



**REGULAR MEETING OF THE
SALADO BOARD OF ALDERMEN**

REGULAR MEETING AGENDA

**6:30 P.M., THURSDAY, JULY 7, 2016
MUNICIPAL BUILDING
301 NORTH STAGECOACH, SALADO, TX
BOARD OF ALDERMEN CHAMBERS**

I. CALL TO ORDER

1. Invocation/Moment of Silence
2. Pledge of Allegiance, Texas Pledge of Allegiance

(“Honor the Texas flag: I pledge allegiance to thee, Texas, one state under God, one and indivisible.”)

II. PROCLAMATIONS / SPECIAL RECOGNITION

3. Keep Salado Beautiful presentation of the Award of Excellence and the Gold Star Award from Keep Texas Beautiful, Inc.

III. PUBLIC COMMENTS

4. Citizens who desire to address the Board of Aldermen on any matter may sign up to do so prior to this meeting. Public comments on issues not listed on the agenda will be received during this portion of the meeting. Comments related to items on the agenda will be received during consideration of the individual agenda item. Please limit comments to 3 minutes. No discussion or final action will be taken by the Board of Aldermen.

IV. REPORTS

Mayor’s Report

- Police Department Report, Chief Jack Hensley
- Fire Department Report, Chief Shane Berrier
- Chamber of Commerce/Tourism Bureau Report, Executive Director Mary Poche’

V. CONSENT AGENDA

All items listed under this section, Consent Agenda, are considered to be routine by the Board of Aldermen and may be enacted by one motion. If discussion is desired by the Board of Aldermen, any item may be removed from the Consent Agenda at the request of an Alderman and will be considered separately.

- 5. Consider approving the Consent Agenda item:
 - a. Minutes, June 16, 2016, Regular Meeting.
 - b. Minutes, June 23, 2016, Workshop Meeting.
 - c. Amendments to the Economic Development Policy (Chapter 380 Policy).
 - d. Approval of an agreement with Bell County for Emergency Management Director/Coordinator

VI. REGULAR AGENDA

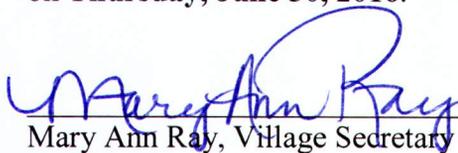
- 6. Presentation, discussion, and possible action on amendments to the Master Development Agreement (and associated Exhibit D – Tourism Marketing Agreement) with Stagecoach 1943, Limited Partnership, for redevelopment to the Stagecoach Inn and Restaurant.
- 7. PUBLIC HEARING – Presentation, public hearing, discussion, and possible action on an ordinance (Ordinance 2016.10) implementing Industrial Waste Provisions on dischargers in the city limits; and providing for the following: Findings Of Fact; Enactment; Provisions, Including: Definitions; Purpose; Scope; Prohibitions; Chemical Discharges; Hazardous Metals; Maximum Particle Size; Stormwater and Unpolluted Drainage; Temperature; Radioactive Waste; Impairment of Facilities; Compliance; City Requirements; Review and Approval; Traps; Building Sewers; Sampling; User Surcharge; Power To Enter; Disconnect; Notice; Continued Prohibited Discharges; and Enforcement, including Criminal Fines not to exceed \$2,000.00 and Civil Penalties not to exceed \$2,000.00 per violation; Repealer; Severability; Effective Date; and Proper Notice & Meeting.

VII. ADJOURN

The Village of Salado reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the Village Secretary’s office at (254) 947-5060 for further assistance.

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 5:00 p.m. on **Thursday, June 30, 2016.**


Mary Ann Ray, Village Secretary

Removed from display: _____

Village of Salado, Texas
Board of Aldermen
Minutes
Regular Meeting
6:30 p.m. Thursday, June 16, 2016
Municipal Building, 301 N. Stagecoach Road
Salado, Texas

Present: Mayor Skip Blancett Mayor Pro Tempore Fred Brown, Alderman Frank Coachman, Alderman Amber Preston Dankert, Alderman Michael McDougal, Alderman David Williams.

Others Present: Kim Foutz, Village Administrator; Chrissy Lee, Planning & Development/acting Village Secretary; Jack Hensley, Chief of Police.

I. Call to Order.

Mayor Blancett called the meeting to order at 6:30 p.m.

1. The Mayor opened the meeting with a moment of silence.
2. The Mayor led the Pledge of Allegiance and the Texas Pledge of Allegiance.

II. Proclamations.

None.

III. Public Comments.

3. None.

IV. Reports.

Mayor's Report.

Mayor Blancett reported that Salado Plaza Drive under the bridge is open. Construction continues on the north and south frontage roads. Completion is still scheduled for September or October 2016. He asked Administrator Foutz to give an update on Stagecoach Inn.

Administrator Foutz reported on developments with the Stagecoach Inn. She said construction activities are scheduled to begin just after July 4, 2016. The review of the contracts is almost complete. The trail alignment will go through the site of the Sugar Shack building and over to the Sirena statue. The paperwork for the trail alignment can now be turned over to TxDOT.

The Mayor reported that sound techs with Sanctuary will be in town next week at Wildfire Arena.

Aldermen Reports:

Environmental/Deer Committee: Alderman Dankert reported that the committee has met several times and has finalized the deer ordinance to include feeding and carcass removal. The committee also has discussed the creek cleanout at the low-water crossing with respect to tracking and permitting requirements. A citizen e-mailed about oak wilt in the area. She also reported that a lot of people are swimming in the creek and are damming the creek with large rocks. However, this damming is detrimental to species that make the creek their habitat and contributes to flooding downstream. The Village needs signs to explain that damming is not allowed.

ETJ/Annexation Committee: Alderman McDougal reported that the committee will study the process and procedure to do annexation properly at its next meeting.

Ordinance Committee: Alderman Williams reported that the committee has divided 14 ordinances among members for background and research of other communities. Last week the committee made major revisions to the Subdivision Ordinance that will streamline the permitting process. The committee meets again Wednesday, July 6, 2016, because of the July 4 holiday falls on the regular meeting day.

Main Street Committee: Mayor Pro Tempore Brown reported that the vision for Main Street is getting closer to becoming reality. A meeting is scheduled with TxDOT for June 20 to discuss aggregate and lighting.

Street Improvements Committee: Alderman McDougal reported that 223 potholes on 56 of 83 streets have been filled. Shorter streets remain; he said he hopes the shorter streets are finished by Monday. The crack-seal program will begin Tuesday with volunteers driving the truck. He addressed the pavement failure on Salado Plaza Drive; Administrator Foutz said the contract for the repairs would be on the Consent Agenda at the next BOA meeting.

Economic Development Committee: Alderman Coachman reported that the committee has met four times and is revision the Tax Abatement policy for discussion at the next BOA workshop.

Trails and Parks Committee: Alderman Dankert reported that the committee met with the Main Street Committee for a trolley tour of downtown to evaluate where and what type of parks placed in the downtown area as part of the Master Plan. The final alignment of the grant trail will be sent to TxDOT tomorrow. The timeline is very tight; the funds must be to the contractor by September 1, 2016.

Public Safety/Emergency Management Committee: Alderman Dankert reported that the committee will bring forth next week an agreement between the Village and Bell County for the county to do the Village's emergency management coordination. The Village still will be eligible for grants. He will evaluate warning systems and alerts for the Village.

Stagecoach/Wastewater Status Report: Administrator Foutz reported the blower has been installed and is working. The clarifier still has not arrived; it is expected at any time. The Wastewater Committee will finalize the Hazardous Materials Ordinance and bring it forth to the BOA. The treatment plant permits renewals are in process; one has been deemed administratively complete by the Texas Commission on Environmental Quality. We now must start the publication requirements. Renewals are due by December.

Financial Report: Administrator Foutz reported that the Village is running low on revenues for fine and forfeitures. Property taxes and sales taxes are looking positive. The Village will explore franchise fees for next year's budget. The advertising and supplies budget are over because of administrative support for committees and publishing related to Village activity. See attached report.

V. Consent Agenda.

4. Consider approving the Consent Agenda items:
 - a. Minutes, June 2, 2016, Regular Meeting
 - b. Minutes, June 4, 2016, Strategic Planning Retreat
 - c. Minutes, June 9, Workshop Meeting

Alderman McDougal made a motion to approve the Consent Agenda as presented. Alderman Coachman seconded. The motion carried unanimously.

VI. Regular Agenda.

5. Presentation, discussion, and possible action on a Resolution (R-2016-142) establishing a Purchasing Policy.

Administrator Foutz said the recommended additions to the policy from the BOA's May 26, 2016, workshop have been incorporated into the policy. Changes were made on page 6 (clarified that approval must be written); page 7 (notification must be in written format), page 9 (a resolution for local preference is required and is expected to be brought forth at the BOA's July 7, 2016, meeting), and page 12 (added language for a Procurement Officer).

Mayor Pro Tem Brown made a motion to approve Resolution R-2016-142 as presented. Alderman McDougal seconded. The motion carried unanimously.

6. Consider and take action on waivers to Section 3.5, Sidewalks, and Section 5.5D, Ramps, of the Village of Salado Subdivision Ordinance 2009.03 for a construction plat of Mill Creek Springs, Phase VIII, a subdivision in the ETJ.

Administrator Foutz asked to present Items 6 and 7 together.

7. Consider and take action on waivers to Section 3.1C5, Offsite Improvements, and Section 5.9, Perimeter Street Improvements, of the Village of Salado Subdivision Ordinance 2009.03 for a construction plat of Mill Creek Springs, Phase VIII, a subdivision in the ETJ.

Administrator Foutz explained that the reason they items were separated is because of recommendations by the Planning & Zoning Commission. The applicant is Hal Anderson. The development is a 26-lot subdivision in the ETJ, and the Concept Plan has been updated to reflect actual phased development build-out.

She said the Planning & Zoning Commission recommended approval of the requested waivers for Section 3.5, Sidewalks, and Section 5.5, Street and Alley Improvements. Section 3.5 requires 5-foot sidewalks on perimeter streets, and Section 5.5 requires ramps on perimeter street sidewalks.

She explained that P&Z did not recommend approval of the waivers to Section 3.1C5, Offsite Improvements, and Section 5.9, Perimeter Street Improvements; the motion died for lack of a second. However, she said Bell County supports the waiver because of special road conditions at this specific location. Section 3.1c5, Adequacy of Streets and Thoroughfares, stipulates that improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development. Section 5.9 – Improvement of Adjacent (Perimeter) Streets requires appurtenant sidewalks, barrier-free ramps, screening and landscaping, median openings and/or left turn lanes (if a divided thoroughfare), storm drainage structures, water quality or erosion controls, 14' pavement, curb and gutter.

She outlined Bell County's position on the waiver requests:

- Blackberry Road has current drainage issues from this subdivision to Marie Lane.
- Soils seep and have caused road deterioration.
- Adding pavement to this side and section of Blackberry will cause problems w/ the installed french drain.
- Engineer supports no change to the current condition of the roadway cross section at this time.
- "Does not reflect County stance on future subdivisions."

She also listed the specific findings that must be upheld:

- General – Where the P&Z recommends, and the BOA finds that undue hardships will result from strict compliance with certain provisions of this Ordinance, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve a waiver/suspension from any portion of these regulations so that substantial justice may be done and the public interest is secured . . .
- Granting the waiver will not be detrimental to the public safety, health, or welfare and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity

- The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable generally to other property
- Because of the particular physical surroundings, shape, and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out
- The waiver will not in any manner vary the provisions of the Zoning Ordinance or Comprehensive Plan or any other adopted plan(s) or Ordinance(s) of the Village
- An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.

Alderman Coachman made motion to approve waivers to Section 3.5, Sidewalks, and 5.5D, Ramps, of the Subdivision Ordinance 2009.03 for Mill Creek Springs Phase VIII as presented, and to Section 3.1C5, Offsite Improvements, and Section 5.9, Perimeter Street Improvements, of the Subdivision Ordinance 2009.03 for Mill Creek Springs, Phase VIII as presented. Mayor Pro Tempore Brown seconded. The motion carried unanimously.

8. PUBLIC HEARING – Presentation, public hearing, and possible action on an Ordinance of the Board of Alderman of the Village of Salado, Texas, establishing an Ordinance relating to “the Intentional Feeding and Disposal of Deer;” creating an Offense; providing a Penalty Clause; establishing a fine of no less than \$75 or more than \$125 per Feeding Offense; establishing a Fee of \$50 per Carcass for Removal from private property; repealing conflicting ordinances; providing a Severability Clause; and establishing an Effective Date.

There was discussion about affirmative defense, carcass removal, deer feeders, birds and bird feeders, and bird food. There are recommended legal changes to Paragraph 7A to include the words “intentionally” and “making food available to” and to Paragraph 7B to establish that the fee for removal is paid to the Village. Dr. Lewis Raney, chairman of the Environmental/Deer Committee said there is no intent to eliminate the deer population, but the overpopulation must be controlled for the public good. He said the committee will introduce additional measures for control as the year progresses.

The Mayor opened the public hearing at 7:35 p.m. He called three times for speakers; none emerged. He closed the public hearing at 7:36 p.m.

Mayor Pro Tempore Brown made a motion to approve an Ordinance relating to the Intentional Feeding and Disposal of Deer; creating an Offense; providing a Penalty Clause; establishing a fine of no less than \$75 or more than \$125 per Feeding Offense; establishing a Fee of \$50 per Carcass for Removal from private property as presented. Alderman Dankert seconded.

Alderman Dankert made a motion to amend the motion on the floor by striking “as presented,” and adding “including the recommended legal changes and BOA recommendations.” Mayor Pro Tempore Brown seconded.

Discussion:

Mayor Pro Tempore Brown asked to remove the word “birdseed” under Paragraph I, Definitions, and the addition of the word “birds” after the word “livestock” in Paragraph V. The Mayor said these changes would be made a part of the amendment.

The amendment to the motion carried unanimously.

Mayor Pro Tempore Brown made a motion to approve an Ordinance relating to the Intentional Feeding and Disposal of Deer; creating an Offense; providing a Penalty Clause; establishing a fine of no less than \$75 or more than \$125 per Feeding Offense; establishing a Fee of \$50 per Carcass for Removal from private property, including the recommended legal changes and removal of the word birdseed in Paragraph I, Definitions, and the addition of the word “birds” after “livestock” in Paragraph V. Alderman McDougal seconded. The motion carried unanimously.

The Mayor called for a two-minute recess prior to the start of the Executive Session and directed that the room be cleared.

VII. Executive Session.

The Mayor called for Executive Session at 7:47 p.m.

9. Evaluation of the Chief of Police as authorized by Texas Government Code §551.074, Personnel Matters.

VIII. Adjourn.

The Mayor closed the Executive Session at 8:08 p.m. and adjourned the meeting at that time.

Skip Blancett, Mayor

Mary Ann Ray, Village Secretary

Village of Salado, Texas
Board of Aldermen
Minutes
Regular & Workshop Meeting
6:30 p.m. Thursday, June 23, 2016
Municipal Building, 301 N. Stagecoach Road
Salado, Texas

Present: Mayor Skip Blancett Mayor Pro Tempore Fred Brown, Alderman Frank Coachman, Alderman Amber Preston Dankert, Alderman Michael McDougal, Alderman David Williams.

Others Present: Kim Foutz, Village Administrator; Mary Ann Ray, Village Secretary; Jack Hensley, Chief of Police.

I. Call to Order.

Mayor Blancett called the meeting to order at 6:30 p.m.

II. Regular/Consent Agenda.

1. Consider approving the Consent Agenda item:
 - a. Award of a low bid to Alpha Paving Industries, LLC, of Round Rock, Texas, in the amount of \$13,709.15 for 6-inch full-depth asphalt repairs in seven areas of Salado Plaza Drive.

Alderman McDougal made a motion to approve the award of a low bid to Alpha Paving Industries, LLC, of Round Rock, Texas, in the amount of \$13,709.15 for 6-inch full-depth asphalt repairs in seven areas of Salado Plaza Drive. Mayor Pro Tempore Brown seconded. The motion carried unanimously.

III. Workshop Session.

2. Discussion on an Emergency Management Plan Agreement between the Village of Salado and Bell County (Public Safety Committee Report/Initiative).

Chief Hensley explained the benefits of being under the county umbrella for emergency management, including technical expertise, procurement of goods or equipment in case of emergency or disaster, and grant possibilities. However, the Village still can name its own Emergency Management Coordinator. At this time, Salado is the only municipality that does not participate with the county. The agreement will be brought forth for action at the July 7, 2016, BOA meeting.

3. Discussion on the Economic Development Policy and Tax Abatement Policy (Economic Development Committee Report/Initiative).

Alderman Coachman distributed copies of the proposed changes, which replace “Chamber of Commerce Business and Development Committee” with “Economic Development Committee” and define committee membership based on Village policy. These changes will be brought forth for action at the July 7, 2016, BOA meeting. There was discussion on the Village’s future planning maps and the need for updates. A joint meeting of representatives from the BOA, the Planning & Zoning Commission, the Economic Development Committee, the ETJ/Annexation Committee, the Wastewater Committee, the Street Improvements Committee, and the Main Street Committee, to discuss strategies for economic development in the Village.

4. Discussion on Industrial and Hazardous Waste Ordinance (Wastewater Committee Report/Initiative).

Mayor Pro Tempore Brown said the pretreatment ordinance (Ordinance 2016.10) is ready to come forth for action at the July 7, 2016, meeting. There was discussion about temperature for materials entering the sewer system; Administrator Foutz said the Brazos River Authority recommends a temperature of 120 degrees instead of 140 degrees. There was additional discussion about oil and grease in the system.

IV. Adjourn.

Alderman Williams made a motion to adjourn. Alderman Dankert seconded. The meeting was adjourned at 7:05 p.m.

Skip Blancett, Mayor

Mary Ann Ray, Village Secretary

BOARD OF ALDERMEN

AGENDA ITEM MEMORANDUM

7/7/16
Item #5c
Consent Agenda
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DEPT/DIVISION REVIEW: Mary Ann Ray, Village Secretary

ITEM DESCRIPTION: Consider approval of amendments to the Economic Development Policy (Chapter 380 Policy).

ITEM SUMMARY: The proposed changes bring the Economic Development Policy into agreement with the Policy for Committees and Advisory Boards, which was established by Resolution R-2016-134, Establishing Committees and Advisory Boards, on January 7, 2016. All references to the Chamber of Commerce Business Development Committee have been replaced with “Economic Development Committee.” In addition, the composition of the Economic Development Committee, as defined by the Policy for Committees and Advisory Boards, was inserted.

