CITY OF TEXARKANA

CITY COUNCIL

MINUTES ● FEBRUARY 13, 2023

Council Chambers | **Regular Meeting** | **6:00 PM**

220 TEXAS BLVD., TEXARKANA, TX 75501

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

Attendee Name	Title	Status	Arrived
Bob Bruggeman	Mayor	Present	
Jean H. Matlock	Ward 1	Present	
Mary Hart	Ward 2	Present	
Betty Williams	Ward 3	Present	
Christie Page	Ward 4	Present	
Libby White	Ward 5	Present	
Jay Davis	Ward 6	Present	

Staff Present: City Manager David Orr, Jennifer Evans, Kristin Peeples, Chuck Weerts, Chris Black, Gary Smith, Dusty Henslee, Brooke Stone, Karey Parker, Kevin Schutte, J.W. Bramlett, Daphnea Ryan, Vashil Fernandez, Michael Clark, Justin Anderson, Keith Jansen, Jordan Liles, Brad McKinnon, Zach Flanagan, Dustin Newman, Mike Norwood, Danny Douglas, Parker Showalter, and Hayden Knight.

Legal Counsel: Jeff Lewis.

II. INVOCATION AND PLEDGE LED BY MAYOR BOB BRUGGEMAN

III. CITIZENS MERITORIOUS SERVICE AWARD - TISD STUDENT

Texarkana Independent School District student, Abel Hendrix, was recognized and honored for his quick, brave, and decisive action regarding a house fire on February 2, 2023. Mayor Bruggeman related the incident and said in part: ".....Mr. Abel Hendrix, a 12-year-old young man, who lives in the Beverly Addition saw the fire and reported it. Abel was getting off the bus when he saw smoke in the area and went to investigate. He found that Mrs. Karen's house was on fire and asked a friend to call 911. The friend said it was not his problem and walked away. Abel ran two blocks to his grandmother and told her about the fire. He then took her phone to call 911. He gave the dispatcher all the correct information and that Mrs. Karen was in the house. After speaking with Abel's grandmother, he not only showed great situational awareness but also showed good citizenship on a regular basis by giving help to the elderly on his street. That's how he made a relationship with Mrs. Karen. **This young man is in 7th grade at Texas Middle School and showed more initiative and courage during this event than most adults can even imagine".**

Abel received a Citizens Meritorious Service Award, city lapel pin, genuine fire department badge worn by staff, and T-shirt from interim Fire Chief Chris Black. He also received a thank you card from the council and staff and a personal gift card from Mayor Bruggeman.

Abel was accompanied by his grandmother, Brenda Petty, younger sister, Extasia, and great aunt, Lisa Sanders.

Also joining in this recognition was the fire crew on duty at the time of Abel's call and from TISD, Superintendent Dr. Doug Brubaker, Todd Marshall, and Abel's teacher Marla Barlow.

IV. MAYOR'S REMARKS AND ITEMS OF COMMUNITY INTEREST

Upcoming City Council Meetings:

Monday, February 27, 2023 at 6:00 p.m.
Monday, March 13, 2023 at 6:00 p.m.
Monday, March 27, 2023 at 6:00 p.m.

Parks & Recreation Activities:

February 23rd & 24th	Annual ADA Fishing Derby	Spring Lake Park

Additional Parks & Recreation information can be found on the city's website at **texarkanatexas.gov** or by contacting staff at (903) 798-3978.

V. 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.

VI. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

Council Member Matlock asked, with the resignation of David Watkins from the Community Healthcore board, was not the other applicant qualified to be appointed in this open position.

City Manager Orr said he spoke with Community Healthcore and they were going to contact Ms. Hooks to see if she was interested, but at this point, she has not shown interest.

VII. ITEMS FOR CONSIDERATION

Consent Items

(6:16 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Libby White, Ward 5
SECONDER:	Mary Hart, Ward 2
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

1. Consider approval of the minutes of the Regular Meeting of the City Council held on January 23, 2023 at 6:00 PM.

2. Ordinance No. 2023-017 deleting Section 11 of Ordinance No. 2023-004 as surplusage.

   Public Hearing:
   Council Vote: February 13, 2023

3. Resolution No. 2023-018 acknowledging receipt of the Police Department's 2022 Racial Profiling Report as statutorily required.

   Public Hearing:
   Council Vote: February 13, 2023

4. Ordinance No. 2023-022 amending budgeted revenues and expenditures for the Metropolitan Planning Organization Fund (Fund 220) in the amount of Fifty Thousand Dollars ($50,000) for fiscal year ending September 30, 2023.

   Public Hearing:
   Council Vote: February 13, 2023

5. Ordinance No. 2023-023 amending budgeted expenditures for the Public Safety Equipment Fund (Fund 108) in the amount of Twenty-eight Thousand Nine Hundred Eighty-five Dollars ($28,985) for fiscal year ending September 30, 2023, for unspent funds from the preceding fiscal year.

   Public Hearing:
   Council Vote: February 13, 2023

Action Items

6. Joint Resolution No. 2023-019, with the Board of Directors of the City of Texarkana, Arkansas, supporting the fiscal year 2023 RAISE grant application for State Line corridor improvements.

   Public Hearing:
   Council Vote: February 13, 2023

   Vashil Fernandez briefed this agenda item.
   (6:20 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Mary Hart, Ward 2
SECONDER:	Betty Williams, Ward 3
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

VIII. FIRST BRIEFINGS

1. Ordinance No. 2023-016 amending the budget for a One Million Dollar EPA Revolving Loan Fund Grant and establishing Fund 245.

   Public Hearing:
   Council Vote: February 27, 2023

   Daphnea Ryan briefed this agenda item.

RESULT:	**MOVED FORWARD**	**Next: 2/27/2023 6:00 PM**

2. Resolution No. 2023-020 adopting legislative priorities for the City of Texarkana.

   Public Hearing: February 27, 2023
   Council Vote: February 27, 2023

City Manager Orr briefed this agenda item.

RESULT:	**MOVED FORWARD**	**Next: 2/27/2023 6:00 PM**

3. Resolution No. 2023-021 authorizing a written services agreement for provision of city services to RaceTrac, Inc., site [US 59 & S. Kings Hwy] in the event the City Council adopts an ordinance for full-purpose annexation of the tract.

Public Hearing: February 27, 2023
Council Vote: February 27, 2023

Jeff Lewis briefed this agenda item.

RESULT:	**MOVED FORWARD**	**Next: 2/27/2023 6:00 PM**

IX. PUBLIC HEARINGS

1. Ordinance No. 2023-015 rezoning on an approximate 2.999-acre tract of land (being Tract 71B), Thomas Price HRS, A-466, located at 530 Sowell Lane from Planned Development-Office to Commercial. Wes Haley, representing Haley's Body Shop, owner.

Public Hearing: February 13, 2023
Council Vote: February 13, 2023

There were no public comments made at this hearing.
(6:30 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Christie Page, Ward 4
SECONDER:	Mary Hart, Ward 2
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

X. CITY MANAGER'S REPORT

EPA Brownfields Check Presentation & Public Workshop - February 27th
Representatives from the EPA Brownfields Program will be in town on Monday, February 27th for a public presentation at 2pm at the Texarkana Convention Center, followed by a check presentation at the council meeting later that night.

Parks and Recreation Guide 2023
The city's Parks and Recreation Department has created a new recreation guide for 2023. With 14 different facilities including sports fields, lakes, hiking and mountain bike trail

systems, skate park and a new outdoor fitness center, there is something for everyone. Many thanks goes to the Parks & Recreation team for putting together this new digital parks guide.

<https://texarkanatexas.gov/DocumentCenter/View/9521/Parks-and-Recreation-Guide-2023>

Save the Date: TAMU-T Big Event - Saturday, April 1st
This is a day that students, faculty, and staff from Texas A&M University - Texarkana volunteer to join various service projects throughout the community. The call for service projects from non-profits, neighborhood associations, and other organizations is now open at www.tamut.edu/bigevent <http://www.tamut.edu/bigevent>.

The city normally hosts numerous project sites. Any council member interested in submitting an event, should contact Vashil Fernandez Vashil.Fernandez@txkusa.org <mailto:Vashil.Fernandez@txkusa.org>.

XI. ADMINISTRATIVE COMMENTS

1. City Council

   Mayor Bruggeman said the Liberty Eylau ISD Community Breakfast will be held at 7am on Friday, March 3rd, at the LE Middle School campus.

   He once again thanked Abel Hendrix for his outstanding bravery shown in regards to the recent house fire in his neighborhood.

2. City Staff

   Staff had no administrative comments for council.

XII. ADJOURNMENT

A motion was made to adjourn the meeting.
(6:33 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Libby White, Ward 5
SECONDER:	Jean H. Matlock, Ward 1
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

Jennifer Evans
City Secretary

Bob Bruggeman
Mayor

CITY OF TEXARKANA

CITY COUNCIL

MINUTES • JANUARY 23, 2023

Council Chambers **Regular Meeting** **6:00 PM**

220 TEXAS BLVD., TEXARKANA, TX 75501

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

Attendee Name	Title	Status	Arrived
Bob Bruggeman	Mayor	Present	
Jean H. Matlock	Ward 1	Present	
Mary Hart	Ward 2	Present	
Betty Williams	Ward 3	Present	
Christie Page	Ward 4	Present	
Libby White	Ward 5	Present	
Jay Davis	Ward 6	Present	

Staff Present: City Manager David Orr, Jennifer Evans, Kristin Peeples, J.W. Bramlett, Chris Black, Dusty Henslee, Sherry Jackson Hawkins, Lisa Thompson, Brooke Stone, Mashell Daniel, Vashil Fernandez, Karey Parker, and Robby Robertson.

Legal Counsel: Jeff Lewis.

II. INVOCATION AND PLEDGE LED BY COUNCIL MEMBER MARY HART

III. MAYOR'S REMARKS AND ITEMS OF COMMUNITY INTEREST

Upcoming City Council Meetings
Monday, February 13, 2023 at 6:00 p.m.
Monday, February 27, 2023 at 6:00 p.m.

Downtown Chili Cook-off
The Texarkana Homeless Coalition will host a Chili Cook-off on Friday, January 27th. It will be held at 316 Hazel Street, Texarkana, Arkansas, from 5:00 p.m. to 8:00 p.m. Admission is free.

The cost to register and enter some chili is $25.00. Raffle tickets will be available for $5.00. All proceeds will be used to coordinate homeless services and fund scholarships. Have some fun and come dressed in your best 80's getup! For more information, call Vashil Fernandez at (903) 798-3904.

Minutes Acceptance: Minutes of Jan 23, 2023 6:00 PM (Consent Items)

The annual Chamber of Commerce Celebration will be held at the Texarkana Convention Center on Friday, January 27th at 6:00 p.m.

The Texarkana Police Department has new headgear and a commemorative badge. The new hats will provide adequate protection for all officers from the sun and adverse weather conditions. Officer Karey Parker "sported" one for the audience.

The distinctive badge highlights Texarkana's 150th year as a city! A special txk150 committee, made up of members from both sides of State Line, will schedule projects and provide fun activities throughout the year. The grand celebration and acknowledgment of Texarkana, USA, will be held on December 8, 2023.

IV. STUDENT SPACEFLIGHT EXPERIMENTS PROGRAM (SSEP) - BY TISD

Todd Marshall said this program gives students the ability to design and propose real microgravity experiments to fly in low Earth orbit. Students had the opportunity to participate in Mission 16, which launched in November 2022, and Mission 17, which is launching in spring 2023.

At the meeting, Mr. Marshall recognized TISD Superintendent Dr. Doug Brubaker, several faculty, and five middle school students.

The students proudly shared their project research, explorations and contributions to the spaceflight program. KUDOS to TISD for showcasing aspiring and creative talent in our community's youth!

V. 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.

VI. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

Mayor Bruggeman made the following appointment and reappointments to various boards, commissions, and committees:

The reappointments of Matt Robertson and Rob Sitterly to the Airport Authority board.

The reappointment of Suzanne Heath to the Library Commission.

The new appointment of Haleigh Alexander to the Keep Texarkana Beautiful board.

The reappointment of Sonja Hubbard to the Riverbend Water Resources District board.

Motion to confirm Mayoral appointment and reappointments to various boards, commissions, and committees.

Minutes Acceptance: Minutes of Jan 23, 2023 6:00 PM (Consent Items)

(6:25 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Betty Williams, Ward 3
SECONDER:	Mary Hart, Ward 2
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

VII. ITEMS FOR CONSIDERATION

Consent Items

(6:26 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Christie Page, Ward 4
SECONDER:	Jean H. Matlock, Ward 1
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

1. Consider approval of the minutes of the Regular Meeting of the City Council held on January 9, 2023 at 6:00 PM.

Action Items

[There were no Action Items considered at this meeting.]

VIII. FIRST BRIEFINGS

1. Ordinance No. 2023-015 rezoning on an approximate 2.999-acre tract of land (being Tract 71B), Thomas Price HRS, A-466, located at 530 Sowell Lane from Planned Development-Office to Commercial. Wes Haley, representing Haley's Body Shop, owner.

   Public Hearing: February 13, 2023
   Council Vote: February 13, 2023

   Mashell Daniel briefed this agenda item.

RESULT:	**MOVED FORWARD**	**Next: 2/13/2023 6:00 PM**

IX. PUBLIC HEARINGS

Minutes Acceptance: Minutes of Jan 23, 2023 6:00 PM (Consent Items)

1. Ordinance No. 2023-004 amending Sections of Chapter 8, "Animal Care and Control" of the Code of Ordinances [technical amendments to section 8-1 thru 8-3, 8-5 thru 8-8, 8-11 thru 8-15, and 8-18 -- definitions, rabies vaccination and city registration requirements, confinement and restraint of animals, impoundment and quarantine, livestock and fowl, sanitary requirements, animal care, animal nuisances, and dangerous dogs].

   Public Hearing: January 23, 2023
   Council Vote: January 23, 2023

   Mashell Daniel said some revisions were made to this proposed ordinance since the January 9th council meeting. There were no public comments at this hearing.
   (6:30 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Mary Hart, Ward 2
SECONDER:	Libby White, Ward 5
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

2. Ordinance No. 2023-005 rezoning a 3.5-acre portion of a 7.21-acre tract of land (being Tract 28), Willis Oldham HRS, A-458, located at 1521 Moores Lane from Agriculture to Commercial. Emanuel Sanchez, owner and Aaron Gaylor, agent. (A 3/4 vote is required by the City Council to approve this request).

   Public Hearing: January 23, 2023
   Council Vote: January 23, 2023

   Mashell Daniel said the Texas Department of Transportation has agreed to work with the agent to provide access off Hampton Road.

   The following persons addressed council in favor of this proposed ordinance:

   Aaron Gaylor
   Zack Ratliff
   Jack Smith

   The following persons addressed council in opposition to this proposed ordinance:

   Devin Jennings
   Aaron Jennings
   Kay Thomas
   Maurice Orr
   John Revels

   Council Member Davis said this property was in his ward and therefore made several comments, based on numerous phone conversations and his own personal due diligence.

   Council Member Hart made the motion to approve and **adding Planned Development**.

Minutes Acceptance: Minutes of Jan 23, 2023 6:00 PM (Consent Items)

(7:38 p.m.)

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

3. Ordinance No. 2023-006 amending PD-22-3 (C) for site plan approval on a 3.5-acre portion of a 7.21-acre tract of land (being Tract 28), Willis Oldham HRS, A-458, located at 1521 Moores Lane. Emanuel Sanchez, owner and Aaron Gaylor, agent. (A 3/4 vote is required by the City Council to approve this request).

Public Hearing: January 23, 2023
Council Vote: January 23, 2023

There were no public comments made at this hearing.
(7:39 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Christie Page, Ward 4
SECONDER:	Jay Davis, Ward 6
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

4. Ordinance No. 2023-007 granting a Specific Use Permit to allow the location of a single wide HUD code manufactured home on Lot 8, Block 48, Grandview Addition located at 3704 Jones Street. Janice Jamison, owner.

Public Hearing: January 23, 2023
Council Vote: January 23, 2023

Janice Jamison addressed council in favor of this proposed ordinance.
(7:41 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Libby White, Ward 5
SECONDER:	Mary Hart, Ward 2
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

5. Ordinance No. 2023-008 granting a Specific Use Permit to allow the location of a double wide HUD code manufactured home on Lot 6, Block 3, Windsor Park 2nd, located in the 2500 block of Findley Street. Electra Walker, owner, and Robin Junior, agent.

Public Hearing: January 23, 2023
Council Vote: January 23, 2023

Minutes Acceptance: Minutes of Jan 23, 2023 6:00 PM (Consent Items)

Robin Junior addressed council in favor of this proposed ordinance.
(7:46 p.m.)

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

6. Ordinance No. 2023-009 rezoning Lots 9 and 10, Block 180, Triggs Addition, located south of 1008 Cedar Street from Commercial to Single Family-3. Angela Forte, owner.

Public Hearing: January 23, 2023
Council Vote: January 23, 2023

Angela Forte said the proposed rezoning is for Lots 10 and 11, not Lots 9 and 10, as stated on the agenda. Council Member Matlock made a motion to postpone this agenda item to a future council meeting.
(7:51 p.m.)

RESULT:	**POSTPONED (VOTE) [UNANIMOUS]**
MOVER:	Jean H. Matlock, Ward 1
SECONDER:	Christie Page, Ward 4
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

7. Ordinance No. 2023-010 granting a Specific Use Permit to allow the location of a single wide HUD code manufactured home on Lots 9 and 10, Block 180, Triggs Addition, located south of 1008 Cedar Street. Angela Forte, owner.

Public Hearing: January 23, 2023
Council Vote: January 23, 2023

Council Member Matlock made a motion to postpone this agenda item to a future council meeting.
(7:51 p.m.)

RESULT:	**POSTPONED (VOTE) [UNANIMOUS]**
MOVER:	Jean H. Matlock, Ward 1
SECONDER:	Christie Page, Ward 4
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

8. Ordinance No. 2023-012 amending Chapter 21 of the Code of Ordinances by adding Section 21-1(b) providing for a variance to distance prohibitions applicable solely to a place of business lawfully selling alcoholic beverages prior to April 9, 2018, in the specific instance of the business changing ownership or management.

Minutes Acceptance: Minutes of Jan 23, 2023 6:00 PM (Consent Items)

Public Hearing: January 23, 2023
Council Vote: January 23, 2023

There were no public comments made at this hearing.
(7:54 p.m.)

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

X. CITY MANAGER'S REPORT

January 2023 Sales Tax Report
Sales tax receipts for the month of January (November sales) totaled $1,762,099, an increase of $105,095 (6.34%) compared to the same month in the prior year. Fiscal year-to-date collections totaled $3,468,700, an increase of $212,740 (6.53%) compared to last year.

2022 Vital Statistics 5 Star Award Winner
Given by the Texas Health & Human Services Department, the **5 Star** award acknowledges Vital Statistics Partners who understand the importance of vital statistics and its impact on the citizens of Texas. Congrats to Jennifer and the Vital Statistics team!

Keep Texarkana Beautiful & WM Recycling Packets
Keep Texarkana Beautiful (KTB) and Waste Management (WM) have partnered to provide 13,000 recycling packets for area elementary schools. The recycling education information will be distributed to schools by KTB board members over the next few weeks. Thank you, WM, for sponsoring this initiative.

XI. ADMINISTRATIVE COMMENTS

1. City Council

   Council had no administrative comments for staff.

2. City Staff

   Staff had no administrative comments for council.

XII. ADJOURNMENT

A motion was made to adjourn the meeting.
(7:57 p.m.)

Minutes Acceptance: Minutes of Jan 23, 2023 6:00 PM (Consent Items)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Christie Page, Ward 4
SECONDER:	Mary Hart, Ward 2
AYES:	Matlock, Hart, Williams, Page, White, Davis
EXCUSED:	Bruggeman

Jennifer Evans
City Secretary

Bob Bruggeman
Mayor

Minutes Acceptance: Minutes of Jan 23, 2023 6:00 PM (Consent Items)

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 1/24/2023 6:17 PM

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

Subject: Ordinance No. 2023-017 deleting Section 11 of Ordinance No. 2023-004 as surplusage.

