CITY OF TEXARKANA

CITY COUNCIL

AGENDA ● FEBRUARY 8, 2021

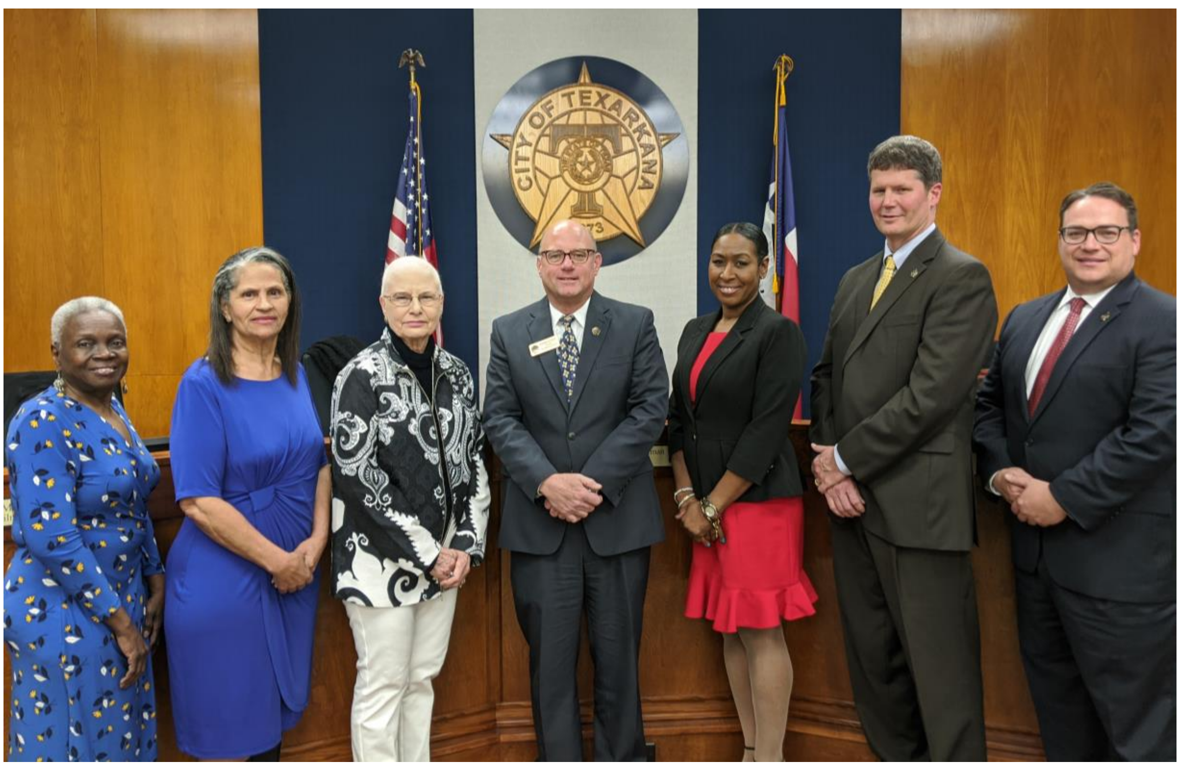
Council Chambers	Regular Meeting	6:00 PM

220 TEXAS BLVD.
TEXARKANA, TX 75501

Mayor

Bob Bruggeman

Ward 1	**Ward 3**	**Ward 5**
Jean H. Matlock	Betty Williams	Bill Harp
Ward 2	**Ward 4**	**Ward 6**
Mary Hart	Christie Alcorn	Jay Davis



The City Council reserves the right to convene into closed session on any agenda item or issue should the need arise and if applicable pursuant to authorization by the Texas Open Meetings Act (Title 5, Chapter 551 of the Texas Government Code).

If the City Council convenes into closed session, they will reconvene in one hour or less to take any final action, decision, or vote on a matter deliberated in closed session.

I. CALL TO ORDER, ROLL CALL, ESTABLISHMENT OF QUORUM

II. INVOCATION AND PLEDGE LED BY COUNCIL MEMBER BILL HARP

III. MAYOR'S REMARKS AND ITEMS OF COMMUNITY INTEREST

Upcoming City Council Meetings:

Monday, February 22, 2021 at 6:00 p.m.
Monday, March 8, 2021 at 6:00 p.m.
Monday, March 22, 2021 at 6:00 p.m.

Parks & Recreation Events:

No events are scheduled. Any additional Parks & Recreation information can be found on the city's website at <http://www.ci.texarkana.tx.us.> or by contacting staff at (903) 798-3978.

Other Events in the City:

The Diversity, Equity and Inclusion Committee at Texas A&M University - Texarkana is hosting a series of events celebrating Black History Month. Former Councilmember Dr. Brian Matthews is presenting a talk on African American History on February 11th between 5:30 - 6:30 p.m. via the Zoom Video Conferencing platform. For more information, please visit www.tamut.edu.

IV. OPEN FORUM: COMMENTS FROM THE PUBLIC

Per Council rules, comment time is limited to five minutes, or ten minutes if using a translator. Before comments are made, a speaker must complete an information sheet and give to the City Secretary. If your comment pertains to an agenda item with a scheduled public hearing or public comment, the Council requires that you make your comment at that time; you do not need to complete an information sheet.

V. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

VI. ITEMS FOR CONSIDERATION

Consent Items

1. Consider approval of the minutes of the Regular Meeting of the City Council held on January 25, 2021 at 6:00 PM.

2. Consider approval of the minutes of the Special Meeting of the City Council held on January 26, 2021 at 5:30 PM.

Action Items

3. Resolution No. 2021-007 denying the application to increase rates filed by SWEPCO on or about October 13, 2020.

   Public Hearing:
   Council Vote: February 8, 2021

4. Ordinance No. 2021-008 amending and supplementing Chapter 4, Article II "Airport Authority" of the Code of Ordinances.

   Public Hearing:
   Council Vote: February 8, 2021

VII. FIRST BRIEFINGS

1. Resolution No. 2021-009 authorizing the City Manager to execute a second addendum to the Qualified Environmental Professional Revolving Loan Fund Consulting Contract utilizing U.S. Environmental Protection Agency grant budget funds.

   Public Hearing: February 22, 2021
   Council Vote: February 22, 2021

VIII. PUBLIC HEARINGS

1. Resolution No. 2021-006 approving Amendment No. 3 to the City's contract with Waste Management of Texas, Inc. for the collection of waste and recyclables, authorizing the City Manager to execute the necessary documents for such amendment, and approving the automatic five-year renewal term of said contract with Waste Management of Texas, Inc.

Public Hearing: February 8, 2021
Council Vote: February 8, 2021

IX. ITEMS FOR DISCUSSION

Staff Updates

COVID 19 - by Fire Chief Eric Schlotter

X. ADMINISTRATIVE COMMENTS

1. City Council
2. City Staff

XI. CLOSED SESSION

The City Council will convene into closed session pursuant to Texas Government Code Section 551.071 for a private consultation with the City Attorney and Texas Government Code Section 551.074 to discuss or deliberate the City Manager's duties, employment, and evaluation.

NOTE: The Council does not anticipate taking any action after closed session other than reconvening in open session and adjourning the meeting. If an agenda item for a future meeting relates to any matter discussed in this closed session, an opportunity for public comment will be provided before or during the Council's consideration of the item.

XII. RECONVENE INTO OPEN SESSION

XIII. ADJOURNMENT

Jennifer Evans
City Secretary

This open meeting of a governmental entity is subject to the Texas Open Meetings Act (Chapter 551, Government Code). The “Council Chambers” is the room or property where the City Council will hold this meeting.

Pursuant to Section 46.035(c), Penal Code (unlawful carrying of handgun by license holder), a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for these services, please call 903.798.3917, Personnel or (TDD) 1.800.RELAY.TX (1.800.735.2989).

CITY OF TEXARKANA

CITY COUNCIL

MINUTES • JANUARY 25, 2021

Virtual | **Regular Meeting** | **6:00 PM**

220 TEXAS BLVD
TEXARKANA, TX 75501

I. CALL TO ORDER, ROLL CALL, ESTABLISHMENT OF QUORUM

This council meeting was held entirely via the Zoom video conferencing platform. Council members participated from their separate respective locations.

ee Name	Title	Status	Arrived
uggeman	Mayor	Present	
Matlock	Ward 1	Present	
art	Ward 2	Present	
illiams	Ward 3	Present	
Alcorn	Ward 4	Present	
p	Ward 5	Present	
is	Ward 6	Present	

Staff Present: City Manager Shirley Jaster, Jennifer Evans, Garrett Baker, Dusty Henslee, Eric Schlotter, David Orr, Lisa Thompson, J.D. Phillips, and Mashell Daniel.

Legal Counsel: Jeff Lewis and Jo Thomason.

II. INVOCATION LED BY COUNCIL MEMBER JEAN MATLOCK

III. MAYOR'S REMARKS AND ITEMS OF COMMUNITY INTEREST

Upcoming City Council Meetings:

Tuesday, January 26, 2021 at 5:30 p.m. (Special Meeting)
Monday, February 8, 2021 at 6:00 p.m.
Monday, February 22, 2021 at 6:00 p.m.

Parks & Recreation Events:

No upcoming events are scheduled. Any additional Parks & Recreation information can be found on the city's website at <http://www.ci.texarkana.tx.us.> or by contacting staff at (903) 798-3978.

Other Events in the City:

The Bridge City Project's "Chili Cook-off" will be held on January 29th from 5:00 p.m. to 8:00 p.m. at 316 Hazel Street, Texarkana, Arkansas. To participate as a Chili Entry Contestant, you must complete registration at eventbrite.com. The registration fee is $25.00.

Raffle tickets will be sold for prizes to include kitchen accessories, gift cards, and more. Admission is free to the public. Come join the Texarkana Homeless Coalition for some good chili, a great cause, and a night of fun!

There are some large projects moving forward in downtown Texarkana, like the former Hotel Grim and Texarkana National Bank building. There are also some smaller renovation projects in development by other downtown business owners.

Taylor Barr, owner of "The Beauty BARR", is relocating her full-service salon from West Broad Street to Third and Main Streets in the former Patterson's Photography building. The new location is catty-corner to the Perot Theatre. The revamp will include a completely rebuilt new interior and improved exterior.

Jennifer Hubbe purchased the former Hart's Cut-Rate Drugs property in 2008. After moving from Baltimore, Maryland, to Texarkana, she initially made this property her home. Later, she renamed the building to "Hart's on Broad" and will soon make it home to three new businesses featuring NaTally's Salon (three hair stylists, one micro blade stylist), Bones & Arrows Apparel, and Let There Be Design Gifts.

It is great to see progress and the continual development of downtown businesses both large and small.

IV. OPEN FORUM: COMMENTS FROM THE PUBLIC

Per Council rules, comment time is limited to five minutes, or ten minutes if using a translator. Before comments are made, a speaker must complete an information sheet and give to the City Secretary. If your comment pertains to an agenda item with a scheduled public hearing or public comment, the Council requires that you make your comment at that time; you do not need to complete an information sheet.

There were no public comments made at Open Forum.

V. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

The following mayoral appointments were made to the Housing Authority Board:

New Appointment: Robert Davis (filling the vacancy created by Bruce Powers)

Reappointments: Brenda Robinson, Linda Nolan, Melva Flowers, Louie George, and Jo Ann Rice

1. Motion to confirm mayoral appointments to the Housing Authority Board.

   (6:11 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jean H. Matlock, Ward 1
SECONDER:	Betty Williams, Ward 3
AYES:	Matlock, Hart, Williams, Alcorn, Harp, Davis
EXCUSED:	Bruggeman

VI. ITEMS FOR CONSIDERATION

Consent Items

(6:13 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Mary Hart, Ward 2
SECONDER:	Jean H. Matlock, Ward 1
AYES:	Matlock, Hart, Williams, Alcorn, Harp, Davis
EXCUSED:	Bruggeman

1. Consider approval of the minutes of the Regular Meeting of the City Council held on January 11, 2021 at 6:00 PM.

2. Resolution No. 2021-005 authorizing the City Manager to accept the bid and execute a contract with Quality Electric Company, Inc. of El Dorado, Arkansas, in an amount not to exceed $223,820, with budgeted funds, for the Millwood Water Treatment Plant Transfer Switch Project.