COMMITTEE / STAFF RECOMMENDATION: The Economic Development Committee recommended these amendments following its June 15, 2016, meeting. Staff recommends approval.

FISCAL IMPACT: N/A

ATTACHMENTS:

- Economic Development Policy

ECONOMIC DEVELOPMENT POLICY

I. GENERAL PURPOSE AND OBJECTIVES

The Village is committed to the promotion of high-quality commercial and business development in all areas of the Village and ongoing improvement of the quality of life of its citizens. These objectives may be served by the enhancement and expansion of the local economy. The Village will consider providing incentives as a stimulus for economic growth and economic stabilization. This will be accomplished in accordance with the criteria and guidelines established herein and in accordance with state law. Nothing herein shall imply or suggest that the Village is under any obligation to provide economic development incentives including tax abatement or reimbursement to any applicant, or that any applicant has a property right nor interest in economic development incentives including tax abatement or reimbursement, or that the Village is precluded from considering other options which may be in the best interest of the Village.

Goals of this policy are to expand retail sales and development, attract new tourism venues, create new jobs, expand capital investment, expand hotel/motel tax growth, and foster redevelopment in identified Targeted Industries. Each applicant's project will be evaluated for potential incentives on a case by case basis.

II. DEFINITIONS

- A. "**Abatement**" means the full or partial exemption of ad valorem taxes on eligible real or personal property improvements in a reinvestment zone designated as such for economic development purposes.
- B. "**Agreement**" means a contractual agreement between a property owner or lessee and the Village for the purpose of providing tax abatement or other incentives.
- C. "**Designated Area**" means a specified region in the Village of Salado that has been selected by the Board of Aldermen to receive special consideration in order to encourage economic development in that region. The map found in **Exhibit C** identifies the current Designated Areas in the Village of Salado.
- D. "**Expansion**" means the addition of buildings, structures, fixed machinery, or equipment for the purpose of increasing production capacity or increasing convention or tourism facility event capacity or entertainment facility capacity.
- E. "**Facility**" means property improvements completed or in the process of construction which together comprise an integral whole.

- F. **"Full-time Job"** means a job that requires a minimum of forty (40) hours of work per week; or eighty (80) hours of work per two weeks, receives benefits, and is hired to work full-time year-round (2080 hours per year).
- G. **"Lease"** means a relationship whereby the business applying for tax abatement or other incentives has a contract for exclusive possession of either the real property on which improvements are to be made and/or of movable personal property to be used for the operation of the business for a defined period of time.
- H. **"Modernization"** means a complete or partial demolition of Facilities and the complete or partial reconstruction or installation of a Facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery or equipment, or both. Modernization in a Redevelopment Area includes painting of exterior walls, restoring, removing or installing a façade, adding balconies or decorative art, and related exterior improvements designed to visually improve the exterior of a building or block.
- I. **"New Facility"** means a previously undeveloped property that is placed into service by means other than, or in conjunction with, expansion and modernization.
- J. **"Personal Property"** means equipment and/or tools used or bought for use in the operation Category One business applying for tax abatement.
- K. **"Real Property"** means the area of land defined by legal description as being owned or leased by the business applying for a tax abatement, including buildings, structures, fixed (permanently attached) machinery and equipment, site improvements, related fixed improvements necessary to the operation and administration of the Facility, and valued for property tax purposes, and which are to be included in the Reinvestment Zone.
- L. **"Redevelopment"** means the removal and replacement, rehabilitation, or adaptive reuse of an existing structure or structures, or of land from which previous improvements have been removed including construction of residential, commercial, industrial, public, or other uses as well as provisions for streets, parks, and other public facilities.
- M. **"Redevelopment Area"** means specific geographic locations in Salado that have been selected by the Board of Aldermen to receive special consideration in order to encourage economic development in that location. The map found in **Exhibit A** identifies the current Redevelopment Areas in the Village of Salado.
- N. **"Reinvestment Zone"** or Tax Abatement District is an area designated as such for the purpose of tax abatement as authorized by the Village of Salado in accordance with State law.
- O. **"Target Area"** means specified geographic locations in Salado that have been selected by the Board of Aldermen to receive special consideration in order to encourage economic development in that location. The map found in **Exhibit B** identifies the current target areas in the Village of Salado.

III. ELIGIBILITY CRITERIA:

- A. Proposed developments or redevelopments must be in one or more of the following Target Industries:

Category One

Research & Development
Advanced Technology
Information Technology
Information & Data Center
Corporate and Regional Offices
Bioscience
Medical

Category Two

Major Tourism Attractions/Entertainment Venues
Major Retail Sales and Shopping Centers
Meeting / Event Space
Hotel, Motel, and Bed and Breakfast
Large, Mixed Use Developments

- B. Projects must be entirely within the corporate limits of the Village of Salado, or the proposed site must be contiguous with the Village limits and Applicant is willing to submit a petition for voluntary annexation prior to platting or issuance of a building permit, whichever occurs first.
- C. Project benefits must result in a calculated direct payback of 5 or less years unless the project is on the Top 20 Recruitment List.
- D. The Village shall not provide incentives if it finds that the request for the incentives were filed after the commencement of construction of a New Facility, or the Modernization, Redevelopment, or Expansion of an existing Facility.
- E. Eligible projects must meet at least two of the following criteria for an applicant to be considered eligible for incentives. Additional criteria for specific incentives are listed under the individual incentive type description. Nothing herein prevents the Village to provide higher incentive levels based on the individual case. Project criteria includes projects that:
1. are located in or substantially contribute to Designated Areas, Redevelopment Areas, or Target Areas;
 2. result in at least 25,000 square feet of newly constructed facilities (at new or existing business locations);
 3. result in at least \$500,000 of new taxable appraised value to the tax rolls;
 4. result in at least 50 new, permanent full time jobs;
 5. result in at least 10 new, permanent full time jobs in Redevelopment Areas; or
 6. Result in new minimum annual local sales tax of at least \$50,000 annually
 7. Result in new minimum annual hotel motel tax of at least \$100,000 annually; or in the case of a project to be located in a Redevelopment Area, a new minimum annual hotel motel tax of at least \$25,000.
 8. Meet two of the criteria established in Section III.F(1-4) herein.

- F. Projects which substantially contribute to one or more of the following criteria may be eligible for additional incentives exceeding minimum guidelines.
1. The redevelopment or rehabilitation of building has been vacant for at least two years.
 2. The project will create improvements in the Historic Downtown District
 3. Investment results in redevelopment or rehabilitation of an existing, declining building in a Redevelopment Area
 4. The investment will result in additional development in the surrounding area.

IV. TYPES OF ECONOMIC DEVELOPMENT INCENTIVES:

A. Chapter 380 Incentives:

1. **Expedited Plans Review and Permitting:** The Village of Salado will provide a single point of contact for development services. Expedited permitting and plans review will also be considered.
2. **Small Business Development Center:** The Regional Small Business Development Center provides counseling services for existing and start-up businesses including market research, financial analysis, and business plan development assistance.
3. **Hotel/Motel Tax:** The Village will consider entering into Tourism Marketing Agreements with qualified hotels, motels, and bed and breakfasts that offer meeting space accommodating groups of 25 or more persons and have 10 or more hotel rooms. Agreements will allow these facilities to reinvest a portion of the hotel/motel tax that is generated specifically by their facility to market their accommodations, meeting space, and other attractions. Agreements will specify that marketing plans must be approved by the Board of Aldermen. Hotel/motel thresholds and reimbursements are as follows:

Annual Amount of Hotel/Motel Tax Generated Above Base Year	Reimbursement Schedule
\$25,000-\$99,999 <i>Only applies in Redevelopment Area</i>	year 1 – 30% year 2 – 25% years 3 through 5 – 20% years 6 through 7 – 15%
\$100,000-\$274,999	year 1 – 40% year 2 - 35% year 3 - 30% year 4 - 25% years 5 through 7 - 20% years 8 through 10 - 15%,
\$275,000-\$500,000	year 1 - 70% year 2 - 65% year 3 - 55% year 4 - 50% years 5 through 7 - 45% years 8 through 10 – 40%,

4. **Development Fee Waivers:** The Village will consider reducing or waiving fees including building permit fees, inspection fees, site development permit fees, and platting, zoning, and land use application fees.
5. **Sales tax incentive grant:** Sales tax incentive reimbursements will be considered by the Village on a limited basis. Other entities charging sales tax are encouraged to participate.

Annual Amount of Sales Tax (Village only) Generated Above Base Year	Reimbursement Schedule
\$50,000-\$99,999	5 years at 15%
\$100,000-\$249,999	5 years at 25%
\$250,000+	5 years at 30%

6. **Land grant:** The Village of Salado owns tracts of land, right-of-way, and alleyways in various areas of Salado. Grants of land will be considered.

7. **Façade Improvement Grants.** Façade grants will be considered for properties located in a Strategic Investment Zone, Overlay District, I-35 Corridor, or on Main Street. The Village will consider making grants between \$1,000- \$7,000 on a 1:1 matching basis for the replacement of an existing façade with an eligible masonry product or to remove an existing façade to expose the original façade (if historic). Eligible masonry materials for a replacement façade under this subsection include brick and stone. In the Historic District, eligible materials will be approved based upon the original material used for the building's construction. Façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically exclude design costs.
8. **Landscaping and Irrigation grants:** Landscaping grants will be considered for properties located in a Strategic Investment Zone, Overlay District, I-35 Corridor, or on Main Street. Landscaping and irrigation grants will be considered only for properties that meet special overlay district requirements or exceed minimum ordinance standards. To be eligible for a landscape grant, the project must include irrigation. The Village will consider grants up to \$2,500 on a 1:1 matching basis for the installation of new or additional landscaping to an eligible property. Landscaping may include live plants and decorative hardscape such as pavers, arbors, art, etc. Landscaping improvement costs eligible for reimbursement with a landscaping improvement grant include ground preparation costs (including labor), materials (trees, shrubs, soil) and other decorative features.
9. **Sign Improvement Grants:** Sign improvement grants will be considered for properties located in a Strategic Investment Zone, Overlay District, I-35 Corridor or on Main Street. The Village will consider making grants of up to \$1,000 on a 1:1 matching basis for the installation of a new sign or replacement of a dilapidated sign. Only ground-mounted, monument type signs may be funded with a grant unless the sign contributes architecturally to the charm and brand of the Village, as determined in the sole discretion by the Village. Sign improvement costs eligible for reimbursement with a sign improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically exclude design costs.
10. **Historic Preservation Tax Credits:** Historic Preservation Tax Credits are available in the downtown area. The owner of a historic building can receive a federal income tax credit of 20% of the amount spent to rehabilitate a certified historic structure. There is also a 10% credit for older, non-historic buildings. Properties must be income-producing and must be rehabilitated according to standards set by the Secretary of the Interior.
11. **Public infrastructure:** The Village will consider partnering with developers on oversized sidewalks and trails if they are noted on the Village's Trails Master Plan.

12. **Asbestos/lead surveys and abatement:** The Village will consider a grant of up to \$1,000 on a 1:1 matching basis for owner-initiated asbestos survey of a building and up to \$1,000 on a 1:1 matching basis for asbestos abatement for a building on eligible property. Asbestos survey and abatement grant eligible costs include professional fees, labor costs, and replacement materials.
13. **Environmental Protection Agency Brownfield incentives:** The Village will coordinate with the EPA for grants for asbestos assessment surveys and Phase I environmental surveys. Qualified projects may be eligible for abatement grants and EPA Revolving Loan Funds. In addition, EPA Brownfield Tax Incentives allow environmental cleanup costs at eligible properties to be fully deductible in the year incurred, rather than capitalized and spread over a period of years.

B. Tax Abatement Incentives

1. **Property Tax Abatement:** The Village will consider granting tax abatement on the new value of real and personal property improvements including buildings, structures, fixed machinery and equipment, site improvements, related fixed improvements, and personal property (excluding inventory or supplies) with a productive life of ten years or more. See **Tax Abatement Guidelines and Policy Statement** for details.
2. Tax Abatement is granted by a separate Tax Abatement Agreement approved by the Village Board of Aldermen. The Economic Development Committee will assist applicants with the application process and will facilitate abatement agreements with other taxing authorities if they are sought.

C. Public Infrastructure Assistance

1. **Public Improvement District (PID):** A PID may be formed to provide public infrastructure or services such as health and sanitation, water and wastewater, public safety, etc. PIDs allow the Village to levy and collect special assessments on property within the Village. PIDs are subject to creation of a PID plan and market analysis. The Village will only consider TIFs for very large, mixed use developments. Generally, the Village will only consider PIDs if other incentives or funding mechanisms are requested and there is a minimum capital investment of \$15,000,000.
2. **Tax Increment Financing;** Tax increment financing is a tax reinvestment tool that allows local governments to fund public infrastructure improvements within a defined area. TIFs work by allowing taxing entities to repay the costs of public improvements to a designated area with the future tax revenues generated by increased property values. TIF financing

will be considered on Main Street, the I-35 Corridor, or for very large, special or mixed use projects only. TIF and PID financing may not be utilized in conjunction with one another for a project. Tax Increment Reinvestment Zone plans are required for analysis, and, generally, the Village will only consider TIFs if they include County participation and no other incentives or funding mechanisms are requested and there is a minimum capital investment of \$15,000,000.

V. RECRUITMENT

- A. The Economic Development Committee serves as the marketing, recruitment, evaluation, and recommendation arm for prospective Target Businesses. The Committee comprises 11 members as defined in Resolution R-2016-134, Establishing Committees and Advisory Boards. The Committee will primarily focus its recruitment efforts on a *Top 20 Recruitment List* established, and amended from time to time, by the Committee. This policy does not prevent recruitment of other businesses in the listed Target Industries. A Recruitment Subcommittee will be established and prospective businesses will be encouraged to discuss their proposed projects with the Subcommittee early in the site selection and development stage process.

VI. APPLICATION PROCESS

- A. Application Submission
 - 1. Applicants must submit a completed Application for Incentives to the Village of Salado Village Administrator's Office. Incomplete applications will not be considered. The complete application shall consist of the following detailed information:
 - a. Information that addresses Part III.E and Part III.F above and Part VI.A.1.d below
 - b. a map and property description;
 - c. a site plan and building elevations;
 - d. a time schedule for undertaking and completing the planned improvements;
 - e. a project for Modernization or Redevelopment requires a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application;
 - f. a project for leased property requires signatures by the owner(s) and the lessee(s) on the application, proof of ownership for all applicants operating a business in a third-party owned facility, or third-party owners of a business facility and a joint application third-party property owner. Copies of a lease agreement (financial terms may be whited out) and proof of ownership will be required; and

- g. Any additional information requested by the Village

† All documents received by the Village of Salado (physically or electronically) may be subject to public disclosure under certain circumstances.

† The Village of Salado reserves the right to request/review/verify the applicant's financial statements and any additional information in determining the economic feasibility, the financial capacity, and long-term benefit of the overall project.

VII. PROCEDURE

- A. The Village of Salado Economic Development Committee will evaluate an application to determine if the project meets the requirements for consideration under this policy as well as coordinate with the applicant:
 - Type of operation
 - Eligibility criteria
 - Minimum standards
 - Minimum thresholds
 - The merit and value of the proposed project

- B. The Salado Economic Development Committee will forward their findings and recommendations to the Village Administrator. Based on the outcome of the evaluation, the Village Administrator may present the application to the Board of Aldermen for consideration.

- C. The Board of Aldermen will consider approving a Development Agreement and/or a Chapter 380 Agreement as applicable, and authorizing the Mayor to execute the agreement(s).
 - 1. All projects brought to the Board of Aldermen for consideration will be presented at meetings conducted pursuant to the Open Meetings Act.
 - 2. The Board of Aldermen retain sole authority to approve in whole or in part or deny any Incentive or Development Agreement.

- D. The following criteria will be considered in determining whether a business should be recruited, and if and at what level incentives may be offered to an applicant:
 - 1. Expansion of the local tax base/new capital investment;
 - 2. Creation of permanent jobs, including the number, type, and average wage of jobs to be created;
 - 3. New annual local sales tax to be directly generated; the project must generate a minimum of \$50,000 annually in direct local Village sales tax;

4. Result in new minimum annual hotel motel tax of at least \$100,000 annually, or in the case of a project to be located in a Redevelopment Area, a new minimum annual hotel motel tax of at least \$25,000.
5. Whether the project substantially contributes to or is located in a Redevelopment or Targeted Area or is a historic building;
6. Whether the project can serve as a prototype and catalyst for other development of a higher standard;
7. Whether the quality of architecture and site design improves the aesthetic appearance, including landscaping and public amenities which exceed the minimum requirements of the Village code;
8. Whether the project increases the amount of green space, public plazas, public parks or landscaping;
9. Impact on quality of life and quality of place;
10. The financial capacity of the applicant to undertake and complete the proposed project;
11. The extent to which the proposed project carries out the goals and objectives of the Village's Comprehensive Plan, Strategic Plan, and Master plans;
12. Extent to which local contractors and suppliers will be used during construction and business operation;
13. The types and value of public improvements, especially public parking and restrooms, to be constructed and paid for by the applicant;
14. Whether the project will attract other new business in the area;
15. Whether the project is environmentally compatible with the community or expands on eco-tourism;
16. The project has high visibility, and brand and image impact;
17. The project is an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.; and
18. Any other factors that the Village determines to be relevant to accomplishing economic development objectives.

VIII. No Vested Right to Receive an Incentive

- A. Nothing herein shall imply or suggest that the Village is under any obligation to provide any incentive to any applicant, or that any applicant has a property right or interest in an incentive, or that the Village is precluded from considering other options which may be in the best interest of the Village. The award or denial of an incentive shall be at the discretion of the Village.
- B. The Village Board of Aldermen will annually appropriate funds for the administration of the incentive program and the granting of funds under the programs established by ordinance and this policy and are subject to the availability

of funds appropriated for that purpose in any given fiscal year. All applications are considered on an individual case-by-case basis.

IX. COMPLIANCE VERIFICATION

A. Initial Inspection

1. After the initial requirements of the agreement have been completed (i.e. construction/installation of improvements), the Owner must submit an executed Certificate of Compliance to the Village.
2. After receipt of an executed Certificate of Compliance, Village staff shall make an inspection to verify that all initial contract requirements are complete.