Briefing: 2/13/2023 **Public Hearing:** **Council Vote:** 2/13/2023

Item Schedule

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Section 11 of Ordinance No. 2023-004, approved by the City Council on January 23, 2023, was intended to have been deleted prior to submission for Council consideration, as the same subject matter in Section 11 (transporting an animal) had been provided for in the preceding section of the ordinance, thus making Section 11 surplusage;

Potential Options:

- None
-

Fiscal Implications:

None

Staff Recommendation:

Staff recommends making the deletion of Section 11 in Chapter 8 of the Code of Ordinances.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2023-017 ORD amend 2023-004 delete sec 11 (DOCX)

b. 2023-017 Goals & Perspectives (DOCX)
c. 2023-017 ORD amd. 2023-004 del. Sec. 11 signed (PDF)

Staff Coordination

City Manager	Jennifer Evans 01/24/2023 6:17 PM	Department Head Review	Completed	
City Manager	David Orr	City Manager Review	Completed	01/25/2023 8:45 AM
City Council	Jennifer Evans	Meeting	Completed	02/13/2023 6:00 PM

Meeting History

ORDINANCE NO. 2023-017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, DELETING SECTION 11 OF ORDINANCE NO. 2023-004 AS SURPLUSAGE; CONTAINING REPEALER AND SUPERSEDING CLAUSES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Section 11 of Ordinance No. 2023-004, approved by the City Council on January 23, 2023, was intended to have been deleted prior to submission for Council consideration, as the same subject matter in Section 11 (transporting an animal) had been provided for in the preceding section of the ordinance, thus making Section 11 surplusage; and

WHEREAS, by this ordinance, Section 11 of Ordinance No. 2023-004 is to be deleted.

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

SECTION 1: Section 11 of Ordinance No. 2023-004 is deleted in its entirety.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 3: In the event of any conflict between this Ordinance and any other ordinances or parts of ordinances, this Ordinance shall supersede and control.

SECTION 4: This Ordinance shall be in full force and effect ten (10) days after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **13th day of February, 2023**.

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2023-017 ORD amend 2023-004 delete sec 11 (3920 : 2023-017 ORD Amd. 2023-004 deleting Sec. 11)

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:	
Perspectives	**Goals**
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☑ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☐ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☐ Model a Positive City Image ☐ Deliver Efficient Services ☐ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture
Perspectives and Goals Additional Comments:	

Resource Impact:	
Staff time required if item is approved:	No Additional
Other Potential Impacts:	

Public Information Plan:			
☐	Newspaper Notice (Required by Statute)	☐	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☐	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☐	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☐	None Required	☐	
Other:			

Attachment: 2023-017 Goals & Perspectives (3920 : 2023-017 ORD Amd. 2023-004 deleting Sec. 11)

ORDINANCE NO. 2023-017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, DELETING SECTION 11 OF ORDINANCE NO. 2023-004 AS SURPLUSAGE; CONTAINING REPEALER AND SUPERSEDING CLAUSES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Section 11 of Ordinance No. 2023-004, approved by the City Council on January 23, 2023, was intended to have been deleted prior to submission for Council consideration, as the same subject matter in Section 11 (transporting an animal) had been provided for in the preceding section of the ordinance, thus making Section 11 surplusage; and

WHEREAS, by this ordinance, Section 11 of Ordinance No. 2023-004 is to be deleted.

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

SECTION 1: Section 11 of Ordinance No. 2023-004 is deleted in its entirety.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 3: In the event of any conflict between this Ordinance and any other ordinances or parts of ordinances, this Ordinance shall supersede and control.

SECTION 4: This Ordinance shall be in full force and effect ten (10) days after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **13th day of February, 2023**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:16p.m.

Attachment: 2023-017 ORD amd. 2023-004 del. Sec. 11 signed (3920 : 2023-017 ORD Amd. 2023-004 deleting Sec. 11)

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/6/2023 10:52 AM

Lead Department: Police **Action Officer:** Shawn Fitzgerald,

Subject: Resolution No. 2023-018 acknowledging receipt of the Police Department's 2022 Racial Profiling Report as statutorily required.

Briefing: 2/13/2023 **Public Hearing:** **Council Vote:** 2/13/2023

Item Schedule
Schedule 2: Brief once - vote once (two weeks)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Resolution is necessary to comply with statutory requirement for council to acknowledge receipt of the police department's Racial Profiling Report.

Potential Options:

- NONE
-

Fiscal Implications:

NONE

Staff Recommendation:

Staff recommends acknowledging the receipt of the report.

Advisory Board/Committee Review:

NOT APPLICABLE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2023-018 ATTH 01 Final Report (PDF)
b. 2023-018 RES 2022 Racial Profiling Report (DOCX)
c. 2023-018 Goals & Perspectives (DOCX)
d. 2023-018 RES Racial Profilie Rpt 2022 signed (PDF)

Staff Coordination

Police	Kevin Schutte 02/01/2023 8:20 AM	Department Head Review	Completed	
Police 8:21 AM	Kevin Schutte	Supervisor Review	Completed	02/01/2023
City Manager 8:33 AM	David Orr	City Manager Review	Completed	02/01/2023
City Council 6:00 PM	Jennifer Evans	Meeting	Completed	02/13/2023

Meeting History

TEXARKANA, TEXAS POLICE DEPARTMENT

2022

RACIAL PROFILING ANALYSIS

PREPARED BY:

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Justice Research Consultants, LLC

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Executive Summary

Article 2.132-2.134 of the Texas Code of Criminal Procedure (CCP) requires the annual reporting to the local governing body of data collected on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to data collection and reporting requirements. Article 2.134 of the CCP directs that "a comparative analysis of the information compiled under 2.133" be conducted, with specific attention to the below areas:

1. evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;
2. examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;
3. evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and
4. information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

The analysis of material and data from the Texarkana, Texas Police Department revealed the following:

- **A COMPREHENSIVE REVIEW OF THE TEXARKANA, TEXAS POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE TEXARKANA, TEXAS POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**

- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE TEXARKANA POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**

- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.**

- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**

- **THE TEXARKANA POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

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- **THE TEXARKANA POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW REGARDING CCP ARTICLES 2.132-2.134.**

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Introduction

This report details an analysis of the Texarkana Police Department's policies, training, and statistical information on racial profiling for the year 2022. This report has been prepared to specifically comply with Article 2.132, 2.133, and 2.134 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of traffic stop data. Specifically, the analysis will address Articles 2.131 – 2.134 of the CCP and make a determination of the level of compliance with those articles by the Texarkana Police Department in 2022. The full copies of the applicable laws pertaining to this report are contained in Appendix A.

This report is divided into six sections: (1) Texarkana Police Department's policy on racial profiling; (2) Texarkana Police Department's training and education on racial profiling; (3) Texarkana Police Department's complaint process and public education on racial profiling; (4) analysis of Texarkana Police Department's traffic stop data; (5) additional traffic stop data to be reported to TCOLE; and (6) Texarkana Police Department's compliance with applicable laws on racial profiling.

For the purposes of this report and analysis, the following definition of racial profiling is used: racial profiling means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity (Texas CCP Article 3.05).

Texarkana, Texas Police Department Policy on Racial Profiling

A review of Texarkana, Texas Police Department's "Biased Based Policing and Racial Profiling Policy" contained in Directive 2.01.1 (see Appendix B) revealed that the department has adopted policies in compliance with Article 2.132 of the Texas CCP. There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in the Texarkana, Texas Police Department racial profiling policy. Texarkana, Texas Police Department policies provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling shall be subject to corrective action including diversity, sensitivity, or other appropriate training, informal counseling, formal counseling, written reprimand, suspension from duty with or without pay, indefinite suspension, or other appropriate action as determined by the Chief of Police. The policies also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix C lists the applicable statute and corresponding Texarkana, Texas Police Department regulation.

A COMPREHENSIVE REVIEW OF TEXARKANA, TEXAS POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE TEXARKANA, TEXAS POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Texarkana, Texas Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas peace officers. Information provided

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by Texarkana, Texas Police Department reveals that racial profiling training and certification is current for all officers in 2022. Racial profiling training is specifically covered in Texarkana, Texas' Biased Based Policing and Racial Profiling Policy Section 4 (B). In addition, all personnel are trained on the department's racial profiling policy on a bi-annual basis.

A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE TEXARKANA, TEXAS POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.

Texarkana, Texas Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Texarkana, Texas Police Department's Biased Based Policing and Racial Profiling Policy Section 4 (A) covers this requirement. Information regarding how a citizen may file a complaint is available to the public at a variety of locations. In addition, the department has a website with numbers available for contacting the agency with concerns (http://ci.texarkana.tx.us/393/Police-Department/). Additionally, each printed citation includes instructions on how to file a complaint and/or compliment on an officer following an interaction.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.

Texarkana, Texas Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 and Article 2.133 requires that law enforcement agencies collect statistical information on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to other information noted previously. Texarkana Police Department submitted statistical information on all motor vehicle stops in 2022 and accompanying information on the race/ethnicity of the person stopped. Accompanying this data was the relevant information required to be collected and reported by law.

ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.

Analysis of the Data

Comparative Analysis #1:

Evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities. Texas Code of Criminal Procedure Article 2.134(c)(1)(A)

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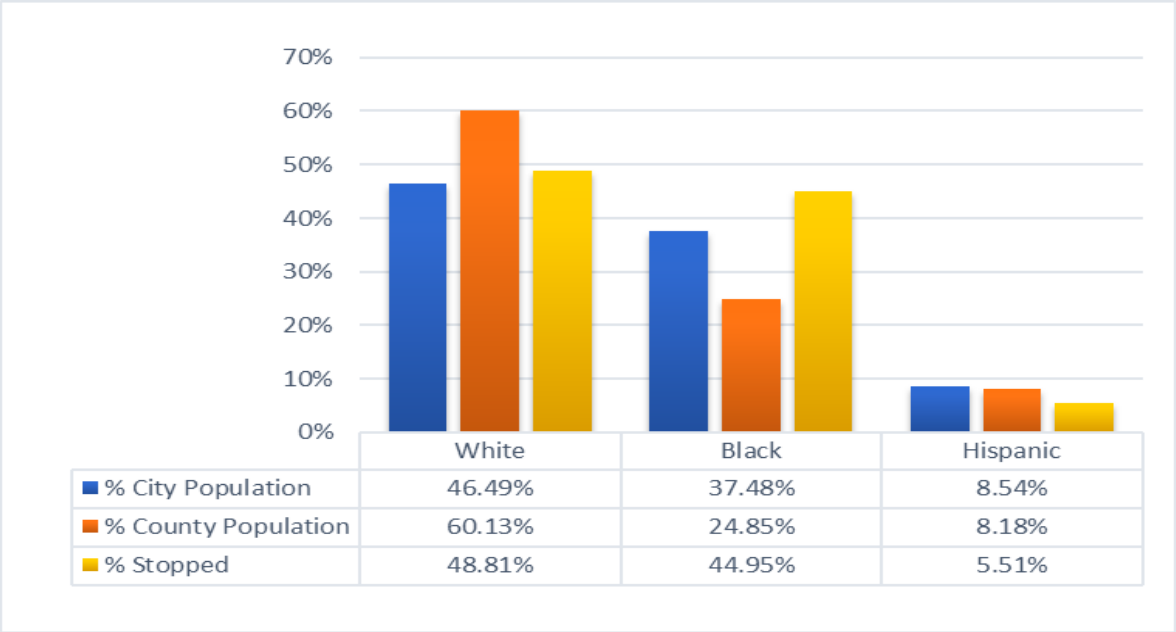
The first chart depicts the percentages of people stopped by race/ethnicity among the total 16,750 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2022.[1]

Chart 1: Percentage of Motor Vehicle Stops in Comparison to Benchmarks



	White	Black	Hispanic
% City Population	46.49%	37.48%	8.54%
% County Population	60.13%	24.85%	8.18%
% Stopped	48.81%	44.95%	5.51%

White drivers constituted 48.81 percent of all drivers stopped, whereas Whites constitute 46.49 percent of the city population and 60.13 percent of the county population.[2]

Black drivers constituted 44.95 percent of all drivers stopped, whereas Blacks constitute 37.48 percent of the city population and 24.85 percent of the county population.

Hispanic drivers constituted 5.51 percent of all drivers stopped, whereas Hispanics constitute 8.54 percent of the city population and 8.18 percent of the county population.

The chart shows that White drivers are stopped at rates slightly higher than the percentage of Whites found in the city population and lower than the percentage of Whites found in the county population. Black drivers are stopped at rates higher than the percentage of Blacks found in the city and county populations. Hispanics are stopped at rates lower than the percentage of Hispanics found in the city and county populations.

[1] Due to a small number of stops relative to the population of Texarkana and the total number of motor vehicle stops among all drivers (16,750), information contained in the first chart excludes information pertaining to 89 stops of motorists of Asian/Pacific Islander descent and 33 stops of motorists of Alaska Native/American Indian descent.

[2] City and County populations were derived from 2020 Decennial Census Redistricting Data (DEC) of the U.S. Census Bureau. City and County populations by gender noted later in this report are based on 2019 American Community Survey estimates.

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Methodological Issues

Upon examination of the data, it is important to note that differences in overall stop rates of a particular racial or ethnic group, compared to that racial or ethnic group's proportion of the population, cannot be used to make determinations that officers have or have not racially profiled any given individual motorist. Claims asserting racial profiling of an individual motorist from the aggregate data utilized in this report are erroneous.

For example, concluding that a particular driver of a specific race/ethnicity was racially profiled simply because members of that particular racial/ethnic group as a whole were stopped at a higher rate than their proportion of the population—are as erroneous as claims that a particular driver of a specific race/ethnicity could NOT have been racially profiled simply because the percentage of stops among members of a particular racial/ethnic group as a whole were stopped at a lower frequency than that group's proportion of the particular population base (e.g., city or county population). In short, aggregate data as required by law and presented in this report cannot be used to prove or disprove that a member of a particular racial/ethnic group was racially profiled. Next, we discuss the reasons why using aggregate data—as currently required by the state racial profiling law—are inappropriate to use in making claims that any individual motorist was racially profiled.

Issue #1: Using Group-Level Data to Explain Individual Officer Decisions

The law dictates that police agencies compile aggregate-level data regarding the *rates* at which agencies *collectively* stop motorists in terms of their race/ethnicity. These aggregated data are to be subsequently analyzed in order to determine whether or not *individual* officers are "racially profiling" motorists. This methodological error, commonly referred to as the "ecological fallacy," defines the dangers involved in making assertions about individual officer decisions based on the examination of aggregate stop data. **In short, one cannot *prove* that an *individual* officer has racially profiled any *individual* motorist based on the rate at which a department stops any given *group* of motorists.** In sum, aggregate level data cannot be used to assess individual officer decisions, but the state racial profiling law requires this assessment.

Issue #2: Problems Associated with Population Base-Rates

There has been considerable debate as to what the most appropriate population "base-rate" is in determining whether or not racial/ethnic disparities exist. The base-rate serves as the benchmark for comparison purposes. The outcome of analyses designed to determine whether or not disparities exist is dependent on which base-rate is used. While this report utilized the most recent 2020 Census as a population base-rate, this population measure can become quickly outdated, can be inaccurate, and may not keep pace with changes experienced in city and county population measures.

In addition, the validity of the benchmark base-rate becomes even more problematic if analyses fail to distinguish between residents and non-residents who are stopped. This is because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons are made exclusively to resident population figures. **In sum, a valid measure of the driving population does not exist. As a proxy, census data is used which is problematic as an indicator of the driving population.** In addition, stopped motorists who are

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not residents of the city or county where the motor vehicle stop occurred are not included in the benchmark base-rate.

Issue #3: Officers Do Not Know the Race/Ethnicity of the Motorist Prior to the Stop

As illustrated in Table 3 near the end of this report, of the 16,750 motor vehicle stops in 2022, the officer knew the race/ethnicity of the motorist prior to the stop in 13.07% of the stops (2,190/16,750). An analysis of all annual racial profiling reports submitted to the Texas Commission on Law Enforcement, as required by the Texas racial profiling law, found that in 2.9% of the traffic stops in Texas, the officer knew the race/ethnicity of the motorist prior to the stop.[3] The analysis included 1,186 Texas law enforcement agencies and more than 3.25 million traffic stops.

As noted, the legal definition of racial profiling in the Texas Code of Criminal Procedure Article 3.05 is "a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity."

Most of the time, Texarkana PD officers do not know the race/ethnicity of the motorist prior to the stop. This factor further invalidates any conclusions drawn from the stop data presented in Chart 1. If an officer does not know the race/ethnicity of the motorist prior to the stop, then the officer cannot, by legal definition, be racial profiling. Racial profiling is a law-enforcement action based on the race/ethnicity of an individual. If the officer does not know the person's race/ethnicity before the action (in this case, stopping a vehicle), then racial profiling cannot occur.

Based on this factor, post-stop outcomes are more relevant for a racial profiling assessment, as presented later in this report, in comparison to initial motor vehicle stop data disaggregated by race/ethnicity. Once the officer has contacted the motorist after the stop, the officer has identified the person's race/ethnicity and all subsequent actions are more relevant to a racial profiling assessment than the initial stop data.

In short, the methodological problems outlined above point to the limited utility of using aggregate level comparisons of the rates at which different racial/ethnic groups are stopped in order to determine whether or not racial profiling exists within a given jurisdiction.

Table 1 reports the summaries for the total number of motor vehicle stops in which a ticket, citation, or warning was issued, and to arrests made as a result of those stops, by the Texarkana Police Department in 2022. Table 1 and associated analyses are utilized to satisfy the comparative analyses as required by Texas law, and in specific, Article 2.134 of the CCP.

Comparative Analysis #2:

Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any

[3] Winkler, Jordan M. (2016). *Racial Disparity in Traffic Stops: An Analysis of Racial Profiling Data in Texas.* Master's Thesis. University of North Texas.

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searches resulting from stops within the applicable jurisdiction. Texas Code of Criminal Procedure Article 2.134(c)(1)(B)

As shown in Table 1, there were a total of 16,750 motor vehicle stops in 2022 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 9 percent of stops resulted in a verbal warning (1,556/16,750), roughly 56 percent of stops resulted in a written warning, and roughly 33 percent resulted in a citation. These actions accounted for roughly 98 percent of all stop actions and will be the focus of the below discussion.

Specific to **verbal warnings**, White motorists received a verbal warning in roughly 9 percent of stops involving White motorists (713/8,176). Black motorists received a verbal warning in roughly 10 percent of stops involving Black motorists. Hispanic motorists received a verbal warning in roughly 11 percent of stops involving Hispanic motorists.

Specific to **written warnings**, White motorists received a written warning in roughly 60 percent of stops involving White motorists (4,903/8,176), Black motorists received a written warning in roughly 52 percent of stops of Black motorists, and Hispanic motorists received a written warning in roughly 46 percent of stops of Hispanic motorists.

White motorists received a **citation** in roughly 30 percent of stops involving White motorists (2,433/8,176), Black motorists received a citation in roughly 35 percent of stops of Black motorists, and Hispanic motorists received a citation in roughly 41 percent of stops of Hispanic motorists.

As illustrated in Table 1, of the 16,750 total stops, 399 **arrests** [written warning and arrest (122), citation and arrest (106) and sole arrests (171)] were made in 2022, and this accounts for 2.4 percent of all stops. White motorists were arrested in roughly 2 percent of stops involving White motorists (127/8,176), Black motorists were arrested in roughly 3 percent of stops involving Black motorists, and Hispanic motorists were arrested in roughly 2 percent of stops involving Hispanic motorists.

Overall, arrests were most commonly based on a **violation of the penal code** (54.4%; 217/399) or an **outstanding warrant** (42.4%; 169/399) as illustrated in Table 1.