   Public Hearing:
   Council Vote: January 25, 2021

Action Items

[No action items]

VII. FIRST BRIEFINGS

1. Resolution No. 2021-006 approving Amendment No. 3 to the City's contract with Waste Management of Texas, Inc. for the collection of waste and recyclables, authorizing the City Manager to execute the necessary documents for such amendment, and approving the automatic five-year renewal term of said contract with Waste Management of Texas, Inc.

   Public Hearing: February 8, 2021
   Council Vote: February 8, 2021

Dusty Henslee briefed this agenda item. Doug Sims, of Waste Management, also shared some comments.

RESULT:	**MOVED FORWARD**	**Next: 2/8/2021 6:00 PM**

VIII. PUBLIC HEARINGS

1. Ordinance No. 2020-133 rezoning a 5-acre tract of land being Tract 7D in the M E P & P Rwy. Co. HRS, A-433, located at 2800 West 15th Street. Multiple Family-1 to Planned Development-Neighborhood Service. Xiaoqing (William) Zhang, Texas Investments & Property, under contract to purchase. Bryan Henry, agent.

   Public Hearing: January 25, 2021
   Council Vote: January 25, 2021

   Xiaoqing (William) Zhang addressed council at this hearing.
   (6:26 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Mary Hart, Ward 2
SECONDER:	Jean H. Matlock, Ward 1
AYES:	Matlock, Hart, Williams, Alcorn, Harp, Davis
EXCUSED:	Bruggeman

2. Ordinance No. 2021-001 rezoning Lots 4-6, Block 4, Lots 1-6 and Lots 9-12, Block 5 South Texarkana Addition, located in the 2000-2100 block of South State Line Avenue and 2100 block of South Spruce Street. Agriculture to Single Family-3. Keith Wiley and Southark Properties, LLC, owners. (A 3/4 vote of the City Council is required to approve this request.)

   Public Hearing: January 25, 2021
   Council Vote: January 25, 2021

   William Cody Power addressed council with concerns related to this agenda item. Francene Miller addressed council in opposition to this agenda item.
   (6:38 p.m.)

RESULT:	**FAILED [4 TO 2]**
MOVER:	Christie Alcorn, Ward 4
SECONDER:	Jean H. Matlock, Ward 1
AYES:	Matlock, Hart, Alcorn, Davis
NAYS:	Williams, Harp
EXCUSED:	Bruggeman

3. Ordinance No. 2021-004 amending Chapter 28 "Offenses and Miscellaneous Provisions" of the Code of Ordinances by amending Article VI "Reserved" to "Operation and Landing of Helicopters", and amending the Master Fee List for Fiscal Year 2021 to establish a fee for temporary landing permits.

Public Hearing: January 25, 2021
Council Vote: January 25, 2021

There were no public comments made at this hearing.
(6:44 p.m.)

RESULT:	**ADOPTED [5 TO 1]**
MOVER:	Mary Hart, Ward 2
SECONDER:	Bill Harp, Ward 5
AYES:	Bruggeman, Hart, Alcorn, Harp, Davis
NAYS:	Williams
ABSTAIN:	Matlock

IX. ITEMS FOR DISCUSSION

Staff Updates

COVID-19 by Fire Chief Eric Schlotter

The city welcomed good news that Monday, January 25th, was the first day the rate for COVID-19 local hospitalizations had dropped below the 15% threshold. If the rate stays at 15% or lower, during the next seven days, certain venues may be allowed to reopen at 75% capacity for business.

The Emergency Operations Center (EOC) continues fully activated. In the last week, 481 COVID-19 tests were administered. Four hundred doses of vaccine have been received at the health department.

The EOC has added a call line for the vaccine waiting list. Currently, there are approximately 1500 names on the waiting list. The call line is manned Monday through Friday from 8:00 a.m. to 5:00 p.m. The number is (903) 255.5566. Callers will be asked to leave their name and contact information.

Staff is working in partnership with Christus St. Michael's to be recognized as a "hub city". This designation will allow Texarkana to receive a greater allotment of vaccine for the city.

X. ADMINISTRATIVE COMMENTS

1. City Council

   Council Member Harp said citizens have expressed their appreciation for the great customer service displayed by Texarkana Water Utilities (TWU) staff amidst the current cyber attack on the data network system.

   Though this has been a difficult situation to deal with, TWU staff has shown outstanding courtesy in modified circumstances of handling billing and taking payments.

2. City Staff

   Staff had no administrative comments for council.

XI. ADJOURNMENT

A motion was made to adjourn the meeting.
(6:50 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Mary Hart, Ward 2
SECONDER:	Jean H. Matlock, Ward 1
AYES:	Matlock, Hart, Williams, Alcorn, Harp, Davis
EXCUSED:	Bruggeman

CITY OF TEXARKANA

CITY COUNCIL

MINUTES • JANUARY 26, 2021

Conference Room	Special Meeting	5:30 PM

220 TEXAS BLVD.
TEXARKANA, TX 75501

I. CALL TO ORDER, ROLL CALL, ESTABLISHMENT OF QUORUM

ee Name	Title	Status	Arrived
ıggeman	Mayor	Present	
Matlock	Ward 1	Present	
art	Ward 2	Present	
'illiams	Ward 3	Present	
Alcorn	Ward 4	Present	
p	Ward 5	Present	
is	Ward 6	Present	

Staff Present: City Manager Shirley Jaster, Jennifer Evans, and David Orr.

Legal Counsel: Jeff Lewis.

II. CLOSED SESSION

The City Council convened into closed session pursuant to the following sections of the Texas Government Code:

- Section 551.071 for a private consultation with the City Attorney.
- Section 551.074 to discuss or deliberate the City Manager's duties and evaluation.
- Section 551.089 to discuss or deliberate security assessments or deployments relating to information resource technology [ransomware attack] and network security information.

NOTE: The Council did not take any action after closed session but reconvened in open session and adjourned the meeting.

If an agenda item for a future meeting is related to any matter discussed in this closed session, an opportunity for public comment will be provided before or during the Council's consideration of the item.

III. RECONVENED INTO OPEN SESSION

IV. ADJOURNMENT

A motion was made to adjourn the meeting.
(8:15 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jay Davis, Ward 6
SECONDER:	Mary Hart, Ward 2
AYES:	Matlock, Hart, Williams, Alcorn, Harp, Davis
EXCUSED:	Bruggeman

City of Texarkana, Texas

Version:
Update Date: 2/3/2021 10:37 AM

Briefing Sheet

Lead Department: City Manager **Action Officer:** Jennifer Evans, City Secretary

Subject: Resolution No. 2021-007 denying the application to increase rates filed by SWEPCO on or about October 13, 2020.

Briefing: 2/8/2021 **Public Hearing:** **Council Vote:** 2/8/2021

Item Schedule

Updates/History of Briefing:

Per Resolution No. 2020-128, the City Council suspended SWEPCO's proposed effective date of November 17, 2020, in connection with SWEPCO's application to increase rates filed on or about October 13, 2020. Under state law, the City was allowed to suspend the proposed effective date by 90 days, to February 15, 2021 (the "Suspension Period"). The same resolution approved the City's continuing participation as a member of the Cities Advocating Reasonable Deregulation ("CARD") in the pending related rate proceeding at the Public Utility Commission of Texas ("PUCT"); authorized the retention of Herrera Law & Associates, PLLC as CARD's Special Counsel with regard to SWEPCO's application to increase its rates and related proceedings; and required SWEPCO to reimburse CARD its reasonable costs incurred in relation to SWEPCO's application to increase its rates.

Executive Summary and Background Information:

On about October 13, 2020, SWEPCO filed an application to increase its base rate revenues by approximately $105 million, which equates to an increase of approximately 30%. SWEPCO filed its Statement of Intent to raise rates with the City and with the PUCT on the same date. Currently, SWEPCO recovers a portion of its transmission- and distribution-related costs through its "Transmission Cost Recovery Factor" ("TCRF") and its "Distribution Cost Recovery Factor" ("DCRF"). The rules of the PUCT require SWEPCO to move recovery of its transmission- and distribution-related costs to its base rates when it files a general rate case. The increase of about $105 million includes the recovery of transmission and distribution costs in SWEPCO's base rates. Thus, although the increase in base rates is about $105 million, this amount includes rates customers currently pay through SWEPCO's TCRF and DCRF tariffs. Thus, taking into account the revenues related to TCRF and DCRF, SWEPCO is proposing a net increase of approximately $90.2 million in annual revenue, which represents an increase in base revenue of about 26% not including fuel revenues or other rider revenues. Including fuel revenue, SWEPCO's request equates to about a 16% increase in revenue. SWEPCO based its requested rate increase on a test year ending March 31, 2020.

SWEPCO's application requested an effective date of November 17, 2020, for its proposed increase in rates. Additionally, per state law, SWEPCO requested that the final rates set in this proceeding relate back to usage occurring 155 days after the filing of the application, or March

17, 2021. This means that under SWEPCO's request, the final rates set in this case will relate back to usage occurring on and after March 17, 2021.

City of Texarkana, Texas

***Drivers of Increase According to SWEPCO*:**

The main drivers of SWEPCO's proposed increase in rates are:

1. A proposed return on equity of 10.35% with a capital structure comprised of 49.37% equity and 50.63% long-term debt. Note that in SWEPCO's 2016 rate case, the Commission awarded SWEPCO a return on equity of 9.6% and a capital structure comprised of 48.46% and 51.54% long-term debt.
2. Acceleration of recovery of depreciation expense for SWEPCO's Dolet Hills Power Station related to a rreduction in the plant's operations and retirement due to force majeure events that occurred in 2017 and 2018 and.
3. Request for the establishment and funding of a self-insurance reserve in the amount of about $3.6 million with annual accruals of about $1.7 million.
4. Recovery of SWEPCO's system restoration costs related to Hurricane Laura.
5. Recovery of about $14.6 million vegetation management costs, representing an increase of about $5.0 million over current spend levels.

***Assignment of Increase to Customer Classes*:**

SWEPCO proposes to allocate its proposed base revenue increase, excluding the cost fuel, among the customer classes as follows:

Rate Class	Present Base Rate Revenue	Proposed Base Rate Revenue	Proposed Increase	Percent Increase
Residential	$147,077,995	$188,152,172	$41,074,177	28%
Total Commercial/Small Industrial	$146,798,138	$195,209,984	$48,411,846	33%
Total Large Industrial	$41,956,723	$55,793,625	$13,836,902	33%
Total Municipal	$3,929,551	$4,459,489	$529,938	13%
Total Lighting	$6,740,893	$7,913,240	$1,172,347	17%
TOTAL TX Retail	**$346,503,301**	**$451,528,509**	**$105,025,208**	**30%**

***Bill Impact from Proposed Increase*:**

Residential Customer – Impact on Bill:

a. Comparison of Current to Proposed Rates:

RESIDENTIAL	Current	Proposed
Cust. Charge/Mo.	$8.00	$10.00
Usage Charge/kWh (May-Oct)	$0.072266	$0.092448
kWh Charge (Nov-Apr) (</=600 kWh)	$0.053589	$0.068555
kWh Charge (Nov-Apr) (>600 kWh)	$0.043789	$0.056855
Riders (TCRF, DCRF, EECRF Rate Case Expenses)/kWh	$0.004739	$0.001261

Fuel	$0.031073	$0.031073

b. **The effect of SWEPCO's proposed increase on the base rate portion of a Residential customer's bill is as shown below:**

		1000 kWh		**1500 kWh**		**2000 kWh**		**3000 kWh**
May - Oct	**Increase $**	$22.18		$32.27		$42.36		$62.55
	Increase %	27.64%		27.73%		27.77%		27.82%
Nov. - Apr	**Increase $**	**$16.21**		**$22.74**		**$29.27**		**$42.34**
	Increase %	**28.10%**		**28.58%**		**28.85%**		**29.15%**

City of Texarkana, Texas

General Service Customer (*Small Commercial*) – Impact on Bill:

a. Comparison of Current to Proposed Rates:

GENERAL SERVICE	**Current**	**Proposed**
Cust. Charge/Mo.	$11.59	$15.00
Usage Charge/kWh (May-Oct)	$0.061302	$0.089950
Demand Charge/kW (</=10 kW)	$0.00	$2.95
Demand Charge/kW (>10 kW)	$4.87	$2.95
Riders (TCRF, DCRF, EECRF Rate Case Expenses)/kWh	$0.004827	$0.001021
Fuel	$0.031087	$0.031087

b. Bill Impact: The table below shows the effect on a Small General Service customer's bill at varying levels of consumption.