B. Annual Certification

1. Standard Annual Certification: On a date specified in the Development or Chapter 380 Agreement, the Owner must submit a statement to the Village which provides information about the project's achievement during the prior calendar year regarding the improvements and other agreement obligations.

C. Village's Right to Inspect

1. The Village of Salado reserves the right to send representatives from the Village to inspect the facilities and records of the Owner during the term of the agreement to verify the accuracy of the information provided.

D. Default

1. If during the term of the Agreement, the Village determines that the Applicant is not in compliance with the terms and conditions of the Agreement and fails to cure, and/or allows its ad valorem taxes owed the Village to become delinquent and fails to timely and properly follow the legal procedures for a protest or contest; and
2. If during the term of the agreement, the Village determines the Applicant is in default of the terms and conditions of the Agreement and the default is not cured pursuant to the Agreement, the Village reserves the right to cancel/modify the agreement and/or require repayment of all incentives including the value of in-kind incentives received under the agreement.

X. ASSIGNMENT OF DEVELOPMENT OR CHAPTER 380 AGREEMENTS.

- A. Incentives may be transferred and assigned by the holder to a new owner or lessee of the same Facility upon the approval by resolution of the Village subject to the financial capacity of the assignee and provided that all conditions and obligations in the Agreement are guaranteed by the execution of a new contractual Agreement with the Village. No assignment or transfer shall be approved if the parties to the existing Agreement, the new owner or new lessee, are liable to any jurisdiction for outstanding taxes or other obligations. Approval of assignments will not be unreasonably withheld.

BOARD OF ALDERMEN

AGENDA ITEM MEMORANDUM

7/7/16
Item #5d
Consent Agenda
Page 1 of 1

DEPT/DIVISION REVIEW: Alderman Amber Dankert / Jack Hensley, Chief of Police

ITEM DESCRIPTION: Consider approval of an agreement with Bell County for Emergency Management Director/Coordinator.

COMMITTEE / STAFF RECOMMENDATION: Staff recommends approval. The Public Safety Committee recommended the Village of Salado join with Bell County and come under its umbrella for Emergency Management.

ITEM SUMMARY AND ANALYSIS: Section 418.101 of the Government Code requires each political subdivision to notify the Division of Emergency Management who is responsible for the Municipality's Emergency Management Program. By joining with Bell County's Department of Emergency Management, the Village will be able to utilize the county's expertise and manpower to assist the citizens of Salado in the event of a disaster while having a central point of coordination.

FISCAL IMPACT: N/A.

ATTACHMENTS:

- Emergency Management Director/Coordinator Notification

EMERGENCY MANAGEMENT DIRECTOR/COORDINATOR NOTIFICATION

Section 418.101 of the Texas Government Code states: "The presiding officer of the governing body of each political subdivision will notify the Division of Emergency Management of the manner in which the political subdivision is providing or securing an emergency management program, identify the person who heads the agency responsible for the program, and furnish additional pertinent information." This form is used to make the required notification to TDEM.

The information on this form may be released to those inquiring about local emergency management programs pursuant to the Texas Open Records Act. Hence, TDEM recommends that you provide business addresses and telephone numbers rather than home addresses and telephone numbers.

COUNTY:	Bell	<i>(Required)</i>
Jurisdiction:	Bell County	<i>(City or County Name)</i>
Official's Title:	Judge	<i>(Mayor/Judge)</i>
Name:	Jon Burrows	<i>(First & Last Name)</i>
Mailing Address:	P.O. Bx 768	<i>(The best address to receive mail)</i>
City, State, Zip:	Belton, TX 76513	
Office Number:	254-933-5105	
Cell Number:		
Fax Number:	254-933-5179	
E-mail:	jon.burrows@co.bell.tx.us	<i>(Please include - this is a back up for mailing)</i>

EMERGENCY MANAGEMENT PROGRAM APPOINTMENT STATUS

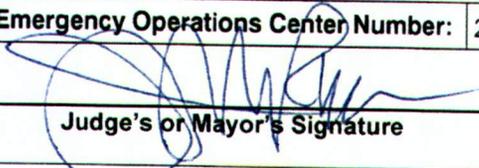
I HAVE NOT appointed an Emergency Management Coordinator and will personally direct the local emergency management program.

I HAVE appointed/re-appointed the Emergency Management Coordinator identified below to conduct the emergency management program for this jurisdiction. **The effective date of the appointment is:** _____

We share our EMC with Village of Salado *(name of jurisdiction)*.

If the COUNTY Emergency Management Coordinator has been appointed to other jurisdictions within the county, the County Judge and the participating City Mayors must sign this form. (See second page for additional signature blocks.)

EMERGENCY MANAGEMENT COORDINATOR		
	Coordinator	Asst Coordinator
Name:	Michael Harmon	
Mailing Address:	708 West Avenue O	
City, State, Zip:	Belton, TX 76513	
Office Phone:	2544-933-5587	
Cell Number:	254-931-3170	
Fax Number:	254-933-5937	
E-mail Address:	michael.harmon@co.bell.tx.us	
Emergency Operations Center Number:	254-933-5500	



 Judge's or Mayor's Signature

6/17/16

 Date

PLEASE RETURN TO:
 Texas Division of Emergency Management
 Operations Section
 PO Box 4087
 Austin, TX 78773-0220
Phone: (512) 424-2208 Email: soc@dps.texas.gov

BOARD OF ALDERMEN

AGENDA ITEM MEMORANDUM

7/7/16
Item #6
Regular Agenda
Page 1 of 1

DEPT/DIVISION REVIEW: Kim Foutz, Village Administrator

ITEM DESCRIPTION: Presentation, discussion, and possible action on amendments to the Master Development Agreement (and associated Exhibit “D”-Tourism Marketing Agreement) with Stagecoach 1943 Limited Partnership for redevelopment of Stagecoach Inn and Restaurant.

COMMITTEE/STAFF RECOMMENDATION: The Staff recommends approval.

ITEM SUMMARY AND ANALYSIS:

The developer has proposed the following amendments to the Master Development Agreement:

1. Completion and Certificate of Occupancy of the Stagecoach Inn Restaurant building by March 31, 2017
2. Removed the word “blanket” from “blanket utility easement” for the lift station and wastewater lines on the Parking Facility Tract.
3. Tax abatement to begin January 1, 2017 (still includes “or on a date mutually agreed upon)
4. Section 3.3.3.1 - Village will ~~use its best efforts~~ provide a letter of unqualified support to assist Owner in securing tax abatement from Bell County in substantially the same schedule of abatement.
5. Section 3.3.5 - College Hill Water Well: Village will ~~use its best efforts~~ provide a letter of unqualified support to assist Owner with acquiring fee title of the water well located on College Hill.

FISCAL IMPACT: N/A.

ATTACHMENTS:

- Master Development Agreement (developer changes highlighted in yellow; administrative changes highlighted in green)

**Master Development Agreement
Between
Village of Salado
And
Stagecoach 1943, LP**

This Master Development Agreement ("Agreement") is entered into by and between STAGECCOACH 1943, LP, a Texas limited partnership (hereafter referred to as "Owner"), and the VILLAGE OF SALADO, a Type A general law municipal corporation pursuant to Chapter 380 of the Texas Local Government Code (hereafter referred to as "VILLAGE"). Owner and Village are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, Village finds that providing a program of incentives (hereafter referred to as the "Program") to Owner in exchange for Owner's completion of the Hotel Redevelopment and Expansion and Mixed-Use Development (as such terms are defined below) would promote local economic development and stimulate business and commercial activity within the Village of Salado; and

WHEREAS, Village has determined that the Program will directly establish a public purpose and that all transactions involving the use of public funds and resources in the establishment and administration of the Program contain controls likely to ensure that the public purpose is accomplished.

NOW THEREFORE, the Parties, for and in consideration of the mutual promises contained herein, do hereby agree as follows:

ARTICLE I. DEFINITIONS

1.1 General

Words and phrases used in this Agreement shall have the meanings set forth in this section. Terms that are not defined below, but are defined in the Village's Code of Ordinances, shall be given the meanings set forth in the Code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

1.2 Specific

Agreement: This contract between the Village of Salado, Texas and Owner, including all Exhibits, which are incorporated herein for all intents and purposes.

Applicable Fees: The fees and charges to be paid by Owner to the Village with respect to the redevelopment of the Property.

Applicable Rules: The Village Rules that, as modified by the Project Approvals and variances granted concurrent with this Agreement, if any, exist on the Effective Date of this Agreement and will be applicable to the redevelopment of the Property for the term of this Agreement. This term does not include Zoning (except as provided in 3.37 herein), Building Codes, Landscaping, Lighting, Sign, or Exterior Design standards. This term does not include regulations mandated by state law, or that are necessary to prevent imminent harm to human safety or property, which may be modified and made applicable to the Project even after the Effective Date.

Building Code: The most recent versions of the International Building Code, Residential Building Code, Commercial Building Code, National Electrical Code, International Plumbing Code, International Mechanical Code, International Energy Conservation Code, and the International Fire Code, as adopted by the City. [Collectively, the most recent versions of the Village's Building Code.]

Capital Investment: Not less than \$7,500,000 and all generally in accordance with the site plan attached hereto as Exhibit A.

Coordinated Brand: All improvements constructed under this Agreement will be integrated to yield a coordinated brand and will be designed to re-establish the Stagecoach Inn as a destination venue for small conferences, special events, and weekend tourism travel.

Effective Date: July 7, 2016

Hotel amenities to be renovated: Include 5,000 square feet of existing meeting space, two swimming pools with new family areas, a parking facility near the existing wastewater treatment plant, and private park improvements to open the view to Salado Creek and connect to the trail system.

Hotel Redevelopment: The renovation of the existing 82 hotel rooms to boutique, 3-4-star/diamond level hotel rooms. Hotel amenities to be newly constructed include: a fitness center, lounge, landscaped courtyard including outdoor event and activity spaces, extensive landscape improvements especially along I-35 for buffering, and renovation of the original lobby coffee shop and 3,000 square feet of meeting space; renovation of the existing retail space of approximately 5,000 square feet at or near 360 South Main Street.

Mixed-Use Development: The redevelopment of the existing restaurant in a manner so as to rebuild the brand and reputation of the Stagecoach Inn restaurant as a dining destination;

Premises: The land and improvements depicted on Exhibit B.

Private Park Improvements: Improvements to the existing pond and surrounding area generally in accordance with the site plan attached hereto as Exhibit A.

Parking Facility: An existing surface parking lot located on the 2.88 acre site to be improved generally in accordance with the site plan attached hereto as Exhibit C.

Parking Facility Tract: A 2.88 acre tract that has a wastewater treatment facility and associated collection and discharge lines, a surface parking lot, and park improvements attached hereto as Exhibit C.

Phase I Improvements: Construction and renovation of the Mixed-Use Development.

Phase II Improvements: Construction and renovation of the Hotel Redevelopment.

Public Park Improvements: Future improvements to the 2.88 acre Parking Facility Tract, for the benefit of the general public, and Hotel and Mixed Use Development guests.

ARTICLE II. OWNER OBLIGATIONS

- 2.1 Design.** Owner will submit to the Village for review and approval: (i) conceptual design documents for the Hotel Redevelopment, Mixed-Use Development, and Private Park Improvements on or before December 31, 2016, and (ii) Drainage Plan and SWPP Plan on or before December 31, 2016. Owner must obtain Village's written approval of each submission hereunder, which shall not be unreasonably withheld and Owner must submit for record design documents as outlined herein and Article II(D) (said collective requirements are referred to herein as the "Design Obligation").
- 2.2 Financing – Phase I.** Owner will obtain financing approval for the Mixed-Use Development on or before July 31, 2016. Owner will provide Village satisfactory documentation, in a form reasonably acceptable to Village, evidencing that Owner has obtained sufficient financing from a third-party institutional lender(s) and/or equity partner(s) for construction and renovation of the Mixed-Use Development (said requirements are referred to herein as the "Proof of Financing Obligation – Phase I").
- 2.3 Financing – Phase II.** Owner will obtain financing approval for the Hotel Redevelopment on or before December 31, 2019. Owner will provide Village satisfactory documentation, in a form reasonably acceptable to Village, evidencing that Owner has obtained sufficient financing from a third-party institutional lender(s) and/or equity partner(s) for construction and renovation of the Hotel Redevelopment (said requirements are referred to herein as the "Proof of Financing Obligation – Phase II").
- 2.4 Building Plan Review, Approval, and Inspections:** Owner will secure a qualified, third party independent contractor to perform plan review, approval, and inspections for compliance. Owner covenants and agrees to cause the Mixed-Use Development and Hotel Redevelopment and Expansion Improvements to be constructed and maintained in a good and workmanlike manner and in accordance with all applicable state and local laws and regulations. Owner will provide evidence of inspector/reviewer qualifications, which will include but not be limited to licensing in electric, plumbing, mechanical, and fire. Provided however, Owner will submit a drainage plan and SWPP plan for review and approval by the Village Engineer prior to commencement of construction; such plan will include an engineer's certification that plans meet all state and local laws and regulations regarding drainage and floodplain. Owner will submit all design plans for

Village records prior to commencement of construction, and will submit as-built plans upon completion of construction for each phase. Upon receipt of as-builts, and certification by the qualified inspector that all Village of Salado codes have been met, the Village will issue a Certificate of Occupancy and set occupancy loads.

- 2.5 Commencement of Construction.** Owner will use commercially reasonable efforts to commence construction of the Mixed-Use Development on or before December 31, 2016~~5~~ (said requirement is referred to herein as the "Commencement of Construction Obligation"), and Hotel Redevelopment on or before January 1, 2020.
- 2.6 Completion of Construction – Phase I.** Owner will complete construction of the Mixed-Use Development (and obtain a certificate of occupancy for ~~each the Stagecoach Inn restaurant building~~ located in the Mixed-Use Development) on or before ~~the later of (a) March 31, 2017~~ and the Mixed-Use Development shall have a total construction cost of not less than \$1,000,000 and shall be substantially similar to the Concept Plans which are attached hereto and incorporated herein as Exhibit A as such may be amended to comply with requirements of the Texas Historical Commission and/or National Parks Service (and subject to such changes as the Village may approve, such approval not to be unreasonably withheld provided that such changes do not materially reduce the quality of materials or design or the scope or nature of the uses contained in the Mixed-Use Development) (said requirements are referred to herein as the "**Construction Completion Obligation Phase I**").
- 2.7 Completion of Construction – Phase II.** Owner will complete construction of the Hotel Redevelopment (and obtain a certificate of occupancy for each building located in the Hotel Redevelopment on or before June 30, 2021; the Hotel Redevelopment shall have a total construction cost of not less than \$4,000,000.00; and shall be substantially similar to the Concept Plans which are attached hereto and incorporated herein as Exhibit A (and subject to such changes as the Village may approve, such approval not to be unreasonably withheld provided that such changes do not materially reduce the quality of materials or design or the scope or nature of the uses contained in the Hotel Redevelopment) (said requirements are referred to herein as the "**Construction Completion Obligation - Phase II**").

ARTICLE III. AGREEMENTS AND INCENTIVES

- 3.1** In exchange for Owner's construction of the Mixed-Use Development and the Hotel Redevelopment, Village agrees to enter into the following agreements and Program with Owner:
- 3.2 Purchase Contract/Parking Facility Lease:** Village and Owner shall enter into a short-term Parking Facility lease in a form and content reasonably acceptable to Village and Owner (the "**Parking Lease**") pursuant to which the Village will lease to Owner, for its exclusive use, the Parking Facility simultaneously with Owner closing its construction financing with respect to the Mixed-Use Development. The Parking Lease will provide for an annual lease payment of \$1 per year commencing upon execution of the Parking Lease and continuing until closing of the Purchase Contract for the Parking Facility Tract. Owner shall have the right to

purchase the 2.88 acre site as depicted in Exhibit C at such time that the wastewater treatment plant has been replaced with a ~~lift station~~ low pressure pump and associated lines, and following Owner's receipt of a certificate of occupancy for each building located in Phase I (the Mixed-Use Development). Village will sell and convey the site to Owner for a purchase price equal to \$1.00 by special warranty deed (the "**Deed**") and bill of sale ("**Bill of Sale**"). The Purchase Contract shall provide that Village will demolish, remove and abate all existing wastewater related improvements, and complete construction of new lift station and wastewater collection lines on the site pursuant to plans to be approved in advance by Owner, such approval for aesthetic and operational concerns, prior to the sale and conveyance of the site to Owner. The obligation of Village to sell and convey the Parking Facility Tract to Owner shall be contingent upon Owner timely fulfilling Owner's obligations in Section II.A (Design Obligation) and II.B and II.C (Proof of Financing Obligation), Sections II.E (Construction Completion Obligation – Phase I) above, including obtaining a certificate of occupancy for each building located in the Mixed-Use Development. The Village agrees to not unreasonably withhold, delay or condition the issuance of the certificates of occupancy for the Mixed-Use Development.

3.2.1 The Purchase Contract will include a perpetual public access easement to provide public access to Salado Creek and future park improvements, and a ~~blanket~~ utility easement for a ~~lift station~~ low pressure pump, wet well, and wastewater lines on the Parking Facility Tract. In addition, nothing herein would prevent Village, at Village cost, from installing public park improvements on the Parking Facility Tract on areas not developed as a parking facility, subject to Owner approval, not unreasonably withheld.

3.2.2 BY EXECUTING THIS AGREEMENT, OWNER AGREES AND ACKNOWLEDGES THAT OWNER WILL LEASE THE PARKING FACILITY "AS IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED, BEING MADE BY VILLAGE THAT THE PARKING FACILITY IS FIT FOR A PARTICULAR PURPOSE. OWNER ACKNOWLEDGES, BY EXECUTING THIS AGREEMENT, THAT OWNER IS NOT RELYING UPON ANY REPRESENTATION MADE BY VILLAGE WITH RESPECT TO THE CONDITION OF THE PARKING FACILITY, BUT IS RELYING UPON OWNER'S EXAMINATION OF THE PARKING FACILITY. OWNER ALSO RECOGNIZES BY EXECUTING THIS AGREEMENT THAT OWNER IS AGREEING TO ACCEPT THE PARKING FACILITY "AS IS". OWNER AGREES TO MAKE OWNER'S OWN APPRAISAL OF THE PARKING FACILITY AND TO ACCEPT THE RISK THAT OWNER MAY BE WRONG. VILLAGE DOES NOT GIVE ANY ASSURANCE, EXPRESS OR IMPLIED, CONCERNING THE VALUE OR CONDITION OF THE PARKING FACILITY AND SITE SOLD. IN NO EVENT SHALL OWNER HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. THEREFORE, OWNER WILL TAKE THE PARKING FACILITY AND SITE UNDER THE EXPRESS UNDERSTANDING THE PARKING FACILITY AND SITE ARE ACCEPTED "AS IS" AND WITH ALL FAULTS, EXCLUDING EXPRESS OR IMPLIED WARRANTIES. THIS SECTION SHALL SURVIVE THE EXECUTION OF THE PARKING LEASE.