Finally, as presented in Table 1, **physical force resulting in bodily injury** occurred in 6 stops in 2022. In all 6 stops, the suspect was injured.

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Table 1: Traffic Stops and Outcomes by Race/Ethnicity

Stop Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Number of Stops	8,176	7,529	923	89	33	16,750
Gender						
Female	3,969	3,505	286	41	8	7,809
Male	4,207	4,024	637	48	25	8,941
Reason for Stop						
Violation of Law	817	702	78	3	1	1,601
Preexisting Knowledge	75	73	7	0	0	155
Moving Traffic Violation	5,751	4,713	655	74	27	11,220
Vehicle Traffic Violation	1,533	2,041	183	12	5	3,774
Result of Stop						
Verbal Warning	713	726	106	8	3	1,556
Written Warning	4,903	3,904	423	52	27	9,309
Citation	2,433	2,648	374	28	3	5,486
Written Warning and Arrest	38	80	4	0	0	122
Citation and Arrest	34	66	6	0	0	106
Arrest	55	105	10	1	0	171
Arrest Based On						
Violation of Penal Code	70	132	15	0	0	217
Violation of Traffic Law	4	5	1	1	0	11
Violation of City Ordinance	1	1	0	0	0	2
Outstanding Warrant	52	113	4	0	0	169
Physical Force Resulting in Bodily Injury Used?						
No	8,175	7,524	923	89	33	16,744
Yes	1	5	0	0	0	6

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Comparative Analysis #3:

Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches. Texas Code of Criminal Procedure Article 2.134(c)(1)(C)

In 2022, a total of 959 **searches** of motorists were conducted, or roughly 6 percent of all stops resulted in a search (959/16,750). Among searches within each racial/ethnic group, White motorists were searched in roughly 4 percent of all stops of White motorists (328/8,176), Black motorists were searched in roughly 8 percent of all stops of Black motorists, and Hispanic motorists were searched in roughly 4 percent of all stops of Hispanic motorists.

As illustrated in Table 2, the most common reasons for a search were searches based on probable cause (39.7%; 381/959) and searches based on consent (39.7%; 381/959) with 381 searches each. Among **searches based on probable cause** within each racial/ethnic group, White motorists were searched based on probable cause in roughly 32 percent of all searches of White motorists (104/328), Black motorists were searched based on probable cause in roughly 46 percent of all searches of Black motorists, and Hispanic motorists were searched based on probable cause in 19 percent of all searches of Hispanic motorists (7 probable cause searches out of a total 37 searches of Hispanic motorists).

Consent searches are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (16,750), discretionary consent searches occurred in 2.3 percent of stops (381 total consent searches). Among **consent searches** within each racial/ethnic group, White motorists were searched based on consent in roughly 48 percent of all searches of White motorists (159/328), Black motorists were searched based on consent in roughly 34 percent of all searches of Black motorists, and Hispanic motorists were searched based on consent in roughly 49 percent of all searches of Hispanic motorists (18 consent searches out of a total 37 searches of Hispanic motorists).

Of the searches that occurred in 2022, and as shown in Table 2, **contraband was discovered** in 442 or roughly 46 percent of all searches (442/959 total searches). Overwhelmingly, the contraband discovered in searches was drugs; 88.9% of the contraband discovered (393/442 contraband discoveries). Finally, as illustrated in Table 2, when contraband was discovered, motorists were arrested roughly 45% of the time (198/442 contraband discoveries).

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Table 2: Searches and Outcomes by Race/Ethnicity

Search Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Search Conducted						
Yes	328	591	37	3	0	959
No	7,848	6,938	886	86	33	15,791
Reason for Search						
Consent	159	202	18	2	0	381
Contraband in Plain View	11	19	2	0	0	32
Probable Cause	104	269	7	1	0	381
Inventory	21	43	5	0	0	69
Incident to Arrest	33	58	5	0	0	96
Was Contraband Discovered						
Yes	132	294	14	2	0	442
No	196	297	23	1	0	517
Description of Contraband						
Drugs	117	264	10	2	0	393
Weapons	5	10	0	0	0	15
Currency	0	0	1	0	0	1
Alcohol	3	7	2	0	0	12
Stolen Property	0	0	1	0	0	1
Other	7	13	0	0	0	20
Did Discovery of Contraband Result in Arrest?						
Yes	65	125	7	1	0	198
No	67	169	7	1	0	244

Comparative Analysis #4:

Information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. Texas Code of Criminal Procedure Article 2.134(c)(2)

In 2022, internal records indicate that the Texarkana Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling.

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Additional Analysis:

Statistical analysis of motor vehicle stops relative to the gender population of the agency's reporting area. This analysis is presented in the report based on a December 2020 email sent from TCOLE to law enforcement executives in Texas.

In 2022, 16,750 motor vehicle stops were made by the Texarkana Police Department. Of these stops, 7,809 or roughly 47 percent were female drivers (7,809/16,750), and roughly 53 percent were male drivers (see Table 1).

According to 2019 American Community Survey (ACS) city and county population estimates of the U.S. Census Bureau, the City of Texarkana was composed of 51.7 percent females and 48.3 percent males. County population 2019 ACS estimates indicate that females accounted for 50.7 percent of the county population and males accounted for 49.3 percent of the county population.

Overall, in 2022, males were stopped at rates higher than their proportion of the city and county populations.

Additional Information Required to be Reported to TCOLE

Table 3 below provides additional information relative to motor vehicle stops in 2022 by the Texarkana Police Department. The data are required to be collected by the Texarkana Police Department under the Texas Code of Criminal Procedure Article 2.133.

As previously noted, the Texarkana Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling in 2022. Furthermore, as previously discussed, of the 16,750 motor vehicle stops in 2022, the officer knew the race/ethnicity of the motorist prior to the stop in 13.07% of the stops (2,190/16,750).

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Table 3: Additional Information

Additional Information	Total
Was Race/Ethnicity Known Prior to Stop	
Yes	2,190
No	14,560
Approximate Location of Stop	
City Street	12,898
US Highway	2,172
County Road	29
State Highway	1,481
Private Property/Other	170
Number of Complaints of Racial Profiling	**0**
Resulted in Disciplinary Action	0
Did Not Result in Disciplinary Action	0

Analysis of Racial Profiling Compliance by Texarkana, Texas Police Department

The foregoing analysis shows that the Texarkana, Texas Police Department is fully in compliance with all relevant Texas laws concerning racial profiling, including the existence of a formal policy prohibiting racial profiling by its officers, officer training and educational programs, a formalized complaint process, and the collection of data in compliance with the law.

In addition to providing summary reports and analysis of the data collected by the Texarkana, Texas Police Department in 2022, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Texarkana, Texas Police Department as well as police agencies across Texas.

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Appendix A

Racial Profiling Statutes and Laws

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Texas Racial Profling Statutes

Art. 3.05. RACIAL PROFILING.

In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 2, eff. Sept. 1, 2001.

Art. 2.131. RACIAL PROFILING PROHIBITED.

A peace officer may not engage in racial profiling.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means the following categories:

(A) Alaska native or American Indian;

(B) Asian or Pacific Islander;

(C) black;

(D) white; and

(E) Hispanic or Latino.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

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(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search;

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;

(D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;

(E) the location of the stop; and

(F) the reason for the stop; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Texas Commission on Law Enforcement; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

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(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

(g) On a finding by the Texas Commission on Law Enforcement that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 25, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.05, eff. May 18, 2013.

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Acts 2017, 85th Leg., R.S., Ch. 173 (H.B. 3051), Sec. 1, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.01, eff. September 1, 2017.

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

(a) In this article, "race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop;

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

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(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b) to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 26, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.02, eff. September 1, 2017.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article:

(1) "Motor vehicle stop" has the meaning assigned by Article 2.132(a).

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to the Texas Commission on Law Enforcement and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency.

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;

(B) examine the disposition of motor vehicle stops made by officers employed by the agency,

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categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Texas Commission on Law Enforcement, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(g) On a finding by the Texas Commission on Law Enforcement that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 27, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.06, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.03, eff. September 1, 2017.

Art. 2.136. LIABILITY.

A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

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Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using video and audio equipment and body worn cameras for those purposes.

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Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.04, eff. September 1, 2017.

Art. 2.138. RULES.
The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.1385. CIVIL PENALTY.
(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an amount not to exceed $5,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.
(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of $1,000 for each violation.
(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 29, eff. September 1, 2009.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.05, eff. September 1, 2017.

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Appendix B

Texarkana, Texas Police Department
Biased Based Policing and Racial Profiling Policy

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TEXARKANA, TEXAS POLICE DEPARTMENT
GENERAL ORDERS MANUAL

Effective Date **February 1, 2008**	*Amended Date* **September 1, 2017**	*Directive* **2.01.1**	
Subject **Biased Based Policing and Racial Profiling**			
Reference **Code of Criminal Procedure 2.131 – 2.135**			
Distribution **All Personnel City Manager City Attorney**	*TPCA Best Practices Recognition Program Reference* **2.01.1 Biased Based Profiling**	*Review Date* **August 1, 2019**	*Pages* **6**

This Operations Directive is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to reaffirm the Department's commitment to unbiased policing in all of its encounters between officers and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictate of departmental policy and the law.

SECTION 2 POLICY

A. It is the policy of the Department to protect the constitutional rights of all persons. Allegations of racial profiling or discriminatory practices, real or perceived, are detrimental to the relationship between police and the communities they protect and serve because they strike at the basic foundation of public trust. This trust is essential to effective community-based policing. Racial profiling is considered misuse of valuable police resources; such improper methods violate the civil rights of members of the public and may lead to increased exposure to liability for the officer and the department. This Department does not endorse, train, teach, support, or condone any type of bias, stereotyping, or racial profiling by its officers. While recognizing that most officers perform their duties in a professional, ethical, and impartial manner, this Department is committed to identifying and eliminating any instances of racial profiling.

B. It is the policy of the Department to:

1. Provide all people within this community fair and impartial police services consistent with constitutional and statutory mandates;
2. Assure the highest standard of integrity and ethics among all our members;
3. Respect the diversity and the lawful cultural practices of all people;
4. Take positive steps to identify, prevent, and eliminate any instances of racial profiling by our members; and
5. Continue our commitment to community based policing and problem solving, including vigorous, lawful and nondiscriminatory traffic enforcement that promotes public safety and strengthens public trust, confidence, and awareness.

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C. It is the policy of the Department to police in a proactive manner and to aggressively investigate suspected violations of law. Officers shall actively enforce local, state and federal laws in a responsible and professional manner without regard to an individual's race, gender, age, ethnicity, ethnic background, sexual orientation, religion, economic status, cultural group, national origin or any other identifiable group. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers, or pedestrians.

D. Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. The Department will honor the right of all persons to be treated equally and to be free from unreasonable searches and seizures.

SECTION 3 DEFINITIONS

Racial Profiling is defined as a law enforcement-initiated action based on an individual's race, gender, age, ethnicity, ethnic background, sexual orientation, religion, economic status, cultural group, national origin or any other identifiable group rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.

Examples of racial profiling include, but are not limited to, the following:

a. Citing a driver because of the cited driver's race, ethnicity, or national origin, or

b. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity, or national origin is unlikely to own or possess that specific make or model of vehicle.

c. Detaining an individual based upon the determination that a person of that race, ethnicity, or national origin does not belong in a specific part of town or a specific place.

Gender Profiling is defined as a law enforcement-initiated action based on an individual's gender rather than on the individual's behavior or involvement in criminal activity.

Race or Ethnicity is defined as a particular descent and includes the following categories:

a. Alaska native or American Indian;

b. Asian or Pacific Islander

c. Black

d. White

e. Hispanic or Latino.

Pedestrian Stop is defined as an interaction between a peace officer and an individual traveling on foot who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

Traffic Stop is defined as a vehicle stop where a peace officer stops a motor vehicle for an alleged violation of law or ordinance regulating traffic.

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Probable Cause is defined as more than bare suspicion; it exists when the facts and circumstances within the officer's knowledge and of which they have reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution to believe that an offense has been or is being committed.

Reasonable Suspicion is defined as specific, articulable facts leading a reasonable police officer to believe a crime might be occurring. Reasonable suspicion is less than probable cause, but more than a mere hunch. Reasonable grounds for suspicion depend on the circumstances in each case. There must be an objective basis for that suspicion based on facts, information, and/or intelligence.
Search is an examination or exploration of an individual's house, premises, vehicle or person to discover stolen property, contraband or other items that may be evidence of a crime.

Search incident to arrest is a full search of an arrested person and of the vicinity around him or her. The search is conducted for officer safety and to prevent the destruction of evidence.

Consent search is a search permitted by a person with apparent authority to allow the search. To be valid, consent must be voluntary and intelligent, based on a totality of circumstances. Voluntary means that the consent was not forced or coerced. Intelligent means the person giving consent must know what he or she is doing.

Frisk is defined as a limited search or patting down of a suspect's outer clothing for the purpose of officer safety. A frisk must be based on reasonable suspicion that the suspect is armed with a deadly weapon, and that if he is not searched and disarmed, harm will come to the officer or another person. A limited search or frisk of an automobile after a valid stop is permissible if the officer has reasonable suspicion the suspect is dangerous and might gain immediate control of a weapon. The search is limited to the areas in which a weapon may be placed or hidden.

Inventory is an administrative process by which items of property in an impounded vehicle are listed and secured. An inventory is not a search and should not be used as a substitute for a search. The specific objectives of an inventory are to protect the property of the defendant, to protect the police against any claim of lost property, and to protect police personnel and others from any dangerous instruments.

SECTION 4 PROCEDURES

A. COMPLAINTS

1. Any person may file a complaint with the Department if they believe they have been stopped or searched on the basis of their race, ethnicity, national origin, or gender. No person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.

2. A complaint from a citizen regarding racial profiling may be made to any Department supervisor or, if available, to the Office of Professional Responsibility. All complaints received shall be forwarded in writing through the chain of command to the Office of the Chief of Police.

3. In addition to the written complaint, the supervisor receiving the complaint shall obtain the video recording from the officer's vehicle and cause a copy to be made onto a recordable CD or DVD disc. The supervisor shall label the video disc, indicating the unit number and date and time the disc was made. The copy of the video recording will be forwarded through the chain of command to the Office of the Chief of Police. A copy of video of all incidents in which racial or gender profiling is alleged shall be retained with the investigative file. A copy of the video shall be

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supplied to the officer within five days of the date of the complaint. The Office of Professional Responsibility shall supply the video to the officer prior to taking any statements from the officer.

4. The Department shall provide education to the public concerning the complaint process. Written information regarding how a citizen may file a complaint or issue a commendation for an officer shall be made available to the public at a variety of locations, including public meetings, Central Records and Communications, City Hall, and the Police Department's office at the Bi-State Justice Building. This information shall also be available on the Department's Internet site.

B. RACIAL PROFILING TRAINING

1. Officers are responsible to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

2. All officers shall complete a TCOLE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. At the discretion of the Chief of Police, additional diversity and sensitivity training may be required for officers with sustained racial profiling or other discrimination complaints filed against them.

3. The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

4. Supervisors shall conduct periodic roll call training regarding racial profiling issues, including implementation and enforcement of this policy.

C. INTERNAL MONITORING

1. Random Reviews:

As mandated in Directive 7.36.1 Digital Mobile Video/Audio Recording Equipment, Field Supervisors shall conduct reviews of the video files recorded by officers under their supervision to:

a. Assess performance and safety practices;

b. Ensure compliance with departmental policy;

c. Ensure proper use of DMVR equipment; and,

d. Identify appropriate training video.

Supervisors shall conduct a review of video files randomly each month, ensuring that each officer is reviewed at least twice during each month. Supervisors will review one traffic stop and one other video of their choosing of each officer. As part of the review, supervisors will document the number of videos created by each officer. Each shift commander shall be responsible for ensuring the video reviews are conducted and documented. A report containing the dates each officer was reviewed and the supervisor that conducted each review shall be prepared and

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submitted to the Operations Division Secretary, who shall maintain a log of the reviews. Supervisors will have the random review done by the 15th of the following month.

2. Reviews shall occur whenever:

   a. An officer is involved in a pursuit;

   b. An officer is involved in a use of force recorded by the system;

   c. A complaint is lodged against an officer; or

   d. A supervisor articulates a reason to suspect an officer is involved in activity contrary to the mandates of the General Orders.

3. Video events which may be evidentiary in nature should be reviewed and properly documented.

D. CORRECTIVE ACTION

1. Failure to report any observed or known violations of this policy by any Department employee shall result in corrective action being taken against the employee.

2. Officers found in violation of this policy or who have a sustained racial profiling complaint shall be subject to corrective action which may include: diversity, sensitivity, or other appropriate training, informal counseling, formal counselling, written reprimand, suspension from duty with or without pay, indefinite suspension, or other appropriate action as determined by the Chief of Police.

E. MANDATED DIGITAL MOBILE VIDEO RECORDER OPERATION

Unless the delivery of emergency police services would be prevented, an officer's personal safety would be jeopardized, or police strategy is being discussed, officers will ensure the operation of the digital mobile video recorder is conducted in accordance with directive 7.36.1.

F. CITATION DATA COLLECTION AND REPORTING

1. Each officer shall be required to collect certain information relating to all traffic stops, and shall record such information on either a citation, warning citation, field interview contact, or a Data Collection Form. In cases where no enforcement action was taken or where a custody arrest was made, it shall be necessary to complete a Data Collection Form to record the information required by the racial profiling statute. In the event that a citation is issued to an individual that is ultimately arrested, the citation will record the necessary data and eliminate the need to complete a Data Collection Form.

2. The officer will document the following on the citation, written warning or Data Collection Form:

   a. The violator's race or ethnicity;

   b. Whether a search was conducted;

   c. Whether the search was consensual;

   d. Whether the race or ethnicity of driver known prior to stop;

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e. Whether physical force was used that resulted in bodily injury;

f. Location of the stop;

g. Reason for the stop; and

h. Reason for arrest, if any, resulting from the stop.

3. Any paper citation issued will be forwarded to the Operations Division Secretary for review prior to sending to the court. Administration for E-Citations will be the responsibility of the Traffic Section Supervisor with assistance from the Operations Secretary.

4. By March of each year, the Department shall submit a written report to the City Council that includes the information gathered from the traffic stops in the preceding calendar year. The report will include: (1) A breakdown of traffic stops by race and ethnicity, (2) The number of traffic stops that resulted in a search and the basis for the searches, (3) The number of searches that resulted in contraband being discovered and, if so, the type of contraband; (4) The number of stops where physical force was used that resulted in bodily injury, and (5) The number of traffic stops that resulted in custodial arrests.

5. The Crime Analyst shall be responsible for providing a report to the Chief of Police that contains this information. The Office of Professional Responsibility shall be responsible for reviewing this report to identify any improvements that can be made in the practices and policies regarding traffic stops.

G. RESPONSIBILITY

1. All members of the Department shall know and comply with all aspects of this directive.

2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.

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Texarkana, Texas Police Department Policy on Racial Profiling

A review of Texarkana, Texas Police Department's "Biased Based Policing and Racial Profiling Policy" contained in Directive 2.01.1 (see Appendix B) revealed that the department has adopted policies in compliance with Article 2.132 of the Texas CCP. There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in the Texarkana, Texas Police Department racial profiling policy. Texarkana, Texas Police Department policies provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling shall be subject to corrective action including diversity, sensitivity, or other appropriate training, informal counseling, formal counseling, written reprimand, suspension from duty with or without pay, indefinite suspension, or other appropriate action as determined by the Chief of Police. The policies also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix C lists the applicable statute and corresponding Texarkana, Texas Police Department regulation.

A COMPREHENSIVE REVIEW OF TEXARKANA, TEXAS POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE TEXARKANA, TEXAS POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Texarkana, Texas Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas peace officers. Information provided by Texarkana, Texas Police Department reveals that racial profiling training and certification is current for all officers in 2019. Racial profiling training is specifically covered in Texarkana, Texas' Biased Based Policing and Racial Profiling Policy Section 4 (B). In addition, all personnel are trained on the department's racial profiling policy on a bi-annual basis.