Proposed Increase in General Service Customer's Bill Base Rates (Base Revenues Only - Excludes Fuel Costs)				
With No Demand Charge				
Consumption	**1000 kWh**	**1500 kWh**	**2000 kWh**	**3000 kWh**
Present Base Bill	$72.89	$103.54	$134.19	$195.50
Proposed Base Bill	$104.95	$149.93	$194.90	$284.85
Increase $	$32.06	$46.39	$60.71	$89.35
Increase %	43.98%	44.80%	45.24%%	45.70%
With Demand Charge				
Consumption	**2000 kWh**	**2500 kWh**	**5000 kWh**	**10000 kWh**
Present Base Bill	$134.19	$177.03	$391.15	$819.41
Proposed Base Bill	$195.34	$240.43	$465.85	$916.69
Increase $	$61.15	$63.40	$74.70	$97.28
Increase %	45.57%	35.81%	19.10%	11.87%

Representation and Participation in CARD:

CARD's Special Counsel and the consultants engaged by Special Counsel on behalf of CARD have not concluded their review of SWEPCO's application to increase rates. Further, given the volume of data presented in SWEPCO's application and the complexity of issues SWEPCO's application presents, it is unlikely that Special Counsel and consultants will be able to conclude their review of SWEPCO's application to increase rates before the Suspension Period expires.

City of Texarkana, Texas

CARD's Special Counsel and team of consultants will continue their review of SWEPCO's application and will present their findings in proceedings before the PUCT and fully participate in such proceedings and any proceedings arising from those proceedings.

Potential Options:

CARD'S Special Counsel and consultants retained on behalf of CARD are continuing to evaluate the merits of SWEPCO's proposed rate increase. Given the limited duration that CARD's Special Counsel and consultants have had to review SWEPCO's highly complex and lengthy application together with the rapidly approaching deadline by which the City is required to take action, CARD's Special Counsel recommends that the City deny SWEPCO's proposed rate increase.
The City must take action by no later than February 15, 2021, which is the current effective date of SWEPCO's requested rate increase as extended by Resolution No. 2020-128.

Fiscal Implications:

If no action is taken on or before February 15, 2021, the proposed increase in rates as filed will be deemed **approved** by operation of law. By law, cities are entitled to recover their reasonable rate-case expenses from the utility. The accompanying Resolution directs SWEPCO to reimburse CARD's rate case expenses on a monthly basis based on presentation of invoices from the cities.

Staff Recommendation:

Staff recommends approval of the CARD recommendations and adoption of the resolution.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2021-007 RES denial rate increase (DOCX)

Staff Coordination

City Manager	Jennifer Evans	Department Head Review	Completed	02/03/2021 10:37 AM
City Manager	Jennifer Evans	City Manager Review	Completed	02/03/2021 10:38 AM
City Council	Vicky Coopwood	Meeting	Pending	02/08/2021 6:00 PM

City of Texarkana, Texas

Meeting History

RESOLUTION NO. 2021-007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, DENYING THE APPLICATION TO INCREASE RATES FILED BY SOUTHWESTERN ELECTRIC POWER COMPANY ON OR ABOUT OCTOBER 13, 2020; FINDING THAT THE MEETING COMPLIES WITH THE OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; CONTAINING A SUPERSEDING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Southwestern Electric Power Company ("SWEPCO" or "Company") filed a Statement of Intent with the City on about October 13, 2020, to increase its base revenues; and

WHEREAS, the City is a regulatory authority under the Public Utility Regulatory Act ("PURA") and under Chapter 33, §33.001 et seq. of PURA has exclusive original jurisdiction over SWEPCO's rates, operations, and services within the municipality;

WHEREAS, SWEPCO proposed to implement its proposed increase in rates effective on November 17, 2020, which is 35 days after the filing of its rate application; and

WHEREAS, the City Council, pursuant to Resolution No. 2020-128, suspended implementation of SWEPCO's proposed increase in rates and its proposed effective date by 90 days to February 15, 2021 (the "Suspension Period"); and

WHEREAS, SWEPCO's proposed increase in rates would result in a net increase to its base revenues of approximately $90.2 million, which equates to a net increase of approximately 26% in base revenue, not including fuel or other revenue; and

WHEREAS, for a Residential customer using 1,000 kWh per month, if SWEPCO's proposed increase is approved, the bill impact to that Residential customer would be an increase of over $22.00 per month, in base revenues during the On-Peak Period (May through October), which equates to an increase of approximately 28%; and over $16.00 per month during the Off-Peak Period (November through April), which equates to an increase of about 28%; and

WHEREAS, the Company seeks a Return on Equity (ROE) of 10.35%; and

WHEREAS, SWEPCO seeks to increase its depreciation expense, establish a self-insurance reserve fund, recover certain costs related to Hurricane Laura, and seeks to increase its vegetation-management costs; and

WHEREAS, SWEPCO's rate request consists of a voluminous amount of information including SWEPCO's rate-filing package, exhibits, schedules, and workpapers; and

WHEREAS, pursuant to Resolution No. 2020-128, the City coordinated its efforts with a coalition of similarly situated municipalities known as the Cities Advocating Reasonable Deregulation ("CARD") to review SWEPCO's Rate Filing Package; and

WHEREAS, given the volume of data and the complexity of the issues presented in SWEPCO's rate-filing package, exhibits, schedules, and workpapers, it is not practical for the City's Special Counsel and consultants retained on behalf of the City to complete their review of SWEPCO's rate application before the end of the Suspension Period; and

WHEREAS, it is now reasonable and prudent for the City to deny the requested rate increase in order to prevent the increase from going into effect at the level requested by the Company.

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

SECTION 1. The findings set out in the preamble are in all things approved and incorporated herein as if fully set forth.

SECTION 2. SWEPCO failed to show that its proposed rates are just and reasonable.

SECTION 3. The City Council hereby **DENIES** SWEPCO's request to increase rates, retains in place SWEPCO's rates in effect prior to the date upon which SWEPCO filed its statement of intent to change rates, and finds that:

A. The Rate Filing Package fails to provide sufficient information to justify the requested increase in revenue or to justify the changes set forth in the attached tariffs;

B. The Rate Filing Package fails to provide sufficient information to justify the adoption of the rate base, expenses, investment, return on equity, and other rate issues noted in the Public Utility Regulatory Act.

SECTION 4. As provided in PURA, the City Council hereby orders SWEPCO to reimburse the City's rate case expenses and that SWEPCO shall do so on a monthly basis and within 30 days after submission of the City's invoices for the City's reasonable costs associated with the City's activities, through its participation in CARD, related to its rate review or to related proceedings involving SWEPCO before the City, the Public Utility Commission of Texas, or any court of law.

SECTION 5. A copy of this resolution shall be sent to SWEPCO's local representative and to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 4524 Medical Parkway, Austin, Texas 78756.

SECTION 6. The meeting at which this resolution was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

SECTION 7. To the extent any resolution previously adopted by the City Council is inconsistent with this Resolution, it is hereby superseded.

SECTION 8. This resolution shall become effective from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session this the **8th day of February, 2021.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY	BOB BRUGGEMAN, MAYOR

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/3/2021 11:12 AM

Lead Department: City Manager **Action Officer:** Jennifer Evans, City Secretary

Subject: Ordinance No. 2021-008 amending and supplementing Chapter 4, Article II "Airport Authority" of the Code of Ordinances.

Briefing: 2/8/2021 **Public Hearing:** **Council Vote:** 2/8/2021

Item Schedule

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Texarkana, Texas, and Texarkana, Arkansas, have reciprocal ordinances in their respective Codes of Ordinances pertaining to the Texarkana Airport Authority. City officials, coordinating with their respective counterparts in Texarkana, Arkansas, have prepared revisions to certain sections of those reciprocal ordinances. The overall impetus for these revisions is an intent to help move the airport to financial self-sufficiency together with promoting economic development, while at the same time continuing to provide for oversight by the elected governing bodies of both cities.

The materials included in the agenda packet include a ten-section detail of proposed and current ordinance sections. The proposed revisions include:

- adding a ninth, “at-large” member of the Authority’s board, subject to joint approval of both cities, who would serve for a two-year term (Board members who are residents of their respective states will continue to serve for a term of three years), and corresponding updates to quorum requirements;
- updating and revising Authority powers and fiscal provisions, including an update to purchasing authority;
- adding strategic planning and expansion of services to existing provisions on acquisition of land and facilities; and
- adding new sections for retention of legal counsel for the Authority and an administrative review process by the Cities’ city managers.

The Board of Directors of the City of Texarkana, Arkansas, approved these reciprocal ordinance revisions on February 1, 2021. A copy of the approved ordinance is included with the agenda materials. (While the substance of the sections is the same, the section numbers are different.)

Section 12 of this enabling ordinance operates to supersede or otherwise rescind a 1957 City Council resolution which provided for nascent rules and regulations of the Authority.

City of Texarkana, Texas

Potential Options:

Passage of this ordinance will be necessary to effectuate bi-city changes to the provisions governing the Airport Authority.

Fiscal Implications:

No fiscal outlay will be implicated with passage of these ordinance revisions.

Staff Recommendation:

Staff recommends approval of the ordinance.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2021-008 ORD Airport reciprocal amendments v2 (DOCX)
b. 2021-008 ATTH 01 ordinance revisions proposed and current (DOCX)
c. 2021-008 ATTH 02 ARK ORD 5-2021 (PDF)
d. 2021-008 ATTH 03 RES 46-57 (PDF)

Staff Coordination

City Manager	Jennifer Evans	Department Head Review	Completed	02/03/2021 11:12 AM
Municipal Prosecutor	Jennifer Evans	Asst. City Attorney Review	Skipped	02/03/2021 10:48 AM
City Attorney	Jennifer Evans	City Attorney Review	Skipped	02/03/2021 10:48 AM
City Manager	Jennifer Evans	City Manager Review	Completed	02/03/2021 11:12 AM
City Council	Vicky Coopwood	Meeting	Pending	02/08/2021 6:00 PM

Meeting History

PUBLISH

ORDINANCE NO. 2021-008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING AND SUPPLEMENTING CHAPTER 4, ARTICLE II "AIRPORT AUTHORITY" OF THE CODE OF ORDINANCES OF THE CITY OF TEXARKANA, TEXAS; CONTAINING A SUPERSEDING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Texarkana Municipal Airport is jointly operated by the cities of Texarkana, Arkansas, and Texarkana, Texas, by means of reciprocal ordinances which provide, among other things, for the Texarkana Airport Authority, a joint airport board created for the ownership and operation of the airport; and

WHEREAS, in order to provide for certain updates to the ordinances of both cities as relates to the Airport and Airport Authority, it is necessary to amend and supplement Chapter 4, Article II "Airport Authority" of the Code of Ordinances of the City of Texarkana, Texas; and

WHEREAS, by Ordinance No. 5-2021, the Board of Directors of the City of Texarkana, Arkansas, has approved the amendments and supplements contained herein.

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

SECTION 1. The existing language of Section 4-19 of the Code is deleted and replaced with the following, together with a revision to the section heading:

Sec. 4-19. – Created; definitions.

There is hereby created a joint airport board for the ownership and operation of the Texarkana Municipal Airport, said board to be known as the "Texarkana Airport Authority."

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authority means the Texarkana Airport Authority created by this section.

Cities shall mean the City of Texarkana, Arkansas, and the City Council of the City of Texarkana, Texas.

Cities' governing bodies means the Board of Directors of the City of Texarkana, Arkansas, and the City Council of the City of Texarkana, Texas.

SECTION 2. The existing language of Sections 4-21 of the Code is deleted and replaced with the following, together with a revision to the section headings:

Sec. 4-21. - Composition; appointment of members; failure to serve term; discharge.