3.3 Village Incentives: Village agrees to provide the following incentives:

3.3.1 Enter into a ***Tourism Marketing Agreement***, attached hereto as ***Exhibit D***, as it relates to Hotel Motel funds generated by the Hotel Redevelopment improvements, which will include the following Hotel Motel contribution for marketing the Hotel and Mixed Use Development Improvements per year: year 1 - 70%, year 2 - 65%, year 3 - 55%, year 4 - 50%, years 5 through 7 - 45%, years 8 through 10 – 40%, such contributions being based upon those Hotel Motel taxes above the current baseline of \$44,000 per year. Year one will begin immediately following hotel reopening.

3.3.2 Waive building fees, including, but without limitation, building permit review and inspection fees, plan fees, and tap fees that would be payable by Owner in connection with the Mixed-Use Development and Hotel Redevelopment. It is not anticipated that platting will be required for the project, but in the event that platting is required, Owner will be charged only for actual costs for engineering review and approval. Provided, however, that such waivers shall (i) apply only to initial charges or fees associated with the construction of the Mixed-Use Development and Hotel Redevelopment, Impact fees are not applicable to this project.

3.3.3 Enter into a **Tax Abatement Agreement**, in a form provided by the Village, to provide Tax Abatement on the Real Property improvements associated with the Hotel Redevelopment and the Mixed Use Development in accordance with state law for a period of ten (10) years beginning on **January 1, 2017** or on a date mutually agreed upon in the Tax Abatement Agreement, **with the following schedule of abatement: years 1-5 at 100%, year 6 - 80%, year 7 - 60%, year 8 - 40%, year 9 - 20%, year 10 - 20%.**

3.3.3.1 Village will **use its best efforts provide a letter of unqualified support** to assist Owner in securing tax abatement from Bell County in substantially the same schedule of abatement.

3.3.4 Wastewater Rates: Provide wastewater rates of \$500.00 per month for two years from the date of execution or until the Village's new wastewater plant comes on-line, whichever is later.

3.3.5 College Hill Water Well: Village will **use its best efforts provide a letter of unqualified support** to assist Owner with acquiring fee title of the water well located on College Hill.

3.3.6 Police Protection: Village will provide limited police protection of the site both pre-construction and during construction by providing regular daily and nightly patrol of the Premises.

3.3.7 Main Street ROW: Village will assist to secure a license through the Texas Department of Transportation for Owner to have full design and landscaping control of the Main Street right-of-way adjacent to the Premises in a form substantially similar to that which the Owner obtained through the City of Georgetown, attached hereto as *Exhibit E*.

3.3.8 Zoning: The Village represents and warrants that the Premises are zoned Historic District (HD), which zoning classification permits the development and construction of hotels, hotel meeting space, fitness centers with spa services, restaurants, and lounges; provided, however, additional permits and approvals may be needed to operate such facilities (including but not limited to specific use permits for on-site alcohol sales, if not already secured).

3.3.4 Definitive Documents: The specific terms and conditions of the Tourism Marketing Agreement, Parking Lease, Tax Abatement Agreement, and Purchase Contract (collectively, the "**Definitive Documents**") shall be negotiated by the Village and the Owner in good faith, in substantial conformance with the provisions contained herein, and the Parties shall use good faith efforts to finalize and execute the Definitive Documents on or before 90 days after the Effective Date.

ARTICLE IV. INSPECTIONS

4.1 Owner agrees that the Village, their agents and employees, shall have reasonable rights of access to the Premises to insure all activities are in accordance with the Definitive Documents and all applicable state and local laws and regulations.

ARTICLE V. GENERAL PROVISIONS

5.1 Assignment & Binding Effect:

5.1.1 This Agreement, and the rights and obligations of Owners hereunder, may be assigned by Owners to a subsequent purchaser of all or a portion of the undeveloped property within the Project provided that the assignee assumes all of the obligations hereunder, and with prior written notice and consent of the Village, which consent shall not be unreasonably withheld, delayed, or conditioned. Any assignment must be in writing, specifically describe the property in question, set forth the assigned rights and obligations and be executed by the proposed assignee. A copy of the assignment document must be delivered to the Village and recorded in the real property records as may be required by applicable law. Upon any such assignment, the assignor will be released of any further obligations under this Agreement as to the property sold and obligations assigned. Notwithstanding the foregoing, the Village shall not be obligated to consent to any assignment without the assignee demonstrating the financial capacity, creditworthiness and knowledge to own and operate the Project.

5.1.2 If Owners assign its rights and obligations hereunder as to a portion of the Project, then the rights and obligations of any assignee and Owners will be non-severable, and Owners will be liable for the nonperformance of the assignee and vice-versa. In the case of nonperformance by one developer, the Village may pursue all remedies against that nonperforming developer, even if such remedies will impede development activities of any performing developer as a result of that nonperformance.

5.1.3 The provisions of this Agreement will be binding upon, and inure to the benefit of the Parties, and their respective successors and assigns.

- 5.1.4** Owners agree that all restrictive covenants for the Project shall reinforce this Agreement. Owners further agree to memorialize the terms of this Agreement through inclusion in the plat notes. The Agreement shall be recorded in the Bell County land records to place subsequent purchasers on notice.
- 5.2 Severability:** If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the Parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is possible.
- 5.3 Governing Law, Jurisdiction & Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, as it applies to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary. The parties acknowledge that this Agreement is performable in **Bell County, Texas** and hereby submit to the jurisdiction of the courts of that County, and hereby agree that any such Court shall be a proper forum for the determination of any dispute arising hereunder.
- 5.4 No Third Party Beneficiary:** This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided.
- 5.5 Mortgage Protection:** This Agreement will not affect the right of Owners to encumber all or any portion of the Property by mortgage, deed of trust or other instrument to secure financing for the Project. The Village understands that a lender providing financing for the Project (“Lender”) may require interpretations of or modifications to this Agreement and agrees to cooperate with Owners and its Lenders’ representatives in connection with any requests for interpretations or modifications. The Village agrees not to unreasonably withhold or delay its approval of any requested interpretation or modification if the interpretation or modification is consistent with the intent and purposes of this Agreement. The Village agrees as follows:
- 5.5.1** Neither entering into this Agreement, nor any breach of this Agreement, will affect any lien upon all or any portion of the Property.
- 5.5.2** The Village will, upon written request of a Lender given in compliance with Section 5.17, consider providing the Lender with a copy of any written notice of default given to Owners under this Agreement within ten (10) days of the date such notice is given to Owners.
- 5.5.3** In the event of default by Owners under this Agreement, a Lender may, but will not be obligated to, cure any default during any cure period extended to Owners, either under this Agreement or under the notice of default.
- 5.5.4** Any Lender who comes into possession of any portion of the Property by foreclosure or deed in lieu of foreclosure will take such property subject to the terms of this Agreement. No Lender will be liable for any defaults or monetary obligations of Owners arising prior to the Lender’s acquisition

of title, but a Lender will not be entitled to obtain any permits or approvals with respect to that property until all delinquent fees and other obligations of Owners under this Agreement that relate to the property in question have been paid or performed.

- 5.6 Certificate of Compliance:** Within thirty (30) days of written request by either Party given accordance with Section 6.17, the other Party will execute and deliver to the requesting Party a statement certifying that: (a) this Agreement is unmodified and in full force and effect or, if there have been modifications, that this Agreement is in full force and effect as modified and stating the date and nature of each modification; (b) there are no current uncured defaults under this Agreement, or specifying the date and nature of each default; and (c) any other information that may be reasonably requested. A Party's failure to deliver a requested certification within this 30-day period will conclusively be deemed to constitute a confirmation that this Agreement is in full force without modification, and that there are no uncured defaults on the part of the requesting Party. The Village Administrator or Village Development Coordinator will be authorized to execute any requested certificate on behalf of the Village.
- 5.7 Default:** If either Party defaults in its obligations under this Agreement, the other Party must, prior to exercising a remedy available to that Party due to the default, give written notice to the defaulting Party, specifying the nature of the alleged default and the manner in which it can be satisfactorily cured, and extend to the defaulting Party at least thirty (30) days from receipt of the notice to cure the default. If the nature of the default is such that it cannot reasonably be cured within the thirty (30) day period, the commencement of the cure within the thirty (30) day period and the diligent prosecution of the cure to completion will be deemed a cure within the cure period. The Village may issue Stop Work Orders for violations arising under this Agreement or the regulations applied herein.
- 5.8 Remedies for Default:** If either Party defaults under this Agreement and fails to cure the default within the applicable cure period, the non-defaulting Party will have all rights and remedies available under this Agreement or applicable law, including the right to institute legal action to cure any default, to enjoin any threatened or attempted violation of this Agreement or to enforce the defaulting Party's obligations under this Agreement by specific performance or writ of mandamus, or to terminate this Agreement. In the event of a default by the Village, Owners will be entitled to seek a writ of mandamus, in addition to seeking any other available remedies. All remedies available to a Party will be cumulative and the pursuit of one remedy will not constitute an election of remedies or a waiver of the right to pursue any other available remedy.
- 5.9 Reservation of Rights:** To the extent not inconsistent with this Agreement, each Party reserves all rights, privileges, and immunities under applicable laws.
- 5.10 Attorneys Fees:** The prevailing Party in any dispute under this Agreement will be entitled to recover from the non-prevailing Party its reasonable attorney's fees, expenses and court costs in connection with any original action, any appeals, and any post-judgment proceedings to collect or enforce a judgment in accordance with Section 271.159 of the Texas Local Government Code, as amended.

- 5.11 Waiver:** Any failure by a Party to insist upon strict performance by the other Party of any provision of this Agreement will not, regardless of the length of time during which that failure continues, be deemed a waiver of that Party's right insist upon strict compliance with all terms of this Agreement. In order to be effective as to a Party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.
- 5.12 Entire Agreement:** This Agreement contains the entire agreement of the Parties, and there are no other agreements or promises, oral or written, between the Parties regarding the subject matter of this Agreement. This Agreement may be amended only by written agreement signed by the Parties. An amendment to this Agreement may only be approved by an affirmative vote of at least three of the five (3 of 5) members of the City Council.
- 5.13 Exhibits, Headings, Construction & Counterparts:** All exhibits attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and *vice-versa*. Each of the Parties has been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not be employed in interpreting this Agreement or its exhibits. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the Parties.
- 5.14 Time:** Time is of the essence of this Agreement. In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday or legal holiday.
- 5.15 Authority for Execution:** The Village certifies, represents, and warrants that the execution of this Agreement has been duly authorized and that this Agreement has been approved in conformity with Village ordinances and other applicable legal requirements. Owners certify, represent, and warrant that the execution of this Agreement is duly authorized in conformity with their authority.
- 5.16 Property Rights:** Owners expressly and unconditionally waive and release the Village from any obligation to perform a takings impact assessment under the Texas Private Real Property Rights Act, Texas Government Code Chapter 2007, as it may apply to this Agreement, the Property, and the Project.
- 5.17 Notices:** Any notices or approvals under this Agreement must be in writing may be sent by hand delivery, facsimile (with confirmation of delivery) or certified mail, return receipt requested, to the Parties at the following addresses or as such addresses may be changed from time to time by written notice to the other Parties:

VILLAGE:

Original: Village Administrator
Village of Salado
P. O. Box 219
Salado, Texas 76571
Fax: (254) 947-5061

Copy to: Bojorquez Law Firm, PLLC
Attention: Alan J. Bojorquez
12325 Hymeadow Dr., Ste. 2-100
Austin, Texas 78750
Fax: (512) 250-0749

OWNERS:

Original: Stagecoach 1943, LP
P.O. Box 1757
Georgetown, TX 78627

Copy to: William D. Brown
Sneed, Vine, and Perry
900 Congress Avenue, Suite 300
Austin, TX 78701

5.17.1 Either Village or Owners may change its mailing address at any time by giving written notice of such change to the other in the manner provided herein at least ten days prior to the date such change is effected. All notices under this Agreement will be deemed given on the earlier of the date personal delivery is effected or on the delivery date or attempted delivery date shown on the return receipt or facsimile confirmation.

ARTICLE VI. CONFIDENTIALITY

6.1 Owner acknowledges that the Village is a governmental entity subject to the Texas Public Information Act or any equivalent or successor statute (hereafter the "Open Records Act") and in the event that the Village is requested to disclose any information of a confidential, proprietary, or trade secret nature relating to Owner, this Agreement, the Definitive Documents, the Mixed-Use Development, or the Hotel Redevelopment and Expansion, and such information is subject to, or potentially subject to, an exception under the Open Records Act, then Village, as applicable, will request a Texas Attorney General Opinion and provide Owner notice of the request for information in accordance with the Open Records Act so that Owner may avail itself of any opportunities to establish reasons why the information should be withheld. The burden of establishing the applicability of exceptions to disclosure relating to Owner's confidential, proprietary, or trade secret information resides with Owner. Should the Texas Attorney General issue an opinion that the requested information, or any part thereof, should be released, the Village may release said information without penalty or liability, provided that the ruling is not

challenged by Owner in a lawsuit within fourteen (14) days of written notice of the final ruling, in which event, the subsequent court ruling will be followed.

ARTICLE VII. NON-PERFORMANCE

- 7.1 Owner and Village agree that in the event Owner fails to construct the Hotel Redevelopment and Expansion and Mixed-Use Development as required under Articles II and III of this Agreement, Village may terminate this Agreement immediately and Owner agrees to refund to Village any and all tax rebates already received by Owner within six (6) months of failing to perform.

ARTICLE VIII. INDEMNITY

- 8.1 **Indemnification and Release. THE OWNER SHALL DEFEND, INDEMNIFY, AND HOLD THE VILLAGE, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE “INDEMNIFIED PERSONS”) HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS’ FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:**
- (A) **THE OWNER’S AND/OR ITS AGENTS’, EMPLOYEES’, OFFICERS’, DIRECTORS’, CONTRACTORS’, OR SUBCONTRACTORS’ (COLLECTIVELY, “THE OWNER’S”) ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS; AND**
 - (B) **THE INDEMNIFIED PERSONS’ AND THE OWNER’S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER THE OWNER IS IMMUNE FROM LIABILITY OR NOT.**
 - (C) **THE INDEMNIFIED PERSONS’ AND THE OWNER’S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER THE OWNER IS IMMUNE FROM LIABILITY OR NOT.**
- 8.2 **Indemnity to Village Property. THE OWNER SHALL LIKEWISE INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PERSONS FOR ANY AND ALL INJURY OR DAMAGE TO VILLAGE PROPERTY ARISING OUT OF OR IN CONNECTION WITH ANY AND ALL ACTS OR OMISSIONS OF THE OWNER, ITS OFFICERS, AGENTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, OR INVITEES.**
- 8.3 **Release. THE OWNER SHALL RELEASE EACH INDEMNIFIED PERSON FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE INDEMNIFIED PERSON’S CONCURRENT NEGLIGENCE AND/OR THE INDEMNIFIED PERSON’S STRICT PRODUCTS LIABILITY OR STRICT**

STATUTORY LIABILITY, BUT NOT SUCH INDEMNIFIED PERSON'S SOLE NEGLIGENCE OR FROM ANY DAMAGE OR LOSS TO THE EXTENT RESULTING FROM THE GROSS NEGLIGENCE, RECKLESSNESS OR INTENTIONAL ACT OR OMISSION OF THE INDEMNIFIED PERSON.

TO THE EXTENT POSSIBLE, THE OWNER SHALL REQUIRE ALL CONTRACTORS ENGAGED BY IT TO CONSTRUCT THE PROJECT (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE INDEMNIFIED PERSONS TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE OF AND INDEMNITY TO THE INDEMNIFIED PERSONS HEREUNDER.

TO THE EXTENT POSSIBLE, THE OWNER SHALL ALSO REQUIRE THAT ALL GENERAL CONTRACTORS INDEMNIFY THE VILLAGE AND ITS RESPECTIVE OFFICIALS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITIES ARISING OUT OF SUCH CONTRACTOR'S WORK AND ACTIVITY RELATED TO THE PROJECT.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed as of the respective dates set forth below to be effective as of the Effective Date for all intents and purposes.

Owner:

STAGECOACH 1943 LP, a Texas Limited Partnership

By: Clark Lyda

Title: _____

Date: _____

Village:

VILLAGE OF SALADO, TEXAS

By: _____

Skip Blancett, Mayor

Date: _____

ATTEST:

Mary Ann Ray, Village Secretary

Exhibit A
Site Plan / Concept Plan

Exhibit B
Premises - Land and Proposed Improvements

Exhibit C

2.88 Acres With Parking – Parking Facility Tract

Exhibit D
Tourism Marketing Agreement

Exhibit E

TXDOT Right-of-Way License – Georgetown Texas

TOURISM MARKETING AGREEMENT

This Tourism Marketing Agreement (the "Agreement") is entered into as of the 14th day of April, 2016, by and between STAGECOACH 1943 LP, a Texas limited partnership or affiliated assignee ("Hotel Owner"), VILLAGE MARKETING CORPORATION, a Texas corporation ("Contractor"), which is an affiliate of the Hotel Owner, and the VILLAGE of SALADO, TEXAS, a Texas municipal corporation ("Village"). Hotel Owner, Contractor and the Village are jointly referred to herein as the "Parties" and individually as a "Party."

RECITALS

WHEREAS, the initial Hotel Owner, which is an entity affiliated with Village Marketing Corporation, is, or expects shortly to become, the owner of an approximately eight acre tract of real property ("Resort Site") located in Bell County, Texas, and within the city limits of the Village, as more fully described or depicted on Exhibit "A" attached hereto.

WHEREAS, The Village currently levies a local hotel occupancy tax pursuant to Chapter 351, Texas Tax Code. Such tax, or any similar levy hereafter imposed upon the Hotel (hereinafter defined) by the Village, is herein referred to as the "Hotel Occupancy Tax" or "HOT."

