Make and Model Quoted	0	\$ -	Intl HV607 6x4 Dump Truck	\$ -	2023 Model Year Freightliner M2 -106 6x4 Dump Truck
#1-3	Delivery Lead Time	0	\$ -	12-14 Months from time of Purchase	\$ -	Note:ETA build of (1) unit in 3rd qtr and (1) unit in the 4th qtr of 2022. Allow 30 to 45 days after completion by the trk mfg for Davis Body to install the body(s) and 15 days to have units delivered to customer. Please note: Delays caused by supply chain issues that are beyond our control, are not the dealer nor the manufacturers responsibility. Material and components surcharges may be applied after order date and documentation of those increase will be provided by said vendors to the city. If the city decides not to accept the charges, the order can be canceled without recourse.
#1-4	Extended Warranty	1	\$ 3,500.00	Includes Engine/Aftertreatment & Trans	\$ 2,852.00	Note Qty 1. This is per unit.
#1-5	Parts, Service, and Operator Manuals	1	\$ -	Included	\$ -	Available on line at www.freightliner.com
#1-6	Rear Hitch System	1	\$ 4,000.00	Option	\$ 1,500.00	40K rear pintle hitch, 2 inch receiver hitch with 7 way rv plug and electric brake controller. Note Qty 1. This is per unit.
#1-7	Pre-Collision Assist	1	\$ -	Not Available currently	\$ 7,895.00	Based on availability of components. Expect 90 to 120 additional lead time. Note Qty 1. This is per unit.

Memo

To: Tina Dierschke, Finance Director
From: Patrick Frerich Asst. Director of Operations
Date: 02/21/2022
Re: Budget Amendment Request

Purpose of Budget Amendment Request:

Purchase dump trucks to replace trucks that have exceed their life expectancy.

Source of Funding:

2 units from Stormwater fund balance and 2 units from General Capital (one from fund balance and one from FY23's General Fund's capital allocation)

Funding previously approved? If so, by City Manager or City Council and when?

No

Project/Budget to be amended	Revenue	Expense
Stormwater Capital		290,000
General Capital Fund	139,000	278,000

Additional Comments:

Per the Budget Policy section XIII (C) 3: Changes to the budget that are necessary for purchases, grants, or interlocal agreements if the City Council agenda caption of the item clearly states the funding source and the amount of the item. The background memo must clearly show all funds impacted by the expenditure. If these requirements are met, the agenda item serves as final approval by City Council for the expenditure and the amendment to the budget.

Financial Impact

\$ 707,000

Fund Adjustments

Fund	Total Revenue Amendment	Total Expense Amendment	Net Benefit/(Cost)
General Fund		139,000	(139,000)
General Equipment	139,000	278,000	(139,000)
Stormwater		290,000	(290,000)
	\$ 139,000	\$ 707,000	\$ (568,000)

Additional Info

			Net Total
Dump Trucks	139,000	707,000	(568,000)
	\$ 139,000	\$ 707,000	\$ (568,000)

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Jeff Fisher, Sr. Planner, Planning and Development Services, 325-657-4210

Meeting Date: March 1, 2022

Item type: Regular Item

Caption:

First reading and public hearing of an ordinance amending Chapter 12 "Planning & Development," Exhibit C "Land Development and Subdivision Ordinance," Chapter 9 "Land Development and Subdivision Design Policies" replacing in its entirety Section V "Sidewalks" and amending Chapter 3 "Definitions" (Presentation made by Planning & Development Services Director Jon James)

Staff Recommendation:

Adopt

Summary/History:

The applicants have submitted this rezoning request to change the current zoning from Single-Family Residential (RS-1) to General Commercial (CG) for future commercial development.

Funding Source(s):

Financial Impact:

N/A

Other Information/Recommendation:

On January 24, 2022, the Planning Commission voted 5-1 to approve the text amendment as recommended by staff, except removing the requirement for sidewalks on local and minor collector streets in single-family residential subdivisions. Chair Stribling and Commissioners Uherik, Aguirre, Davis, and Self voted in favor, and Commissioner Spano voted against.