A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE TEXARKANA, TEXAS POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.

Texarkana, Texas Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Texarkana, Texas Police Department's Biased Based Policing and Racial Profiling Policy Section 4 (A) covers this requirement. Information regarding how a citizen may file a complaint is available to the public at a variety of locations. In addition, the department has a website with numbers available for contacting the agency with concerns (http://ci.texarkana.tx.us/393/Police-Department/). Additionally, each printed citation includes instructions on how to file a complaint and/or complement an officer following an interaction.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.

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Appendix C

Racial Profiling Laws and Corresponding Department Policies

Texas CCP Article	TEXARKANA, TEXAS POLICE DEPARTMENT Racial Profiling Policy
2.132(b)1	Section 3
2.132(b)2	Section 2 (C)
2.132(b)3	Section 4 (A)
2.132(b)4	Section 4 (A) (4)
2.132(b)5	Section 4 (D)
2.132(b)6	Section 4 (F)
2.132(b)7	Section 4 (F) (4)

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RESOLUTION NO. 2023–018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ACKNOWLEDGING RECEIPT OF THE 2022 POLICE DEPARTMENT RACIAL PROFILING REPORT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State of Texas requires the Police Department to collect certain statistical data on drivers stopped for traffic violations in the city limits of Texarkana, Texas, through statute found in the Texas Code of Criminal Procedure; and

WHEREAS, the State of Texas requires the collected data to be analyzed and compiled into a report, locally titled as the Texarkana Texas Police Department Racial Profiling Report, to be submitted annually to the Texas Commission on Law Enforcement; and

WHEREAS, the State of Texas requires the final racial profiling report to be submitted to the local governing body in March each year.

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

SECTION 1: That the City Council of the City of Texarkana, Texas, acknowledges receipt of the 2022 Police Department Racial Profiling Report (**ATTH 01)**.

SECTION 2: 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 **13th day of February, 2023.**

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2023-018 RES 2022 Racial Profiling Report (3921 : 2023-018 RES Racial Profiling Report)

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:	
Perspectives	**Goals**
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☐ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☐ Maximize Partnership Opportunities ☑ Provide Courteous & Responsive Customer Service ☐ Model a Positive City Image ☑ Deliver Efficient Services ☐ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture
Perspectives and Goals Additional Comments:	

Resource Impact:	
Staff time required if item is approved:	No Additional
Other Potential Impacts:	

Public Information Plan:			
☐	Newspaper Notice (Required by Statute)	☐	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☐	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☐	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☑	None Required	☐	
Other:			

Attachment: 2023-018 Goals & Perspectives (3921 : 2023-018 RES Racial Profiling Report)

RESOLUTION NO. 2023–018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ACKNOWLEDGING RECEIPT OF THE 2022 POLICE DEPARTMENT RACIAL PROFILING REPORT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the State of Texas requires the Police Department to collect certain statistical data on drivers stopped for traffic violations in the city limits of Texarkana, Texas, through statute found in the Texas Code of Criminal Procedure; and

WHEREAS, the State of Texas requires the collected data to be analyzed and compiled into a report, locally titled as the Texarkana Texas Police Department Racial Profiling Report, to be submitted annually to the Texas Commission on Law Enforcement; and

WHEREAS, the State of Texas requires the final racial profiling report to be submitted to the local governing body in March each year.

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

SECTION 1: That the City Council of the City of Texarkana, Texas, acknowledges receipt of the 2022 Police Department Racial Profiling Report (**ATTH 01**).

SECTION 2: 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 **13th day of February, 2023.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:16 p.m.

Attachment: 2023-018 RES Racial Profilie Rpt 2022 signed (3921 : 2023-018 RES Racial Profiling Report)

TEXARKANA, TEXAS POLICE DEPARTMENT

2022

RACIAL PROFILING ANALYSIS

PREPARED BY:

Eric J. Fritsch, Ph.D.
Chad R. Trulson, Ph.D.
Justice Research Consultants, LLC

Attachment: 2023-018 RES Racial Profilie Rpt 2022 signed (3921 : 2023-018 RES Racial Profiling Report)

Executive Summary

Article 2.132-2.134 of the Texas Code of Criminal Procedure (CCP) requires the annual reporting to the local governing body of data collected on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to data collection and reporting requirements. Article 2.134 of the CCP directs that "a comparative analysis of the information compiled under 2.133" be conducted, with specific attention to the below areas:

1. evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;
2. examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction;
3. evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and
4. information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

The analysis of material and data from the Texarkana, Texas Police Department revealed the following:

- **A COMPREHENSIVE REVIEW OF THE TEXARKANA, TEXAS POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE TEXARKANA, TEXAS POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.**

- **A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE TEXARKANA POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.**

- **A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT IN BOTH PRINT AND ELECTRONIC FORM REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.**

- **ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.**

- **THE TEXARKANA POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW CONCERNING THE REPORTING OF INFORMATION TO TCOLE.**

Attachment: 2023-018 RES Racial Profilie Rpt 2022 signed (3921 : 2023-018 RES Racial Profiling Report)

- THE TEXARKANA POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW REGARDING CCP ARTICLES 2.132-2.134.

Attachment: 2023-018 RES Racial Profilie Rpt 2022 signed (3921 : 2023-018 RES Racial Profiling Report)

Introduction

This report details an analysis of the Texarkana Police Department's policies, training, and statistical information on racial profiling for the year 2022. This report has been prepared to specifically comply with Article 2.132, 2.133, and 2.134 of the Texas Code of Criminal Procedure (CCP) regarding the compilation and analysis of traffic stop data. Specifically, the analysis will address Articles 2.131 – 2.134 of the CCP and make a determination of the level of compliance with those articles by the Texarkana Police Department in 2022. The full copies of the applicable laws pertaining to this report are contained in Appendix A.

This report is divided into six sections: (1) Texarkana Police Department's policy on racial profiling; (2) Texarkana Police Department's training and education on racial profiling; (3) Texarkana Police Department's complaint process and public education on racial profiling; (4) analysis of Texarkana Police Department's traffic stop data; (5) additional traffic stop data to be reported to TCOLE; and (6) Texarkana Police Department's compliance with applicable laws on racial profiling.

For the purposes of this report and analysis, the following definition of racial profiling is used: racial profiling means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity (Texas CCP Article 3.05).

Texarkana, Texas Police Department Policy on Racial Profiling

A review of Texarkana, Texas Police Department's "Biased Based Policing and Racial Profiling Policy" contained in Directive 2.01.1 (see Appendix B) revealed that the department has adopted policies in compliance with Article 2.132 of the Texas CCP. There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in the Texarkana, Texas Police Department racial profiling policy. Texarkana, Texas Police Department policies provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling shall be subject to corrective action including diversity, sensitivity, or other appropriate training, informal counseling, formal counseling, written reprimand, suspension from duty with or without pay, indefinite suspension, or other appropriate action as determined by the Chief of Police. The policies also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix C lists the applicable statute and corresponding Texarkana, Texas Police Department regulation.

A COMPREHENSIVE REVIEW OF TEXARKANA, TEXAS POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE TEXARKANA, TEXAS POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Texarkana, Texas Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas peace officers. Information provided

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by Texarkana, Texas Police Department reveals that racial profiling training and certification is current for all officers in 2022. Racial profiling training is specifically covered in Texarkana, Texas' Biased Based Policing and Racial Profiling Policy Section 4 (B). In addition, all personnel are trained on the department's racial profiling policy on a bi-annual basis.

A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE TEXARKANA, TEXAS POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.

Texarkana, Texas Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Texarkana, Texas Police Department's Biased Based Policing and Racial Profiling Policy Section 4 (A) covers this requirement. Information regarding how a citizen may file a complaint is available to the public at a variety of locations. In addition, the department has a website with numbers available for contacting the agency with concerns (http://ci.texarkana.tx.us/393/Police-Department/). Additionally, each printed citation includes instructions on how to file a complaint and/or compliment on an officer following an interaction.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.

Texarkana, Texas Police Department Statistical Data on Racial Profiling

Article 2.132(b) 6 and Article 2.133 requires that law enforcement agencies collect statistical information on motor vehicle stops in which a ticket, citation, or warning was issued and to arrests made as a result of those stops, in addition to other information noted previously. Texarkana Police Department submitted statistical information on all motor vehicle stops in 2022 and accompanying information on the race/ethnicity of the person stopped. Accompanying this data was the relevant information required to be collected and reported by law.

ANALYSIS OF THE DATA REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE COLLECTION OF RACIAL PROFILING DATA.

Analysis of the Data

Comparative Analysis #1:

Evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities. Texas Code of Criminal Procedure Article 2.134(c)(1)(A)

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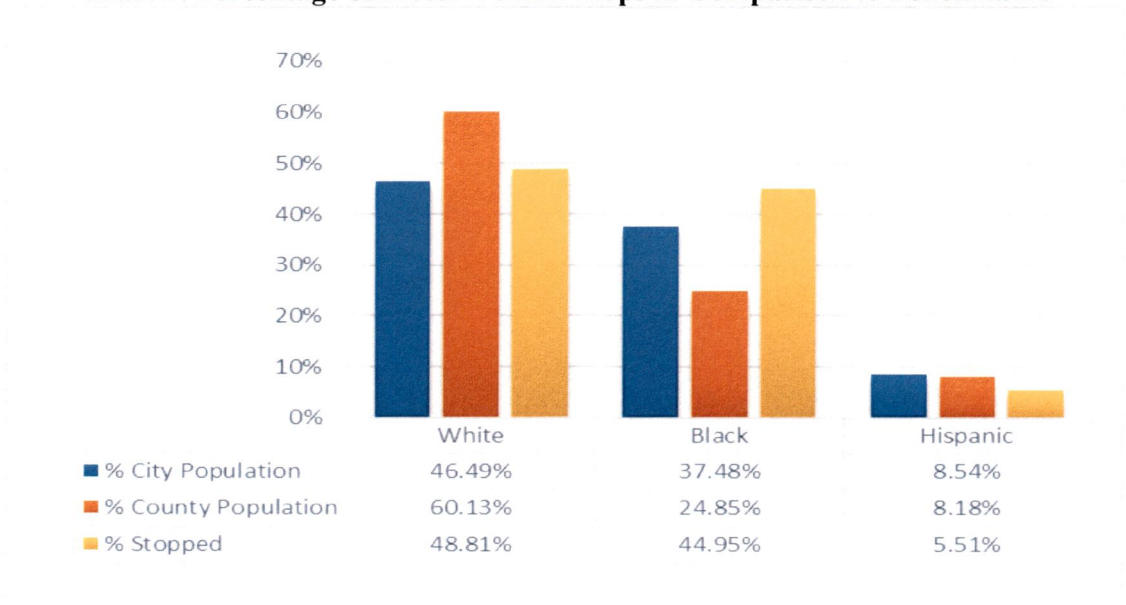
The first chart depicts the percentages of people stopped by race/ethnicity among the total 16,750 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2022.[1]

Chart 1: Percentage of Motor Vehicle Stops in Comparison to Benchmarks



White drivers constituted 48.81 percent of all drivers stopped, whereas Whites constitute 46.49 percent of the city population and 60.13 percent of the county population.[2]

Black drivers constituted 44.95 percent of all drivers stopped, whereas Blacks constitute 37.48 percent of the city population and 24.85 percent of the county population.

Hispanic drivers constituted 5.51 percent of all drivers stopped, whereas Hispanics constitute 8.54 percent of the city population and 8.18 percent of the county population.

The chart shows that White drivers are stopped at rates slightly higher than the percentage of Whites found in the city population and lower than the percentage of Whites found in the county population. Black drivers are stopped at rates higher than the percentage of Blacks found in the city and county populations. Hispanics are stopped at rates lower than the percentage of Hispanics found in the city and county populations.

[1] Due to a small number of stops relative to the population of Texarkana and the total number of motor vehicle stops among all drivers (16,750), information contained in the first chart excludes information pertaining to 89 stops of motorists of Asian/Pacific Islander descent and 33 stops of motorists of Alaska Native/American Indian descent.

[2] City and County populations were derived from 2020 Decennial Census Redistricting Data (DEC) of the U.S. Census Bureau. City and County populations by gender noted later in this report are based on 2019 American Community Survey estimates.

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Methodological Issues

Upon examination of the data, it is important to note that differences in overall stop rates of a particular racial or ethnic group, compared to that racial or ethnic group's proportion of the population, cannot be used to make determinations that officers have or have not racially profiled any given individual motorist. Claims asserting racial profiling of an individual motorist from the aggregate data utilized in this report are erroneous.

For example, concluding that a particular driver of a specific race/ethnicity was racially profiled simply because members of that particular racial/ethnic group as a whole were stopped at a higher rate than their proportion of the population—are as erroneous as claims that a particular driver of a specific race/ethnicity could NOT have been racially profiled simply because the percentage of stops among members of a particular racial/ethnic group as a whole were stopped at a lower frequency than that group's proportion of the particular population base (e.g., city or county population). In short, aggregate data as required by law and presented in this report cannot be used to prove or disprove that a member of a particular racial/ethnic group was racially profiled. Next, we discuss the reasons why using aggregate data—as currently required by the state racial profiling law—are inappropriate to use in making claims that any individual motorist was racially profiled.

Issue #1: Using Group-Level Data to Explain Individual Officer Decisions

The law dictates that police agencies compile aggregate-level data regarding the *rates* at which agencies *collectively* stop motorists in terms of their race/ethnicity. These aggregated data are to be subsequently analyzed in order to determine whether or not *individual* officers are "racially profiling" motorists. This methodological error, commonly referred to as the "ecological fallacy," defines the dangers involved in making assertions about individual officer decisions based on the examination of aggregate stop data. **In short, one cannot *prove* that an *individual* officer has racially profiled any *individual* motorist based on the rate at which a department stops any given *group* of motorists.** In sum, aggregate level data cannot be used to assess individual officer decisions, but the state racial profiling law requires this assessment.

Issue #2: Problems Associated with Population Base-Rates

There has been considerable debate as to what the most appropriate population "base-rate" is in determining whether or not racial/ethnic disparities exist. The base-rate serves as the benchmark for comparison purposes. The outcome of analyses designed to determine whether or not disparities exist is dependent on which base-rate is used. While this report utilized the most recent 2020 Census as a population base-rate, this population measure can become quickly outdated, can be inaccurate, and may not keep pace with changes experienced in city and county population measures.

In addition, the validity of the benchmark base-rate becomes even more problematic if analyses fail to distinguish between residents and non-residents who are stopped. This is because the existence of significant proportions of non-resident stops will lead to invalid conclusions if racial/ethnic comparisons are made exclusively to resident population figures. **In sum, a valid measure of the driving population does not exist. As a proxy, census data is used which is problematic as an indicator of the driving population.** In addition, stopped motorists who are

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not residents of the city or county where the motor vehicle stop occurred are not included in the benchmark base-rate.

Issue #3: Officers Do Not Know the Race/Ethnicity of the Motorist Prior to the Stop

As illustrated in Table 3 near the end of this report, of the 16,750 motor vehicle stops in 2022, the officer knew the race/ethnicity of the motorist prior to the stop in 13.07% of the stops (2,190/16,750). An analysis of all annual racial profiling reports submitted to the Texas Commission on Law Enforcement, as required by the Texas racial profiling law, found that in 2.9% of the traffic stops in Texas, the officer knew the race/ethnicity of the motorist prior to the stop.[3] The analysis included 1,186 Texas law enforcement agencies and more than 3.25 million traffic stops.

As noted, the legal definition of racial profiling in the Texas Code of Criminal Procedure Article 3.05 is "a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity."

Most of the time, Texarkana PD officers do not know the race/ethnicity of the motorist prior to the stop. This factor further invalidates any conclusions drawn from the stop data presented in Chart 1. If an officer does not know the race/ethnicity of the motorist prior to the stop, then the officer cannot, by legal definition, be racial profiling. Racial profiling is a law-enforcement action based on the race/ethnicity of an individual. If the officer does not know the person's race/ethnicity before the action (in this case, stopping a vehicle), then racial profiling cannot occur.

Based on this factor, post-stop outcomes are more relevant for a racial profiling assessment, as presented later in this report, in comparison to initial motor vehicle stop data disaggregated by race/ethnicity. Once the officer has contacted the motorist after the stop, the officer has identified the person's race/ethnicity and all subsequent actions are more relevant to a racial profiling assessment than the initial stop data.

In short, the methodological problems outlined above point to the limited utility of using aggregate level comparisons of the rates at which different racial/ethnic groups are stopped in order to determine whether or not racial profiling exists within a given jurisdiction.

Table 1 reports the summaries for the total number of motor vehicle stops in which a ticket, citation, or warning was issued, and to arrests made as a result of those stops, by the Texarkana Police Department in 2022. Table 1 and associated analyses are utilized to satisfy the comparative analyses as required by Texas law, and in specific, Article 2.134 of the CCP.

Comparative Analysis #2:

Examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of affected persons, as appropriate, including any

[3] Winkler, Jordan M. (2016). *Racial Disparity in Traffic Stops: An Analysis of Racial Profiling Data in Texas*. Master's Thesis. University of North Texas.

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searches resulting from stops within the applicable jurisdiction. Texas Code of Criminal Procedure Article 2.134(c)(1)(B)

As shown in Table 1, there were a total of 16,750 motor vehicle stops in 2022 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 9 percent of stops resulted in a verbal warning (1,556/16,750), roughly 56 percent of stops resulted in a written warning, and roughly 33 percent resulted in a citation. These actions accounted for roughly 98 percent of all stop actions and will be the focus of the below discussion.

Specific to **verbal warnings**, White motorists received a verbal warning in roughly 9 percent of stops involving White motorists (713/8,176). Black motorists received a verbal warning in roughly 10 percent of stops involving Black motorists. Hispanic motorists received a verbal warning in roughly 11 percent of stops involving Hispanic motorists.

Specific to **written warnings**, White motorists received a written warning in roughly 60 percent of stops involving White motorists (4,903/8,176), Black motorists received a written warning in roughly 52 percent of stops of Black motorists, and Hispanic motorists received a written warning in roughly 46 percent of stops of Hispanic motorists.

White motorists received a **citation** in roughly 30 percent of stops involving White motorists (2,433/8,176), Black motorists received a citation in roughly 35 percent of stops of Black motorists, and Hispanic motorists received a citation in roughly 41 percent of stops of Hispanic motorists.

As illustrated in Table 1, of the 16,750 total stops, 399 **arrests** [written warning and arrest (122), citation and arrest (106) and sole arrests (171)] were made in 2022, and this accounts for 2.4 percent of all stops. White motorists were arrested in roughly 2 percent of stops involving White motorists (127/8,176), Black motorists were arrested in roughly 3 percent of stops involving Black motorists, and Hispanic motorists were arrested in roughly 2 percent of stops involving Hispanic motorists.

Overall, arrests were most commonly based on a **violation of the penal code** (54.4%; 217/399) or an **outstanding warrant** (42.4%; 169/399) as illustrated in Table 1.

Finally, as presented in Table 1, **physical force resulting in bodily injury** occurred in 6 stops in 2022. In all 6 stops, the suspect was injured.