WHEREAS, Hotel Owner intends to develop on the Resort Site a destination resort hotel, including various related meeting rooms, recreational facilities, and other ancillary facilities (collectively, the "Hotel"), which Hotel will, when operating, be subject to the Hotel Occupancy Tax. The Hotel and related facilities are currently expected to be operated jointly as the "Stagecoach 1943 LP" project.

WHEREAS, Contractor is a hospitality and destination marketing firm that is an affiliate of the Hotel Owner, with expertise in marketing and promotional activities. Pursuant to the terms of this Agreement, the Contractor shall be actively engaged in promoting tourism in the Village of Salado, Texas, and the surrounding area (the "Salado Marketing Area"), including promoting travel to the Salado Marketing Area by residents of other areas for conventions and similar events. In addition to assisting the Village in such promotional endeavors, the Contractor shall also be involved in such promotional activities on Hotel Owner's behalf. Contractor's activities are directly compatible with the interests of the Village, and Village desires to provide an incentive for such promotional activities. Accordingly, Hotel Owner, Village and Contractor have agreed that it is in their mutual interests for Village to make available to Contractor certain portions of the HOT generated solely by the Hotel ("Hotel HOT"), from time to time, for use by Contractor specifically promoting the Salado Marketing Area and the Village of Salado.

WHEREAS, Village, Hotel Owner and Contractor have entered into this Agreement for the purpose of evidencing their respective agreements with respect thereto. The Parties concur that inasmuch as Contractor is a private organization to which the governing body of the Village of Salado, Texas, is delegating the management and/or supervision of only those programs approved in advance by the Village, this Agreement is authorized by Section 351.101(c) of the Texas Tax Code.

NOW, THEREFORE, in consideration of the premises noted herein, and for good and valuable consideration provided, the sufficiency of which all Parties hereby acknowledge, Village, Hotel Owner and Contractor have agreed, and do hereby agree, as follows:

AGREEMENTS

ARTICLE I

TERM

The term of this Agreement shall commence on the date that the first hotel room in the Hotel is rented by Hotel Owner so that Hotel HOT is generated pursuant to Texas Tax Code, Chapter 351 ("Opening Date"), and shall continue for a period of ten (10) calendar years from that date. However, the Parties acknowledge that the Annual Plan and Budget (hereinafter defined) will be prepared on the basis of a twelve-month "Fiscal Year" (herein so-called) commencing on October 1 and continuing through the following September 30, so as to coincide with the Village's fiscal year and budgeting process. To match up properly with the Fiscal Year basis on which the Annual Plan and Budget is to be administered, in the event that the Opening Date does not occur on an October 1, the term of this Agreement shall consist of (i) the partial Fiscal Year beginning on the Opening Date and ending on the next September 30, plus, (ii) the following nine (9) full Fiscal Years, plus (iii) the partial Fiscal Year beginning on October 1 of the last partial Fiscal Year of the term and continuing through the last day of the term. Each such period shall, for purposes of this Agreement, be referred to herein as a year ("Year"). To the extent that a Year for purposes of this Agreement is less than a full twelve-month Fiscal Year, then adjustments as agreed to by the parties shall be made to reflect the shorter period included in the "Year" in question.

ARTICLE 2 RELATIONSHIP

Contractor shall at all times be the independent contractor of the Village and not the employee or agent of Village, with respect to the matters provided for herein. Contractor shall have no right or power to contract with third parties for, on behalf of, or in the name of Village or to otherwise bind or obligate the Village.

ARTICLE 3

SUCCESSORS AND ASSIGNS; ASSIGNABILITY

- 3.1 Binding Effect. This Agreement shall be binding upon and inure to the benefit of Hotel Owner, Contractor and Village and their respective heirs, representatives, successors and permitted assigns.

3.2 Assignment by Contractor. Contractor shall not be permitted to assign this Agreement, in whole or in part, without the prior written consent of Village, which shall not be unreasonably withheld; provided, however, that any sale or conveyance of the capital stock or other ownership interests in the Contractor to any entity that becomes a successor to Hotel Owner, as detailed in Section 3.3 below, or to an affiliate of such an entity, shall be permitted.

3.3 Assignment by Hotel Owner.

- a) In light of the fact that the exact capital structure of the initial ownership entity for the Hotel has not been determined as of the time of entering into this Agreement, it is expressly agreed that the original Hotel Owner named herein shall be permitted to assign its rights and obligations under this Agreement to any investment entity affiliated with the Village Marketing Corporation, that may be created to be the owner of the Hotel in connection with the initial development thereof, provided, however, that in order to derive the benefits provided under this Agreement, such assignee shall develop the Resort Site for use as a Hotel, as noted herein.
- b) Hotel Owner shall also have the right, power and authority to assign the rights and duties of the Hotel Owner pursuant to this Agreement:
 - i. without the Village's prior consent, to any affiliate of the Village Marketing Corporation, or to any entity which any of the foregoing controls or in which any of the foregoing has a controlling interest;
 - ii. without the Village's prior consent to any "Pre-Approved Assignee" (as hereinafter defined) that is or becomes an "owner" (as defined below) of the Hotel; or
 - iii. with the Village's prior written consent, which consent shall not be unreasonably withheld or delayed, to any other person or entity that is or becomes an "owner" of the Hotel.

Regardless of whether the Village's consent is required in connection with a particular assignment of this Agreement, in all cases any Hotel Owner that makes an assignment hereof shall endeavor in good faith and in the exercise of commercially reasonable efforts to assure that any assignee of the rights and obligations of the Hotel Owner hereunder is an entity that (either itself or through association with a sponsorship group and/or professional operator), has access to sufficient financial resources, operational capability, and experience appropriate for the ownership and operation of a project comparable to the Hotel.

For purposes of the foregoing, the term "owner" means a person or entity that owns fee title to that portion of the Resort Site on which the Hotel is located, or, in the alternative, is the holder of a long-term ground lease, master lease, or other operating agreement with the fee owner of such portions of the Resort Site pursuant to which such person or entity bears a significant portion of the primary financial benefits and burdens of the ownership and operations of the Hotel.

For purposes of the foregoing, the term "Pre-Approved Assignee" means any person or entity as to which all of the following are true:

- (i) such person or entity is not then in default or in breach, beyond any applicable grace or cure periods, of its obligations under any material written agreement with the Village of Salado, Texas, or any division, department, agency or instrumentality thereof;
- (ii) such person or entity is not, directly or indirectly, controlled by or in control of a person or entity that is in default or in breach, beyond any applicable grace or cure periods, of its obligations under any material written agreement with the Village of Salado, Texas, or any division, department, agency, or instrumentality thereof;
- (iii) neither such person or entity, nor any person or entity that, directly or indirectly, either controls or is controlled by, such person or entity is a person that (x) has been convicted of violation of any statute in any criminal proceeding for a felony or a crime involving moral turpitude, or (y) is an organized crime figure or is reported (based upon reputable media reports) to have substantial business affiliations with an organized crime figure;
- (iv) neither such person or entity, nor any person or entity that, directly or indirectly, either controls or is controlled by, such person or entity, is listed on any list of terrorists or terrorist organization maintained by any federal governmental agency;
- (v) such person or entity is not then subject to an order for relief under the federal bankruptcy act.
- (vi) such person or entity is not one that would cause the Hotel to be ineligible to be listed with or to advertise in any official travel publication of the State of Texas that includes general listings or advertisements of

hotel/motel properties, including particularly the Texas Accommodations Guide, or its successor publications; and

- (vii) such person or entity is not one that would cause the Hotel to be ineligible for membership, in good standing, in the Texas Hotel and Lodging Association, or its successor trade association which serves as the industry's principal trade association in Texas.
- c) Upon any assignment (whether or not the consent of the Village thereto is required, as aforesaid), the assignee and assignor shall execute an assignment and assumption agreement with respect to this Agreement and shall supply a copy thereof to the Village and the Contractor. In connection with any assignment of this Agreement by a Hotel Owner, the assignee shall assume all duties and obligations of the Hotel Owner arising from and after the date of such assignment, and the assignor shall be released from any liability or obligation arising hereunder from and after such assignment.

3.4 Collateral Assignments.

- a) Contractor and/or Hotel Owner shall be permitted to collaterally assign their respective rights and obligations under this Agreement to the mortgage holder as security for any mortgage loan or similar indebtedness secured by the Hotel or direct or indirect interests therein. Village agrees that it will deliver, concurrently with the delivery of any notice provided to Contractor hereunder, a copy of such notice to any such mortgage holder for which an address for notice has been provided to Village and for which delivery has been specifically requested, in writing, by Contractor and/or Hotel Owner. Any such mortgage holder shall have the right, but not the obligation, to cure any default by Hotel Owner or Contractor hereunder on behalf of the Hotel Owner or the Contractor, as applicable.
- b) In the event of foreclosure under any such mortgage (or conveyance in lieu thereof), the purchaser at foreclosure (or grantee of the conveyance in lieu of foreclosure) shall succeed automatically to the rights and obligations of Contractor or Hotel Owner, as applicable, hereunder arising from and after the date of such foreclosure or conveyance in lieu thereof.
- c) Notwithstanding the above, no collateral assignment of the rights and obligations under this Agreement by Contractor or Hotel Owner shall result in any portion of Hotel HOT being used by any entity, including any mortgagor, or mortgagee or assignee, for any purpose other than for the provision of administrative costs as permitted by law and/or for the provision of services related to Statutorily Authorized Promotional Programs ("SAPPs") (as defined herein) and as approved by the Village.

- 3.5 Estoppel Certificates. Each Party shall, within fifteen (15) business days after the request of any other Party, issue an estoppel certificate addressed to one or more of the Parties, and/or to any mortgagee, proposed mortgagee, investor, proposed investor, or other person or entity having legitimate business reasons for the requested

confirmations, confirming (to the extent then true--or, if all or any of such requested confirmations are not true, then stating the basis on which the Party issuing the certificate believes that the requested confirmation is not true), (i) that this Agreement is in full force and effect (and attaching a true and correct copy of the Agreement), (ii) that this Agreement has not been amended or modified, (iii) that the Annual Plan and Budget for a particular Year has been approved by the Village (and attaching a copy of the approved Annual Plan and Budget to the certificate), (iv) that no notice of default has been given by any Party, and (v) such other information as may reasonably be requested by the requesting Party. Any such estoppel certificate may be relied upon by the requesting Party and any other person or entity to which it may be addressed or as to which reliance is contemplated therein. The reasonable out-of-pocket costs and expenses of a Party in responding to a request for an estoppel certificate shall be borne and paid by the party requesting such certificate upon invoice and reasonable substantiation of the costs and expenses in question.

ARTICLE 4 ADMINISTRATIVE COSTS

Pursuant to Section 351.005 of the Texas Tax Code, Village agrees that Hotel Owner shall be permitted to retain, out of amounts collected by Hotel Owner pursuant to Hotel Owner's responsibility to collect Hotel HOT, the maximum amount permitted from time to time by applicable law to be retained by Hotel Owner as reimbursement for costs associated with the collection of the Hotel HOT ("Tax Collection Expenses"). The parties acknowledge that, at the time of entering into the Agreement, the Tax Collection Expense amount is one percent (1%) of the amount of the Hotel HOT collected by Hotel Owner, as provided in Texas Tax Code Section 351.005. Reimbursement provided under Article 4 of this Agreement shall be forfeited by Hotel Owner for failure of Hotel Owner to pay Hotel HOT.

ARTICLE 5 DISTRIBUTION OF "HOTEL" HOT

5.1 Contract for Promotional Services. Pursuant to Section 351.101(c) of Texas Tax Code, Village hereby contracts with a private entity/organization, which is identified herein as the Contractor, on the terms and conditions hereinafter set forth, for the management and supervision of certain promotional services, programs and activities that are eligible to be funded with revenue derived by Village from Hotel HOT (collectively "Statutorily Authorized Promotional Programs" or "SAPP(s)"). Statutorily Authorized Promotional Programs shall be specifically limited to those approved under the Texas Tax Code Section 351.101(a) (1-5) and as amended by the legislature during the term of this Agreement, including, by way of example, advertising, solicitation, and promotional programs promoting visitor attractions, points of interest, entertainment opportunities, recreational facilities, and historical sites to attract tourists and convention delegates or registrants to the Salado Marketing Area and the Village of Salado. All Hotel HOT revenue expended by the Contractor pursuant to this Agreement shall directly enhance and promote tourism and convention attendance in the Salado Marketing Area and the Village of Salado.

Contractor and Hotel Owner recognize the intent and desire of the Village to establish and enhance a "brand identity" for the Village of Salado and the Salado Marketing Area. Contractor and/or Hotel Owner shall engage the services of a marketing consultant to assist

Contractor and Hotel Owner in connection with the preparation of the initial plans for SAPPs so as to be compatible with and to enhance the "branding" efforts for the Salado Marketing Area and Village of Salado. Further, Contractor shall assist the Village in developing strategies for coordinating the Village's marketing efforts with the Hotel Owner's marketing programs, so that the Village's marketing efforts may be enhanced and maximized, to an extent reasonably possible.

In addition, at such time as the operator or management company for the Hotel has been identified and engaged by Hotel Owner, Hotel Owner will make appropriate introductions of the management and marketing personnel of the operator (both those personnel engaged to work directly at the Hotel, as well as their regional or other appropriate supervisors) to appropriate personnel at the Village, as well as any local chamber of commerce, development authority, or other such public or quasi-public entities that may be engaged in the marketing of the Village of Salado or other parts of the Salado Marketing Area, with the intention of facilitating cooperative marketing efforts and activities beyond the matters specifically covered by this Agreement.

No sub-grants by Contractor shall be allowed without the Village's prior written approval. Sub-grantees, if approved by the Village, shall be required to comply fully with all applicable laws and with all applicable terms of this Agreement. Nothing in the foregoing shall be construed to prohibit Contractor from obtaining the assistance and cooperation of the Hotel's operator or management company, or other independent contractors and consultants engaged from time to time by Contractor, with respect to the conduct of Contractor's duties and obligations hereunder, but Contractor shall remain solely responsible for all such duties and obligations.

5.2 Amount. Subject to the terms and conditions hereinafter stated, Village agrees to reserve or make available to Contractor, from time to time as detailed herein, an amount equal to the Specified Percentages (as indicated below in Section 5.3) of the actual amount paid to Village in Hotel HOT for the Year in question, to be utilized by Contractor solely for payment of costs and expenses associated with SAPPs.

5.3 Schedule of Participation by Village in Hotel HOT Promotional Services.

All portions of the Hotel HOT made available to Contractor for the contract Year in question shall be utilized by Contractor solely for payment of costs and expenses associated with SAPPs. The "Specified Percentage" of the Hotel HOT to be made available to Contractor for each Year shall be as shown in the HOT table below, such contributions being based upon those Hotel Motel taxes above the current baseline of \$44,000 per year.

Year of Term	Specified Percentage of Hotel HOT
1	70%
2	65%
3	55%
4	50%
5	45%
6	45%
7	45%
8	40%
9	40%
10	40%

In the foregoing table, the "Year of Term" in question shall be deemed to refer to calendar periods of 365 (or 366, as applicable) days, measured from the Opening Date and not "Years" as herein defined. Since the remaining provisions of this Agreement are set up on an October-September Fiscal Year basis, if the Opening Date does not occur on October 1, then appropriate adjustments shall be made in calculating the actual amount of Hotel HOT available to Contractor hereunder so as to give proper effect to the time periods noted above as measured from the Opening Date. For illustration purposes only, if the Opening Date were April 1 of a calendar year, then the Specified Percentage of 75% as specified above would apply to the first "Year" of this Agreement (being the six month period from April I-September 30 of the calendar year in which the Opening Date occurs), and such 75% Specified Percentage would continue to be applicable during the first six months (i.e. October I-March 31) of the second "Year" of the term. For the first full Fiscal Year within the term, using the same illustration, the portion of Hotel HOT available to the Contractor would be 75% of the Hotel HOT for the first half the Fiscal Year in question and 67% of the Hotel HOT for the second half of the Fiscal Year in question.

- 5.4 Reserves. For purposes of this Agreement, the term "Reserves" is defined to mean that portion of the Hotel HOT funds generated and remitted by Hotel Owner to the Village and available to the Contractor for the Year in question (i.e. the Specified Percentage) that exceed Contractor's expenditures for the Year in question, which expenditures are related solely to costs and expenses for budgeted and approved SAPPs for the Year in question. By way of example only, Reserves may result from circumstances in which: (1) the dollar amount of the Specified Percentage of Hotel HOT for the Year exceeds amounts budgeted and/or subsequently approved costs and expenses related to the Year's SAPPs; or (2) amounts of Hotel HOT allocated and budgeted for SAPPs for use by Contractor for a particular Year are, for whatever reason, not used by Contractor during the Year of allocation, as originally anticipated, budgeted and approved. So long as this Agreement remains in effect, "Reserves"

may be utilized by the Contractor in subsequent Years in respect of approved SAPPs for such Year (and, to the extent that Reserves exist, Contractor may take the available Reserves into account in proposing the Annual Plan and Budget for the following Year). Reserves may not be expended by the Village for any other purpose, but rather shall be held for future expenditures by Contractor hereunder. Nothing herein shall be deemed to prohibit Contractor from proposing a mid-Year amendment to the Annual Plan and Budget in the event that the amount of Hotel HOT is materially more than was anticipated, so as to reduce the amount of Reserves that would otherwise build up for expenditure in subsequent Years, but no such amendment shall be effective unless and until approved as provided for in Article 6 below.

In the event this Agreement is terminated by either Party pursuant to the terms of this Agreement, or in the event that the Agreement expires by its own terms, and, at the time of such termination or expiration, unspent Reserves exist, then the Reserves shall be made available to Contractor pursuant to a "Reserve Plan and Budget" approved by the Village specifically for the expenditure by Contractor of Reserves for SAPP related costs and expenses during the twelve (12) months immediately following such expiration or termination (or if later, the twelve (12) months immediately following approval of the Reserve Plan and Budget by the Village). In the event that the amount of Reserves is sufficiently large as to preclude it being efficiently expended for SAPPs during a twelve (12) month period, then by mutual agreement the period covered by the Reserve Plan and Budget may be applicable for a longer period (but in no event to exceed twenty-four (24) months). Contractor agrees that all such Reserves shall be spent according to the approved Reserve Plan and Budget within such twelve (12) months (or longer period as may be covered by the Reserve Plan and Budget, if applicable). Any Reserves which remain unspent by Contractor after such twelve (12) month period (or longer period as may be covered by the Reserve Plan and Budget, if applicable) shall be promptly remitted to the Village by Contractor with no further action or request required by Village.