Attachments:

- | | | |
|----|---|--|
| 1. | CC Memo (2022-03-01) - Sidewalk Ordinance | CC Memo (2022-03-01) - Sidewalk Ordinance.docx |
| 2. | Planning Ordinance (Sidewalks) 2022-March (2) | Planning Ordinance (Sidewalks) 2022-March (2).docx |
| 3. | Sidewalk Ordinance - City Council 1st Reading | Sidewalk Ordinance - City Council 1st Reading.docx |

Presentation:

Jon James

Approvals/Reviews:

Jeff Fisher

Created/Initiated

Zachary Rainbow
Jon James
Brandon Dyson
Jon James
Theresa James
Julia Antilley

Approved
Approved
Approved
Approved
Approved
Final Approval



Memo

To: City Council
From: Jon James, Director of Planning & Development Services
Date: March 1, 2022
Re: Proposed ordinance changes regarding sidewalks

City staff has been working on an update to the *Land Development and Subdivision Ordinance* to clarify and update the provisions regarding when and where sidewalks will be required in new development.

Over the past couple of years, staff has reviewed the state of best practices for sidewalks, including reviewing other cities ordinances. In addition, we have met with the Development Task Force, a voluntary group from the development community with whom we have regular meetings every other month. The topic of sidewalks has been discussed by that group at least 5 times over the past 2 years. Staff has also reached out to other citizens and community groups who have expressed interest in the sidewalk ordinance. Although we have not held formal meetings with them, we have a contact list and have shared a draft of the ordinance, as well as background information and solicited feedback.

The attached draft ordinance has been recommended for approval by the Planning Commission. Throughout the process there has been broad agreement on many items, including standards for sidewalks along major streets and in non-residential areas. The major area where there was not consensus was whether to require sidewalks on minor streets within new single-family residential development. Staff presented a recommended ordinance that would have required sidewalks in most new development, including new single-family neighborhoods, consistent with all but one of our peer cities and almost all of the 50 largest cities in Texas. However, this received significant opposition from the development community, in particular the home builders. After lots of discussion and some compromise, the Planning Commission voted to approve the attached ordinance that does not require sidewalks in new neighborhoods but does require sidewalks on major streets and in non-residential areas.

Background

The City of San Angelo currently has street standards that are often substantially wider than those of our peer cities. The rationale for this is that in previous years when more comprehensive sidewalk requirements were discussed, the City Council at that time, rather than adopting a sidewalk requirement, instead adopted an alternative, which allows EITHER a narrower street with sidewalks OR a wider street without sidewalks. The idea being that wider streets would allow for pedestrians to use the outer edge of the roadway in lieu of a sidewalk. In most cases, developers chose to build the wider streets without sidewalks. Although this may work for some low-speed residential streets, this solution has proven ineffective for other streets in the community. This has resulted in development over recent decades that is often unfriendly to pedestrians and effectively discourages all but the most committed citizens from traveling by foot in large parts of the community.

Therefore, staff is proposing a combination of changes to development regulations to both reduce street widths in most cases, while at the same time instituting a more comprehensive sidewalk requirement. While this would result in increased costs for sidewalk construction, developers would also see cost savings in street construction reducing the overall impact. In addition, these narrower street standards would benefit the City by reducing long-term street maintenance costs. *This particular agenda item is the proposed revision to the sidewalk requirements. There is a second companion item that addresses street widths.*

Sidewalks

Currently, the provision in the ordinance regarding sidewalks is very general and says that the City “may require” sidewalks in some circumstances, but largely leaves that discretion up to the Planning Commission for subdivision plats and to the City staff for development plan review. Staff shares the concern of the development community that it would be better if the ordinance more clearly defined when and where sidewalks are required with less case-by-case discretion by staff and the Planning Commission.

The City’s adopted Comprehensive Plan establishes objectives related to improving the pedestrian system in the City for both recreation and transportation purposes. To follow up on this commitment to improving walkability in the City, an updated sidewalk ordinance is a necessary requirement to achieve this goal.

A survey prepared by Angelo State University for the San Angelo Metropolitan Planning Organization (MPO) in 2013 found that citizens are generally very supportive of improvements to the pedestrian system in the community, including 86% who believe that the City should establish sidewalk standards for future development. Another survey performed by the MPO in 2015 found that 75% believed that San Angelo would benefit from more sidewalks throughout the city.

Most of our closest comparable cities (Abilene, Amarillo, Killeen, Lubbock, Midland, Odessa, and Wichita Falls) all require sidewalks in most new development, including in new residential areas. San Angelo and Waco are the only ones that do not. Similar to these other cities, this draft ordinance includes a number of exceptions in areas where sidewalks would not be required, such as rural development, industrial areas, and already developed neighborhoods.