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Table 1: Traffic Stops and Outcomes by Race/Ethnicity

Stop Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Number of Stops	8,176	7,529	923	89	33	16,750
Gender						
Female	3,969	3,505	286	41	8	7,809
Male	4,207	4,024	637	48	25	8,941
Reason for Stop						
Violation of Law	817	702	78	3	1	1,601
Preexisting Knowledge	75	73	7	0	0	155
Moving Traffic Violation	5,751	4,713	655	74	27	11,220
Vehicle Traffic Violation	1,533	2,041	183	12	5	3,774
Result of Stop						
Verbal Warning	713	726	106	8	3	1,556
Written Warning	4,903	3,904	423	52	27	9,309
Citation	2,433	2,648	374	28	3	5,486
Written Warning and Arrest	38	80	4	0	0	122
Citation and Arrest	34	66	6	0	0	106
Arrest	55	105	10	1	0	171
Arrest Based On						
Violation of Penal Code	70	132	15	0	0	217
Violation of Traffic Law	4	5	1	1	0	11
Violation of City Ordinance	1	1	0	0	0	2
Outstanding Warrant	52	113	4	0	0	169
Physical Force Resulting in Bodily Injury Used?						
No	8,175	7,524	923	89	33	16,744
Yes	1	5	0	0	0	6

Comparative Analysis #3:

Evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches. Texas Code of Criminal Procedure Article 2.134(c)(1)(C)

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In 2022, a total of 959 **searches** of motorists were conducted, or roughly 6 percent of all stops resulted in a search (959/16,750). Among searches within each racial/ethnic group, White motorists were searched in roughly 4 percent of all stops of White motorists (328/8,176), Black motorists were searched in roughly 8 percent of all stops of Black motorists, and Hispanic motorists were searched in roughly 4 percent of all stops of Hispanic motorists.

As illustrated in Table 2, the most common reasons for a search were searches based on probable cause (39.7%; 381/959) and searches based on consent (39.7%; 381/959) with 381 searches each. Among **searches based on probable cause** within each racial/ethnic group, White motorists were searched based on probable cause in roughly 32 percent of all searches of White motorists (104/328), Black motorists were searched based on probable cause in roughly 46 percent of all searches of Black motorists, and Hispanic motorists were searched based on probable cause in 19 percent of all searches of Hispanic motorists (7 probable cause searches out of a total 37 searches of Hispanic motorists).

Consent searches are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (16,750), discretionary consent searches occurred in 2.3 percent of stops (381 total consent searches). Among **consent searches** within each racial/ethnic group, White motorists were searched based on consent in roughly 48 percent of all searches of White motorists (159/328), Black motorists were searched based on consent in roughly 34 percent of all searches of Black motorists, and Hispanic motorists were searched based on consent in roughly 49 percent of all searches of Hispanic motorists (18 consent searches out of a total 37 searches of Hispanic motorists).

Of the searches that occurred in 2022, and as shown in Table 2, **contraband was discovered** in 442 or roughly 46 percent of all searches (442/959 total searches). Overwhelmingly, the contraband discovered in searches was drugs; 88.9% of the contraband discovered (393/442 contraband discoveries). Finally, as illustrated in Table 2, when contraband was discovered, motorists were arrested roughly 45% of the time (198/442 contraband discoveries).

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Table 2: Searches and Outcomes by Race/Ethnicity

Search Table	White	Black	Hispanic /Latino	Asian /Pacific Islander	Alaska Native /American Indian	Total
Search Conducted						
Yes	328	591	37	3	0	959
No	7,848	6,938	886	86	33	15,791
Reason for Search						
Consent	159	202	18	2	0	381
Contraband in Plain View	11	19	2	0	0	32
Probable Cause	104	269	7	1	0	381
Inventory	21	43	5	0	0	69
Incident to Arrest	33	58	5	0	0	96
Was Contraband Discovered						
Yes	132	294	14	2	0	442
No	196	297	23	1	0	517
Description of Contraband						
Drugs	117	264	10	2	0	393
Weapons	5	10	0	0	0	15
Currency	0	0	1	0	0	1
Alcohol	3	7	2	0	0	12
Stolen Property	0	0	1	0	0	1
Other	7	13	0	0	0	20
Did Discovery of Contraband Result in Arrest?						
Yes	65	125	7	1	0	198
No	67	169	7	1	0	244

Comparative Analysis #4:

Information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling. Texas Code of Criminal Procedure Article 2.134(c)(2)

In 2022, internal records indicate that the Texarkana Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling.

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Additional Analysis:

Statistical analysis of motor vehicle stops relative to the gender population of the agency's reporting area. This analysis is presented in the report based on a December 2020 email sent from TCOLE to law enforcement executives in Texas.

In 2022, 16,750 motor vehicle stops were made by the Texarkana Police Department. Of these stops, 7,809 or roughly 47 percent were female drivers (7,809/16,750), and roughly 53 percent were male drivers (see Table 1).

According to 2019 American Community Survey (ACS) city and county population estimates of the U.S. Census Bureau, the City of Texarkana was composed of 51.7 percent females and 48.3 percent males. County population 2019 ACS estimates indicate that females accounted for 50.7 percent of the county population and males accounted for 49.3 percent of the county population.

Overall, in 2022, males were stopped at rates higher than their proportion of the city and county populations.

Additional Information Required to be Reported to TCOLE

Table 3 below provides additional information relative to motor vehicle stops in 2022 by the Texarkana Police Department. The data are required to be collected by the Texarkana Police Department under the Texas Code of Criminal Procedure Article 2.133.

As previously noted, the Texarkana Police Department received no complaints alleging that a peace officer employed by the agency engaged in racial profiling in 2022. Furthermore, as previously discussed, of the 16,750 motor vehicle stops in 2022, the officer knew the race/ethnicity of the motorist prior to the stop in 13.07% of the stops (2,190/16,750).

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Table 3: Additional Information

Additional Information	Total
Was Race/Ethnicity Known Prior to Stop	
Yes	2,190
No	14,560
Approximate Location of Stop	
City Street	12,898
US Highway	2,172
County Road	29
State Highway	1,481
Private Property/Other	170
Number of Complaints of Racial Profiling	**0**
Resulted in Disciplinary Action	0
Did Not Result in Disciplinary Action	0

Analysis of Racial Profiling Compliance by Texarkana, Texas Police Department

The foregoing analysis shows that the Texarkana, Texas Police Department is fully in compliance with all relevant Texas laws concerning racial profiling, including the existence of a formal policy prohibiting racial profiling by its officers, officer training and educational programs, a formalized complaint process, and the collection of data in compliance with the law.

In addition to providing summary reports and analysis of the data collected by the Texarkana, Texas Police Department in 2022, this report also included an extensive presentation of some of the limitations involved in the level of data collection currently required by law and the methodological problems associated with analyzing such data for the Texarkana, Texas Police Department as well as police agencies across Texas.

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Appendix A

Racial Profiling Statutes and Laws

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Texas Racial Profling Statutes

Art. 3.05. RACIAL PROFILING.

In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 2, eff. Sept. 1, 2001.

Art. 2.131. RACIAL PROFILING PROHIBITED.

A peace officer may not engage in racial profiling.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means the following categories:

(A) Alaska native or American Indian;

(B) Asian or Pacific Islander;

(C) black;

(D) white; and

(E) Hispanic or Latino.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

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(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search;

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;

(D) whether the peace officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop;

(E) the location of the stop; and

(F) the reason for the stop; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Texas Commission on Law Enforcement; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

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(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

(g) On a finding by the Texas Commission on Law Enforcement that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

(h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 25, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.05, eff. May 18, 2013.

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Acts 2017, 85th Leg., R.S., Ch. 173 (H.B. 3051), Sec. 1, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.01, eff. September 1, 2017.

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

(a) In this article, "race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop;

(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

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(9) whether the officer used physical force that resulted in bodily injury, as that term is defined by Section 1.07, Penal Code, during the stop.

(c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b) to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 26, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.02, eff. September 1, 2017.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED.

(a) In this article:

(1) "Motor vehicle stop" has the meaning assigned by Article 2.132(a).

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to the Texas Commission on Law Enforcement and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency.

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;

(B) examine the disposition of motor vehicle stops made by officers employed by the agency,

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categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and

(C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or other evidence was discovered in the course of those searches; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Texas Commission on Law Enforcement, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(g) On a finding by the Texas Commission on Law Enforcement that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 27, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.06, eff. May 18, 2013.

Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.03, eff. September 1, 2017.

Art. 2.136. LIABILITY.

A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

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Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT.

(a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using video and audio equipment and body worn cameras for those purposes.

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Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.04, eff. September 1, 2017.

Art. 2.138. RULES.
The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.1385. CIVIL PENALTY.
(a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an amount not to exceed $5,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.
(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of $1,000 for each violation.
(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 1172 (H.B. 3389), Sec. 29, eff. September 1, 2009.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 950 (S.B. 1849), Sec. 5.05, eff. September 1, 2017.

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Appendix B

Texarkana, Texas Police Department
Biased Based Policing and Racial Profiling Policy

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TEXARKANA, TEXAS POLICE DEPARTMENT
GENERAL ORDERS MANUAL

Effective Date **February 1, 2008**	*Amended Date* **September 1, 2017**	*Directive* **2.01.1**	
Subject **Biased Based Policing and Racial Profiling**			
Reference **Code of Criminal Procedure 2.131 – 2.135**			
Distribution **All Personnel City Manager City Attorney**	*TPCA Best Practices Recognition Program Reference* **2.01.1 Biased Based Profiling**	*Review Date* **August 1, 2019**	*Pages* **6**

This Operations Directive is for internal use only and does not enhance an officer's civil or criminal liability in any way. It should not be construed as a creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this Operations Directive, if proven, may only form the basis for a complaint by this Department, and only in a non-judicial administrative setting.

SECTION 1 PURPOSE

The purpose of this policy is to reaffirm the Department's commitment to unbiased policing in all of its encounters between officers and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictate of departmental policy and the law.

SECTION 2 POLICY

A. It is the policy of the Department to protect the constitutional rights of all persons. Allegations of racial profiling or discriminatory practices, real or perceived, are detrimental to the relationship between police and the communities they protect and serve because they strike at the basic foundation of public trust. This trust is essential to effective community-based policing. Racial profiling is considered misuse of valuable police resources; such improper methods violate the civil rights of members of the public and may lead to increased exposure to liability for the officer and the department. This Department does not endorse, train, teach, support, or condone any type of bias, stereotyping, or racial profiling by its officers. While recognizing that most officers perform their duties in a professional, ethical, and impartial manner, this Department is committed to identifying and eliminating any instances of racial profiling.

B. It is the policy of the Department to:

1. Provide all people within this community fair and impartial police services consistent with constitutional and statutory mandates;
2. Assure the highest standard of integrity and ethics among all our members;
3. Respect the diversity and the lawful cultural practices of all people;
4. Take positive steps to identify, prevent, and eliminate any instances of racial profiling by our members; and
5. Continue our commitment to community based policing and problem solving, including vigorous, lawful and nondiscriminatory traffic enforcement that promotes public safety and strengthens public trust, confidence, and awareness.

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Directive	*Subject*
2.01.1	**Biased Based Policing and Racial Profiling**

C. It is the policy of the Department to police in a proactive manner and to aggressively investigate suspected violations of law. Officers shall actively enforce local, state and federal laws in a responsible and professional manner without regard to an individual's race, gender, age, ethnicity, ethnic background, sexual orientation, religion, economic status, cultural group, national origin or any other identifiable group. Officers are strictly prohibited from engaging in racial profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers, or pedestrians.

D. Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. The Department will honor the right of all persons to be treated equally and to be free from unreasonable searches and seizures.

SECTION 3 DEFINITIONS

Racial Profiling is defined as a law enforcement-initiated action based on an individual's race, gender, age, ethnicity, ethnic background, sexual orientation, religion, economic status, cultural group, national origin or any other identifiable group rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity. The term is not relevant as it pertains to witnesses, complainants, persons needing assistance, or other citizen contacts.

Examples of racial profiling include, but are not limited to, the following:

a. Citing a driver because of the cited driver's race, ethnicity, or national origin, or

b. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity, or national origin is unlikely to own or possess that specific make or model of vehicle.

c. Detaining an individual based upon the determination that a person of that race, ethnicity, or national origin does not belong in a specific part of town or a specific place.

Gender Profiling is defined as a law enforcement-initiated action based on an individual's gender rather than on the individual's behavior or involvement in criminal activity.

Race or Ethnicity is defined as a particular descent and includes the following categories:

a. Alaska native or American Indian;

b. Asian or Pacific Islander

c. Black

d. White

e. Hispanic or Latino.

Pedestrian Stop is defined as an interaction between a peace officer and an individual traveling on foot who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

Traffic Stop is defined as a vehicle stop where a peace officer stops a motor vehicle for an alleged violation of law or ordinance regulating traffic.

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TEXARKANA, TEXAS POLICE DEPARTMENT
GENERAL ORDERS MANUAL

Directive	*Subject*
2.01.1	**Biased Based Policing and Racial Profiling**

Probable Cause is defined as more than bare suspicion; it exists when the facts and circumstances within the officer's knowledge and of which they have reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution to believe that an offense has been or is being committed.

Reasonable Suspicion is defined as specific, articulable facts leading a reasonable police officer to believe a crime might be occurring. Reasonable suspicion is less than probable cause, but more than a mere hunch. Reasonable grounds for suspicion depend on the circumstances in each case. There must be an objective basis for that suspicion based on facts, information, and/or intelligence.
Search is an examination or exploration of an individual's house, premises, vehicle or person to discover stolen property, contraband or other items that may be evidence of a crime.

Search incident to arrest is a full search of an arrested person and of the vicinity around him or her. The search is conducted for officer safety and to prevent the destruction of evidence.

Consent search is a search permitted by a person with apparent authority to allow the search. To be valid, consent must be voluntary and intelligent, based on a totality of circumstances. Voluntary means that the consent was not forced or coerced. Intelligent means the person giving consent must know what he or she is doing.

Frisk is defined as a limited search or patting down of a suspect's outer clothing for the purpose of officer safety. A frisk must be based on reasonable suspicion that the suspect is armed with a deadly weapon, and that if he is not searched and disarmed, harm will come to the officer or another person. A limited search or frisk of an automobile after a valid stop is permissible if the officer has reasonable suspicion the suspect is dangerous and might gain immediate control of a weapon. The search is limited to the areas in which a weapon may be placed or hidden.

Inventory is an administrative process by which items of property in an impounded vehicle are listed and secured. An inventory is not a search and should not be used as a substitute for a search. The specific objectives of an inventory are to protect the property of the defendant, to protect the police against any claim of lost property, and to protect police personnel and others from any dangerous instruments.

SECTION 4 PROCEDURES

A. COMPLAINTS

1. Any person may file a complaint with the Department if they believe they have been stopped or searched on the basis of their race, ethnicity, national origin, or gender. No person shall be discouraged, intimidated, or coerced from filing such a complaint, or discriminated against because they have filed such a complaint.

2. A complaint from a citizen regarding racial profiling may be made to any Department supervisor or, if available, to the Office of Professional Responsibility. All complaints received shall be forwarded in writing through the chain of command to the Office of the Chief of Police.

3. In addition to the written complaint, the supervisor receiving the complaint shall obtain the video recording from the officer's vehicle and cause a copy to be made onto a recordable CD or DVD disc. The supervisor shall label the video disc, indicating the unit number and date and time the disc was made. The copy of the video recording will be forwarded through the chain of command to the Office of the Chief of Police. A copy of video of all incidents in which racial or gender profiling is alleged shall be retained with the investigative file. A copy of the video shall be

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supplied to the officer within five days of the date of the complaint. The Office of Professional Responsibility shall supply the video to the officer prior to taking any statements from the officer.

4. The Department shall provide education to the public concerning the complaint process. Written information regarding how a citizen may file a complaint or issue a commendation for an officer shall be made available to the public at a variety of locations, including public meetings, Central Records and Communications, City Hall, and the Police Department's office at the Bi-State Justice Building. This information shall also be available on the Department's Internet site.

B. RACIAL PROFILING TRAINING

1. Officers are responsible to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.

2. All officers shall complete a TCOLE training and education program on racial profiling not later than the second anniversary of the date the officer is licensed under Chapter 1701 of the Texas Occupations Code, or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. At the discretion of the Chief of Police, additional diversity and sensitivity training may be required for officers with sustained racial profiling or other discrimination complaints filed against them.

3. The Chief of Police, as part of the initial training and continued education for such appointment, will be required to attend the LEMIT program on racial profiling.

4. Supervisors shall conduct periodic roll call training regarding racial profiling issues, including implementation and enforcement of this policy.

C. INTERNAL MONITORING

1. Random Reviews:

As mandated in Directive 7.36.1 Digital Mobile Video/Audio Recording Equipment, Field Supervisors shall conduct reviews of the video files recorded by officers under their supervision to:

a. Assess performance and safety practices;

b. Ensure compliance with departmental policy;

c. Ensure proper use of DMVR equipment; and,

d. Identify appropriate training video.

Supervisors shall conduct a review of video files randomly each month, ensuring that each officer is reviewed at least twice during each month. Supervisors will review one traffic stop and one other video of their choosing of each officer. As part of the review, supervisors will document the number of videos created by each officer. Each shift commander shall be responsible for ensuring the video reviews are conducted and documented. A report containing the dates each officer was reviewed and the supervisor that conducted each review shall be prepared and

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submitted to the Operations Division Secretary, who shall maintain a log of the reviews. Supervisors will have the random review done by the 15th of the following month.

2. Reviews shall occur whenever:

   a. An officer is involved in a pursuit;

   b. An officer is involved in a use of force recorded by the system;

   c. A complaint is lodged against an officer; or

   d. A supervisor articulates a reason to suspect an officer is involved in activity contrary to the mandates of the General Orders.

3. Video events which may be evidentiary in nature should be reviewed and properly documented.

D. CORRECTIVE ACTION

1. Failure to report any observed or known violations of this policy by any Department employee shall result in corrective action being taken against the employee.

2. Officers found in violation of this policy or who have a sustained racial profiling complaint shall be subject to corrective action which may include: diversity, sensitivity, or other appropriate training, informal counseling, formal counselling, written reprimand, suspension from duty with or without pay, indefinite suspension, or other appropriate action as determined by the Chief of Police.

E. MANDATED DIGITAL MOBILE VIDEO RECORDER OPERATION

Unless the delivery of emergency police services would be prevented, an officer's personal safety would be jeopardized, or police strategy is being discussed, officers will ensure the operation of the digital mobile video recorder is conducted in accordance with directive 7.36.1.

F. CITATION DATA COLLECTION AND REPORTING

1. Each officer shall be required to collect certain information relating to all traffic stops, and shall record such information on either a citation, warning citation, field interview contact, or a Data Collection Form. In cases where no enforcement action was taken or where a custody arrest was made, it shall be necessary to complete a Data Collection Form to record the information required by the racial profiling statute. In the event that a citation is issued to an individual that is ultimately arrested, the citation will record the necessary data and eliminate the need to complete a Data Collection Form.

2. The officer will document the following on the citation, written warning or Data Collection Form:

   a. The violator's race or ethnicity;

   b. Whether a search was conducted;

   c. Whether the search was consensual;

   d. Whether the race or ethnicity of driver known prior to stop;

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e. Whether physical force was used that resulted in bodily injury;

f. Location of the stop;

g. Reason for the stop; and

h. Reason for arrest, if any, resulting from the stop.

3. Any paper citation issued will be forwarded to the Operations Division Secretary for review prior to sending to the court. Administration for E-Citations will be the responsibility of the Traffic Section Supervisor with assistance from the Operations Secretary.

4. By March of each year, the Department shall submit a written report to the City Council that includes the information gathered from the traffic stops in the preceding calendar year. The report will include: (1) A breakdown of traffic stops by race and ethnicity, (2) The number of traffic stops that resulted in a search and the basis for the searches, (3) The number of searches that resulted in contraband being discovered and, if so, the type of contraband; (4) The number of stops where physical force was used that resulted in bodily injury, and (5) The number of traffic stops that resulted in custodial arrests.

5. The Crime Analyst shall be responsible for providing a report to the Chief of Police that contains this information. The Office of Professional Responsibility shall be responsible for reviewing this report to identify any improvements that can be made in the practices and policies regarding traffic stops.

G. RESPONSIBILITY

1. All members of the Department shall know and comply with all aspects of this directive.

2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.