ARTICLE 6 ANNUAL PLAN AND BUDGET

6.1 Preparation of Proposed Annual Plan and Budget. The Contractor shall prepare and submit to Village a proposed Annual Plan and Budget for the forthcoming Fiscal Year (including, if applicable, any Year at the beginning or end of the term that is less than a full Fiscal Year) on an annual basis. The proposed Annual Plan and Budget shall be submitted to Village no later than the July 1 immediately prior to commencement of the Fiscal Year in question so as to permit appropriate review and evaluation prior to the commencement of the Fiscal Year covered thereby; provided that the proposed Annual Plan and Budget for any partial Fiscal Year at the beginning of the term shall be submitted to the Village not later than ninety (90) days prior to the anticipated Opening Date. The proposed Annual Plan and Budget shall include, at a minimum:

(a) A narrative description of the various programs and activities which Contractor proposes to carry out during the Year in question pursuant to this Agreement, which description shall include, without limitation, an explanation of the basis on which each such proposed program or activity qualifies as a SAPP for purposes of this Agreement and the basis on which such programs and activities are compatible with and enhance the "branding" efforts

discussed in Section 5.1 hereof.

(b) A budget indicating how much of the Hotel HOT available to Contractor hereunder (including Reserves from prior Years, if applicable) that Contractor proposes to spend on each particular SAPP for the Year in question.

(c) A statement of the amount of Hotel HOT that Contractor expects to be paid to the Village during the Year in question, based on Contractor's understanding of Hotel Owner's anticipated operations for the Year in question.

An Annual Plan and Budget may include funds to reimburse Contractor during the Fiscal Year in question for funds advanced by or on behalf of Contractor in prior periods to carry out SAPPs; for example, subject to compliance with state laws and prior Village approval, it may be appropriate for Contractor to prepare, print, and/or distribute brochures and materials for SAPPs prior to conducting actual events, the expenses for which could (subject to compliance with other applicable requirements hereof) be reimbursed to Contractor after Hotel HOT is generated to cover such costs, if Contractor properly complies with the Annual Budget requirements related to such expenses, and Village subsequently officially acts to approve an Annual Plan or Budget allowing reimbursement of same pursuant to law.

6.2 Approval of Annual Plan and Budget. Village shall approve or disapprove the Annual Plan and Budget submitted by the Contractor prior to the commencement of the Fiscal Year (or partial Fiscal Year) to which it relates. Village shall have and maintain the right to approve, disapprove and request modifications to the Annual Plan and Budget, including specifically the right to participate in decisions related to the SAPPs' content as it relates to the Village of Salado, Texas. Village's approval shall not be unreasonably withheld or delayed.

6.3 Alternatives. If desired, Contractor may request that Village approve one or more alternative programs in the overall Annual Plan and Budget for a particular Year, so long as all applicable alternatives are in fact SAPPs. By way of example, the Annual Plan and Budget could include a specific amount to be utilized for either of two designated SAPPs, with the final decision on which program to implement to be made by Contractor later in the Year based on events and circumstances.

6.4 Effect of Non-Approval. Upon approval by the Village of the proposed Annual Plan and Budget for the Year, the proposed Annual Plan and Budget shall then become the official Annual Plan and Budget for the Year in question. In the event that an Annual Plan and Budget has not been approved by the beginning of a particular Year, then the Annual Plan and Budget for the prior Year shall be deemed renewed and extended and shall be in effect until an Annual Plan and Budget for the Year in question is approved. Parties agree and acknowledge that they have a duty to act in good faith to work diligently toward developing an acceptable Annual Plan and Budget for each Year the Agreement is in effect.

ARTICLE 7 OPERATIONS

7.1 Annual Plan and Budget as Control. Contractor is authorized to carry out all or any SAPPs included in the Annual Plan and Budget for the Year in question, and to pay and/or reimburse itself for the costs thereof (subject to the Village approved Annual Plan and Budget) from Hotel HOT revenues made available to Contractor hereunder (including Reserves from prior Years, if provided for in the approved Annual Plan and Budget). Further, to the extent of funds available to Contractor therefrom (i.e. amounts of Hotel HOT made available to Contractor pursuant to this Agreement in respect of such Year), Contractor shall use commercially reasonable efforts to carry out the various programs and activities provided for in the Annual Plan and Budget. Contractor acknowledges that, pursuant to the terms of this Agreement and Section 351.101 (c) of the Texas Tax Code, Contractor has a fiduciary duty to the Village with respect to its handling and use of the Hotel HOT provided to Contractor under this Agreement. Further, Contractor acknowledges and agrees that under no circumstances shall Contractor have any right to receive or utilize any HOT revenue not generated directly by the Hotel.

7.2 Permitted Limited Reallocations. Village recognizes that the tourism and travel industry is a dynamic one, and that prudence dictates that Contractor retain the ability to make certain minimal adjustments from time to time within the confines of the Annual Plan and Budget or Reserve Plan and Budget. Accordingly, Village agrees that Contractor may, in its professional judgment and mindful of its fiduciary responsibility to the Village: (i) reduce expenditures below the level approved in the Annual Plan and Budget or Reserve Plan and Budget for all or any particular categories as Contractor deems appropriate in the event actual Hotel HOT revenues do not meet expectations, (ii) reallocate up to twenty (20%) of the amount in any category in the Annual Plan and Budget or Reserve Plan and Budget to another category, so as to allow a reasonable shift in emphasis as the Year develops, and (iii) allocate any amount included in a "contingency" category in the Annual Plan and Budget or Reserve Plan and Budget to any other approved category. However, Contractor acknowledges and agrees that no Hotel HOT funds may be allocated or used for any activity or program that was not approved by the Village as a SAPP in the Annual Plan and Budget for the Year or in the Reserve Plan and Budget.

7.3 Annual Plan and Budget Amendments. Should the provisions of Section 7.2 above be determined by Contractor to provide insufficient flexibility to address applicable facts and circumstances as they develop during a Year, Contractor may, at any time, propose and request Village's approval of an amendment to the approved Annual Plan and Budget or Reserve Plan and Budget for the Year in question. No such amendment shall be effective until approved by the Village Board of Aldermen, which approval by the Village Board of Aldermen shall not be unreasonably withheld.

ARTICLE 8 PAYMENTS

8.1 Payments of Hotel HOT to Contractor/Annual Reconciliation. On a monthly basis, Village shall pay Contractor pursuant to this Agreement an amount equal to the lesser of: (i) an amount determined by multiplying the Specified Percentage by the actual amount of Hotel HOT paid by Hotel Owner during the Year to date, less amounts previously paid to the Contractor by Village during such Year, or (ii) an amount equal to one-twelfth of the approved Annual Plan and Budget amount for the Year in question multiplied by the number of months elapsed to date in such Year, less amounts previously paid to Contractor during such Year. At the end of each Year of the Agreement, the Village will compare the total amount of HOT funds expended by Contractor to the total amount of HOT funds disbursed to Contractor by the Village for expenditure by the Contractor on SAPPs and, if all HOT funds allocated to the Contractor by the Village for that Year were not spent by the Contractor in the Year in question (that is to say, if Reserves were created during the Year in question), the Reserves so created shall be addressed as provided in Section 5.4 above.

8.2 Separate Account. All Hotel HOT revenue provided to Contractor by Village pursuant to this Agreement shall be maintained by Contractor in a separate bank account (the "HOT Account") and shall be used by Contractor solely for purposes of this Agreement. Funds in the HOT Account shall not be commingled with any other funds. Amounts in the HOT Account shall be expended by Contractor solely to cover the costs of carrying out SAPPs that are included in the Annual Plan and Budget for the Year or as approved in a Reserve Plan and Budget. Further, except as otherwise specified in Sections 7.2 or 7.3 above, with respect to particular reallocations, no amount in the HOT Account shall be advanced or expended if it would result in amounts expended from the HOT Account related to a particular SAPP exceeding the amount allocated to such SAPP in the Annual Plan and Budget or the Reserve Plan and Budget.

ARTICLE 9 REPORTS

9.1 Books and Records. Contractor shall maintain (or cause to be maintained) current and complete books and records reflecting expenditures of funds from the HOT Account in accordance with applicable law and prudent accounting procedures. Further, such book and records shall be made available to the Village for inspection during normal business hours upon reasonable advance notice. The Contractor acknowledges that all records related to the Hot Account, the Annual Plan and Budget, or the Reserve Plan and Budget and all other activities undertaken by Contractor pursuant to this Agreement are public records which fall within the provisions of the Texas Government Code, Section 572.001, *et seq.*, and Contractor shall cooperate fully with Village in timely producing all such records in response to any public request for same.

9.2 Quarterly Report. By the thirtieth (30th) day following the end of each quarterly period of each Year, Contractor shall deliver a report on all SAPPs undertaken by Contractor during the preceding quarter of the Year, which report shall, at a minimum:

(a) Contain such information and schedules as may then be required by applicable law (including Section 351.101(e) of the Texas Tax Code).

(b) Reflect the actual HOT revenues provided to Contractor by Village pursuant to this Agreement in the preceding Year.

(c) Reflect all expenditures from the HOT Account for such Year, allocated by categories in according with the Annual Plan and Budget for the Year in question.

(d) Indicate and provide a detailed written explanation of any discrepancies between the actual expenditures from the HOT Account and the anticipated expenditures provided for in the Annual Plan and Budget and/or the Reserve Plan and Budget.

**ARTICLE 10
VILLAGE'S RIGHT TO AUDIT**

10.1 Audit Right. Village reserves the right for Village's internal audit department personnel, or an independent certified public accounting firm selected by Village, to conduct examinations, during normal business hours, of the books and records maintained by Contractor with respect to the HOT Account, which books and records shall be made available to Village at the Hotel upon reasonable notice for Village's inspection and audit.

10.2 Costs. Any and all such audits conducted either by Village's internal audit department personnel or an independent certified public accounting firm will be at the sole expense of Village, unless such audit indicates fraud or neglect by Contractor in its record keeping.

**ARTICLE 11
TERMINATION**

11.1 General. Except as provided in this Article 11 or in Section 3.3 hereof, if applicable, this Agreement may not be terminated by either Party hereto.

11.2 Hotel Owner Default. Village may terminate this Agreement by furnishing written notice to Hotel Owner if at any time during the term of this Agreement Hotel Owner fails to perform any of its obligations hereunder and such failure to perform such covenant continues for thirty (30) days after written notice given by Village to Hotel Owner, provided that if such failure cannot reasonably be cured within such thirty (30) day period then Hotel Owner shall not be in default hereunder and Village shall not have the right to terminate this Agreement unless and until Hotel Owner fails to commence curing such failure within such thirty (30) day period and prosecute such cure to completion with diligence.

11.3 Contractor Default. Village may terminate this Agreement by furnishing

written notice to Contractor if at any time during the term of this Agreement Contractor fails to perform any of its obligations hereunder and such failure to perform such covenant continues for thirty (30) days after written notice given by Village to Contractor, provided that if such failure cannot reasonably be cured within such thirty (30) day period then Contractor shall not be in default hereunder and Village shall not have the right to terminate this Agreement unless and until Contractor fails to commence curing such failure within such thirty (30) day period and prosecute such cure to completion with diligence.

11.4 Hotel Owner Cure Rights. If Village gives Contractor any notice of default pursuant to Section 11.3 above, Village shall deliver a copy of such notice simultaneously to Contractor and Hotel Owner and, in addition to Contractor, the Hotel Owner shall have the right to cure any such default on behalf of Contractor during the applicable cure period.

ARTICLE 12 LIABILITY OF CONTRACTOR AND VILLAGE

12.1 No Liability of Village Personnel. Hotel Owner and Contractor agree that no provision of this Agreement is intended to or shall be interpreted to negate or diminish any statutory or common law rights the Village may have to immunity under the laws of the State of Texas. Further, Hotel Owner and Contractor agree that they may assert claims only against the assets of Village and that under no circumstances shall any officer or employee of Village be personally liable for any of the obligations of Village under this Agreement.

12.2 Indemnification and Release. THE OWNER AND CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE VILLAGE, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY, THE "INDEMNIFIED PERSONS") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

- (A) THE OWNER'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY, "THE OWNER'S") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS; AND**
- (B) THE INDEMNIFIED PERSONS' AND THE OWNER'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER THE OWNER IS IMMUNE FROM LIABILITY OR NOT.**
- (C) THE INDEMNIFIED PERSONS' AND THE OWNER'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER THE OWNER IS IMMUNE FROM LIABILITY OR NOT.**

12.3 Fidelity Bond. Throughout the term Contractor shall maintain a fidelity bond in customary commercial form in an amount at least equal to the anticipated amount of Hotel HOT to be handled by Contractor during the applicable Year, covering any employees, agents, or officers of Contractor having access to the Hotel HOT and/or the HOT Account. Contractor shall periodically, and at any time upon Village's request, provide evidence to Village that such fidelity bond is in effect. Notwithstanding the foregoing, however, in lieu of such fidelity bond the Contractor may instead provide the Village with a guarantee from the Hotel Owner, or from another financially responsible guarantor reasonably satisfactory to the Village, guaranteeing repayment to Contractor of any amounts of Hotel HOT that would have been recoverable by Contractor under a commercially customary fidelity bond if such bond had been in effect.

ARTICLE 13 CONSENTS

Except as otherwise expressly provided herein, whenever in this Agreement the consent or approval of Village, Hotel Owner or Contractor is required, such consent or approval shall not be unreasonably withheld or unduly delayed. Such consent shall also be in writing only and shall be duly executed by an authorized officer or agent for the Party granting such consent or approval.

ARTICLE 14 NOTICES

Any notice provided for in or permitted under this Agreement shall be made in writing and may be given or served by: (i) delivering the same in person to the Party to be notified, (ii) depositing the same in the United States mail, postage prepaid, registered or certified with return receipt requested, and addressed to the Party to be notified at the address herein specified, or (iii) delivery by private courier with proof of delivery required. If Notice is deposited in the United States mail pursuant to (ii) of this Article 14, it will be effective from and after the date of receipt or delivery thereof if refused. Notice given in any other manner shall be effective only if and when received by the Party to be notified. For the purpose of notice, the address of the parties shall be, until changed as hereinafter provided for, as follows:

If to Village:	Village of Salado Administrator P.O. Box 219 Salado, TX 76571
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With a copy to:	Bojorquez Law Firm 12325 Hymeadow Dr. #100 Austin, TX 78750 Attn: Alan J. Bojorquez, Village Attorney
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if to Hotel Owner: Stagecoach 1943, LP
P.O. Box 1757
Georgetown, TX 78627
Attn: Clark Lyda

With a copy to: William D. Brown, Esq.
Sneed, Vine, and Perry
900 Congress Ave., Suite 300
Austin, TX 78701

Attn: _____

If to Contractor: Village Marketing Corporation

Attn: _____

With a copy to:

Suite 2000
Dallas, Texas 75201
Attn: Charles W. Morris, Esq.

The Parties shall have the right, at any time, to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other Party. Each Party shall have the right from time to time to specify additional parties to whom notice hereunder must be given by delivering to the other Party fifteen (15) days' written notice thereof setting forth the address of such additional party or parties; provided, however, that neither Party shall have the right to designate more than two (2) such additional parties. Notice required to be delivered hereunder to either Party shall not be deemed to be effective until the additional parties, if any, designated by such Party have been given notice in a manner deemed effective pursuant to the terms of this Article 14.

ARTICLE 15
MISCELLANEOUS

15.1 Gender. The pronouns used in this Agreement referring to Village, Hotel Owner or Contractor shall be understood and construed to apply whether Village, Hotel Owner or Contractor be an individual, co-partnership, limited liability company, corporation or an individual or individuals doing business under a firm or trade name, and the masculine and neuter pronouns shall each include the other and may be used interchangeably with the same meaning.

15.2 Amendments. This Agreement may be amended only by a written instrument so stating which is executed by the Parties hereto.

15.3 Severability. If any provision of this Agreement shall be invalid or unenforceable for any reason and to any extent, the remainder of this Agreement shall not be affected thereby, but shall be enforced to the greatest extent permitted by law.

15.4 Headings. All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

15.5 Waivers. No failure or delay of a Party in the exercise of any right given to such Party hereunder or by Jaw shall constitute a waiver thereof, nor shall any single or partial exercise of any such right preclude other further exercise thereof or of any other right. The waiver by a Party of any breach of any provision hereof shall not be deemed to be a waiver of any subsequent breach thereof or of any breach of any other provision hereof.

15.6 Governing Law. This Agreement shall be construed, interpreted and applied in accordance with and shall be governed by, the Jaws applicable to the State of Texas.

15.7 Authority. Contractor hereby represents that it is an affiliate of the Hotel Owner and has the power and authority to enter into this Agreement. The person executing this Agreement on behalf of Contractor, Hotel Owner and Village each represents that he/she has the power and authority to do so and to bind his/her principal to the terms of this Agreement.

15.8 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original of this Agreement but all of which, taken together, shall constitute one and the same agreement.

15.9 Special Relationship Between Hotel Owner and Contractor.

(a) Hotel Owner, Village and Contractor acknowledge that this Agreement is being entered into at the request of Contractor and Hotel Owner and is made, in substantial part, to encourage the development by Hotel Owner of the Hotel. Contractor, a private entity/organization, is an affiliate of Hotel Owner and, as a result of such affiliation, Hotel Owner will derive direct and indirect benefits here from.

(b) The foregoing rights of Hotel Owner shall run with the Resort Site and may be exercised by any Hotel Owner.

IN WITNESS WHEREOF, the Parties hereto have executed as of the respective dates set forth below to be effective as of the Effective Date for all intents and purposes.