Summary of proposed sidewalk standards

- Sidewalks will continue to be triggered by plats, replats, and site plans, but may be deferred to construction.
- Sidewalks will be required on all major collectors and arterial streets.
- Sidewalks will generally not be required on local streets or minor collectors. However, there are some exceptions as noted below.
- Sidewalks will be required outward from commercial, parks, schools, churches, and similar properties extending to the next street intersection, up to a maximum of 300 feet, even into adjacent residential areas that would otherwise not require sidewalks.
- Waivers or deviations can be approved by staff (most now require Planning Commission approval) but can be appealed to the Planning Commission and City Council.

AN ORDINANCE OF THE CITY OF SAN ANGELO TEXAS, AMENDING CHAPTER 12 "PLANNING AND DEVELOPMENT," EXHIBIT "C" "LAND DEVELOPMENT AND SUBDIVISION ORDINANCE," CHAPTER 9 "LAND DEVELOPMENT AND SUBDIVISION DESIGN POLICIES" BY REPLACING IN ITS ENTIRETY SECTION V "SIDEWALKS"; AMENDING CHAPTER 3 "DEFINITIONS"; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of San Angelo has adopted a Land Development and Subdivision Ordinance establishing a process for the development, subdivision, and platting of land within the corporate limits of the City and within its extra territorial jurisdiction; and,

WHEREAS, the ordinance provides a process for the subdivision of land that includes the authority and functions of the Planning Director, Planning Commission, and City Council in the subdivision and platting process;

WHEREAS, after having held a public hearing, considered public comment, and considered recommendations from City staff and Planning Commission, City Council desires to amend the ordinance as it relates to sidewalk requirements imposed through the subdivision process.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SAN ANGELO, TEXAS

Section 1. That Chapter 12 "Planning and Development", Exhibit C "Land Development and Subdivision Ordinance" of the City of San Angelo Code of Ordinances is hereby amended as shown on Exhibit A.

Section 2. The terms and provisions of this ordinance shall be deemed to be severable in that if any portion of this ordinance shall be declared to be invalid, the same shall not affect the validity of the other provisions of this ordinance.

Section 3. This Ordinance shall be effective on, from and after the date of adoption.

INTRODUCED with public hearing the 1st day of March, 2022, and finally PASSED this 15th day of March, 2022.

THE CITY OF SAN ANGELO, TEXAS:

Brenda Gunter, Mayor

ATTEST:

Julia Antilley, City Clerk

APPROVED AS TO CONTENT:

Jon James, Director of Planning and
Development Services

APPROVED AS TO FORM:

Theresa James, City Attorney

Replace in its entirety **Chapter 9, Section V. Sidewalks** to read as follows:

“

A. Purpose

1. The purpose of these sidewalk standards is to promote the health, safety, and welfare of residents, property owners, and visitors to the City of San Angelo and to implement the vision and strategies of the San Angelo Comprehensive Plan.
2. These standards will:
 - a. Improve the safety of walking by providing separation from motorized transportation and improving travel surfaces for pedestrians.
 - b. Improve public welfare by providing an alternate means of access to transportation and social interaction, especially for children, other citizens without personal vehicles, or those with disabilities.
 - c. Facilitate walking as a means of physical activity recognized as an important provider of health benefits.
 - d. Establish minimum criteria for the development of sidewalks as a part of the pedestrian element of the transportation system within the City and the area within the extraterritorial jurisdiction (ETJ) in which the City reviews subdivisions per agreement with the County.

B. Policy Statements

1. Where this document is silent, the design of pedestrian facilities shall follow standards applicable under State and Federal laws and regulations, including but not limited to Texas Accessibility Standards (Texas Department of Licensing and Regulation) and Public Right-of-Way Accessibility Guidelines (US Access Board), as amended.
2. Public sidewalks in the public right-of-way or public access easement must comply with the City's **Standard Specifications and Details for Construction**, as promulgated by the City Engineer.
3. These requirements are intended to apply within the City and the area within the extraterritorial jurisdiction (ETJ) in which the City reviews subdivisions per agreement with the County.
4. These requirements are intended to apply to both public and private streets.
5. These requirements do not apply to residential infill developments located within the City of San Angelo where there are existing streets adjacent to the property except when meeting criteria in Section D.2.