(a) The Authority shall consist of nine members, four of whom shall be residents of Texarkana, Miller County, Arkansas, four of whom shall be residents of Texarkana, Bowie County, Texas, and one member at-large with experience in managing or directing municipal or regional economic or industrial development. Texarkana, Arkansas, resident members shall be appointed and approved by the Board of Directors for the City of Texarkana, Arkansas. Texarkana, Texas, resident members shall be appointed by the Mayor and approved by the City Council for the City of Texarkana, Texas. The member-at-large shall be appointed in the same manner as provided in this section for a resident member; provided, however, that the member-at-large must also be approved jointly by the Cities' governing bodies. Resident members shall serve for a term of three (3) years; the at-large member shall serve for a term of two (2) years. Should any member fail to complete a term for any reason, a person shall be appointed and approved to fill the unexpired term in the same manner as provided in this section for appointment and approval of a full term.

(b) The term of any resident member may be terminated with or without cause by the governing body that approved the appointment. The term of the member at-large may be terminated with or without cause by the joint approval of the Cities' governing bodies.

SECTION 3. The existing language of Section 4-23 of the Code is deleted and replaced with the following, together with a revision to the section heading:

Sec. 4-23. - Election and term of authority officers; officers permitted to vote.

The Authority shall elect, from its resident members, one person to act as chair, one person to act as vice-chair, and one person to act as secretary. The chair and vice-chair shall serve for a term of one year; provided, however, that the chair and vice-chair can never be residents of the same state. In the absence of the chair, the vice-chair shall act as chair. The secretary of the authority may be elected to that office for as long as the person remains on the authority. The secretary shall keep minutes of all meetings of the authority. The chair, vice-chair, and secretary may cast votes on all matters coming before the Authority.

SECTION 4. The existing language of Section 4-24 of the Code is deleted and replaced with the following, together with a revision to the section heading:

Sec. 4-24. - Quorum; questions to be decided by majority of the authority.

Six members of the Authority shall constitute a quorum; provided, however, that three must be resident members from the City of Texarkana, Arkansas, and three must be resident members from the City of Texarkana, Texas. All matters submitted to the Authority shall be decided upon a majority vote of the entire Authority (that is, all member seats of the Authority not otherwise vacant or disqualified by law). Neither absence nor abstention shall reduce the entire Authority.

SECTION 5. The existing language of Section 4-25 of the Code is deleted and replaced with the following:

Sec. 4-25. - Powers generally.

The Authority shall be vested with the authority for the planning, developing, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection, and policing of the city municipal airport; except however, that such authority shall be limited as follows:

(1) Except upon joint approval of the Cities' governing bodies, no contractual obligation shall be entered into by the Authority for a term greater than five (5) years, nor shall any contractual obligation be entered into or expense incurred by the Authority in any amount that exceeds the amount budgeted for the same in the Authority's budget approved by the Cities' governing bodies or in any amount that exceeds the unencumbered monies of the Authority realized from the earnings thereof.

(2) The expense of planning, development, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection, and policing of the airport in excess of the funds of the Authority shall be the responsibility of the municipalities only if approved pursuant to section 4-33.

(3) No property entrusted to the Authority shall be sold, transferred, or in any manner encumbered without written consent by joint approval of the Cities' governing bodies.

(4) No expenditure shall be made except in compliance with Arkansas and applicable federal law. The Authority shall adopt and maintain a purchasing policy, with competitive bidding provisions consistent with Arkansas and federal law, for use by the Authority in incurring expenditures, including purchasing supplies, materials equipment and services. No expenditure totaling individually or in the aggregate up to $25,000 shall be made except by the joint written approval of the city managers of both cities. Notwithstanding prior approval of the Authority's annual budget, no expenditure totaling individually or in the aggregate above $25,000 shall be made without written consent by joint approval of the Cities' governing bodies.

(5) The Authority shall hire, subject to the joint approval of the Cities' governing bodies, a full-time executive director to serve as the head administrative official of the Authority. In the event of a vacancy in the office of said executive director, the Authority shall hire or designate an interim executive director or other person to carry out the duties of an executive director. In no event shall the Authority be without a permanent executive director for a period of more than six (6) months without the joint approval of the Cities' governing bodies.

SECTION 6. The existing language of Section 4-27 of the Code is deleted and replaced with the following:

Sec. 4-27. - Revenues and funds.

(a) The Authority shall receive and hold all revenues derived from the operation of the airport and shall pay therefrom the expenses of such operation, subject, however, to the limitation of Arkansas state law and Texas state law.

(b) The revenues obtained by the Authority from the ownership, control or operation of the airport shall be deposited in a special fund in the bank to be designated as the "Texarkana Municipal Airport Fund," which revenue shall be appropriated solely to and used by the

Authority for the purposes authorized by this article. The funds of the Authority shall be disbursed as shall be provided from time to time in the bylaws of the Authority not inconsistent with this Article or applicable law.

SECTION 7. The existing language of Section 4-31 of the Code is deleted and replaced with the following, together with a revision to the section heading:

Sec. 4-31. - Strategic planning; acquisition and construction; expansion of services.

(a) It is contemplated by the cities that the land, buildings, and all other facilities subject to the jurisdiction of the Authority shall be supplemented and improved by the acquisition of new land, construction of new facilities, and expansion of air travel and other regional and national aviation-related services. The Authority shall adopt a strategic plan (goal-setting, analysis, strategy formation, strategy implementation, and strategy monitoring) that includes the acquisition of new land, construction of new buildings and other facilities, and expansion of air travel and other regional and national aviation services. The Authority shall annually review the implementation of its strategic plan and revise the plan as circumstances may require.

(b) All new acquisitions of land, construction of new facilities, and expansion of air travel and other regional services shall be effected only if such is consistent with the Authority's strategic plan and upon the concurrent agreement by joint approval of the Cities' governing bodies. In the absence of any revenue in The Texarkana Municipal Airport Fund or other funding sources, the cost of such new acquisitions of land, construction of new facilities, and / or expansion of air travel and other regional services shall be borne by the cities on a per capita basis of population as determined by the federal decennial census last made and taken prior to the corresponding joint approval of the Cities' governing bodies.

SECTION 8. The existing language of Section 4-33 of the Code is deleted and replaced with the following, together with a revision to the section heading:

Sec. 4-33. - Fiscal year; budget approval; expenditures; deficits; Authority reports.

(a) The Authority's fiscal year shall begin on January 1st and end on December 31st. The total expenditures to be made by the Authority for any purpose in any fiscal year shall be determined by a budget approved by the Cities' governing bodies on or before December 1st for the following calendar year. On or before November 1st of each year, the Authority shall present to the city managers of both cities its proposed budget and current financials (banking statements, balance sheets, income statements, and any other financial statements). If the budget, as proposed by the Authority, contemplates a deficit, each of the cities, upon approval of the budget, shall assume and pay its proportionate share of the deficit, such share to be determined upon a per capita basis of the citizens of each of the cities as determined by the federal decennial census last made and taken prior to the approval of the budget. Any deficit shall be paid by the cities quarterly in equal installments to the Authority.

(b) On or before the end of the first, second, and third fiscal year quarters, the Authority's chair and executive director shall provide the Cities' governing bodies with a report of the

Authority's budgeted and actual expenditures and progress on implementation of its strategic plan. If, at any time, the Authority anticipates a deficit in excess of the approved budget, the Authority shall appear before the Cities' governing bodies and ask for joint approval of the additional deficit; and only upon joint approval by the Cities' governing bodies shall such additional deficit be assumed and paid by the cities in the same proportions as above set out. Within 60 days following the end of each fiscal year, the authority shall submit a financial report of the year's operation.

(c) No airport, air navigation facility, airport hazard, real or personal property, nor operating expenses in excess of income, the cost of which is in excess of the sums fixed by the Authority's budget as approved by the Cities' governing bodies, may be acquired by the Authority without the prior joint approval of the Cities' governing bodies, and appropriations made and funds transferred to the Authority. Any such acquisition, indebtedness, or contract made without compliance with this section shall be null and void.

(d) If either of the Cities fail for any reason to pay its proportionate share of any approved budget deficit, it shall forfeit the voting privilege of the resident member having the shortest unexpired term of office until such time as the payment thereof has been made to the Authority; provided, that such resident member may continue to attend all meetings and take part in the deliberations of the Authority.

SECTION 9. The existing language of Section 4-20 of the Code is deleted and replaced with the following, together with a revision to the section heading:

Sec. 4-20. - Legal Counsel for Authority and Cities.

The Authority shall retain legal counsel as needed to advise the Authority and the Cities with regard to Authority operations; provided, however, that each such retention must be budgeted by the Authority, payable solely from The Texarkana Municipal Airport Fund, and jointly approved by the Cities' governing bodies. The Authority shall not request legal services from the municipal attorneys of either city.

SECTION 10. The existing language of Section 4-22 of the Code is deleted and replaced with the following, together with a revision to the section heading:

Sec. 4-22. - Review by Cities' City Managers.

Any person adversely affected by the Authority may request a review by submitting a written request to both city managers of the Cities together with documentation the person deems pertinent to facilitate review. The Authority shall promptly provide documentation or information requested by either of the Cities' city managers to aid in the review. The Cities' city managers shall review the request and either decline the request or take action consistent with federal law, the laws of Arkansas and Texas, and the Cities' respective charters and ordinances. Multiple requests for review from more than one person regarding the same subject matter shall be consolidated. To the extent permitted by law, a person must exhaust the review provided for in this section before making any claim against either of the Cities or the Authority.

SECTION 11: Resolution No. 46-57 (passed and approved by the City Council on June 25, 1957) which provided for "Rules, Regulations, and Bylaws of the Texarkana Airport Authority", is hereby superseded and / or rescinded.

SECTION 12: This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **8th day of February, 2021.**

ATTEST:

______________________________	______________________________
JENNIFER EVANS, CITY SECRETARY	BOB BRUGGEMAN, MAYOR

Proposed Airport Authority Ordinance Revisions

1. Revise definitions for uniformity, merge with "created" section

Created; definitions

There is hereby created a joint airport board for the ownership and operation of the Texarkana Municipal Airport, said board to be known as the "Texarkana Airport Authority."

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authority means the Texarkana Airport Authority created by this section.

Cities shall mean the City of Texarkana, Arkansas, and the City Council of the City of Texarkana, Texas.

Cities' governing bodies means the Board of Directors of the City of Texarkana, Arkansas, and the City Council of the City of Texarkana, Texas.

Current ARK Sec 6-27

There is hereby created a joint airport board for the ownership and operation of the Texarkana Municipal Airport—Webb Field, said board to be known as the "Texarkana Airport Authority," referred to in this article as "the authority."

Current TX Sec. 4-19

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authority means the Texarkana Airport Authority created by section 4-20.

Current TX Sec. 4-20. - Created.

There is hereby created a joint airport board for the ownership and operation of the city municipal airport, such board to be known as the city airport authority.

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2. At-large member added, conforming adjustments to existing ordinances

Composition; appointment of members; failure to serve term; discharge.

(a) The Authority shall consist of nine members, four of whom shall be residents of Texarkana, Miller County, Arkansas, four of whom shall be residents of Texarkana, Bowie County, Texas, and one member at-large with experience in managing or directing municipal or regional economic or industrial development. Texarkana, Arkansas, resident members shall be appointed and approved by the Board of Directors for the City of Texarkana, Arkansas. Texarkana, Texas, resident members shall be appointed by the Mayor and approved by the City Council for the City of Texarkana, Texas. The member-at-large shall be appointed in the same manner as provided in this section for a resident member; provided, however, that the member-at-large must also be approved jointly by the Cities' governing bodies. Resident members shall serve for a term of three (3) years; the at-large member shall serve for a term of two (2) years. Should any member fail to complete a term for any reason, a person shall be appointed and approved to fill the unexpired term in the same manner as provided in this section for appointment and approval of a full term.

(b) The term of any resident member may be terminated with or without cause by the governing body that approved the appointment. The term of the member at-large may be terminated with or without cause by the joint approval of the Cities' governing bodies.

Current ARK Sec 6-28

The joint airport authority shall consist of eight (8) members, four (4) of whom shall be residents of Texarkana, Miller County, Arkansas, and four (4) of whom shall be residents of Texarkana, Bowie County, Texas. The members of the authority that are residents of Arkansas shall be appointed by the mayor of the City of Texarkana, Arkansas, with the approval of the board of directors of said city. The members of the authority that are residents of Texas shall be appointed by the mayor of the City of Texarkana, Texas. The persons appointed to said authority shall serve for a term of three (3) years. Should any member of the authority fail to serve his term for any reason, the mayor of the city of which said member is a resident shall appoint a person to fill the unexpired term.