Owner:

STAGECOACH 1943 LP, a Texas Limited Partnership

By: _____

Clark Lyda

Title: _____

Date: _____

CONTRACTOR:

VILLAGE MARKETING CORPORATION,
a Texas corporation

By: _____

Name: _____

Title: _____

VILLAGE OF SALADO, TEXAS

By: _____

Skip Blancett, Mayor

Date: _____

ATTEST:

Village Secretary

**Exhibit A
Legal Description**

BOARD OF ALDERMEN

AGENDA ITEM MEMORANDUM

07/07/16
Item #7
Regular Agenda
Page 1 of 1

DEPT/DIVISION REVIEW: Mary Ann Ray, Village Secretary

ITEM DESCRIPTION: PUBLIC HEARING – Presentation, public hearing, discussion, and possible action on an ordinance (Ordinance 2016.10) implementing Industrial Waste Provisions on dischargers in the city limits; and providing for the following: Findings Of Fact; Enactment; Provisions, Including: Definitions; Purpose; Scope; Prohibitions; Chemical Discharges; Hazardous Metals; Maximum Particle Size; Stormwater and Unpolluted Drainage; Temperature; Radioactive Waste; Impairment of Facilities; Compliance; City Requirements; Review and Approval; Traps; Building Sewers; Sampling; User Surcharge; Power To Enter; Disconnect; Notice; Continued Prohibited Discharges; and Enforcement, including Criminal Fines not to exceed \$2,000.00 and Civil Penalties not to exceed \$2,000.00 per violation; Repealer; Severability; Effective Date; and Proper Notice & Meeting.

ITEM SUMMARY AND ANALYSIS: At the time that the wastewater ordinance was passed, staff noted the next step was to adopt an Industrial and Hazardous Waste (Pretreatment) ordinance. Since that time, the Wastewater Committee has reviewed and amended the proposed ordinance for BOA consideration. This item has been workshopped twice.

Pre-treatment ordinances are supported by the Texas Commission on Environmental Quality, and are authorized as follows: 1) by Chapter 552 of the Texas Local Government Code providing authority to regulate a sewer system in a manner that protects municipal interests; and 2) by Chapter 26 of the Texas Water Code which provides authority to regulate and monitor disposal of wastes and wastewater to the City's system.

This ordinance will apply to both users of the Stagecoach Plant and the Sanctuary Plant and addresses the topics outlined in the Item Description.

COMMITTEE/STAFF RECOMMENDATION: The Wastewater Committee has performed its review of the ordinance, and the resultant changes have been incorporated. The Committee recommends approval. Staff also recommends approval.

FISCAL IMPACT: This ordinance includes user surcharges and fees (primarily reimbursement).

ATTACHMENTS:

- Proposed ordinance

**Ordinance 2016.10
Village of Salado
County of Bell
July 7, 2016**

ORDINANCE NO. 2016.10

INDUSTRIAL & HAZARDOUS WASTE

AN ORDINANCE OF THE VILLAGE OF SALADO (“CITY”), TEXAS, IMPLEMENTING INDUSTRIAL WASTE PROVISIONS ON DISCHARGERS IN THE CITY LIMITS; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; PROVISIONS, INCLUDING: DEFINITIONS; PURPOSE; SCOPE; PROHIBITIONS; CHEMICAL DISCHARGES; HAZARDOUS METALS; MAXIMUM PARTICLE SIZE; STORMWATER AND UNPOLLUTED DRAINAGE; TEMPERATURE; RADIOACTIVE WASTE; IMPAIRMENT OF FACILITIES; COMPLIANCE; CITY REQUIREMENTS; REVIEW AND APPROVAL; TRAPS; BUILDING SEWERS; SAMPLING; USER SURCHARGE; POWER TO ENTER; DISCONNECT; NOTICE; CONTINUED PROHIBITED DISCHARGES; AND ENFORCEMENT, INCLUDING CRIMINAL FINES NOT TO EXCEED \$2,000.00 AND CIVIL PENALTIES NOT TO EXCEED \$2,000.00 PER VIOLATION; REPEALER; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE & MEETING

WHEREAS, the Board of Aldermen of the Village of Salado (“BOA”) seeks to regulate industrial and hazardous waste discharged in the city limits; and

WHEREAS, the BOA finds that improper discharge of industrial and hazardous waste poses a threat to public health and safety; and

WHEREAS, pursuant to Texas Local Government Code Chapter 217, the BOA finds that improper discharges of industrial and hazardous wastes pose a real and imminent danger to lives and property, and thus constitutes a public nuisance requiring regulatory action; and

WHEREAS, pursuant to Texas Local Government Code Chapter 552, the Village has the authority to regulate a sewer utility system located inside or outside the municipal boundaries in a manner that protects the interests of the municipality; and

WHEREAS, pursuant to Texas Water Code Chapter 26, the City has authority to implement a water pollution control and abatement program to regulate and monitor disposal of wastes and wastewater to the City’s system; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the BOA finds that regulations on industrial and hazardous waste discharges in the City Limits is reasonable, necessary, and proper for the good government of the Village of Salado.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Village of Salado, Texas:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as legislative findings of fact as if expressly set forth herein.

2. ENACTMENT

The Village of Salado (“City or Village”) hereby enacts this Ordinance in order to implement regulations on industrial and hazardous waste discharges in the City Limits as specified herein.

3. PROVISIONS

A. Definitions

For the purposes of this Ordinance, the following terms, words, and the derivations thereof shall have the meanings given herein. All terms not defined herein shall be defined as in the City’s Code of Ordinances, or if not in the Code, as defined by ordinary and common usage.

1. *Abnormal industrial wastewater*. Any wastewater discharged into public sewers and in which the average concentration of total suspended solids (TSS) is greater than 180 mg/l and/or the biochemical oxygen demand (B.O.D.) is greater than 180 mg/l.
2. *Administrator*. The City Administrator of the Village of Salado or his/her duly authorized representative.
3. *B.O.D. (Biochemical Oxygen Demand)*. The quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees centigrade.
4. *Building sewer*. The extension from the building drain to the public sewer or other place of disposal (also called building lateral and building connection).

5. *C.O.D. (Chemical Oxygen Demand)*. Measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.
6. *Composite Wastewater Sample*. A combination of individual samples of water or wastewater taken at selected intervals, generally hourly for some specified period, to minimize the effect of the variability of the individual sample. Individual samples may have equal volume or may be roughly proportioned to the flow at time of sampling.
7. *Control manhole*. A manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.
8. *Control point*. A point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.
9. *Daily Maximum Limit*. The maximum concentration (or loading) of a pollutant allowed to be discharged during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitation expressed in units of mass, it is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, it is calculated as the average measurement of the pollutant over the day. All unit measurements must be consistent with the units for pollutants in the City's regulatory discharge permit.
10. *Garbage*. Animal and vegetable wastes and residue from preparation, cooking and dispensing of food; and from the handling, processing, storage and sale of food products and produce.
11. *Grab Sample*. An individual sample that is collected from a waste stream on a one-time basis in less than 15 minutes.
12. *Hazardous Wastes*. Any solid waste or substance listed as hazardous or possesses one or more hazardous characteristics as defined in federal waste regulations, including but not limited to Title 40 Code of Federal Regulations (CFR) Part 261 and 40 CFR Table 302.4, as amended.
13. *Industrial waste*. Waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater.
14. *Industrial user*. A Person that discharges Industrial Waste to the City's public sewer.
15. *Industrial waste operator*. The wastewater operator of the City or his/her duly authorized deputy, agent or representative.

16. *Interference*. A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the treatment facility, its treatment processes or operations or its sludge processes, use or disposal.
17. *Milligrams per liter (mg/l)*. The same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.
18. *Natural outlet*. Any outlet, not man-made, into a watercourse, ditch, lake, or other body of surface water or groundwater.
19. *Normal domestic wastewater*. Wastewater excluding industrial wastewater discharged by a person into public sewers and in which the average concentration of total suspended solids is not more than 180 mg/l and B.O.D. is not more than 180 mg/l.
20. *pH*. The reciprocal of the logarithm (base 10) of the hydrogen ion concentration expressed in grams per liter.
21. *Person*. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity; or their legal representatives, agents, or assigns.
22. *Pollutant*. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, dirt, municipal agricultural and industrial waste, certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor), and certain wastewater that exceeds pretreatment conditions of this Ordinance.
23. *Pretreatment*. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties prior to (or in lieu of) introducing such pollutants to the Public Sewer. This reduction or alteration may be obtained by physical, chemical, or biological processes; by process changes; or by other means except dilution, so long as the pretreatment process does not harm public health and safety or cause damage to the Public Sewer.
24. *Public Sewer*. A system of pipes or conduits, subject to control by the City, that conveys domestic wastewater or industrial wastes or a combination of both, and into which storm water, surface water, ground water, and other unpolluted wastes are not intentionally passed.
Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
25. *Slug*. Any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15

minutes more than five times the average 24-hour concentration or flows during normal operation.

26. *Standard methods.* The examination and analytical procedures set forth in the latest edition, at the time of analysis, of "standard methods for the Examination of Water and Wastewater" as prepared, approved, and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.
27. *Storm sewer.* A public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not intentionally passed.
28. *Storm water.* Rainfall or any other forms of precipitation.
29. *Surcharge.* The additional sewerage service charge, for sampling, testing, transporting and treating abnormal industrial waste, levied against any person for discharging abnormal industrial waste into a public sewer. This charge shall be in addition to the usual monthly charge for public sewer service.
30. *Total Suspended Solids (TSS).* Solids measured in mg/l that either float on the surface of, or are in suspension in, water, wastewater, or other liquids, and which are largely removable by a laboratory filtration device.
31. *To discharge.* To deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.
32. *Trap.* A device designed to skim, settle, or otherwise remove grease, grit, oil, sand, flammable wastes or other harmful substances.
33. *Unpolluted wastewater.* Water containing:
 - a) No free or emulsified grease or oil;
 - b) No acids or alkalis;
 - c) No phenols or other substances producing taste or odor in receiving water;
 - d) No toxic or poisonous substances in suspension, colloidal state, or solution;
 - e) No noxious or otherwise obnoxious or odorous gases;
 - f) Not more than ten mg/l each of suspended solids and B.O.S.; and
 - g) Color not exceeding 50 units as measured by the platinum-cobalt method of determination as specified in standard methods.
34. *Waste.* Rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, or industrial activities.
35. *Waste Hauler.* Any person who transports industrial waste or wastewater, chemically treated human waste, septic tank waste and/or trap waste.

36. *Wastewater*. A combination of the water-carried waste from residences, business buildings, institutions, and industrial establishments, together with any ground, surface, and storm water that may be present.
37. *Wastewater facilities*. All facilities, including any Wastewater Treatment Plant, used for collection, pumping, treating, and disposing of wastewater and industrial wastes.
38. *Wastewater service charge*. The charge on all users of the public sewer whose wastes do not exceed in strength the concentration values established as representatives of normal wastewater.
39. *Wastewater treatment plant*. Any city-owned facilities, devices, and structures used for receiving, processing and treating wastewater, industrial wastes, and sludges from the public sewers.
40. *Watercourse*. A natural or man-made channel in which a flow of water occurs, either continuously or intermittently.
41. *Waters in the State*. Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the State of Texas or inside the jurisdiction of the State of Texas.

B. Purpose

This Ordinance is being enacted to: 1) protect humans and animals from industrial and hazardous discharges; 2) prevent damage and/or extensive maintenance to the City's wastewater treatment facilities; and 3) implement City rules that prohibit certain wastes and require pre-treatment of certain wastes.

C. Scope

This Ordinance applies to all discharges to the City's public sewer and wastewater facilities inside and outside of the municipal boundaries, unless the facility discharging into the public sewers is permitted under the laws of the State of Texas and by the Texas Commission on Environmental Quality.

D. Administration

Except as otherwise provided herein, the City Administrator shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Administrator may be delegated by the Administrator to other City personnel.

E. Pretreatment Standards

1. Federal Categorical Pretreatment Standards:

The National categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N,

Parts 401-471, as amended, are hereby incorporated by reference as if fully set out herein. In the event any conflicts are identified between this Ordinance and the Federal Categorical Pretreatment Standards, the most stringent requirements shall control.

2. State Pretreatment Standards

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal Categorical Pretreatment Standards or those requirements and limitations in this Ordinance.

F. General Prohibitions

No person may discharge to the public sewer any pollutant or waste which may cause pass through or interference with the City's wastewater facilities. This prohibition applies to all users of the public sewer whether or not they are subject to categorical pretreatment standards or any other local, state, or federal pretreatment standards. Specifically, no person may discharge to the public sewer any pollutant or waste, including, but not limited to bacteria, enzymes, or chemical emulsifiers, which by itself or by interaction with other wastes may:

1. Injure or interfere with wastewater treatment processes or facilities;
2. Constitute a hazard to humans or animals; or
3. Create a hazard in receiving waters of the wastewater treatment plant effluent.

G. Specific Prohibitions

1. No discharge to public sewers may contain:
 - a) Cyanide greater than one mg/l;
 - b) Fluoride other than that contained in the public water supply;
 - c) Chlorides in concentrations greater than 250 mg/l;
 - d) Gasoline, benzene, naphtha, fuel, oil, or other flammable or explosive liquid, solid or gas; or
 - e) Substances causing a chemical oxygen demand (C.O.D.) more than 250 mg/l, or TSS more than 180 mg/l.
2. No waste or wastewater discharged to public sewers may contain:
 - a) Strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not;
 - b) Fats, grease, oils (FOG), or wax whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 and 65;deg;centigrade);
 - c) Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material receiving in the composite wastewater at the wastewater treatment plant exceeds the limits established by the City for such materials;
 - d) Obnoxious, toxic, or poisonous solids, liquids, or gases in quantities sufficient to violate any state or federal limits or that are, either singly or by interaction with other wastes, sufficient to create a public nuisance or a hazard to life, or to prevent entry into sewers for maintenance or repair;

- e) Any pollutant which may create a fire or explosive hazard in the public sewer or the City's wastewater facilities;
 - f) Any pollutant, including oxygen demanding pollutants (BOD, etc.) or any significant organic pollutants released in a discharge to the public sewer at a flow rate and/or pollutant concentration which will cause Interference with the public sewer or the City's wastewater facilities;
 - g) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the public sewer resulting in Interference
 - h) Any pollutant or quantity of pollutants that by deposit of the pollutant into the public sewer will cause the City to exceed its permitted wastewater discharge permit limits or state or federal law; or
 - i) Detergents, surface-active agents, or other substances which may cause excessive foaming in the public sewer or wastewater facilities.
3. No waste, wastewater, or other substances may be discharged into public sewers which has a pH lower than six or higher than nine, or any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel at the wastewater facilities.
4. All waste, wastewater, or other substances containing phenols, hydrogen sulfide, or other taste-and-odor producing substances, shall conform to concentration limits established by the City. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal, or other agencies with jurisdiction over discharges to receiving waters.

H. Hazardous Metals and Toxic Materials

1. No discharges may contain concentrations of hazardous metals other than amounts specified in the chart below. The maximum allowable concentrations of hazardous metals, in terms of milligrams per liter (mg/l), for discharge to public sewers and waters of the state, and determined on the basis of individual sampling in accordance with "standard methods" are:

Metal	Daily Maximum Concentration Limit for any Single Composite Sample (mg/l)
Arsenic	0.05
Barium	4.0
Beryllium	1.00
Cadmium	0.2
Chromium	5.0
Copper	2.0
Lead	0.1
Manganese	1.0
Mercury	0.005
Nickel	1.0
Selenium	0.2
Silver	0.2
Zinc	5.0

If necessary to protect the public sewer, the City may issue a permit, order, or rule that assigns the local limits or the total toxic organics limit as:

- a) instantaneous maximum allowable limits;
 - b) daily average limits;
 - c) daily maximum limits;
 - d) monthly average limits; or
 - e) limits of other sampling duration or averaging period.
2. No other hazardous metals or toxic materials may be discharged into public sewers without a permit from the City specifying conditions of pretreatment, concentrations, volumes, and other applicable provisions.
3. Prohibited hazardous materials include, but are not limited to:
- a) Antimony
 - b) Bismuth
 - c) Cobalt
 - d) Molybdenum
 - e) Uranium ion
 - f) Rhenium
 - g) Strontium
 - h) Tellurium
 - i) Herbicides
 - j) Fungicides
 - k) Pesticides
 - l) Chemical Emulsifiers
 - m) Petroleum-based oil, non-biodegradable cutting oil, and products of mineral oil origin

I. Maximum Particle Size

1. No person may discharge garbage, waste, or other solids into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions prevailing in public sewers. Particles greater than one-quarter inch in any dimension are prohibited.
2. The City is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric or greater) installed for the purpose of meeting the particle size requirement. A notice of intent to install a garbage grinder must be submitted to the Administrator by the property owner at least 30 days prior to installation and include the manufacturers specifications.

J. Stormwater and other Unpolluted Drainage

Pursuant to Texas Water Code § 26.177, the City may designate storm sewers and other watercourses into which unpolluted drainage may be discharged. No new connections shall be made from inflow sources to public sewers nor discharge to public sewers for any of the following:

1. Unpolluted storm water, surface water, groundwater, roof runoff or subsurface drainage.
2. Unpolluted cooling water.
3. Unpolluted industrial process waters.
4. Other unpolluted drainage.

K. Temperature

No person may discharge liquid or vapor having a temperature higher than 120 degrees Fahrenheit (49 degrees centigrade), or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour, or a combined total increase of plant influent temperature to 104 degrees Fahrenheit.

L. Radioactive Wastes

1. No person may discharge radioactive wastes or isotopes into public sewers without the permission of the City and the State of Texas.
2. The City may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers.

M. Impairment of Facilities

1. No person may discharge into public sewers any substance capable of causing:
 - a) Obstruction to the flow in sewers;
 - b) Interference with the operation of treatment processes of facilities; or
 - c) Excessive loading of treatment facilities.
2. Discharges prohibited under this section include, but are not limited to materials which exert or cause concentrations of:
 - a) Inert suspended solids greater than 180 mg/l including but not limited to:
 - i. Fuller's earth;
 - ii. Lime slurries; and
 - iii. Lime residues.
 - b) Dissolved solids greater than 975 mg/l including but not limited to:
 - i. Sodium chloride; and
 - ii. Sodium sulfate.
 - c) Excessive discoloration including but not limited to:
 - i. Dye wastes; and
 - ii. Vegetable tanning solutions.
 - d) B.O.D., C.O.D., suspended solids, or chlorine demand in excess of the City's wastewater treatment plant capacity.
3. No person may discharge any substance into public sewers which:
 - a) Is not amenable to treatment or reduction by the processes and facilities employed; or
 - b) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

4. The City shall regulate the flow and concentration of slugs discharged to the public sewer when they may:
 - a) Impair the treatment process;
 - b) Cause damage to wastewater facilities;
 - c) Incur treatment costs exceeding those for normal wastewater; or
 - d) Render the waste unfit for stream disposal or industrial use.

5. The Administrator may require any user discharging slugs to the public sewer to develop, submit for approval, and implement an accidental discharge or slug control plan.