C. General Requirements

1. Except for permitted waivers and deviations as provided under Part F of this Section V, sidewalks, where required by this ordinance, shall have a minimum clear path width of four feet on local and minor collector streets in districts zoned for primarily single-family residential purposes and a minimum clear path width of five feet in all other zoning districts.
2. The timing of sidewalk construction shall be as required by this Ordinance, or as approved by the Planning Commission.
3. Except for permitted waivers and deviations as provided under Part F of this Section V, at any time an existing sidewalk is removed from a location that would be required to have a sidewalk per this ordinance, the property owner shall contemporaneously construct a new sidewalk to standards required under this ordinance, unless such removal is authorized in writing by both the City Engineer and Planning Director.
4. Except as otherwise provided under this Section V or adopted City policy, the property owners shall be responsible for maintenance of the sidewalks within the parkway adjacent to their property, or within a public sidewalk easement on their property, in a safe, functional condition consistent with applicable sidewalk design standards, unless such maintenance is explicitly performed by another entity, such as on roadways maintained by the Texas Department of Transportation.
5. Internal pedestrian circulation shall be provided by sidewalk(s) or other like improvement in any development serving commercial, retail, office, service or similar use and at any publicly accessible governmental facility, school, church, or other place of public assembly. Sidewalks, or other accessible pedestrian routes, shall be designed and installed to connect buildings to one another and to handicap-accessible parking spaces, and to connect the development to the public street system. All such sidewalks or routes serving commercial, retail, office, service or similar use and at any publicly accessible governmental facility, school, church, or other place of public assembly shall be protected from encroachment by parked vehicles so that a minimum clear path width of four feet is maintained.
6. Where it is not possible, or not desirable, to locate a public sidewalk within the public right-of-way, the sidewalk may be placed within a public access easement.
7. The clear path of a required sidewalk shall be separated from the back of curb or edge of pavement by a minimum of 5 feet along arterial and major collector streets.
8. Sidewalks may be adjacent to the back of curb on local and minor collector streets if 5 feet in width or may be 4 feet in width if separated 3 feet from back of curb.
9. Sidewalks are not required for a property with RS zoning, except when meeting criteria in Section D.2.

10. Sidewalks existing as of January 1, 2022 with a clear path width of at least 3 feet will satisfy sidewalk requirements regardless of placement within the external right-of-way until redevelopment, replacement or reconstruction at which time the sidewalks should be brought into full compliance.

D. Where Sidewalks are Required

1. Sidewalks shall be required to be constructed with new development on both sides of major collector streets, arterial streets, and the external sides of the frontage roads of freeways. The property owner or developer is only responsible for the required sidewalk on the side of the street or streets adjacent to their property.
2. Sidewalks shall be required along block faces of local streets or minor collector streets in the following areas:
 - a. The Central Business District designated by the San Angelo Comprehensive Plan or the City's Zoning Ordinance.
 - b. Designated pedestrian routes in a corridor plan or Safe Routes to School Plan adopted by the City Council of the City of San Angelo.
 - c. Locations in which a property has a public sidewalk along at least 50% of the same block face within the same zoning district.
 - d. Locations extending from commercial developments, schools, parks, and churches along abutting street to the next street intersection, up to but not to exceed a maximum of 300 feet.
 - e. Street frontage abutting a property in the Multifamily (RM), Neighborhood Commercial (CN), Office Commercial (CO), General Commercial (CG), and General Commercial/Heavy Commercial (CG/CH) zoning districts.

E. When Sidewalks are Required

1. Sidewalks shall be constructed concurrently at the time of road construction on streets where the street abuts non-development areas such as common areas, drainage features, utility rights-of-way, or publicly owned areas. Otherwise, sidewalks may be deferred by the Planning Commission, the City Council, a Performance Agreement, or a Developer's Agreement, to until such time improvements are constructed on the property.
2. No site plan may be approved for development on any property unless provisions for sidewalks are included on the site plan where required by this ordinance.
3. A certificate of occupancy may not be issued until sidewalks where required by this ordinance are installed or brought up to applicable standards, except per an approved deferral guaranteed by a performance agreement or financial guarantee.