Current TX Sec. 4-21

(a) The joint board shall consist of eight members, four of whom shall be residents of Texarkana, Miller County, Arkansas and four of whom shall be residents of Texarkana, Bowie County, Texas. The members of said board that are residents of Arkansas shall be appointed by the mayor of the City of Texarkana, Arkansas, with the approval of the city council of that city. The members of the board that are residents of Texas shall be appointed by the mayor of the city, with the approval of the city council of said city. The mayor of each of the cities, with the approval of the city council, shall appoint one person for a term of three years to replace that resident member whose term has expired.

(b) Should any member of the authority fail to serve their term for any reason, the mayor of the city of which such member is a resident shall appoint a person to fill the unexpired term. The term of office of any board member shall be terminated automatically after their absence from three consecutive regular meetings of the board, and the continuance of their membership on the board shall be subject to their reappointment by the mayor and approval by the city council.

Current TX Sec. 4-22

(a) The mayor of Texarkana, Texas, or the mayor of the City of Texarkana, Arkansas, with the approval of the city council, may terminate or discharge any of its resident members of the city airport authority board with or without cause.

(b) The mayor of the city of which such terminated or discharged member is a resident shall appoint a person to fill the unexpired term.

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3. Board organization and officers

Election and term of authority officers; officers permitted to vote.

The Authority shall elect, from its resident members, one person to act as chair, one person to act as vice-chair, and one person to act as secretary. The chair and vice-chair shall serve for a term of one year; provided, however, that the chair and vice-chair can never be residents of the same state. In the absence of the chair, the vice-chair shall act as chair. The secretary of the authority may be elected to that office for as long as the person remains on the authority. The secretary shall keep minutes of all meetings of the authority. The chair, vice-chair, and secretary may cast votes on all matters coming before the Authority.

> Current ARK Sec. 6-29
>
> The authority shall elect one (1) person from its number to act as chairman, one (1) person to act as vice-chairman and one (1) person to act as secretary. The chairman and vice-chairman shall serve for a term of one (1) year, and annually thereafter, the members shall elect a chairman and vice-chairman from the membership of the authority; provided, however, that the chairman and vice-chairman can never be residents of the same state. The chairman and vice-chairman shall cast votes on all matters coming before the authority. In the absence of the chairman, the vice-chairman shall act as chairman. The person elected secretary of the authority may be elected to that office for as long as he remains on the authority. The secretary shall keep minutes of all meetings of the authority.
>
> Current TX Sec. 4-23.
>
> Immediately upon the members of said board being appointed, they shall meet for the purpose of organizing said board. They shall elect one person from their number to act as chairperson, one person to act as vice-chairperson, and one person as secretary. The chairperson and vice-chairperson shall serve for a term of one year and annually thereafter said members shall elect a chairperson and vice-chairperson from the membership of the board, provided they shall not be residents of the same city.

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4. Quorum requirements aligned between ordinances; use ARK phrasing; new at-large member not included for quorum

Quorum; questions to be decided by majority of the authority.

Six members of the Authority shall constitute a quorum; provided, however, that three must be resident members from the City of Texarkana, Arkansas, and three must be resident members from the City of Texarkana, Texas. All matters submitted to the Authority shall be decided upon a majority vote of the entire Authority (that is, all member seats of the Authority not otherwise vacant or disqualified by law). Neither absence nor abstention shall reduce the entire Authority.

Current ARK Sec. 6-30

Six (6) members of the authority shall constitute a quorum; however, three (3) must be from the City of Texarkana, Arkansas, and three (3) from the City of Texarkana, Texas. Any member of the authority who misses three (3) consecutive regular board meetings shall automatically forfeit his term on the Texarkana Airport Authority.

Current TX Sec. 4-24
Five members of this board shall constitute a quorum and the residence of said members shall not be a qualification of the quorum; provided, however, a quorum of the board shall consist of three members appointed from the City of Texarkana, Arkansas and three members appointed from the City of Texarkana, Texas for any meeting during which a matter is voted upon that requires the subsequent approval of the governing bodies of the Cities of Texarkana, Arkansas and Texas. All questions shall be decided upon a majority vote of the members present. The chairperson shall cast a vote on all matters coming before the board.

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5. Revision of powers of Authority; resolve discrepancy between ordinances on applicable law to purchases

Powers generally.

The Authority shall be vested with the authority for the planning, developing, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection, and policing of the city municipal airport; except however, that such authority shall be limited as follows:

(1) Except upon joint approval of the Cities' governing bodies, no contractual obligation shall be entered into by the Authority for a term greater than five (5) years, nor shall any contractual obligation be entered into or expense incurred by the Authority in any amount that exceeds the amount budgeted for the same in the Authority's budget approved by the Cities' governing bodies or in any amount that exceeds the unencumbered monies of the Authority realized from the earnings thereof.

(2) The expense of planning, development, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection, and policing of the airport in excess of the funds of the Authority shall be the responsibility of the municipalities only if approved pursuant to section [*budget approval section ARK 6-38/TX 4-33*].

(3) No property entrusted to the Authority shall be sold, transferred, or in any manner encumbered without written consent by joint approval of the Cities' governing bodies.

(4)No expenditure shall be made except in compliance with Arkansas and applicable federal law. The Authority shall adopt and maintain a purchasing policy, with competitive bidding provisions consistent with Arkansas and federal law, for use by the Authority in incurring expenditures, including purchasing supplies, materials equipment and services. No expenditure totaling individually or in the aggregate up to $25,000.00 shall be made except by the joint written approval of the city managers of both cities. Notwithstanding prior approval of the Authority's annual budget, no expenditure totaling individually or in the aggregate above $25,000.00 shall be made without written consent by joint approval of the Cities' governing bodies.

(5) The Authority shall hire, subject to the joint approval of the Cities' governing bodies, a full-time executive director to serve as the head administrative official of the Authority. In the event of a vacancy in the office of said executive director, the Authority shall hire or designate an interim executive director or other person to carry out the duties of an executive director. In no event shall the Authority be without a permanent executive director for a period of more than six (6) months without the joint approval of the Cities' governing bodies.

Current ARK Sec. 6-31

The authority shall be vested with the authority for the planning, development, construction, enlargement, improvement, maintenance, equipping, operation, regulations, protection and policing of the Texarkana Municipal Airport—Webb Field, except, however, that said authority shall be limited as follows:

(1)No contractual obligation shall be entered into by the authority in any amount in excess of the unencumbered monies of the authority realized from the earnings thereof except upon resolution of the City of Texarkana, Arkansas, and the City of Texarkana, Texas.

(2)The expense of planning, development, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection and policing of said airport in excess of the funds of the authority shall be the responsibility of the municipalities.

(3)No property entrusted to the authority shall be sold, transferred or in any manner encumbered without the written consent of the governing bodies of said cities.

(4)No contract in excess of two hundred dollars ($200.00) shall be made except in compliance with applicable Arkansas and Texas state laws.

Current TX Sec. 4-25

The authority shall be vested with the authority for the planning, developing, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection and policing of the city municipal airport, except however, that such authority shall be limited as follows:

(1)No contractual obligation shall be entered into by the authority in any amount in excess of the unencumbered monies of the authority realized from the earnings thereof, except upon resolution of the City of Texarkana, Arkansas, and Texarkana, Texas.

(2)The expense of planning, development, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection and policing of the airport in excess of the funds of the authority shall be the responsibility of the municipalities.

(3)No property entrusted to the authority shall be sold, transferred or in any manner encumbered without written consent of the city councils of the cities.

(4)No contract in excess of $200.00 shall be made except in compliance with Arkansas Statutes 1947, article 19-1022 (which is in substantial compliance with the requirements of the city Charter and state laws), which provides that such contracts shall be entered into after advertisement for bids is made by the board of public affairs of the City of Texarkana, Arkansas.

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6. Updating revenues; resolve textual differences in ordinances

Revenues and funds.

(a) The Authority shall receive and hold all revenues derived from the operation of the airport and shall pay therefrom the expenses of such operation, subject, however, to the limitation of Arkansas state law and Texas state law.

(b) The revenues obtained by the Authority from the ownership, control or operation of the airport shall be deposited in a special fund in the bank to be designated as the "Texarkana Municipal Airport Fund," which revenue shall be appropriated solely to and used by the Authority for the purposes authorized by this article. The funds of the Authority shall be disbursed as shall be provided from time to time in the bylaws of the Authority not inconsistent with this Article or applicable law.

Current ARK 6-33

(a) The authority shall receive and hold all revenues derived from the operation of the airport and shall pay therefrom the expenses of such operation, subject, however, to the limitation of Ark. Stats. section 74-601 et seq., and Article 46d-1 et seq., Revised Civil Statutes of Texas, as amended.

(b) The revenues obtained by the authority from the ownership, control or operation of the airport shall be deposited in a special fund in the bank to be designated as the "Texarkana Municipal Airport Fund," which revenue shall be appropriated solely to and used by the authority for the purposes authorized by this article. The funds of the authority shall be disbursed as shall be provided from time to time in the bylaws of the authority.

Current TX Sec. 4-27

The authority shall receive and hold all revenues derived from the operation of the airport and shall pay therefrom the expenses of such operation, subject, however, to the limitation of Arkansas state law and Texas state law. The revenues obtained by the authority from the ownership, control or operation of said airport shall be deposited in a special fund in the bank to be designated "The Texarkana Municipal Airport Fund" or "Airport Fund" which revenues shall be appropriated solely to and used by the cities for the purposes authorized by Arkansas state law and Texas state law, including the payment of bonds issued by the cities either jointly or separately and payable as to principal and interest solely from the revenues of the airport as provided under Arkansas state law and Texas state law.

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7. Adding strategic planning and expansion of services to existing provisions on acquisition of land and facilities

Strategic planning; acquisition and construction; expansion of services.

(a) It is contemplated by the cities that the land, buildings, and all other facilities subject to the jurisdiction of the Authority shall be supplemented and improved by the acquisition of new land, construction of new facilities, and expansion of air travel and other regional and national aviation-related services. The Authority shall adopt a strategic plan (goal-setting, analysis, strategy formation, strategy implementation, and strategy monitoring) that includes the acquisition of new land, construction of new buildings and other facilities, and expansion of air travel and other regional and national aviation services. The Authority shall annually review the implementation of its strategic plan and revise the plan as circumstances may require.

(b) All new acquisitions of land, construction of new facilities, and expansion of air travel and other regional services shall be effected only if such is consistent with the Authority's strategic plan and upon the concurrent agreement by joint approval of the Cities' governing bodies. In the absence of any revenue in The Texarkana Municipal Airport Fund or other funding sources, the cost of such new acquisitions of land, construction of new facilities, and / or expansion of air travel and other regional services shall be borne by the cities on a per capita basis of population as determined by the federal decennial census last made and taken prior to the corresponding joint approval of the Cities' governing bodies.

Current ARK 6-36

(a) It is contemplated by the cities referred to in this article that the land, buildings and all other facilities subject to the jurisdiction of the authority shall be supplemented and improved by the acquisition or construction of new land, buildings and other facilities.

(b) All new acquisitions and construction of property subject to the jurisdiction of the authority shall be effected only upon the concurrent agreement of the Cities of Texarkana, Arkansas and Texarkana, Texas, and the cost of said new acquisition and construction of property shall be borne by the cities on a per capita basis of population as determined by the federal decennial census last made and taken prior to such new acquisition or construction; provided however, until the 1960 decennial census shall have been taken such costs shall be borne sixty (60) per cent by the City of Texarkana, Texas, and forty (40) per cent by the City of Texarkana, Arkansas.

Current TX Sec. 4-31

It is contemplated by the cities that the land, buildings and all other facilities subject to the jurisdiction of the authority shall be supplemented and improved by the acquisition or construction of new land, buildings and other facilities. All new acquisitions and construction of property subject to the jurisdiction of the authority shall be affected only upon the concurrent agreement of the cities of Texarkana, Arkansas, and the City of Texarkana, Texas, and the cost of such new acquisition and construction shall be borne by the cities on a per capita basis of population as determined by the federal decennial census last made and taken prior to such new acquisition or construction; provided, however, that until the 1960 Decennial Census shall have been taken, such costs shall be borne 60 percent by the City of Texarkana, Texas, and 40 percent by the City of Texarkana, Arkansas.