6. The Administrator may require any person discharging into the public sewer to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for equalization of flow.

7. No person may discharge into public sewers solid or viscous substances which may impair the public sewer or wastewater treatment facilities if present in sufficient quantity or size including but not limited to:
 - a) Ashes
 - b) Cinders
 - c) Sand
 - d) Mud
 - e) Straw
 - f) Shavings
 - g) Metal
 - h) Glass
 - i) Rags
 - j) Feathers
 - k) Tar
 - l) Plastics
 - m) Wood
 - n) Underground garbage
 - o) Whole blood
 - p) Paunch manure
 - q) Hair
 - r) Hoof
 - s) Hide
 - t) Fleshings
 - u) Bone
 - v) Entrails
 - w) Sludge, screenings, or other residues
 - x) Paper products, either whole or ground by garbage grinders
 - y) Slops
 - z) Chemical residues
 - aa) Paint residues

- bb) Bulk solids
- cc) Diluted pollutants or hazardous wastes
- dd) Industrial waste condensate
- ee) Swimming pool drainage and debris
- ff) Roof runoff
- gg) Noncontact cooling water

N. Compliance with Existing Authority

1. Unless exception is granted by the City, the public sewer shall be used by all persons discharging:
 - a) Wastewater;
 - b) Industrial waste; and
 - c) Polluted liquids.
2. Unless authorized by the Texas Commission on Environmental Quality, no person may deposit or discharge any waste included in this section on public or private property in or adjacent to any:
 - a) Natural outlet;
 - b) Watercourse;
 - c) Waters of the State
 - d) Storm sewer;
 - e) Other area within the jurisdiction of the City.
3. The City shall verify prior to discharge that wastes authorized to be discharged by existing authority will receive suitable treatment within the provisions of laws, regulations, ordinances, rules and orders of federal, state and local governments.

O. City Requirements

1. If discharges or proposed discharges to public sewers may: 1) deleteriously affect wastewater facilities, processes, equipment, or receiving waters; 2) create a hazard to life or health; or 3) create a public nuisance, the City shall require:
 - a) Pretreatment to an acceptable condition in compliance with this Ordinance for discharge to the public sewers;
 - b) Control over quantities and rates of discharge; and
 - c) Payment to cover the cost of handling and treating the wastes.
2. The City is entitled to determine whether a discharge is included under this section.
3. The City shall reject wastes when:
 - a) It determines that a discharge or proposed discharge is potentially harmful.
 - b) The discharger does not meet the requirements of this Section.

P. City Review and Approval

1. If pretreatment or control is required, the City shall review for approval design plans, installation of equipment, and operation procedures prior to the user discharging wastewater to the public sewer. The City shall conduct this review within forty-five (45) days of the receipt of the required pretreatment demonstrations.
2. The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances, other laws, and commonly accepted methods.
3. Any person responsible for discharges requiring pretreatment, flow-equalizing facilities, traps, accessible control manholes, or other facilities shall provide and maintain the facilities in effective operating condition at the owner's expense.

Q. Discharges Requiring Traps

1. Discharges requiring a trap include:
 - a) Grease discharges above 100 mg/l;
 - b) Grit and inorganic or other solids and semi-solids;
 - c) Oil (petroleum based and mineral oil prohibited);
 - d) Sand;
 - e) Flammable wastes;
 - f) Fleshings and bone; and
 - g) Other harmful ingredients, as determined by the City to harm the City's wastewater facilities or pose a threat to public health and safety.
2. A person required to pretreat waste or wastewater with a trap/filter must:
 - a) Submit complete sealed plans and specifications for the pretreatment system to the Administrator. A plan developed under this Section shall describe the proposed pretreatment method, process, or technology, including products, agents or devices used for pretreatment. The Administrator may waive the requirement for plans to be sealed if the trap/filter is of standard industry design.
 - b) The Administrator will engage the City Engineer or outside technical specialist to review the plans. All actual costs of technical fees for review and inspection of the plans will be assessed on the person seeking pretreatment approval. If review fees are anticipated to exceed \$1,000.00, the Administrator will notify the Person in advance. A person required to use a trap under this Section must obtain the City's approval prior to discharging wastewater; or constructing, using or modifying a pretreatment facility, method, process or technology. After approval and construction, the City reserves the right to inspect the traps for compliance with this Ordinance and the approval.
 - c) Upon review of the plans, pollutants discharged, and volume of discharge the Administrator may determine that additional controls are necessary for pretreatment such as catch basins, interceptors, Hold-Haul tanks, or other controls identified by the Administrator.

3. Any person responsible for discharges requiring a trap/filtration shall at his/her own expense and as required by the City:
 - a) Provide equipment and facilities of a type and capacity which is reviewed and approved by the City and is in compliance with the International Building Code.
 - b) Clean the traps as often as necessary to ensure that sediment in the discharge does not accumulate to impair the efficiency of the trap; to ensure the discharge is in compliance with local, state and federal discharge limits; and to ensure no visible sediment is observed in discharge. Traps subject to these standards shall be completely evacuated a minimum of every ninety (90) days, or more frequently when:
 - i. twenty-five percent (25%) or more of the wetted height of the trap, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, grit or greases; or
 - ii. the discharge exceeds BOD, COD, TSS, pH, or other pollutant levels established by the City; or
 - iii. if there is a history of non-compliance.
 - c) A person cleaning the trap shall dispose of the waste removed in accordance with federal, state, and local regulations.
 - d) Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection.

R. Requirements for Building Sewers

Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his/her own expense and as required by the City:

1. Install an accessible control manhole.
2. Install meters and other appurtenances to facilitate observation, sampling and measurement of the waste by the City or designated authority.
3. Install safety equipment and facilities (ventilation, steps, etc.).
4. Maintain and clean the equipment and facilities, including control manholes.

S. Wastewater Discharge Permits

1. Wastewater Survey

When requested by the Administrator, a person discharging or proposing to discharge wastewater to the City's public sewer must submit information on the nature and characteristics of its wastewater by completing a wastewater survey within the time specified by the Administrator. The Administrator is authorized to prepare a form for this purpose and may periodically require users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the user in accordance with State law and shall be considered a violation of this Ordinance.

2. Wastewater Discharge Permit Required

- a) All industrial users or waste haulers shall obtain a wastewater discharge permit from the Administrator before discharging wastewater into the public sewer.
- b) The Administrator may require other persons discharging or proposing to discharge wastewater to the City's public sewer to obtain wastewater discharge permits as necessary to carry out the purposes of this Ordinance.
- c) Any violation of the terms and conditions of a wastewater discharge permit shall be considered a violation of this Ordinance and shall be reasonable grounds for terminating service to the user in accordance with State law and for pursuing enforcement and penalties against the user as set forth in this Ordinance.

3. Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater to the public sewer prior to the effective date of this Ordinance without a permit and who wishes to continue such discharges, shall apply for a permit within one hundred twenty (120) days after the effective date of this Ordinance on forms supplied by the City and approved by the Administrator. No discharges will be permitted from existing connections to the public sewer after one hundred eighty (180) days after the effective date of this Ordinance except in accordance with a permit issued by the Administrator.

4. New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the public sewer must obtain such permit prior to beginning or recommencing such discharge. An application for the wastewater discharge permit on the form provided by the City, must be filed ninety (90) days prior to the date upon which any discharge is planned to begin or recommence.

5. Application Contents

All users required to obtain a wastewater discharge permit must file a permit application. For this purpose, the Administrator is authorized to prepare a form consistent with this Ordinance. The Administrator may require the following information, including, but not limited to:

- a) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals stored at the facility which are, or could be, accidentally or intentionally discharged to the public sewer;
- b) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- c) Each product produced by type, amount, process or processes, and production rate;
- d) Type and amount of raw materials processed (average and maximum per day);
- e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location and elevation and all points of discharge;
- f) Time and duration of discharge; and,
- g) Any other information as may be deemed necessary by the Administrator to evaluate the permit application.

Incomplete or inaccurate applications will be returned to the user for completion and will not be processed.

6. Granting the Permit

The city may grant a permit to discharge to users meeting all requirements in this Ordinance. In addition users must also:

- a) Secure approval by the City of plans and specifications for the facilities when required; and
- b) Comply with all requirements for agreements or arrangements, including but not limited to, provisions for:
 - i. Payment of charges;
 - ii. Installation and operation of the facilities and of pretreatment facilities, if required;
 - iii. Sampling and analysis to determine quantity and strength when directed by the city; and
 - iv. Provides a sampling point, when requested by the city, subject to the provisions of this article and approval of the approving authority.

The wastewater discharge permit will include such conditions as are deemed reasonably necessary by the Administrator to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the public sewer.

7. Appeal of Permit Decision

The Administrator must provide notice to the user of issuance, modification or denial of a wastewater discharge permit. The user may petition the Board of Aldermen to reconsider the terms of an issuance, modification or denial within thirty (30) days of notice of the Administrator's initial action. Failure to timely submit the petition for reconsideration will be deemed to be a waiver of the appeal. The petition must include the reason for the objection and the alternative condition, if any, it seeks to include in a permit. The effectiveness of the issuance, modification or denial will not be stayed during the appeals process. At the first regularly scheduled public meeting of the Board of Aldermen within thirty (30) days of receipt of the petition, the Board of Aldermen will consider such factors as preventing pass through or interference, protecting the quality of the water body receiving the treatment plant's effluent, protecting worker health and safety, facilitating sludge management and disposal, and protecting against damage to the public sewer when reviewing the appeal. The Board of Aldermen will respond to the petitioner with an affirmation of the Administrator's decision or a modification of the terms of the permit.

8. Permit Modification

The Administrator may modify the wastewater discharge permit with ten (10) days' notice, except in the event of an emergency notice is not required, for good cause including, but not limited to, the following:

- a) To incorporate any new or revised federal, state or local pretreatment standards;
- b) To address significant alterations or additions to the user's operation, processes, wastewater volume or character since the time of wastewater discharge permit issuance;
- c) A change in the public sewers that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- d) Information indicating that the permit discharge poses a threat to the City's public sewer, city personnel, or receiving water;
- e) Violation of any terms or conditions of the wastewater discharge permit;
- f) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- g) Revision of or a grant of variance from categorical pretreatment standards; or
- h) Administrative items such as changing facility ownership or correcting scrivener's errors.

T. Reporting

1. Each user must notify the Administrator of any planned significant changes to the user's operation or system which might alter the nature, decrease the quality, or increase the volume/flow by at least 25% or greater, or the discharge of new pollutants to its wastewater at least ninety (90) days before the change. The Administrator may require this submission to be completed on forms supplied by the City and approved by the Administrator. The Administrator may require a wastewater discharge permit to be issued or amended for the modification.
2. In the case of any accidental discharge or upset, the user shall immediately telephone the Administrator and report the problem. Within five (5) days, the user must submit to the Administrator a written report detailing the corrective measures taken or to be taken to correct the release.

U. Hauled Waste and Wastewater

1. No waste hauler may discharge any trucked or hauled pollutants, including, but not limited to, industrial waste or wastewater, septic tank waste, chemically-treated human waste, and/or any trap waste into the public sewer without first obtaining a wastewater discharge permit from the Administrator. The Administrator may prohibit the discharge of any such hauled industrial waste. The Administrator also may issue wastewater discharge permits to any generators of hauled industrial waste discharged. The discharge of hauled waste is subject to all other requirements of this Ordinance.
2. Waste haulers may discharge loads only at locations designated by the Administrator. No load may be discharged without prior consent of the Administrator. The Administrator may collect samples of each hauled load to

ensure compliance with applicable standards. The Administrator may require the waste hauler to provide a waste analysis of any load prior to discharge.

3. Industrial waste haulers who discharge any industrial waste or wastewater into the public sewer must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are hazardous wastes as defined by Resource Conservation and Recovery Act, 40 CFR Part 261, as amended. The Administrator may require such waste-tracking forms to be provided by haulers of non-industrial trap waste, septic tank waste, or chemically-treated human waste that is discharged into the public sewer.

V. Sampling and Testing

1. Sampling shall be conducted according to Environmental Protection Agency-approved methods, reflecting the effect of constituents upon the sewage works and determining the existence of hazards to health, life, limb, and property. The particular analysis involved will determine whether a 24-hour composite sample from all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls. Where applicable, 16-hour, 8-hour or some other period may be required. Periodic grab samples are used to determine pH and oil and grease.
2. Examination and analyses of the characteristics of samples shall be:
 - a) Conducted in accordance with the latest edition of standard methods; and
 - b) Determined from suitable samples taken at the control manhole provided or other control point authorized by the City.
3. BOD and TSS shall be determined from composite sampling, except to detect unauthorized discharges.
4. The City shall determine which users or classes of users may contribute wastewater which is of greater strength than normal domestic wastewater. All users or classes of users so identified shall be sampled for flow, BOD, TSS and pH, at least annually, at the user's expense. Sampling fees will be the actual cost to the City and shall be consistent with customary and reasonable sampling fees. Sampling may be required of both permitted users (users holding a wastewater discharge permit provided by this Ordinance) and non-permitted users.
5. The City may select an independent firm or laboratory to collect and determine flow, BOD, and suspended solids, if necessary. Flow may alternately be determined by water meter measurements, if no other flow device is available and no other source of raw water is used.

W. User Surcharge

Wastewater containing COD, BOD, or TSS that meets the limits of abnormal industrial wastewater, provided below, may be discharged into the public sewer provided:

1. The waste will not cause damage to the City’s public sewer or wastewater facilities;
2. The waste will not impair the City’s wastewater treatment process;
3. Sewer connection procedures and requirements shall be in accordance with the International Building Codes;
4. In addition to regular monthly wastewater charges for service, the person discharging such wastewater pays a monthly surcharge to the City utilities division in addition to the usual monthly sewer service charges when the discharge concentration is within the ranges specified below. Discharges exceeding the concentration range are not permitted and the user may be subject to fines and penalties for excess concentrations. Such surcharges shall be based on the following:

Contaminant and Surcharge	Concentration Range (mg/l)
B.O.D.	180 – 200
Surcharge (\$/lb)	0.49
C.O.D.	250 - 275
Surcharge (\$/lb)	0.23
TSS	180 – 200
Surcharge (\$/lb)	0.17

5. Each user will be notified, at least annually, in conjunction with a regular sewer bill, of the rate and that portion of user charges which are attributable to the operation and maintenance of the wastewater treatment facilities.

X. Power to Enter Property: Inspection and Sampling

1. The Industrial waste operator and any duly authorized employees of the City bearing proper credentials and identification are entitled to enter any public or private property at any time for the purpose of enforcing this Ordinance, including but not limited to inspection, sampling, characterizing the waste, setting up and using monitoring equipment, inspecting and copying records, and the performance of any of their duties.
2. A person discharging or proposing to discharge wastewater to the public sewer shall, at the person's sole expense, promptly remove security barriers or other obstacles to access by the Industrial waste operator or any duly authorized employees of the City.

3. Should entry be denied the Industrial waste operator or his/her designee, entry may be obtained by a search warrant issued as provided for by state law.
4. A person who fails to remove an obstruction or unreasonably delays access to the Industrial waste operator and any duly authorized employees of the City to premises discharging to the public sewers commits a violation of this Ordinance.

Y. Authority to Disconnect Service

1. The City may terminate water service, upon agreement with the water utility, and wastewater disposal service and disconnect a customer or user from the wastewater facilities when:
 - a) Acids, chemicals, or suspended solids which may damage the sewer lines or treatment process are released to the sewer, potentially causing accelerated deterioration of these structures or interfering with proper conveyance and treatment of wastewater.
 - b) A governmental agency informs the City that effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to watercourse or waters of the state; and it is found that the customer or user is delivering wastewater to the City's public sewer that cannot be sufficiently treated, or requires treatment that is not provided by the City as normal domestic treatment.
 - c) The customer or user:
 - i. Misrepresents or fails to fully disclose all relevant facts in the wastewater discharge permit application.
 - ii. Accidentally or Intentionally falsifies self-reporting reports;
 - iii. Discharges waste or wastewater that is in violation of the permit issued by the City.
 - iv. Tampers with monitoring equipment.
 - v. Refuses to allow the City timely access to the facility premises in accordance with this Ordinance.
 - vi. Failure to complete a wastewater survey.
 - vii. Discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment facilities.
 - viii. Fails to pay monthly public sewer services when due.
 - ix. Violation of any pretreatment standard or requirement.
 - x. Failure to notify the Administrator of any accidental discharges in accordance with this Ordinance.
 - xi. Repeats a discharge of prohibited wastes to public sewers in violation of this Ordinance.
2. If service is discontinued pursuant to this section, the City shall:
 - a) Disconnect the customer or user;
 - b) Supply the customer or user with the governmental agency's report and provide the customer or user with all pertinent information; and
 - c) Continue disconnection until such time as the customer or user provides pretreatment, additional pretreatment or other facilities designed to remove the objectionable characteristics from his wastes.

Z. Fees

The City may adopt fees for the reimbursement of costs of setting up and operating the wastewater discharge permit and pretreatment program, which may include:

- a) Fees for wastewater discharge permit applications;
- b) Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing user's discharge and reviewing monitoring reports;
- c) Fees for reviewing and responding to accidental discharge procedures and construction; and
- d) Other fees as the City may deem necessary to carry out the requirements in this Ordinance.

AA. Notice

The City shall serve persons discharging in violation of this Ordinance, unless determined an emergency discharge by the Industrial waste operator, with written notice stating the nature of the violation and providing a period of 10 days for satisfactory compliance.

BB. Continued Prohibited Discharges

No person may continue discharging in violation of this article beyond the time limit provided in the notice.

CC. Enforcement

1. Civil & Criminal Penalties

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations, and such violation is hereby declared to be a nuisance.

2. Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this section is a misdemeanor.

3. Civil Remedies

Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law and/or equity including abatement of nuisances.

4. Penalty for Criminal Mischief

The City may pursue all criminal and civil remedies, to which it is entitled under authority for statutes and ordinances, against a person negligently, willfully or maliciously causing loss by tampering with or destroying public sewers or treatment facilities.

4. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

5. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

7. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED & APPROVED on the first reading, the ____ day of July, 2016, by a vote of
____ (*ayes*) to ____ (*nays*) to ____ (*abstentions*)

of the Board of Aldermen of the Village of Salado, Texas.

VILLAGE OF SALADO:

Skip Blancett, Mayor

ATTEST:

Mary Ann Ray, Village Secretary