F. Waivers & Deviations

1. A complete waiver of the requirement for sidewalks should be allowed only where there are unusual factors or circumstances. The waiver must be defined in writing, include data supporting the basis for granting the waiver, and be approved by both the Planning Director and the City Engineer. Unusual factors or circumstances may include:
 - a. projects where the cost of establishing sidewalks or walkways would be unreasonably disproportionate to the cost of the associated roadway construction or overall project costs (however a partial waiver may be granted in lieu of a full waiver to reduce the cost of required sidewalks such that the costs will not be unreasonably disproportionate);
 - b. areas with topography or other natural constraints that make proper implementation of this ordinance impractical;
 - c. situations inherently adverse to pedestrian traffic, such as substantial truck traffic or other circumstances that present health and safety concerns, more prone in agricultural, heavy commercial, and industrial developments; or
 - d. other factors or circumstances constituting reasonably justifiable good cause to support such waiver.
2. Deviations from the requirements of this Section V or from the city's Sidewalk Design Standards may be allowed when necessary due to the physical circumstance of the street, or when necessary to accomplish adopted development goals of the City, or in situations where an applicant can show other factors or circumstances amounting to reasonably justifiable good cause to support such a deviation.
 - a. The specific nature and justification for permitting a deviation must be described in writing, include data supporting the basis for granting the described deviation, and approved by both the Planning Director and the City Engineer.
 - b. Deviations should be minimal and consist primarily of changes to required width of clear path or alignment within the right-of-way.
 - c. Deviations shall not allow a minimum clear path width of less than 3 feet.
3. A denial in whole or part of a request for a waiver or deviation of these requirements may be appealed to the Planning Commission.
 - a. A written appeal must be filed with the Planning Director within 30 days of service upon the property owner or developer of a written notice of the denial of the requested waiver or deviation.
 - b. The written notice of appeal must provide justification for the requested waiver or deviations based on the criteria described in F.1. and F.2. above. The Commission shall make findings based on these criteria. The Commission may sustain the denial or grant the application for waiver or deviation in whole or in part.
4. The applicant or Planning Director may appeal the decision of the Planning Commission to the City Council.

- a. A written appeal must be filed with the Planning and Development Services Department within 30 days of service of the Planning Commission decision on the property owner or developer.
- b. The appeal must provide justification based on the criteria described in F.1. and F.2. of this Section V. The Council may sustain the decision of the Planning Commission or deny or grant the application for waiver or deviation in whole or in part. The Council shall make findings based on criteria described in F.1. and F.2. of this Section V.”

Amend Chapter 3. Definitions by adding the following definitions:

Block face – one side of a street between major intersecting features, such as a street, railroad, stream, or similar feature creating a gap greater than forty feet, but not an alley right-of-way.

Clear path – an unobstructed way free from obstacles or overhanging projections to a height of 7½ feet above the ground, sidewalk, or surface.

Common area – a portion of a real estate development that is held for the common use or benefit of multiple owners or tenants: such as parking lots, malls, common recreational areas, landscaping lots, group detention facilities, etc.

Drainage feature – a natural or man-made feature that collects, conveys, or stores surface water or storm water runoff: such as a channel, stream, detention area, wetland, or lake.

Obstacles – fixed or portable obstructions to the safe passage of pedestrians including, but not limited to signs, street lights, mailboxes, landscaping, utility poles, trash cans, parked vehicles, merchandise, furniture, junk, and debris.

Parkway – the area located within the public right-of-way between the curb line of a street, or edge of roadway, and the property line at the edge of right-of-way.

Project costs means the following:

- a. If a sidewalk is triggered by the subdivision process, project costs include the other infrastructure improvements required in the platting process, such as road construction, water lines, sewer lines, drainage facilities, etc.
- b. If a sidewalk is triggered by the site plan process or any process other than through subdivision, project costs include all development costs associated with the site plan, including site development, buildings, parking lots, etc.

Property – any platted lot or other parcel of land.

Road or Street construction – shall mean any new construction, widening of streets or roadways, or adding curb and gutter.

Roadway – that portion of a street or highway between the regularly established curb lines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.

Sidewalk – an improved facility intended to provide for pedestrian movement; often located in the public right-of-way adjacent to a roadway.

Unreasonably Disproportionate – exceeding twenty percent of the project costs or exceeding three times the cost of a standard sidewalk with no topographic constraints or other unique issues that would raise the cost of a sidewalk. For transportation projects, right-of-way acquisition costs shall not be included in the calculation.

Amend Chapter 3. Definitions by replacing the following definition:

Right-of-Way – a strip of land occupied or intended to be occupied by a street, **sidewalk**, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term “right-of-way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, **sidewalks**, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Jeff Fisher, Sr. Planner, Planning and Development Services, 325-657-4210

Meeting Date: March 1, 2022

Item type: Regular Item

Caption:

First reading and public hearing of an ordinance amending Chapter 12 "Planning and Development," Exhibit C "Land Development and Subdivision Ordinance," Chapter 10 "Construction Standards and Specifications," Section III "Widths and Graphic Specifications" replacing in its entirety Subsection A "Widths" and amending Chapter 3 "Definitions" (Presentation made by Planning & Development Services Director Jon James)

Staff Recommendation:

Adopt

Summary/History:

The applicants have submitted this rezoning request to change the current zoning from Single-Family Residential (RS-1) to General Commercial (CG) for future commercial development.