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8. Revising fiscal provisions and resolving discrepancies between ordinances.

Fiscal year; budget approval; expenditures; deficits; Authority reports.

(a) The Authority's fiscal year shall begin on January 1 and end on December 31. The total expenditures to be made by the Authority for any purpose in any fiscal year shall be determined by a budget approved by the Cities' governing bodies on or before December 1 for the following calendar year. On or before November 1 of each year, the Authority shall present to the city managers of both cities its proposed budget and current financials (banking statements, balance sheets, income statements, and any other financial statements). If the budget, as proposed by the Authority, contemplates a deficit, each of the cities, upon approval of the budget, shall assume and pay its proportionate share of the deficit, such share to be determined upon a per capita basis of the citizens of each of the cities as determined by the federal decennial census last made and taken prior to the approval of the budget. Any deficit shall be paid by the cities quarterly in equal installments to the Authority.

(b) On or before the end of the first, second, and third fiscal year quarters, the Authority's chair and executive director shall provide the Cities' governing bodies with a report of the Authority's budgeted and actual expenditures and progress on implementation of its strategic plan. If, at any time, the Authority anticipates a deficit in excess of the approved budget, the Authority shall appear before the Cities' governing bodies and ask for joint approval of the additional deficit; and only upon joint approval by the Cities' governing bodies shall such additional deficit be assumed and paid by the cities in the same proportions as above set out. Within 60 days following the end of each fiscal year, the authority shall submit a financial report of the year's operation.

(c) No airport, air navigation facility, airport hazard, real or personal property, nor operating expenses in excess of income, the cost of which is in excess of the sums fixed by the Authority's budget as approved by the Cities' governing bodies, may be acquired by the Authority without the prior joint approval of the Cities' governing bodies, and appropriations made and funds transferred to the Authority. Any such acquisition, indebtedness, or contract made without compliance with this section shall be null and void.

(d) If either of the Cities fail for any reason to pay its proportionate share of any approved budget deficit, it shall forfeit the voting privilege of the resident member having the shortest unexpired term of office until such time as the payment thereof has been made to the Authority; provided, that such resident member may continue to attend all meetings and take part in the deliberations of the Authority.

Current ARK 6-38

(a) The total expenditures to be made by the authority for any purpose in any calendar year shall be determined by a budget approved by the governing bodies of the City of Texarkana, Texas, and the City of Texarkana, Arkansas, on or before December first for the following calendar year. If the budget as proposed contemplates a deficit, each of the cities upon approval of the budget shall assume and pay its proportionate share of the deficit, such share to be determined upon a per capita basis of the citizens of each of the cities as determined by the federal decennial census last made and taken prior to the approval of the budget; provided, however, that until the 1960 decennial census is taken, such deficit shall be borne sixty (60) per cent by the City of Texarkana, Texas, and forty (40) per cent by the City of Texarkana, Arkansas. Any deficit shall be paid quarterly in equal installments to the authority. If, during any fiscal year, a deficit is anticipated in excess of the approved budget, the authority shall appear before each of the governing bodies and ask for approval of the additional deficit and, if approved, such additional deficit shall be assumed and paid by the cities in the same proportions as above set out. Within sixty (60) days following the end of each fiscal year, the authority shall submit a financial report of the year's operation.

(b) No airport, air navigation facility, airport hazard, real or personal property nor operating expenses in excess of income, the cost of which is in excess of the sums fixed by the budget heretofore mentioned, may be acquired by the authority without the prior approval of the governing bodies of the City of Texarkana, Texas, and the City of Texarkana, Arkansas, and appropriations made and funds transferred to the authority. Any indebtedness or contract made without compliance with this section shall be null and void.

(c) If either of the cities fails for any reason to pay its proportionate share of the approved budget deficit it shall forfeit the voting privilege of the representative having the shortest unexpired term of office until such time as the payment thereof has been made to the authority; provided that such member may continue to attend all meetings and take part in the deliberation of the authority.

Current TX Sec. 4-33.

(a) The total expenditures to be made by the authority for any purpose in any calendar year shall be determined by a budget approved by the city councils of each city, on or before December 1 for the following calendar year. If the budget, as proposed, contemplates a deficit, each of the cities, upon approval of the budget, shall assume and pay its proportionate share of the deficit, such share to be determined upon a per capita basis of the citizens of each of the cities as determined by the federal decennial census last made and taken prior to the approval of the budget; provided, however, that, until the 1960 Decennial Census is taken, such deficit shall be borne 60 percent by the City of Texarkana, Texas, and 40 percent by the City of Texarkana, Arkansas. Any deficit shall be paid quarterly in equal installments to the authority. If, during any fiscal year, a deficit is anticipated in excess of the approved budget, the authority shall appear before each of the city councils and ask for approval of the additional deficit, and, if approved, such additional deficit shall be assumed and paid by the cities in the same proportions as above set out. Within 60 days following the end of each fiscal year, the authority shall submit a financial report of the year's operation.

(b) No airport, air navigation facility, airport hazard, real or personal property, nor operating expenses in excess of income, the cost of which is in excess of the sums fixed by the budget heretofore mentioned, may be acquired by the authority without the prior approval of the city councils of each city, and appropriations made and funds transferred to the authority. Any indebtedness or contract made without compliance with this section shall be null and void.

(c) If either of the cities fail for any reason to pay its proportionate share of the approved budget deficit it shall forfeit the voting privilege of the representative having the shortest unexpired term of office until such time as the payment thereof has been made to the authority; provided, that such member may continue to attend all meetings and take part in the deliberations of the authority.

9. New section for Authority to retain legal counsel

Legal Counsel for Authority and Cities

The Authority shall retain legal counsel as needed to advise the Authority and the Cities with regard to Authority operations; provided, however, that each such retention must be budgeted by the Authority, payable solely from The Texarkana Municipal Airport Fund, and jointly approved by the Cities' governing bodies. The Authority shall not request legal services from the municipal attorneys of either city.

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10. New section for city managers' administrative review

Review by Cities' City Managers

Any person adversely affected by the Authority may request a review by submitting a written request to both city managers of the Cities together with documentation the person deems pertinent to facilitate review. The Authority shall promptly provide documentation or information requested by either of the Cities' city managers to aid in the review. The Cities' city managers shall review the request and either decline the request or take action consistent with federal law, the laws of Texas and Arkansas, and the Cities' respective charters and ordinances. Multiple requests for review from more than one person regarding the same subject matter shall be consolidated. To the extent permitted by law, a person must exhaust the review provided for in this section before making any claim against either of the Cities or the Authority.

ORDINANCE NO. 5-2021

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 6, ARTICLE II OF *THE CITY OF TEXARKANA, ARKANSAS, CODE OF ORDINANCES* RELATING TO THE TEXARKANA AIRPORT AND AIRPORT AUTHORITY, AND FOR OTHER PURPOSES

WHEREAS, in accordance with applicable statute, the Texarkana Airport and Texarkana Airport Authority is jointly operated by the cities of Texarkana, Arkansas, and Texarkana, Texas; and

WHEREAS, in order to provide for certain updates to the ordinances of both cities as relates to the Airport and Airport Authority, it is necessary to amend and supplement Chapter 6, Article II, of the *City of Texarkana, Arkansas, Code of Ordinances* ("Code"); and

WHEREAS, the amendments and supplements contained herein are likewise being presented for adoption by the Board of Directors of Texarkana, Texas; and

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Texarkana, Arkansas, that the Code is hereby amended and supplemented as follows:

Section 1. The existing language of Section 6-27 of the Code is deleted and replaced with the following:

Sec. 6-27. – Created; definitions

There is hereby created a joint airport board for the ownership and operation of the Texarkana Municipal Airport, said board to be known as the "Texarkana Airport Authority."

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning;

Authority means the Texarkana Airport Authority created by this Section.

Cities shall mean the City of Texarkana, Arkansas, and the City Counsel of the City of Texarkana, Texas.

Cities' governing bodies means the Board of Directors of the City of Texarkana, Arkansas, and the City Council of the City of Texarkana, Texas.

Section 2. The existing language of Section 6-28 of the Code is deleted and replaced with the following:

Sec. 6-28. - Composition; appointment of members; failure to serve term; discharge.

(a) The Authority shall consist of nine members, four of whom shall be residents of Texarkana, Miller County, Arkansas, four of whom shall be residents of Texarkana, Bowie County, Texas, and one member at-large with experience in managing or directing municipal or regional economic or industrial development. Texarkana, Arkansas, resident members shall be appointed and approved by the Board of Directors for the City of Texarkana, Arkansas. Texarkana, Texas, resident members shall be appointed by the Mayor and approved by the City Council for the City of Texarkana, Texas. The member-at-large shall be appointed in the same manner as provided in this section for a resident member; provided, however, that the member-at-large must also be approved jointly by the Cities' governing bodies. Resident members shall serve for a term of three (3) years; the at-large member shall serve for a term of two (2) years. Should any member fail to complete a term for any reason, a person shall be appointed and approved to fill the unexpired term in the same manner as provided in this section for appointment and approval of a full term.

(b) The term of any resident member may be terminated with or without cause by the governing body that approved the appointment. The term of the member at-large may be terminated with or without cause by the joint approval of the Cities' governing bodies.

Section 3. The existing language of Section 6-29 of the Code is deleted and replaced with the following:

Sec. 6-29. - Election and term of authority officers; officers permitted to vote.

The Authority shall elect, from its resident members, one person to act as chair, one person to act as vice-chair, and one person to act as secretary. The chair and vice-chair shall serve for a term of one year; provided, however, that the chair and vice-chair can never be residents of the same state. In the absence of the chair, the vice-chair shall act as chair. The secretary of the authority may be elected to that office for as long as the person remains on the authority. The secretary shall keep minutes of all meetings of the authority. The chair, vice-chair, and secretary may cast votes on all matters coming before the Authority.

Section 4. The existing language of Section 6-30 of the Code is deleted and replaced with the following:

Sec. 6-30. - Quorum; questions to be decided by majority of the authority.

Six members of the Authority shall constitute a quorum; provided, however, that three must be resident members from the City of Texarkana, Arkansas, and three must be resident members from the City of Texarkana, Texas. All matters submitted to the Authority shall be decided upon a majority vote of the entire Authority (that is, all member seats of the Authority not otherwise vacant or disqualified by law). Neither absence nor abstention shall reduce the entire Authority.

Section 5. The existing language of Section 6-31 of the Code is deleted and replaced with the following:

Sec. 6-31. - Powers generally.

The Authority shall be vested with the authority for the planning, developing, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection, and policing of the city municipal airport; except however, that such authority shall be limited as follows:

(1) Except upon joint approval of the Cities' governing bodies, no contractual obligation shall be entered into by the Authority for a term greater than five (5) years, nor shall any contractual obligation be entered into or expense incurred by the Authority in any amount that exceeds the amount budgeted for the same in the Authority's budget approved by the Cities' governing bodies or in any amount that exceeds the unencumbered monies of the Authority realized from the earnings thereof.

(2) The expense of planning, development, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection, and policing of the airport in excess of the funds of the Authority shall be the responsibility of the municipalities only if approved pursuant to section 6-38.

(3) No property entrusted to the Authority shall be sold, transferred, or in any manner encumbered without written consent by joint approval of the Cities' governing bodies.

(4) No expenditure shall be made except in compliance with Arkansas and applicable federal law. The Authority shall adopt and maintain a purchasing policy, with competitive bidding provisions consistent with Arkansas and federal law, for use by the Authority in incurring expenditures, including purchasing supplies, materials equipment and services. No expenditure totaling individually or in the aggregate up to $25,000.00 shall be made except by the joint written approval of the city managers of both cities. Notwithstanding prior approval of the Authority's annual budget, no expenditure totaling individually or in the aggregate above $25,000.00 shall be made without written consent by joint approval of the Cities' governing bodies.

(5) The Authority shall hire, subject to the joint approval of the Cities' governing bodies, a full-time executive director to serve as the head administrative official of the Authority. In the event of a vacancy in the office of said executive director, the Authority shall hire or designate an interim executive director or other person to carry out the duties of an executive director. In no event shall the Authority be without a permanent executive director for a period of more than six (6) months without the joint approval of the Cities' governing bodies.