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Texarkana, Texas Police Department Policy on Racial Profiling

A review of Texarkana, Texas Police Department's "Biased Based Policing and Racial Profiling Policy" contained in Directive 2.01.1 (see Appendix B) revealed that the department has adopted policies in compliance with Article 2.132 of the Texas CCP. There are seven specific requirements mandated by Article 2.132 that a law enforcement agency must address. All seven are clearly covered in the Texarkana, Texas Police Department racial profiling policy. Texarkana, Texas Police Department policies provide clear direction that any form of racial profiling is prohibited and that officers found engaging in inappropriate profiling shall be subject to corrective action including diversity, sensitivity, or other appropriate training, informal counseling, formal counseling, written reprimand, suspension from duty with or without pay, indefinite suspension, or other appropriate action as determined by the Chief of Police. The policies also provide a very clear statement of the agency's philosophy regarding equal treatment of all persons regardless of race, ethnicity, or national origin. Appendix C lists the applicable statute and corresponding Texarkana, Texas Police Department regulation.

A COMPREHENSIVE REVIEW OF TEXARKANA, TEXAS POLICE DEPARTMENT'S RACIAL PROFILING POLICY SHOWS THAT THE TEXARKANA, TEXAS POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH ARTICLE 2.132 OF THE TEXAS CODE OF CRIMINAL PROCEDURE.

Texarkana, Texas Police Department Training and Education on Racial Profiling

Texas Occupation Code § 1701.253 and § 1701.402 require that curriculum be established and training certificates issued on racial profiling for all Texas peace officers. Information provided by Texarkana, Texas Police Department reveals that racial profiling training and certification is current for all officers in 2019. Racial profiling training is specifically covered in Texarkana, Texas' Biased Based Policing and Racial Profiling Policy Section 4 (B). In addition, all personnel are trained on the department's racial profiling policy on a bi-annual basis.

A REVIEW OF THE INFORMATION PRESENTED AND SUPPORTING DOCUMENTATION REVEALS THAT THE TEXARKANA, TEXAS POLICE DEPARTMENT IS FULLY IN COMPLIANCE WITH TEXAS LAW ON TRAINING AND EDUCATION REGARDING RACIAL PROFILING.

Texarkana, Texas Police Department Complaint Process and Public Education on Racial Profiling

Article 2.132 §(b)3-4 of the Texas Code of Criminal Procedure requires that law enforcement agencies implement a complaint process on racial profiling and that the agency provide public education on the complaint process. Texarkana, Texas Police Department's Biased Based Policing and Racial Profiling Policy Section 4 (A) covers this requirement. Information regarding how a citizen may file a complaint is available to the public at a variety of locations. In addition, the department has a website with numbers available for contacting the agency with concerns (http://ci.texarkana.tx.us/393/Police-Department/). Additionally, each printed citation includes instructions on how to file a complaint and/or complement an officer following an interaction.

A REVIEW OF THE DOCUMENTATION PRODUCED BY THE DEPARTMENT REVEALS THAT THE DEPARTMENT IS FULLY IN COMPLIANCE WITH APPLICABLE TEXAS LAW ON THE RACIAL PROFILING COMPLAINT PROCESS AND PUBLIC EDUCATION ABOUT THE COMPLAINT PROCESS.

Attachment: 2023-018 RES Racial Profilie Rpt 2022 signed (3921 : 2023-018 RES Racial Profiling Report)

Appendix C

Racial Profiling Laws and Corresponding Department Policies

Texas CCP Article	TEXARKANA, TEXAS POLICE DEPARTMENT Racial Profiling Policy
2.132(b)1	Section 3
2.132(b)2	Section 2 (C)
2.132(b)3	Section 4 (A)
2.132(b)4	Section 4 (A) (4)
2.132(b)5	Section 4 (D)
2.132(b)6	Section 4 (F)
2.132(b)7	Section 4 (F) (4)

Attachment: 2023-018 RES Racial Profilie Rpt 2022 signed (3921 : 2023-018 RES Racial Profiling Report)

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/8/2023 3:53 PM

Lead Department: Finance Department **Action Officer:** Kristin Peeples,

Subject: Ordinance No. 2023-022 amending budgeted revenues and expenditures for the Metropolitan Planning Organization Fund (Fund 220) in the amount of Fifty Thousand Dollars ($50,000) for fiscal year ending September 30, 2023.

Briefing: 2/13/2023 **Public Hearing:** **Council Vote:** 2/13/2023

Item Schedule

Updates/History of Briefing:

Not Applicable

Executive Summary and Background Information:

On January 18, 2023, the Metropolitan Planning Organization (MPO) Policy Board adopted amendment five of the FY 2022 – 2023 Unified Planning Work Program for the Texarkana Metropolitan Study Area. This includes the addition of $50,000 for a Safety Action Plan as required by TXDOT. Because this expenditure and corresponding revenue were not included in the original adopted budget for the fiscal year ending September 30, 2023, the budget should be amended to reflect additional expenditures and revenue of $50,000 in the Metropolitan Planning Organization Fund (Fund 220).

Potential Options:

- Approve
- Deny

Fiscal Implications:

Safety Action Plan is required and funded by TXDOT.

Staff Recommendation:

Staff recommends approval

Advisory Board/Committee Review:

None

Board/Committee Recommendation:

Not Applicable

Advisory Board/Committee Meeting Date and Minutes:

Not Applicable

Attachments

a. 2023-022 ORD Amending Budget for 220 MPO Fund (DOC)
b. 2023-022 ATTH 01 Resolution 6 FY2022-2023 UPWP Amendment 5 (PDF)
c. 2023-022 Goals & Perspectives (DOCX)
d. 2023-022 ORD amd budg MPO fund 220 signed (PDF)

Staff Coordination

Finance Department	Kristin Peeples	Department Head Review	Completed	02/06/2023 3:22 PM
Finance Department	Kristin Peeples	Finance Review	Completed	02/06/2023 3:22 PM
Metropolitan Planning Organization	JoAnne Gray	Action	Completed	02/07/2023 2:14 PM
City Manager	David Orr	City Manager Review	Completed	02/07/2023 4:49 PM
City Council	Jennifer Evans	Meeting	Completed	02/13/2023 6:00 PM

Meeting History

ORDINANCE NO. 2023-022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING BUDGETED REVENUE AND EXPENDITURES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2023, ADDING THE AMOUNT OF FIFTY THOUSAND DOLLARS ($50,000) IN REVENUE AND EXPENDITURES TO THE METROPOLITAN PLANNING ORGANIZATION FUND (FUND 220) FOR AMENDMENT FIVE OF THE FY 2022-2023 UNIFIED PLANNING WORK PROGRAM (UPWP) FOR A SAFETY ACTION PLAN AS REQUIRED BY THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT); AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on January 18, 2023, the Metropolitan Planning Organization (MPO) Policy Board adopted amendment five of the FY 2022-2023 Unified Planning Work Program (UPWP) for the Texarkana Metropolitan Study Area; and

WHEREAS, this amendment includes the addition of Fifty Thousand Dollars ($50,000) for a Safety Action Plan as required and funded by the Texas Department of Transportation (TxDOT); and

WHEREAS, the revenue and expenditures for this project were not included in the adopted budget for the fiscal year ending September 30, 2023; and

WHEREAS, City staff recommends amending the budget estimate of the City's revenue and expenditures for the fiscal year beginning October 1, 2022, and ending September 30, 2023, by adding Fifty Thousand Dollars ($50,000) to the Metropolitan Planning Organization Fund (Fund 220).

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

SECTION 1: The budget estimate of the revenue and expenditures of the City of Texarkana, Texas, as prepared by the City Manager and appropriated by the City Council for the fiscal year beginning October 1, 2022, and ending September 30, 2023, be amended to reflect additional revenue and expenditures appropriated of Fifty Thousand Dollars ($50,000) in the Metropolitan Planning Organization Fund (Fund 220).

SECTION 2: This ordinance shall be in full force and effect from and after its passage and approval.

Attachment: 2023-022 ORD Amending Budget for 220 MPO Fund (3929 : 2023-022 ORD Amending Budget for MPO Fund)

PASSED AND APPROVED in Regular Council Session on this the **13th day of February, 2023**.

ATTEST:

_____	_____
JENNIFER EVANS, CITY SECRETARY	BOB BRUGGEMAN, MAYOR

Attachment: 2023-022 ORD Amending Budget for 220 MPO Fund (3929 : 2023-022 ORD Amending Budget for MPO Fund)

TEXARKANA METROPOLITAN PLANNING ORGANIZATION

RESOLUTION #6 – 2023

A RESOLUTION BY THE POLICY BOARD OF THE TEXARKANA METROPOLITAN PLANNING ORGANIZATION (MPO) ADOPTING AMENDMENT FIVE OF THE FY 2022 – 2023 UNIFIED PLANNING WORK PROGRAM (UPWP) FOR THE TEXARKANA METROPOLITAN STUDY AREA.

WHEREAS, the Texarkana Urban Transportation Study, as the Metropolitan Planning Organization (MPO) for the Texarkana metropolitan planning area, is responsible for performing transportation planning activities within the Texarkana Study Area Boundary; and

WHEREAS the Texarkana MPO is responsible for preparing and submitting the Amendment Five FY 2022 – 2023 Unified Planning Work Program (UPWP) to Arkansas Department of Transportation (ARDOT) and Texas Department of Transportation (TxDOT); and

WHEREAS the Texarkana MPO Technical Advisory Committee recommended for adoption and submission of the Amendment Five FY 2022 – 2023 Unified Planning Work Program (UPWP) to ARDOT and TxDOT.

NOW, THEREFORE, BE IT RESOLVED BY THE POLICY BOARD OF THE TEXARKANA URBAN TRANSPORTATION STUDY THAT AMENDMENT FOUR TO THE FY 2022 – 2023 UNIFIED PLANNING WORK PROGRAM (UPWP) IS ADOPTED AND:

SECTION 1: Due to additional funding in the amount $50,000 for FY2023 for a Safety Action Plan the FY2022-2023 UPWP is amended. See Attachment A.

SECTION 2: The Study Director of the Texarkana MPO is hereby authorized to submit Amendment Five of the FY 2022 – 2023 UPWP to ARDOT and TxDOT.

SECTION 3: This resolution shall be in effect immediately upon its adoption.

ADOPTED in Regular Session on the 18th day of January 2023.

Tom Whitten, Bowie County Commissioner
Policy Board Chairman
Texarkana MPO

I hereby certify the above is a true copy of Resolution #6-2023: FY2022-2023 Unified Planning Work Program (UPWP) Amendment Five.
This resolution was:
Motioned by: Bob Bruggeman, Mayor, City of Texarkana, TX
Seconded by: Robert Bunch, Mayor, City of Nash, TX
Resolution #6-2023 passed unanimously in regular session on January 18, 2023.

Rea Donna Jones
Director
Texarkana MPO

Attachment: 2023-022 ATTH 01 Resolution 6 FY2022-2023 UPWP Amendment 5 (3929 : 2023-022 ORD Amending Budget for MPO Fund)

FY 2022-2023 UNIFIED PLANNING WORK PROGRAM (UPWP) AMENDMENT FIVE

Texarkana MPO Resolution #6-2023

Attachment A

TASK 5.0 - FY 2023 FUNDING SUMMARY

UPWP Task	Responsible Agency	Description	TX TPF	AR TPF	AR LOCAL MATCH	MPO TOTAL	FTA SECTION 5307 (TUTD)
5.1	MPO	Thoroughfare Study	$26,400	$5,280	$1,320	$33,000	$0
5.2	MPO	Safety Action Plan	$50,000	$0.00	$0.00	$50,000	$0
Total			$76,400	$5,280	$1,320	$83,000	$0

FY 2023 BUDGET SUMMARY

UPWP Task	FTA Task	Description	TX TPF	AR TPF	AR Local Match	MPO Total	FTA SECTION 5307 (TUTD)
1.0	44.21 44.22	Administration / Management	$96,000	$19,200	$4,800	$120,000	$72,500
2.0	44.23 44.24	Data Development & Maintenance	$14,400	$2,880	$720	$18,000	$0
3.0	44.24 44.25	Short Range Planning	$33,600	$6,720	$1,680	$42,000	$0
4.0	44.23	Metropolitan Transportation Plan	$35,200	$7,040	$1,760	$44,000	$0
5.1	44.27	Thoroughfare Study	$26,400	$5,280	$1,320	$33,000	$0
5.2	44.27	Safety Action Plan	$50,000	$0	$0	$50,000	$0
TOTALS			$255,600	$41,120	$10,280	$307,000	$72,500

Attachment: 2023-022 ATTH 01 Resolution 6 FY2022-2023 UPWP Amendment 5 (3929 : 2023-022 ORD Amending Budget for MPO Fund)

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☐ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☑ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☐ Model a Positive City Image ☐ Deliver Efficient Services ☐ Cultivate Community Involvement & Access
Manage the Resources	☑ Maintain Fiscal Strength ☑ Maximize Utilization & Resources ☑ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

Staff time required if item is approved:	Low

Other Potential Impacts:

NONE APPLICABLE

Public Information Plan:

☐	Newspaper Notice (Required by Statute)	☐	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☐	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☐	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☑	None Required	☐	

Other:

Attachment: 2023-022 Goals & Perspectives (3929 : 2023-022 ORD Amending Budget for MPO Fund)

ORDINANCE NO. 2023-022

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING BUDGETED REVENUE AND EXPENDITURES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2023, ADDING THE AMOUNT OF FIFTY THOUSAND DOLLARS ($50,000) IN REVENUE AND EXPENDITURES TO THE METROPOLITAN PLANNING ORGANIZATION FUND (FUND 220) FOR AMENDMENT FIVE OF THE FY 2022-2023 UNIFIED PLANNING WORK PROGRAM (UPWP) FOR A SAFETY ACTION PLAN AS REQUIRED BY THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT); AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on January 18, 2023, the Metropolitan Planning Organization (MPO) Policy Board adopted amendment five of the FY 2022-2023 Unified Planning Work Program (UPWP) for the Texarkana Metropolitan Study Area; and

WHEREAS, this amendment includes the addition of Fifty Thousand Dollars ($50,000) for a Safety Action Plan as required and funded by the Texas Department of Transportation (TxDOT); and

WHEREAS, the revenue and expenditures for this project were not included in the adopted budget for the fiscal year ending September 30, 2023; and

WHEREAS, City staff recommends amending the budget estimate of the City's revenue and expenditures for the fiscal year beginning October 1, 2022, and ending September 30, 2023, by adding Fifty Thousand Dollars ($50,000) to the Metropolitan Planning Organization Fund (Fund 220).

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

SECTION 1: The budget estimate of the revenue and expenditures of the City of Texarkana, Texas, as prepared by the City Manager and appropriated by the City Council for the fiscal year beginning October 1, 2022, and ending September 30, 2023, be amended to reflect additional revenue and expenditures appropriated of Fifty Thousand Dollars ($50,000) in the Metropolitan Planning Organization Fund (Fund 220).

SECTION 2: This ordinance shall be in full force and effect from and after its passage and approval.

Attachment: 2023-022 ORD amd budg MPO fund 220 signed (3929 : 2023-022 ORD Amending Budget for MPO Fund)

PASSED AND APPROVED in Regular Council Session on this the **13th day of February, 2023**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:16 p.m.

Attachment: 2023-022 ORD amd budg MPO fund 220 signed (3929 : 2023-022 ORD Amending Budget for MPO Fund)

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/8/2023 3:54 PM

Lead Department: Finance Department **Action Officer:** Kristin Peeples,

Subject: Ordinance No. 2023-023 amending budgeted expenditures for the Public Safety Equipment Fund (Fund 108) in the amount of Twenty-eight Thousand Nine Hundred Eighty-five Dollars ($28,985) for fiscal year ending September 30, 2023, for unspent funds from the preceding fiscal year.

Briefing: 2/13/2023 **Public Hearing:** **Council Vote:** 2/13/2023

Item Schedule

Updates/History of Briefing:

Not Applicable

Executive Summary and Background Information:

In Fiscal Year 2022 the Public Safety Equipment Fund was established to account for the replacement of equipment for the police and fire departments. The fund's source of revenue is an annual transfer from the General Fund. Revenue and expenditures for public safety equipment are accounted for separately in this fund, which allows for the fund to maintain a rolling fund balance exclusively for public safety equipment replacement needs. Currently, there is $28,985 in unspent funds available for allocation. Staff is requesting to amend budget expenditures for the Fiscal Year Ending September 30, 2023 for the Public Safety Equipment (Fund 108) in the amount of $28,985 for funds unspent in the preceding fiscal year.

Potential Options:

- Approve
- Deny

Fiscal Implications:

Allocation of funds already available in the Public Safety Equipment Fund.

Staff Recommendation:

Staff recommends approval

Advisory Board/Committee Review:

None

Board/Committee Recommendation:

Not Applicable

Advisory Board/Committee Meeting Date and Minutes:

Not Applicable

Attachments

a. 2023-023 ORD Amending Budget for 228 Building Maintenance Fund (DOC)
b. 2023-023 Goals & Perspectives (DOCX)
c. 2023-023 ORD amd budg PS equip fund 108 signed(PDF)

Staff Coordination

Finance Department	Kristin Peeples	Department Head Review	Completed	02/06/2023 5:02 PM
Finance Department	Kristin Peeples	Finance Review	Completed	02/06/2023 5:02 PM
City Manager	David Orr	City Manager Review	Completed	02/06/2023 5:19 PM
City Council	Jennifer Evans	Meeting	Completed	02/13/2023 6:00 PM

Meeting History

Attachment: 2023-023 ORD Amending Budget for 228 Building Maintenance Fund (3930 : 2023-023 ORD Amending Budget for Public Safety

ORDINANCE NO. 2023-023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING BUDGETED EXPENDITURES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2023, ADDING THE AMOUNT OF TWENTY-EIGHT THOUSAND NINE HUNDRED EIGHTY-FIVE DOLLARS ($28,985) TO THE PUBLIC SAFETY EQUIPMENT FUND (FUND 108) FOR UNSPENT FUNDS FROM THE PRECEDING FISCAL YEAR; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, unspent funds of Twenty-eight Thousand Nine Hundred Eighty-five Dollars ($28,985) from the preceding fiscal year are available in the Public Safety Equipment Fund (Fund 108); and

WHEREAS, the unspent funds from the preceding fiscal year may be effectively utilized for additional public safety equipment replacement needs; and

WHEREAS, City staff recommends amending the budget estimate of the City's expenditures for the fiscal year beginning October 1, 2022, and ending September 30, 2023, by adding the unspent funds to the Public Safety Equipment Fund (Fund 108).

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

SECTION 1: The budget estimate of the revenue and expenditures of the City of Texarkana, Texas, as prepared by the City Manager and appropriated by the City Council for the fiscal year beginning October 1, 2022, and ending September 30, 2023, be amended to reflect additional expenditures appropriated of Twenty-eight Thousand Nine Hundred Eighty-five Dollars ($28,985) in the Public Safety Equipment Fund (Fund 108).

SECTION 2: 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 **13th day of February, 2023**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☐ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☐ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☐ Model a Positive City Image ☐ Deliver Efficient Services ☐ Cultivate Community Involvement & Access
Manage the Resources	☑ Maintain Fiscal Strength ☑ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

Staff time required if item is approved:	Low

Other Potential Impacts:

NONE APPLICABLE

Public Information Plan:

☐	Newspaper Notice (Required by Statute)	☐	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☐	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☐	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☑	None Required	☐	

Other:

Attachment: 2023-023 Goals & Perspectives (3930 : 2023-023 ORD Amending Budget for Public Safety Equipment Fund)

ORDINANCE NO. 2023-023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING BUDGETED EXPENDITURES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2023, ADDING THE AMOUNT OF TWENTY-EIGHT THOUSAND NINE HUNDRED EIGHTY-FIVE DOLLARS ($28,985) TO THE PUBLIC SAFETY EQUIPMENT FUND (FUND 108) FOR UNSPENT FUNDS FROM THE PRECEDING FISCAL YEAR; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, unspent funds of Twenty-eight Thousand Nine Hundred Eighty-five Dollars ($28,985) from the preceding fiscal year are available in the Public Safety Equipment Fund (Fund 108); and

WHEREAS, the unspent funds from the preceding fiscal year may be effectively utilized for additional public safety equipment replacement needs; and

WHEREAS, City staff recommends amending the budget estimate of the City's expenditures for the fiscal year beginning October 1, 2022, and ending September 30, 2023, by adding the unspent funds to the Public Safety Equipment Fund (Fund 108).