Funding Source(s):

Financial Impact:

N/A

Other Information/Recommendation:

On January 24, 2022, the Planning Commission voted 4-2 to approve the text amendment as recommended by staff, with the exception of maintaining the current minimum paving width of 40 feet wide or 36 feet wide with a 4-foot sidewalk on at least one side of the street; and reducing the minimum paving width for minor collector streets from 50 feet to 48 feet, or 40 feet with a sidewalk. Chair Stribling and Commissioners Uherik, Aguirre, and Davis voted in favor, and Commissioners Self and Spano voted against.

Attachments:

- | | | |
|----|---|--|
| 1. | CC Memo (2022-03-01) - Street Width Ordinance Changes | CC Memo (2022-03-01) - Street Width Ordinance Changes.docx |
| 2. | Planning Ordinance (Street widths) 2022-March (2) | Planning Ordinance (Street widths) 2022-March (2).docx |
| 3. | Street Width Ordinance - City Council 1st Reading | Street Width Ordinance - City Council 1st Reading.docx |

Presentation:

Jon James

Approvals/Reviews:

Jeff Fisher

Zachary Rainbow

Jon James

Brandon Dyson

Jon James

Theresa James

Julia Antilley

Created/Initiated

Approved

Approved

Approved

Approved

Approved

Final Approval



Memo

To: City Council
From: Jon James, Director of Planning & Development Services
Date: March 1, 2022
Re: Proposed changes to street right-of-way and pavement widths

City staff has prepared a review of street right-of-way and pavement widths and is recommending changes to the current standards. Pavement width standards are proposed to be reduced for all street classifications. Right-of-way requirements are proposed to stay the same for most street classifications, but are proposed to be increased for major collector and major arterial road classifications to ensure adequate external right-of-way for utilities, etc.

In addition, staff is recommending changing how the ordinance regulates existing streets in already developed areas. Currently the City has street standards for each type of street classification, but there is no distinction between existing streets and newly constructed streets. So, a developer redeveloping an area must meet the same standard as a developer building a new street in a new neighborhood or commercial development. This proposed ordinance change will create a lesser “minimum width” for existing streets. So newly constructed streets would still have to be built to the normal street standard, but redevelopment along an existing street would be held to a lesser standard reducing the number of variance requests for this type of situation.

Attached is the proposed draft ordinance and below is a summary of the proposed changes:

- **Decrease** standard street pavement widths for most street classifications:

- Major Arterial, 64' to 62'
- Minor Arterial, 64' to 56'
- Major Collector, 50' to 48'
- *Minor Collector, 50' to 40' ***
- *Local street, 40' to 36' ***

*** The Planning Commission recommended keeping the current standard for local streets and only reducing to 48' for minor collectors and only allowing the reduced width with a sidewalk on at least one side of the street.*

- **Increase** standard right-of-way widths for some street classifications

- Major Arterial, 80' to 90'
- Minor Arterial, same at 80'
- Major Collector, 60' to 70'
- Minor Collector, same at 60'
- Local street, same at 50'
- Local rural street, same at 60'

- Also, as noted above this proposed ordinance will allow existing substandard streets to remain substandard in already developed areas as long as they meet a new “minimum width” instead of the normal “standard width” required for new streets (if below the minimum width, then those streets would still be required to be improved to that minimum)

- Major Arterial
 - ROW, 76' vs 90'
 - Pavement, 56' vs 62'
- Minor Arterial
 - ROW, 68' vs 80'
 - Pavement, 48' vs 56'
- Major Collector
 - ROW, 56' vs 70'
 - Pavement, 36' vs 48'
- Minor Collector
 - ROW, 52' vs 60'
 - Pavement, 36' vs 40'
- Local street
 - ROW, 40' (or pavement width +10') vs 50'
 - Pavement, 26' vs 36'

AN ORDINANCE OF THE CITY OF SAN ANGELO TEXAS, AMENDING CHAPTER 12 "PLANNING AND DEVELOPMENT," EXHIBIT "C" "LAND DEVELOPMENT AND SUBDIVISION ORDINANCE," CHAPTER 10, " CONSTRUCTION STANDARDS AND SPECIFICATIONS," SECTION III "WIDTHS AND GRAPHIC SPECIFICATIONS," SUBSECTION A "WIDTHS"; AMENDING CHAPTER 3 "DEFINITIONS"; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of San Angelo has adopted a Land Development and Subdivision Ordinance establishing a process for the development, subdivision, and platting of land within the corporate limits of the City and within its extra territorial jurisdiction; and,