Section 6. The existing language of Section 6-33 of the Code is deleted and replaced with the following:

Sec. 6-33. - Revenues and funds.

(a) The Authority shall receive and hold all revenues derived from the operation of the airport and shall pay therefrom the expenses of such operation, subject, however, to the limitation of Arkansas state law and Texas state law.

(b) The revenues obtained by the Authority from the ownership, control or operation of the airport shall be deposited in a special fund in the bank to be designated as the "Texarkana Municipal Airport Fund," which revenue shall be appropriated solely to and used by the Authority for the purposes authorized by this article. The funds of the Authority shall be disbursed as shall be provided from time to time in the bylaws of the Authority not inconsistent with this Article or applicable law.

Section 7. The existing language of Section 6-36 of the Code is deleted and replaced with the following:

Sec. 6-36. - Strategic planning; acquisition and construction; expansion of services.

(a) It is contemplated by the cities that the land, buildings, and all other facilities subject to the jurisdiction of the Authority shall be supplemented and improved by the acquisition of new land, construction of new facilities, and expansion of air travel and other regional and national aviation-related services. The Authority shall adopt a strategic plan (goal-setting, analysis, strategy formation, strategy implementation, and strategy monitoring) that includes the acquisition of new land, construction of new buildings and other facilities, and expansion of air travel and other regional and national aviation services. The Authority shall annually review the implementation of its strategic plan and revise the plan as circumstances may require.

(b) All new acquisitions of land, construction of new facilities, and expansion of air travel and other regional services shall be effected only if such is consistent with the Authority's strategic plan and upon the concurrent agreement by joint approval of the Cities' governing bodies. In the absence of any revenue in The Texarkana Municipal Airport Fund or other funding sources, the cost of such new acquisitions of land, construction of new facilities, and / or expansion of air travel and other regional services shall be borne by the cities on a per capita basis of population as determined by the federal decennial census last made and taken prior to the corresponding joint approval of the Cities' governing bodies.

Section 8. The existing language of Section 6-38 of the Code is deleted and replaced with the following:

Sec. 6-38. - Fiscal year; budget approval; expenditures; deficits; Authority reports.

(a) The Authority's fiscal year shall begin on January 1 and end on December 31. The total expenditures to be made by the Authority for any purpose in any fiscal year shall be determined by a budget approved by the Cities' governing bodies on or before December 1 for the following calendar year. On or before November 1 of each year, the Authority shall present to the city managers of both cities its proposed budget and current financials (banking statements, balance sheets, income statements, and any other financial statements). If the budget, as proposed by the Authority, contemplates a deficit, each of the cities, upon approval of the budget, shall assume and pay its proportionate share of the deficit, such share to be determined upon a per capita basis of the citizens of each of the cities as determined by the federal decennial census last made and taken prior to the approval of the budget. Any deficit shall be paid by the cities quarterly in equal installments to the Authority.

(b) On or before the end of the first, second, and third fiscal year quarters, the Authority's chair and executive director shall provide the Cities' governing bodies with a report of the Authority's budgeted and actual expenditures and progress on implementation of its strategic plan. If, at any time, the Authority anticipates a deficit in excess of the approved budget, the Authority shall appear before the Cities' governing bodies and ask for joint approval of the additional deficit; and only upon joint approval by the Cities' governing bodies shall such additional deficit be assumed and paid by the cities in the same proportions as above set out. Within 60 days following the end of each fiscal year, the authority shall submit a financial report of the year's operation.

(c) No airport, air navigation facility, airport hazard, real or personal property, nor operating expenses in excess of income, the cost of which is in excess of the sums fixed by the Authority's budget as approved by the Cities' governing bodies, may be acquired by the Authority without the prior joint approval of the Cities' governing bodies, and appropriations made and funds transferred to the Authority. Any such acquisition, indebtedness, or contract made without compliance with this section shall be null and void.

(d) If either of the Cities fail for any reason to pay its proportionate share of any approved budget deficit, it shall forfeit the voting privilege of the resident member having the shortest unexpired term of office until such time as the payment thereof has been made to the Authority; provided, that such resident member may continue to attend all meetings and take part in the deliberations of the Authority.

Section 9. The following is added as Section 6-44 of the Code:

Sec. 6-44. - Legal Counsel for Authority and Cities

The Authority shall retain legal counsel as needed to advise the Authority and the Cities with regard to Authority operations; provided, however, that each such retention must be budgeted by the Authority, payable solely from The Texarkana Municipal Airport Fund, and jointly approved by the Cities' governing bodies. The Authority shall not request legal services from the municipal attorneys of either city.

Section 10. The following is added as Section 6-45 of the Code:

Section 6-45. - Review by Cities' City Managers

Any person adversely affected by the Authority may request a review by submitting a written request to both city managers of the Cities together with documentation the person deems pertinent to facilitate review. The Authority shall promptly provide documentation or information requested by either of the Cities' city managers to aid in the review. The Cities' city managers shall review the request and either decline the request or take action consistent with federal law, the laws of Texas and Arkansas, and the Cities' respective charters and ordinances. Multiple requests for review from more than one person regarding the same subject matter shall be consolidated. To the extent permitted by law, a person must exhaust the review provided for in this section before making any claim against either of the Cities or the Authority.

PASSED AND APPROVED this 1st day of February 2021.

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

George Matteson, City Attorney

RESOLUTION NO. 46-57

AUTHORIZING THE MAYOR AND CITY SECRETARY TO APPROVE RULES AND REGULATIONS PERTAINING TO THE JOINT OPERATION OF THE TEXARKANA AIRPORT AUTHORITY.

* * *

WHEREAS, on December 26, 1956, the City Council passed an ordinance establishing joint ownership and operation of the Texarkana Airport under a body known as The Texarkana Airport Authority, and

WHEREAS, said ordinance has become effective, and

WHEREAS, pursuant to said ordinance, rules and regulations for the operation of said Texarkana Airport Authority have been proposed, a copy of which are attached to this Resolution showing approval of the same by the City Attorney, NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

That the Rules, Regulations and By Laws, in the form and content that are attached hereto, be and the same are hereby approved, and the Mayor and City Secretary be and they are hereby authorized to authenticate the copies complying with said attached copy.

PASSED AND APPROVED this 25th day of June, A.D., 1957.

A. P. Miller, Jr.

A. P. Miller, Jr., Mayor

ATTEST:

Mary Elizabeth Young

Mary Elizabeth Young, City Secretary

RULES, REGULATIONS, AND BYLAWS OF THE TEXARKANA AIRPORT AUTHORITY

I. Creation of Joint Board of Texarkana Airport Authority.

The Joint Board shall consist of six members, three of whom shall be residents of Texarkana, Miller County, Arkansas, and three of whom shall be residents of Texarkana, Bowie County, Texas. The members of said board that are residents of Arkansas shall be appointed by the Mayor of the City of Texarkana, Arkansas, with the approval of the City Council of said city. The members of said board that are residents of Texas shall be appointed by the Mayor of the City of Texarkana, Texas, with the approval of the City Council of said city. The persons first appointed to said board by each of said cities shall be appointed for a term of two years, four years, and six years, respectively. Thereafter, the Mayor of each of the cities, with the approval of his City Council, shall appoint one person for a term of six years to replace that resident member whose term has expired. Should any member of said board fail to serve his term for any reason, the mayor of the City of which said member is a resident shall appoint a person to fill the unexpired term.

II. Organization of Joint Board--Election of Officers.

Immediately upon the members of said board being appointed, they shall meet for the purpose of organizing said board. They shall elect one person from their number to act as Chairman and one person to act as Secretary. The Chairman shall serve for a term of one year and annually thereafter said members shall elect a Chairman from the membership of said board, provided that the Chairmanship of said board shall be held in alternate years by a resident of the State of Arkansas and then by a resident of the St[ate of] Texas.

IV. Quorum.

Four members of the board shall constitute a quorum provided there are present at least two of the board members appointed from Texarkana, Arkansas, and two of the members appointed from Texarkana, Texas. All questions shall be decided upon a majority vote of the members present. The Chairman shall cast a vote on all matters coming before the board.

V. Secretary--Duties.

The person elected Secretary of said board may be elected to that office for as long as he remains on the board. The Secretary of said board shall keep minutes of all meetings of the board.

VI. Powers of Joint Board.

1. The Joint Board shall be vested with the authority for the planning, developing, construction, enlargement, improvement, maintenance, equipping, operation, regulation, protection, and policing of the Texarkana Municipal Airport; provided, however, that said Joint Board may not exceed the authority granted it by these bylaws and ordinances, and amendments thereto, by which said board is created.

2. The Joint Board shall have the full and complete authority to employ or to remove any and all assistants and employees of whatsoever nature and character and to fix, regulate, and pay their salaries.

3. Eminent Domain proceedings may be instituted only by authority of the governing bodies of the two cities. If so authorized, such proceedings shall be instituted in the name of the two cities and the property so acquired shall be held by the said two cities as tenants in common until conveyed by them to the Joint Board.

4. The Joint Board may, except as may be limited by the terms

(1) Granting the privilege of using or improving such airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;

(2) Conferring the privilege of supplying goods, commoditie things, services, or facilities at such airport or air navigation facility; or

(3) Making available services to be furnished by the Texarkana Airport Authority at such airport;

provided, however, that any such contracts, leases, or other arrangements may not exceed the authority of the Joint Board as provided for in these bylaws and in the ordinances, and amendments thereto, creating said Joint Board.

5. Disposal of Real Property.

The Joint Board shall not dispose of any airport, air navigation facility, or real property under its jurisdiction except with the consent of the governing bodies of the two cities.

6. Police Regulations.

Any resolutions, rules, regulations, or orders of the Joint Board shall become effective only upon approval of the governing bodies of the two cities, provided that upon such approval such resolutions, rules, regulations, or orders of the Joint Board shal have the same force and effect in the territories or jurisdictions involved as the ordinances, resolutions, rules, regulations, or orders of each city would have in its own territory or jurisdictio

VII. Funds of the Airport.

1. The revenues obtained by the authority from the ownership control, and operation of said airport shall be deposited in a special fund in the bank to be designated "The Texarkana Airport Authority Fund" which revenues shall be appraised solely t by said Authority for the purposes authorized by the ordinances

or by another member of the board, the signature of two persons being required on all checks.

VIII. Attorneys.

The City Attorney of Texarkana, Arkansas, and the City Attorney of Texarkana, Texas, shall be ex-officio members of the Joint Board. Said City Attorneys shall be notified of all meetings of the Joint Board.

IX. Amendments of Rules, Regulations, and Bylaws.

The rules, regulations, and bylaws may be amended upon the majority vote of the Joint Board and approval by both the City Councils of Texarkana, Arkansas, and Texarkana, Texas; provided, however, that a copy of any such proposed amendment must be furnished to each member of the board at least five days before the board votes on such amendment.

CITY OF TEXARKANA, ARKANSAS

Approved by City Council action in Regular Meeting, this 9th day of July, A.D. 1957, by Resolution duly passed this 9th day of July, A.D. 1957.

H. C. Hay
H. C. Hay, Mayor

ATTEST:

L. V. Young
L. V. Young, City Clerk

CITY OF TEXARKANA, TEXAS

Approved by City Council action in Regular Meeting, this 25 day of June, A.D. 1957, by Resolution duly passed this 25 day of June, A. D. 1957.

A. P. Miller
A. P. Miller, Mayor

ATTEST:

City of Texarkana, Texas

Version:

Briefing Sheet

Update Date: 2/3/2021 10:45 AM

Lead Department: Planning and Community Development **Action Officer:** Jennifer Evans, City Secretary

Subject: Resolution No. 2021-009 authorizing the City Manager to execute a second addendum to the Qualified Environmental Professional Revolving Loan Fund Consulting Contract utilizing U.S. Environmental Protection Agency grant budget funds.

Briefing: 2/8/2021 **Public Hearing:** 2/22/2021 **Council Vote:** 2/22/2021

Item Schedule

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

The City of Texarkana, Texas received a $1,080,000 EPA Brownfields Revolving Loan Fund Grant in 2012 for the purpose of creating a revolving loan fund to finance low interest loans for environmental cleanup of vacant property. These low interest loans provide gap funding that is an important economic driver for downtown redevelopment.