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

SECTION 1: The budget estimate of the revenue and expenditures of the City of Texarkana, Texas, as prepared by the City Manager and appropriated by the City Council for the fiscal year beginning October 1, 2022, and ending September 30, 2023, be amended to reflect additional expenditures appropriated of Twenty-eight Thousand Nine Hundred Eighty-five Dollars ($28,985) in the Public Safety Equipment Fund (Fund 108).

SECTION 2: 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 **13th day of February, 2023**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:16p.m.

Attachment: 2023-023 ORD amd budg PS equip fund 108 signed (3930 : 2023-023 ORD Amending Budget for Public Safety Equipment Fund)

City of Texarkana, Texas

Version: A

Briefing Sheet

Update Date: 2/8/2023 4:55 PM

Lead Department: Planning and Community Development **Action Officer:** Vashil Fernandez, PCD Director

Subject: Joint Resolution No. 2023-019, with the Board of Directors of the City of Texarkana, Arkansas, supporting the fiscal year 2023 RAISE grant application for State Line corridor improvements.

Briefing: 2/13/2023 **Public Hearing:** **Council Vote:** 2/13/2023

Item Schedule

Schedule 3: No briefing required (one week)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

The U.S. Department of Transportation released a Notice of Funding Opportunity in November 2022 for $1.5 billion in grant funding through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) discretionary grant program under the Bipartisan Infrastructure Law for Fiscal Year 2023.

This provides a unique opportunity for the DOT to invest in road, rail, transit and port projects that promise to achieve national objectives. The eligibility requirements of RAISE allow project sponsors at the State and local levels to obtain funding for multi-modal, multi-jurisdictional projects that are more difficult to support through traditional DOT programs.

Rural areas (population of less than 200,000) can apply for up to $25,000,000 with no match requirements.

Potential Options:

- Approve
- Deny

Fiscal Implications:

The total project Estimate: $44,691,577.24

Grant request: an amount not to exceed $18,000,000.
A portion estimated total will be covered by the MPO, as well as TxDOT and ARDOT.

Staff Recommendation:

Staff Recommends for approval

City of Texarkana, Texas

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2023-019 JT. RES Supporting MPO FY 2023 RAISE Grant Application (DOCX)
b. 2023-019 ATTH 02 2023 RAISE Grant Draft (DOCX)
c. 2023-019 Goals & Perspectives (DOCX)
d. 2023-019 ATTH 01 Joint City Letter of Support 2.13.23 (DOCX)
e. 2023-019 RES MPO RAISE grant support signed (PDF)

Staff Coordination

Planning and Community Development		Vashil Fernandez	Department Head Review Completed	02/02/2023 10:13 AM
City Manager	David Orr	City Manager Review	Completed	02/02/2023 3:10 PM
City Council	Jennifer Evans	Meeting	Completed	02/13/2023 6:00 PM

Meeting History

Attachment: 2023-019 JT. RES Supporting MPO FY 2023 RAISE Grant Application (3926 : 2023-019 Joint RES Supporting Texarkana MPO

Texarkana Texas Resolution No. 2023-019

Texarkana Arkansas Resolution No. _____

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AND THE BOARD OF DIRECTORS OF THE CITY OF TEXARKANA, ARKANSAS, SUPPORTING THE FISCAL YEAR 2023 RAISE GRANT APPLICATION FOR THE STATE LINE CORRIDOR IMPROVMENTS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the U.S. Department of Transportation's Notice of Funding Opportunity for $1.5 billion in grant funding through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) discretionary grant program is open for applications; and

WHEREAS, the two cities and Metropolitan Planning Organization have a shared interest in the improvements to the State Line Corridor; and

WHEREAS, this project demonstrates a valuable contribution to both cities continuing efforts towards building and maintaining pedestrian, bicycle, transit amenities in the community and improving the gateway of Texarkana, USA.

WHEREAS, the Texarkana Metropolitan Planning Organization (MPO) is applying for an amount not to exceed $18,000,000 and, as a rural area, (population of less than 200,000) does not have any match requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AND THE BOARD OF DIRECTORS OF THE CITY OF TEXARKANA, ARKANSAS:

SECTION 1: The City Council of the City of Texarkana, Texas, and the Board of Directors of the City of Texarkana, Arkansas, hereby approve support of the Texarkana Metropolitan Planning Organization 2023 RAISE Grant Application for State Line Corridor Improvements.

SECTION 2: This Joint Resolution shall be in full force and effect from and after its passage and approval by both Cities.

Texarkana, Texas: PASSED AND APPROVED in Regular Council Session on this the **13th day of February, 2023.**

Texarkana, Arkansas: PASSED AND APPROVED this the **____ day of _____, 2023.**

TEXARKANA, TEXAS

_____
Bob Bruggeman, Mayor

ATTEST:

_____
Jennifer Evans, City Secretary

APPROVED:

_____
Jeffery C. Lewis, City Attorney

TEXARKANA, ARKANSAS

_____
Allen A. Brown, Mayor

ATTEST:

_____
Heather Soyars, City Clerk

APPROVED:

_____
Joshua Potter, Interim City Attorney

Attachment: 2023-019 JT. RES Supporting MPO FY 2023 RAISE Grant Application (3926 : 2023-019 Joint RES Supporting Texarkana MPO

FY 2023 RAISE

A Unique Undertaking - Placemaking in Two States, State Line Avenue Cultural Corridor

Transportation Discretionary Grant Proposal

Presented to:

Department of Transportation

Presented by:

Lead Organization -

Texarkana Metropolitan Planning Organization

Representing -

Texarkana, USA Metropolitan Area in Texas, and Arkansas

Partner Organizations:

City of Texarkana, Arkansas City of Texarkana, Texas

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

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I. Project Description (See D.2.i)

A unique undertaking, Placemaking in Two States - State Line Avenue Cultural Corridor sets a bold vision for future growth of the twin city corridor located in Texarkana, USA on the Texas and Arkansas border. Originally established as a railroad and industrial center, Texarkana, USA has grown into a regional agriculture, retail, transportation, and wholesale service center. This corridor is also considered part of the Strategic Highway Network (STRAHNET) being a non-interstate road available for use by the military[1].

Texarkana recognizes the need to create a cohesive vision to guide the future growth of the corridor shared by Texas and Arkansas. As a result, the community recently completed a nine month long State line Avenue Corridor that utilized the public's input to discuss future objectives and to identify existing key corridor conditions and issues. From over 500 residents and public comments received, the final plan presents two preferred alternatives for the future design of the corridor that this application seeks funding for.

As a part of the planning process, it was noted that State Line Avenue is currently a major safety hazard for all users with 282 crashes in the last 6 months of 948,2021 alone, including six seriously injured. The road is in desperate need of repair not only to mitigate safety issues but also to tackle the eyesore the avenue has become with a lack of oversight (See Appendix 5 for photographs of the current state).

From an economic standpoint, State Line Avenue falls within an opportunity zone due to the demographics of the avenue, allowing for favorable circumstances for growth to aid local people. Over the past five years, over $75 million in private investment has occurred along the corridor and in the downtown area. However, a full scale renovation is needed to reinstate State line Avenue as a prime corridor of Texarkana, one that is safe, eco-friendly, economically vital, and able to display the uniqueness of its bi-state status.

The project will rehabilitate a 3.25-mile major artery and create a cultural district along State Line Avenue (US 71, US 59) connecting IH 30 with Union Train Station/Amtrak in downtown Texarkana, USA. The project is a working expression of the community through improved culturally relevant transportation infrastructure for pedestrians and bicyclists while serving automobiles and trucking with a better connection to the heart of downtown. The application of complete streets will greatly improve the safety of all transportation users on State Line Avenue while providing a more welcoming environment for tourists and community use of the space. Placemaking in Two States will artistically delineate neighborhoods and their services, advance public safety, efficiently link people to economic, medical, and social activities, and provide

[1] The Strategic Highway Network (STRAHNET) is a system of roads for emergency mobilization and movement of heavy armor, fuel, ammunition, repair parts, food, and other commodities to support U.S. military operations.
https://www.sddc.army.mil/sites/TEA/Functions/SpecialAssistant/STRAHNET/_STRAHNET%20101.pdf

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spaces that connect people to the vitality of the interstate and the opportunities resulting from revitalization in the downtown.

Enhancements resulting from the project include increased pedestrian mobility, intersection treatments, roadway/pedestrian lighting, bicycle access, traffic management improvements, innovative stormwater management, redeveloped land uses, and the creation of the State Line Avenue Cultural Corridor, which is an overlay district spanning Arkansas and Texas.

State Line Avenue is a unique corridor that serves as the boundary between Texas and Arkansas and the primary roadway for drivers traveling from IH 30 to downtown Texarkana. The roadway is five lanes with a center turn lane and discontinuous sidewalks. The project consists of the rehabilitation of existing State Line Avenue from W 52nd (TX) and E 49th (Ark) Street, at the IH 30 intersection, to Front Street, approximately 3.25 miles.

The Texarkana Metropolitan Planning Organization (MPO) plans to coordinate the State Line Avenue: Placemaking in Two States project which is estimated at forty-five million dollars. Texarkana MPO requests consideration of $17,691,577.24 and we will provide local and state funds through other non-federal sources for $27,000,000. This constitutes a program of projects that will run concurrently, are essential for maximizing benefits for Texarkana, USA, and represent the intentions of Texarkana residents, businesses, and organizations in the community and surrounding neighborhoods.

Eligibility Applicants

The Texarkana MPO, the City of Texarkana, Arkansas and the City of Texarkana, Texas are eligible applicants as the area's MPO and two local governments, (Figure 1). Texarkana MPO is the lead applicant and the City of Texarkana; Texas will take primary responsibility for implementing the RAISE portion of this project. Texarkana's MPO office provides the ideal intermediary between the multiple jurisdictions represented along the State Line Avenue Corridor, coordinating transportation planning and projects along with the Departments of Transportation in Arkansas and Texas.

Environmental Review and Administrative tasks will be completed by the specified date, with all RAISE funds expended by September 30, 2031 as required. No TIGER/BUILD grants have been awarded in this Rural Area.

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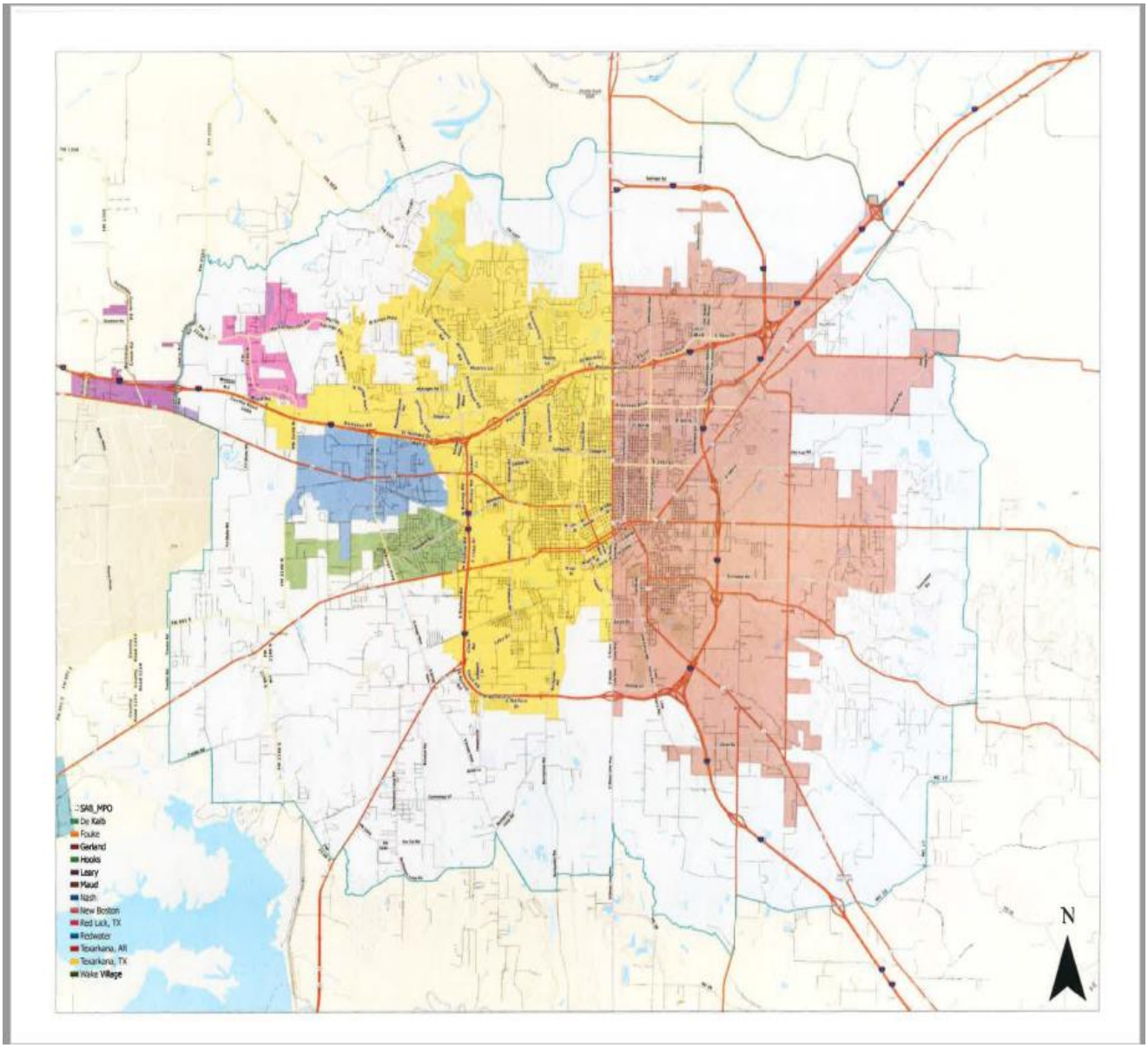
Figure 1: Texarkana Urbanized Area Overview Map



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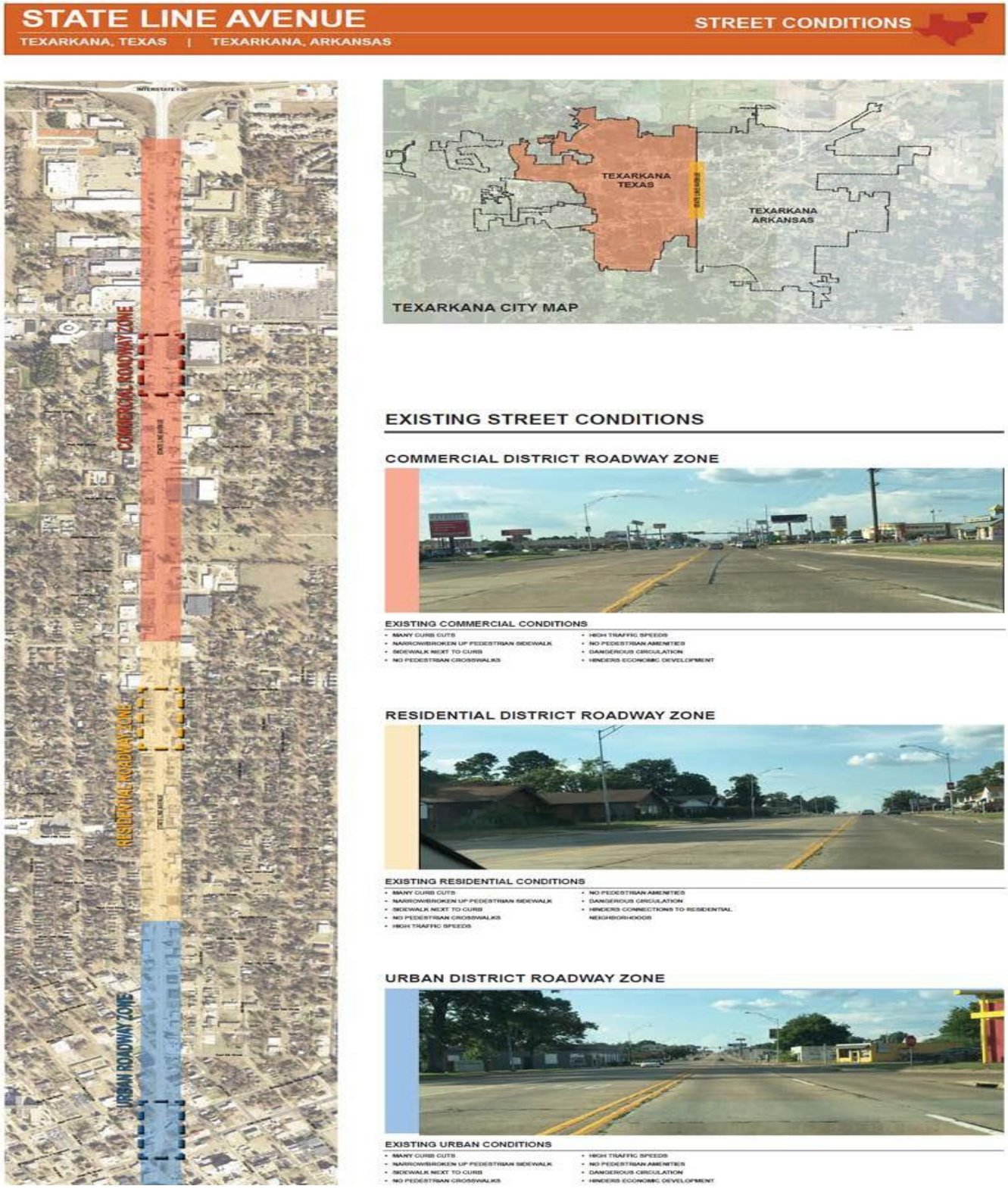
II. Project Location (See D.2.ii)

Figure 2: State Line Avenue Cultural Corridor Project Location and Overview



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The proposed project includes an approximate 3.25-mile section of the State Line Avenue Corridor (US 71/US 59) in Texarkana, Texas and Texarkana, Arkansas from just south of the access interchange with IH 30 to Front Street, South of the United States Post Office and Federal Building. State Line Avenue terminates at the historic Union Train Station, connecting the entire project to the Amtrak station in Texarkana. See Appendix 2 for full maps.

Area boundaries. Those parcels which face State Line Avenue within from 3.25 mile from the south side of IH 30 to the Front Street Intersection, shown in the attached State Line Avenue Site Map with Zoning Districts.

From W 52nd (TX) and E 49th (Ark) Street to College Dr, State Line Avenue would be replaced with 4-12 ft lanes, 2- 13.5 ft lanes, 1- 14 ft turn lane, curb and gutter. An 8 ft multi-use path would parallel the curb on either side with a 5 ft buffer where possible. All wet utilities, storm drains, and lighting would be replaced and upgraded. All standards would follow TxDOT and ARDOT.

From TX/AR Blvd's to 7th street State Line Avenue would be replaced with 2-11 ft lanes, 2- 12.5 ft lanes, 1- 12 ft turn lane, curb and gutter. An 8 ft multi-use path would parallel the curb on either side with a 5 ft amenity zone where possible. All wet utilities, storm drain, and lighting would be replaced and upgraded. All standards would follow TxDOT and ARDOT.

Please see Appendix 2 for images with further details.

Each section will also include improvements to public transportation facilities (T-Line bus stops) to help reduce single passenger travel, cultural crossing experience, green space, street banners and gateway features. Each section will have frontage space that varies. Various businesses are currently being contacted to reduce the number of driveways to their businesses to help improve safety.

Connections to Other Transportation Infrastructure.