WHEREAS, the ordinance provides a process for the subdivision of land that includes the authority and functions of the Planning Director, Planning Commission, and City Council in the subdivision and platting process;

WHEREAS, after having held a public hearing, considered public comment, and considered recommendations from City staff and Planning Commission, City Council desires to amend the ordinance as it relates to paving width and right-of-way width requirements imposed through the subdivision process.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SAN ANGELO, TEXAS

Section 1. That Chapter 12 "Planning and Development", Exhibit C "Land Development and Subdivision Ordinance" of the City of San Angelo Code of Ordinances is hereby amended as shown on Exhibit A.

Section 2. The terms and provisions of this ordinance shall be deemed to be severable in that if any portion of this ordinance shall be declared to be invalid, the same shall not affect the validity of the other provisions of this ordinance.

Section 3. This Ordinance shall be effective on, from and after the date of adoption.

INTRODUCED with public hearing the 1st day of March, 2022, and finally PASSED this 15th day of March, 2022.

THE CITY OF SAN ANGELO, TEXAS:

Brenda Gunter, Mayor

ATTEST:

Julia Antilley, City Clerk

APPROVED AS TO CONTENT:

Jon James, Director of Planning and
Development Services

APPROVED AS TO FORM:

Theresa James, City Attorney

Replace in its entirety **Chapter 10. Construction Standards and Specifications, Section III. Widths and Graphic Specifications, Subsection A. Widths** as follows:

“

A. Widths.

1. Right-of-Way Widths. The minimum design standard for right-of-way width shall be as follows:

	Standard Width	Minimum Width
Local Rural Street	60 feet	40 feet (or pavement width plus 10 feet, whichever is greater)
Local Street	50 feet	40 feet (or pavement width plus 10 feet, whichever is greater)
Minor Collector Street	60 feet	52 feet
Major Collector Street	70 feet	56 feet
Minor Arterial Street	80 feet	68 feet
Major Arterial Street	90 feet	76 feet
Alley, Residential	20 feet	20 feet
Alley, Commercial	24 feet	20 feet
Cul-de-Sac	100-foot diameter minimum	

2. Paving Widths. The minimum design standard for paving widths shall be as follows:

	Standard Width	Minimum Width
Local Street	40 feet or 36 feet with a sidewalk meeting City sidewalk requirements on at least one side of the street	26 feet
Minor Collector Street	48 feet or 40 feet with a sidewalk meeting City sidewalk requirements on at least one side of the street	36 feet
Major Collector Street	48 feet	36 feet
Minor Arterial Street	56 feet	48 feet
Major Arterial Street	62 feet	56 feet
Alley	20 feet	20 feet
Cul-de-Sac	96 feet diameter	96 feet diameter

3. Arterial and Collector Streets. When extra width is required by the City, the City will pay for the two inches of hot mix, ten inches of crushed limestone base and 0.25 gallons per square yard of

asphalt prime in the center portion of the street for that width of street pavement over fifty feet (50') in width.

4. Rural Subdivisions. Curb and gutter construction is not required in a rural subdivision. However, alternative curbing may be required by the City Engineer.

5. Standard and Minimum widths. In the tables above, "standard width" means the width generally required for street construction and "minimum width" is a reduced width that may be allowed to accommodate pre-existing situations in developed areas where it is impractical to require the standard width. "

Amend Chapter 3. Definitions by adding the following definition:

Existing street – a street existing at the time that an ordinance requirement is triggered, including, but not limited to, all streets existing on the ground on January 1, 2022.

Amend Chapter 3. Definitions by replacing the following definition:

Streets:

- a. Street – the entire width between property lines of every way open to the use of the public for purposes of travel with the exception of alleys.
- b. Local street (also minor street or residential street) – a minor street that is not designated as a collector, arterial, freeway, or parkway on the City's Thoroughfare Plan.
- c. Local rural street – A local street within a rural subdivision
- d. Marginal access street - Any minor street which is parallel to and adjacent to arterial streets or highways, and which provides access to abutting properties and protection from through traffic.
- e. Collector street – all streets designated as collectors or planned collectors by the Thoroughfare Plan, including both major collectors and minor collectors.
- f. Arterial street – any street designated as arterial or planned arterial by the Thoroughfare Plan, including freeway frontage roads and including both major arterials and minor arterials.
- g. Primary, or Major, Arterial street - A street which serves primarily to move traffic between major areas of the city and through the city, and where direct access is limited.
- h. Secondary, or Minor, Arterial street - Any street which provides for the through traffic movement between areas and across the city, and for direct access to abutting property; subject to necessary control of entrances, exits and curb cuts.
- i. Freeway – a highway where access from abutting land is not permitted adjacent to the main travel lanes of the roadway except along a separate frontage road.
- j. Frontage road – a roadway within the right-of-way of a freeway corridor that provides access to abutting land and shall be considered a type of arterial street.