Additionally, in 2019, the City was awarded supplemental grant funding in the amount of $450,000 to fund additional projects and complete current projects with an overall goal to ensure the revolving loan fund remains continuously active. The City was successful in executing loans for those funds, and in 2020 again received supplemental funding in the amount of $375,000. The grant requires contracting a Qualified Environmental Professional (QEP) to provide professional consulting services, assist with building the program, and ensure all activities meet local, state, and federal requirements.

Through a competitive bid process, the City contracted with Stanley Consultants in 2016 with a portion of the available contractual funds from the original grant with the intent of increasing the original contract contingent upon satisfactory performance. Stanley Consultants has provided quality, professional, and efficient services for our EPA Brownfields RLF Program and has been a key component to our program's success. City Council approved an Addendum to the Stanley Consultant contract in March 2020 under Resolution 2020-025. Since that time, we completed abatement at the Hotel Grim and started abatement of the Former Texarkana National Bank/Capitol One Building and Parking Garage. As part of the EPA RLF Loan agreement with Texarkana Renewal Properties, LLC, up to $80,000 daily monitoring will be covered by EPA grant funds through our contractual funds and subcontracted by our Qualified Environmental Professional, Stanley Consultants.

With the quality of services provided by Stanley Consultants to date, the importance of effectively continuing work in progress, and meeting the requirements set forth in the loan agreements, we recommend approving this second Addendum to Contract 16-2001-11 to continue Quality Environmental Professional services with Stanley Consultants.

Potential Options:

- Approve
- Deny

Fiscal Implications:

Not to exceed maximum allowable grant budget of $182,000 EPA fully grant funded.

Staff Recommendation:

Staff recommends for approval of this request.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2021-009 RES Addendum 2 Stanley Consultants Contract (DOC)

Staff Coordination

City Manager	Jennifer Evans	Department Head Review	Pending	
City Council	Vicky Coopwood	Meeting	Pending	02/08/2021 6:00 PM

Meeting History

RESOLUTION NO. 2021-009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A SECOND ADDENDUM TO THE QUALIFIED ENVIRONMENTAL PROFESSIONAL REVOLVING LOAN FUND CONSULTING CONTRACT UTILIZING U.S. ENIVIRONMENTAL PROTECTION AGENCY GRANT BUDGET FUNDS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Manager entered into Contract Number 16-2001-11 with Stanley Consultants to serve as the Qualified Environmental Professional for the City's EPA Brownfields Revolving Loan Fund Grant; and

WHEREAS, the City received supplemental funding for the second time in 2020 for the US EPA Brownfields Revolving Loan Fund Grant to complete current projects or begin new projects; and

WHEREAS, Stanley Consultants has provided a high quality of professional services and is in the process of completing a major downtown project; and

WHEREAS, City staff recommends a second addendum to the original contract to continue the Qualified Environmental Professional services of Stanley Consultants.

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

SECTION 1: That the Second Addendum to the Qualified Environmental Professional Contract is hereby approved and adopted in its entirety.

SECTION 2: That the City Manager is authorized to execute the 2nd addendum.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **22nd day of February, 2021**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

City of Texarkana, Texas

Version:
Update Date: 1/22/2021 11:26 AM

Briefing Sheet

Lead Department: Public Works Department **Action Officer:** Jennifer Evans, City Secretary

Subject: Resolution No. 2021-006 approving Amendment No. 3 to the City's contract with Waste Management of Texas, Inc. for the collection of waste and recyclables, authorizing the City Manager to execute the necessary documents for such amendment, and approving the automatic five-year renewal term of said contract with Waste Management of Texas, Inc.

Briefing: 2/8/2021 **Public Hearing:** 2/8/2021 **Council Vote:** 2/8/2021

Item Schedule

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

The City was notified back in September 2020 that MRF, where the recycling materials were being transported to in Shreveport, Louisiana, would no longer be accepting materials. Doug Sims, with Waste Management, gave a presentation to City Council on September 14, 2020, concerning this issue. Over the next few months, City Staff and Waste Management worked on creating multiple service options related to the recycling program. On October 12, 2020, Doug Sims presented the options to the City Council. At the next meeting on October 26, 2020, City Staff received input from City Council that feedback from residents indicated they wanted to continue with the current recycling program and would be willing to pay the extra $3.77/month charge.

Since that time, City Staff and Waste Management have been working on an amendment to the current contract. To help reduce the charge, Staff has agreed to reduce the number of free roll offs from 250 to 100 per year. This reduced the charge to $3.42 per month. Waste Management has agreed to offset this charge as well. Half or ($1.71) will be take effect when they start transporting material to the new MRF. This is expected to start no later than October 1, 2021. The remaining $1.71 will be charged starting on October 1, 2022.

The City entered into a Municipal Solid Waste Collection and Transportation Agreement (the "Agreement") with Waste Management of Texas, Inc. on March 1, 2017, to provide for waste and recyclable collection and the initial term was for 5 years. Further, under the terms of the Agreement, the City is required to give notice of renewal or non-renewal by February of 2021. City staff recommends renewal of the contract for 5 additional years that would begin on March 1, 2022.

Potential Options:

- Approve
- Deny

City of Texarkana, Texas

Fiscal Implications:

Amendment 3: Increase to water bill $1.71 effective upon Recyclable pickup to owned facility. Additional $1.71 increase October 2022.
Agreement: Renewal for additional five-year term.

Staff Recommendation:

Staff recommends for approval.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2021-006 RES WM recyclables renewal agreement REVISED (DOCX)
b. 2021-006 EXH 'A' Amend No. 3 - Waste Mgmt (DOC)

Staff Coordination

City Manager	Jennifer Evans	Department Head Review	Completed	01/22/2021 10:53 AM
Public Works Department	Jennifer Evans	Reviewer	Skipped	01/22/2021 10:53 AM
City Manager	Jennifer Evans	City Manager Review	Completed	01/22/2021 10:53 AM
City Council	Jennifer Evans	Meeting	Completed	01/25/2021 6:00 PM

Meeting History

01/25/21 City Council MOVED FORWARD Next: 02/08/21
Dusty Henslee briefed this agenda item. Doug Sims, of Waste Management, also shared some comments.

RESOLUTION NO. 2021-006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING AMENDMENT NO. 3 TO THE CITY'S AGREEMENT WITH WASTE MANAGEMENT OF TEXAS, INC. FOR THE COLLECTION OF WASTE AND RECYCLABLES AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY DOCUMENTS FOR SUCH AMENDMENT; APPROVING THE AUTOMATIC FIVE-YEAR RENEWAL TERM OF SAID AGREEMENT WITH WASTE MANAGEMENT OF TEXAS, INC.; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City and Waste Management of Texas, Inc. executed a Municipal Solid Waste Collection and Transportation Agreement which took effect on March 1, 2017, and an Amendment No. 2, signed on or about October 10, 2017 (collectively, the "Agreement"); and

WHEREAS, the facility accepting recyclables for Waste Management of Texas, Inc. has discontinued its service; and

WHEREAS, Waste Management of Texas, Inc. and the City desire to amend the terms of the Agreement to provide for the changed condition and additional terms relating to the City's recyclables as set forth in the proposed Amendment No. 3 attached to this Resolution as **Exhibit "A"** and incorporated herein by reference for all purposes; and

WHEREAS, the City Council also intends for the Agreement, as amended, to automatically renew for an additional five-year term, under the terms and conditions as set forth in the Agreement, Amendment No. 2, and Amendment No. 3.

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

SECTION 1: That Amendment No. 3 to the Agreement with Waste Management of Texas, Inc., is hereby approved, and the City Manager is authorized to execute the necessary documents to enter into such Amendment under the terms and conditions set forth therein.

SECTION 2: That the City Council approves the automatic renewal of the Agreement with Waste Management of Texas, Inc., for an additional five-year term, under the terms and conditions as set forth in the Agreement, Amendment No. 2, and Amendment No. 3.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **8th day of February, 2021**.

ATTEST:

________________________________ ________________________________

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Amendment No. 3 to

Municipal Solid Waste Collection And Transportation Agreement

The City of Texarkana, Texas ("City") and Waste Management of Texas, Inc. ("Contractor"), both acting by and through their duly authorized representatives, desire to amend, as more particularly set forth below, the Municipal Solid Waste Collection and Transportation Agreement between the City and Contractor, which took effect on March 1, 2017, and Amendment 2, signed on or about October 10, 2017 (collectively, the "Agreement").

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, and pursuant to Section 23 of the Agreement, the parties agree to amend the Agreement as follows:

1. Section 5.08 (iii)(a) of the Agreement as set out in Amendment No. 2, and entitled "Additional Services," is hereby replaced with the following language:

   (a) Contractor shall provide the City with 100, 30-yard Roll-Off Bin hauls annually (January 1 through December 31) for house demolition, neighborhood cleanups, or other City projects. In lieu of 30-yard Roll Off Bins hauled by Contractor, City may substitute hauls by City trucks and count those hauls as part of the 100 total. The designated annual time frame under Amendment 2 remains as a Calendar Year January 1 through December 31.

2. Contractor has requested an increase in Base Rates in the Agreement due to the decision of the third-party facility that was processing the Residential Recyclables to cease accepting and processing those materials. Contractor requested an increase in the Base Rates of $3.42 per Residential Unit per month to offset the increase in its costs for handling Residential Recyclable Materials. The City and Contractor have agreed to the following language to compensate Contractor for the increase in its costs:

   The City has approved an increase to the current Base Rates ($20.82) by $3.42 per Residential Unit per month for the collection of Residential Waste and Recyclable Materials on the following conditions:

   (a) One-half, or $1.71, of the Residential Unit per month increase shall take effect on the date Contractor begins transporting Residential Recyclable Materials it collects within the City to one of the Material Recovery Facilities ("MRF") that Contractor owns. Contractor expects such transportation to its MRF to begin on or before October 1, 2021 so long as it has received all necessary local and state approvals for the transfer station Contractor will use in providing the Residential Unit recycling services. Contractor shall provide City written notice once such transportation of Recyclable Materials to Contractor's own MRF has commenced. If Contractor fails to commence the transportation of Residential Recyclable Materials to one of its MRF facilities for processing by October 1, 2021, then City shall be released from the exclusivity provisions set forth in the Agreement as it pertains to the collection of Recyclable Materials and City shall be free to contract directly with another provider to provide Recyclable collection, transportation and processing services. In such event, City will have the right, but not the obligation, to allow Contractor to continue to collect, transport and dispose of such Recyclable Materials until such time as the City may contract directly with another provider. If the collection and processing of Recyclable Material ends, City shall be entitled to a reduction in the base residential rate of $6.40 per month per household.

(b) In the event transportation of the Recyclable Materials has commenced as set forth above, the remaining $1.71 of the increase to Base Rates attributed to the transportation and processing of Recyclable Materials to Contractor's MRF shall be implemented effective October 1, 2022.

(c) The increase set forth in Paragraph 2 of this Amendment does not supersede or supplant Contractor's entitlement to adjust its Base Rates in 2021 as prescribed in sections 9.01 and 9.02 of the Agreement.

4. A new section 5.03(e) is added to the Agreement as follows:

Contractor agrees to provide City with reports on a monthly basis detailing the percentage of unacceptable Recyclable Material (contamination rate). Contractor shall tag any Customer recyclable containers that are contaminated instructing the Customer of acceptable materials. In the event the continued level of contamination in the Recyclable Materials has the effect of substantially increasing Contractor's cost, or if there is a change in law, or a substantial change in market conditions, Contractor has the right to submit documentation evidencing such and petition the City for consideration of those additional costs of handling and processing Recyclable Materials. Both parties agree to engage in good faith negotiations to resolve this issue within 90 days after the City receives written notice of the change in conditions. Contractor acknowledges any changes are subject to City Council approval. Nothing herein shall be construed to require or create an obligation on City to pay Contractor for the increased costs in the event the parties cannot reach a mutual agreement.

5. Nothing contained herein shall be deemed to amend or modify the Agreement, except as expressly set forth herein. In the event of a conflict between the terms of the Agreement and this Amendment No. 3, the terms of this Amendment No. 3 shall control.

EFFECTIVE AS OF THE date last signed below.

CITY:	**CONTRACTOR:**
Texarkana, Texas	**Waste Management of Texas, Inc.**
By: ______________________________	By: _____________________________________
Title: _____________________________	Title: ____________________________________
Date: ______________________________	Date: ____________________________________