REPORT TO MAYOR & MEMBERS OF CITY COUNCIL



Requestor: Heather Stastny, Deputy City Clerk, City Clerk, 325-657-4405

Meeting Date: March 1, 2022

Item type: Regular Item

Caption:

Consider the following as it relates to the City Council's roles through May 2023:

- 1) selecting a Mayor Pro-Tempore
- 2) appointing City Council Members to Boards and Committees (Presentation made by City Clerk Julia Antilley)

Staff Recommendation:

Direction from Council

Summary/History:

The City Council appoints representatives to various external Boards and Committees. While all boards are listed below for possible discussion, only those marked with an asterisk need new appointments/re-appointments as a result of the SMD5 vacancy/new term of office.

Existing Boards/Positions:

Mayor Pro-Tempore

Audit Committee

Concho River Watermaster Advisory Committee

CVCOG Executive Committee*

CVCOG General Assembly*

CVCOG Transit Board

I-14 Gulf Coast Strategic Highway Coalition

Investment Oversight Committee*

Metropolitan Planning Organization Board

MHMR Nominating Committee

Murphy Performance Hall Facility Maintenance Improvement Fund

Ports-to-Plain Advisory Board*

Funding Source(s):

Financial Impact:

N/A

Other Information/Recommendation:

The City's Charter states:

The members of the City Council shall elect one of their number to serve as Mayor Pro Tempore of the City at the first regular meeting of the City Council after new Council members are qualified.

Attachments:

1. Office of the City Clerk Memo - Board Service Office of the City Clerk Memo - Board Service.docx

Presentation:

Julia Antilley

Approvals/Reviews:

Heather Stastny

Theresa James

Julia Antilley

Created/Initiated

Approved

Final Approval

Office of the City Clerk



Memorandum

To: Mayor Gunter and City Council Members
CC: Daniel Valenzuela, Rick Weise, Michael Dane
From: Julia Antilley, City Clerk
Date: February 25, 2022
Re: Council Board/Committee Service

As a result of the February 15th swearing in ceremony, new board terms began for Council Member Single Member District 5. While not all boards were impacted, we have provided a list of all board appointments for review. There is an item on Tuesday's agenda to discuss Mayor Pro-Tempore and the appointment of Council Members to external Boards and Committees.

Board/Committee	Appointee	Term End Date (Set by Outside Agency)
Audit Committee	Harry Thomas	-
Concho River Watermaster Advisory Committee *	Brenda Gunter	August 2022
Concho River Watermaster Advisory Committee *	Tom Thompson	August 2022
Concho River Watermaster Advisory Committee *	Tommy Hiebert	August 2022
CVCOG Executive Committee	<i>vacant</i>	-
CVCOG General Assembly	Lucy Gonzales	-
CVCOG General Assembly	Brenda Gunter	-
CVCOG General Assembly	<i>vacant</i>	-
CVCOG Transit Board *	Larry Miller	August 2023
CVCOG Transit Board * **	Harry Thomas	August 2023
CVCOG Transit Board *	Lucy Gonzales	August 2023
I-14 Gulf Coast Strategic Highway Coalition	Brenda Gunter	-
Investment Oversight Committee	Harry Thomas	-
Investment Oversight Committee	<i>vacant</i>	-
Mayor Pro-Tempore	Tom Thompson	-
Metropolitan Planning Organization Board	Brenda Gunter	-
MHMR Nominating Committee	Lucy Gonzales	-
Murphy Performance Hall FMIF	Brenda Gunter	-
Murphy Performance Hall FMIF	Harry Thomas	-
Ports-to-Plain Advisory Board	Brenda Gunter	-
Ports-to-Plain Advisory Board	<i>vacant</i>	-

* Consider leaving current appointee based on outside term date

** Consider leaving current appointee, Council Member Thomas current serves as Vice Chairman