State Line Avenue constitutes a central roadway connecting motorists and mass transit riders along the East-West IH 30 with North-South ridership of US 71 and US 59. T-Line, Texarkana's public transit system, maintains stops along State Line Avenue and runs parallel to Texas Blvd where the T-line station is located. Bike share bicycles are available on the south end of the street for public use at the Federal Courthouse and the Texarkana Museum in the Urban District. Additionally, this roadway connects to US Highways 82, 67, and 59 via 7th Street. North State Line Avenue terminates at Union Train Station/Amtrak.

Challenges – Why Now?

The State Line Avenue Corridor Improvement Project presents the best opportunity in more than twenty years to address safety and basic roadway conditions for the primary entrance to Texarkana's downtown and historic district. It also presents an opportunity to include improvements that will help address climate change impacts., while also

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creating jobs for citizens in and around the community.

Along this roadway, commercial and residential properties could provide much higher tax revenue with adequate investment in infrastructure that supports local, cultural expectations and needs. The plan is in the Texarkana MPO 2044 Metropolitan Transportation Plan (MTP) and is the top ranked project in the Texarkana Regional Active Transportation Master Plan. The need for improved safety for bicyclists and pedestrians is well documented in plans created by both cities.

Progress has been made in improving accessibility on either side of the State Line Avenue. Texarkana, Arkansas, and Texarkana, Texas have worked with both states and federal agencies to improve the IH-30 access ramps, build out the intersection of State Line Avenue with Arkansas Blvd and Texas Blvd with a central landscaped island. Two-way street conversion downtown has been completed recently; the project added 170 additional parking spaces downtown by converting many previous parallel parking spots to angled parking. New crosswalks were installed throughout downtown and brick-patterned crosswalks were implemented around heavily trafficked intersections near the Perot Theatre. Bike sharrows were installed along with decorative stop signs and cultural district sign-toppers. These safety improvements in the three State Line Avenue corridor districts have greatly improved the safety and well-being of multi-modal transportation users.

However, it's become apparent that a connection between these two hotspots is in great need of repair which is why this project is necessary for the prosperity of Texarkana. By connecting the higher traffic counts near the freeway to the arts and historic district in downtown Texarkana, the projects already completed to enhance safety and efficiency for transportation will continue to have positive impacts on tourists and residents alike.

Transportation improvement challenges of State Line Avenue have persisted for many years, in part because of the nature of the roadway, with half of the street in one state and half of the street in the other. This two-state dilemma compounds the challenges as this city street also serves as United States highway, US 71 and US 59. Both Arkansas and Texas are planning to improve the road along the corridor; but, lack additional funding to address the opportunities presented by combining the road improvements within the broader context of other transportation investments. The combined states department of transportation's plan will rehabilitate the pavement and improve the ride along State Line Avenue and improve safety for motorists but would not address essential elements of a complete street like the placemaking, livability, economic, environmental, and safety aspects of this proposal.

Over the last five years, private investment downtown has been over $72,860,000 and public investment over that same period has been over $6,509,000. Texarkana, Texas has another $9,980,000 planned in public infrastructure through the Capital Improvement Plan over the next 5 years. Improving our infrastructure will have a cascading effect on the ecosystem property values and property taxes, giving the cities a stronger basis for maintenance in the future.

Walking from your neighborhood to the grocery store should not be an exercise in bravery. Pedestrians and bicyclists need safe routes to work, school, and other services. Shade and shelter

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also improve the livability of districts like Texarkana's Urban District downtown. One aspect of this project, the Courthouse Square Initiative, is designed to improve walkability near the Federal Courthouse and Post Office in downtown Texarkana. This iconic landmark located in two states is believed to be the second most photographed courthouse in the U.S. The project included the addition of pedestrian crossings, bike lanes, landscaping, and ADA improvements for visitors to the courthouse. Funding for this project was set aside by the city of Texarkana, Texas. To address climate change, electric charging stations were installed as part of the Courthouse square project and to encourage more people to the Downtown area.

A sense of belonging and ownership, and the resulting care and concern, are apparent when people have the opportunity to participate in the public planning process. Texarkana has learned that this approach leads to better outcomes. Consequently, the public participation component is essential to the success of the State Line Cultural Corridor. Cultural enhancements like shared public spaces at a human scale lend themselves to community interaction. This project will also feature the work of George Tobolowsky from his "Bending the Rules II" exhibition, outdoor sculptures reflect the character of local people. The sculptures will be located at entrances to the three State Line districts. This public art permanent exhibit is a collaboration between the Texarkana Arts & Historic District partners, TRAHC, and the Cities. Texarkana, Texas's 2018 National Endowment for the Arts (NEA) grant will assist with the permanent display costs.

In summary, momentum has been building for the renovation of State Line for some time now and has consequently become a key factor in the success of many projects. Without change along this main corridor, growth will remain stagnant and the work put into downtown Texarkana, USA, and the ramps onto IH 30 will have very little impact.

Multijurisdictional Corridor Overlay District

An essential component of the project for the cities of Texarkana, Arkansas, and Texarkana, Texas is the implementation of a district overlay plan that recognizes existing distinct features and functions of three sections of the State Line Avenue Cultural Corridor known as the Multijurisdictional Corridor Overlay District. See Appendix 6.

The purpose of this district is to provide appropriate design standards for the development of properties within the Multijurisdictional Corridor Overlay District (MCOD) Boundary. These standards recognize the area's unique development character and significance of this State Line boundary as an opportunity to promote growth for a more desirable place to live, work and shop along this corridor. The MCOD provides a set of cohesive standards for an area where the Texarkana, Arkansas, and Texarkana, Texas can vary; this overlay creates a clear-cut plan into what State Line Avenue will be after the implementation of this project. The zoning ordinance purpose and vision are paraphrased below:

Safety

- Increase pedestrian mobility by implementing sidewalks along the entire State Line Avenue corridor allowing it to become a protected alternative mode of transportation.
- Add intersection treatments to aid pedestrians in crossing State Line Avenue.

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- Increase lighting along the roadway and sidewalks to make the area safer for pedestrians, bikers, and drivers by providing more visibility while reducing crime.
- Provide bicycle access with the addition of multimodal sidewalks and bike racks interspersed along State Line Avenue.
- Improve the general traffic management of the area which will ensure the safety of all who utilize the facilities along the main corridor.
- Provide for a more compact and integrated mix of land uses and densities that will encourage economic vitality, while maintaining and embracing the integrity of the existing single-family neighborhoods, efficient use of land and city services, and a strong sense of community

Economic Growth

- Provide State Line Avenue with landscaping, furnishings, and public art to enhance the area as a cultural keystone and provide the district with cohesive design elements that accommodate vehicular, pedestrian, and bicycle traffic.
- Enforce signage standards to reduce the clutter that already exists on State Line Avenue and create a more appealing street view while providing clear identity and information.
- Ensure that the character of both private and public buildings/structures reflect a sense of permanence and develop public pride through prominent locations with high-quality design, landscaping, materials, and construction.
- Identify and protect sceneries that contribute to the district's character by encouraging retail, restaurant, and residential uses with development standards designed to enhance the district's form, character, and function

Environmental Innovation

- Implement rainwater drainage systems using several techniques along State Line Avenue, such as a filter system that removes pollutants.
- Add vegetation along the roadway to create a greener landscape, which will in turn create a more breathable space
- Turn unused green space into parks, creating an opportunity for travelers and citizens to enjoy the outdoors
- Implement Solar Powered traffic management to encourage innovative technology and green energy uses along the corridor
- Encourage the use of the electric charging stations by the Courthouse

Compliance with this plan and all federal, state, and local requirements will be required. All property within the boundaries of the Corridor will adhere to the development standards within three distinct Districts. The use, height, and area regulations as set out are uniform throughout each district. The boundaries of the zoning districts are delineated by the State Line Avenue Site Map with Zoning Districts attached in Appendix 2.

- Commercial, northern section of State Line Avenue, closest to IH 30 ramps.

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- Residential, center section of State Line Avenue, connects living, working, and shopping spaces.
- Urban, southern section of State Line Avenue runs into and through downtown connecting to Union Train Station/Amtrak.

III. Grant Funds, Sources and Uses of all Project Funding (See D.2.iii)

Program of Projects Expenses	Cost
Contractual Construction/Engineering Construction (7% Contingency) (see for full budget)	**$41,947,357.59**
Construction Engineering and Material Testing (7%)	**$2,744,219.66**
Total Corridor Project Cost	**$44,691,557.24**

PROGRAM OF PROJECTS INCOME:

BUILD REQUEST --$17,691,557.24

	Revenue
BUILD REQUEST	**$17,691,577.24**
ARDOT	**$12,000,000**
TXDOT	**$12,000,000**
TEXARKANA MPO ***(CAT 2)***	**$3,000,000**
TOTAL COST	**$44,691,577.24**

This budget is based on projections developed in consultation with MTG Engineers and Surveyors, TEC, Inc. (Tatum Excavating Company, Inc.), the State of Arkansas Department of Transportation, the State of Texas Department of Transportation, and the cities of Texarkana, Arkansas and Texarkana, Texas. The states are planning to fund the replacement of the roadway pavement, curb and gutter, and this application specifically asks for the funding to provide the cultural enhancements that will improve public safety, provide more environmentally sensitive treatments, improve stormwater management, increase economic competitiveness and opportunities, and, just as importantly, tie the State Line Cultural Corridor District Overlay plan developed with consultation of Texarkana, USA citizens to the states' planned street improvements.

MTG Engineering and Surveying (MTG) and TEC, Inc. (Tatum Excavating Company, Inc.) provided consultation services as a community service. The budget includes funds for planning, engineering and surveying that will undergo open bidding processes according to federal, state and local rules and regulations.

The Arkansas Department of Transportation has planned to contribute $12 million to the project, Texas Department of Transportation has pledged $12 million. The Texarkana Metropolitan

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Planning Organization has set aside $3 million, creating a total of $27 million promised by local government towards this project. The remaining funds, $17,691.24, comprise the RAISE grant request specific to the State Line Avenue corridor project. Additionally, one section of the Urban District includes the Courthouse Square project planned and budgeted by Texarkana, Texas. This section is locally funded and contributes to the value of the roadway. Texarkana, Texas was a recent recipient of National Endowment of the Arts grant which provided for enhancement and new additions of art in the Urban District, adding value to the State Line Avenue area as well.

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Project Budget

Opinion of
Probable Cost

State Line Improvements

ITEM NO.	QUANTITY	UNIT	TxDOT Item #	DESCRIPTION	UNIT PRICE	NEW UNIT PRICE	TOTAL
1	1	LS	500	Mobilization	$375,000.00	2%	$760,000.00
2	105	STA	100	Prep ROW	$3,800.00	$4,500.00	$472,500.00
3	24	MO	502	Barricade, Sign, and Traffic Handling	$7,500.00	$11,000.00	$264,000.00
				Earthwork			
4	20,000	CY	110	Common Excavation	$12.00	$20.00	$400,000.00
5	14,000	CY	132	Common Embankment	$15.00	$30.00	$420,000.00
6	3,760	CY	132	Select Fill	$18.00	$30.00	$112,800.00
7	3,760	CY	110	Undercut	$12.00	$20.00	$75,200.00
				Demolition and Abandonment			
8	68,922	SY	104	Remove Concrete Pavement	$17.00	$30.94	$2,132,446.68
9	6,513	SY	104	Remove Concrete Sidewalk	$12.00	$18.44	$120,099.72
10	10,029	SY	104	Remove Concrete Driveways	$14.00	$30.94	$310,297.26
11	3,537	SY	105	Remove Asphalt Driveways	$10.00	$15.00	$53,055.00
12	29,680	SY	105	Remove Asphalt Pavement	$10.00	$15.00	$445,200.00
13	85	EA	610	Remove Light Pole and Foundations	$750.00	$1,000.00	$85,000.00
14	140	EA	636	Remove Signs	$50.00	$75.00	$10,500.00
15	22	EA	680	Remove Traffic Signal Pole and Foundation	$3,500.00	$4,000.00	$88,000.00
16	22	EA	7124	Remove & Replace Fire Hydrant Assembly	$3,700.00	$4,500.00	$99,000.00
17	14	EA	479	Remove & Replace Sanitary Sewer Manhole	$3,000.00	$5,000.00	$70,000.00
18	16	LF		Remove or Abandon 2" Water Line	$1.00	$1.25	$20.00
19	2,618	LF		Remove or Abandon 4" Water Line	$1.00	$1.25	$3,272.50
20	3,880	LF		Remove or Abandon 6" Water Line	$1.00	$1.25	$4,850.00
21	4,455	LF		Remove or Abandon 8" Water Line	$1.00	$1.25	$5,568.75
22	2,468	LF		Remove or Abandon 10" Water Line	$1.00	$1.25	$3,085.00
23	2,638	LF		Remove or Abandon 12" Water Line	$1.00	$1.25	$3,297.50
24	8	LF		Remove or Abandon 16" Water Line	$1.00	$1.25	$10.00
25	883	LF	7127	Remove or Abandon 6" Sewer Line	$1.00	$1.25	$1,103.75
26	281	LF	7127	Remove or Abandon 8" Sewer Line	$1.00	$1.25	$351.25
27	96	EA		Remove Inlets	$2,500.00	$3,000.00	$288,000.00
28	7,000	LF	472	Remove 18" RCP Culvert	$15.00	$25.00	$175,000.00
29	458	LF	472	Remove 24" RCP Culvert	$15.00	$25.00	$11,450.00
30	204	LF	472	Remove 30" RCP Culvert	$15.00	$25.00	$5,100.00
31	2	EA		Remove Junction Box	$1,250.00	$2,000.00	$4,000.00
32	13	LF	472	Remove 4'X4' Box Culvert	$45.00	$75.00	$975.00
33	5,570	LF	472	Remove 36" RCP Culvert	$20.00	$40.00	$222,800.00
34	100	LF	472	Remove 42" RCP Culvert	$25.00	$50.00	$5,000.00
35	70	LF	472	Remove 4'X3' Box Culvert	$45.00	$75.00	$5,250.00
36	60	LF	472	Remove 6'X3' Box Culvert	$45.00	$75.00	$4,500.00
				Street & Storm Construction			
37	13,566	SY	530	Install Concrete Driveways	$80.00	$140.00	$1,899,240.00
38	98,602	SY	360	Install Concrete Pavement	$90.00	$120.00	$11,832,240.00
39	108,640	SY	260	Lime Treated Subgrade	$4.00	$4.50	$488,880.00
40	2,173	TON	260	Lime	$150.00	$170.00	$369,376.00
41	34,511	GAL	310	Asphalt Prime (MC-30)	$4.75	$5.00	$172,553.50
42	21,692	TON	340	Asphalt Pavement Type D	$115.00	$193.00	$4,186,640.92
43	96	EA	465	Install Inlets	$5,500.00	$7,000.00	$672,000.00
44	7,000	LF	472	Install 18" RCP Culvert	$48.00	$75.00	$525,000.00
45	458	LF	472	Install 24" RCP Culvert	$55.00	$90.00	$41,220.00
46	204	LF	472	Install 30" RCP Culvert	$72.00	$115.00	$23,460.00
47	2	EA	465	Install Junction Box	$6,500.00	$10,000.00	$20,000.00
48	13	LF	472	Install 4'X4' Box Culvert	$400.00	$640.00	$8,320.00
49	5,570	LF	472	Install 36" RCP Culvert	$75.00	$120.00	$668,400.00
50	100	LF	472	Install 42" RCP Culvert	$80.00	$130.00	$13,000.00
51	70	LF	472	Install 4'X3' Box Culvert	$375.00	$600.00	$42,000.00
52	60	LF	472	Install 6'X3' Box Culvert	$550.00	$880.00	$52,800.00
53	140	EA	636	Install Signs	$850.00	$950.00	$133,000.00
54	22	EA	680	Install Traffic Signal Pole and Foundation	$100,000.00	$130,000.00	$2,860,000.00
55	367		666	Pavement Marking Symbols & Words	$275.00	$275.00	$100,925.00
56	3,500		666	Pavement Marking (W) 8" SLD	$0.75	$1.00	$3,500.00

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57	3,500		666	Pavement Marking (W) 24" SLD	$15.00	$20.00	$70,000.00
58	4,000		666	Pavement Marking (W) (4") BRK	$0.75	$1.00	$4,000.00
59	4,000		666	Pavement Marking (W) (4") SLD	$0.75	$1.00	$4,000.00
60	40,000		666	Pavement Marking (Y) (4") SLD	$0.75	$1.00	$40,000.00
61	2,000	EA	666	Raised Pavement Marker	$2.60	$3.00	$6,000.00
62	1	LS	668	Construction Pav Markings	$40,000.00	$50,000.00	$50,000.00
63	23,333	LF	506	Install Silt Fence/Straw Wattle	$3.00	$4.00	$93,332.00
64	5	EA	506	Install Concrete Washout	$750.00	$850.00	$4,250.00
65	96	EA	506	Install Inlet Protection	$300.00	$400.00	$38,400.00
				Utilities			
66	85	EA	610	Install Street Light Pole and Fixture	$3,100.00	$3,500.00	$297,500.00
67	85	EA	610	Install Street Light Pole Foundation	$650.00	$1,500.00	$127,500.00
68	64	EA		Install Gate Valves	$275.00	$440.00	$28,160.00
69	16	LF		Install 2" Water Line	$10.00	$16.00	$256.00
70	2,618	LF	5314	Install 4" Water Line	$16.00	$45.00	$117,810.00
71	3,880	LF	5314	Install 6" Water Line	$18.00	$40.00	$155,200.00
72	4,455	LF	5314	Install 8" Water Line	$21.00	$50.00	$222,750.00
73	2,468	LF	5314	Install 10" Water Line	$24.00	$55.00	$135,740.00
74	2,638	LF	5314	Install 12" Water Line	$30.00	$60.00	$158,280.00
75	8	LF	5314	Install 16" Water Line	$40.00	$65.00	$520.00
76	1,164	LF	7017	Install 8" Sewer Line	$20.00	$60.00	$69,840.00
				Pedestrian/Bike Facilities			
77	14,600	LF	531	8' Shared Use Path (Both Sides)		$130.00	$1,898,000.00
78	284	EA	531	Install Curb Ramps	$1,750.00	$2,270.00	$644,680.00
79	3	EA		Pedestrian Hybrid Beacon System Crossing		$65,000.00	$195,000.00
80	150	EA		Pedestrian Ornamental Street Lights (18')		$5,500.00	$825,000.00
				Street Furniture			
81	15	EA		T-Line Bus Shelters & Benches	$2,250.00	$12,000.00	$180,000.00
82	60	EA		Trash Receptacle (Metal)		$1,500.00	$90,000.00
83	10	EA		Bicycle Rack (Metal)		$1,000.00	
84	60	EA		Pedestrian Bench (Metal)		$3,000.00	
85	1	LS	162	Landscaping			$0.00
				Cultural Enhancements			
86	5,800	LF		Upgraded Stamped Concrete Cross Walks		$125.00	$725,000.00
87	450	EA		Street Banners & Brackets		$750.00	$337,500.00
88	2	EA		Colossal Flag (150' Tall)		$35,000.00	$70,000.00
89	2	EA		Flag Lighting		$25,000.00	$50,000.00
90	2	EA		Columns (16' Masonry Pair)		$20,000.00	$40,000.00
91	4	EA		Twin Parks Concept (Allowance per park)		$45,000.00	$180,000.00
92	1	EA		Stateline Crossing Experience		$20,000.00	$20,000.00

Total Amount of Bid-Items 1 through 83		**$37,653,005.83**
Contingency	*10%*	*$3,765,300.58*
Surveying & Design Engineering	*10%*	*$3,765,300.58*
Construction Engineering/Material Testing	*10%*	*$3,765,300.58*
Total		**$48,948,907.58**

MTG engineers & surveyors

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IV. Merit Criteria (See D.2.iv. (1))

(a) Safety

In nearly every year since 1995, Texarkana's rate of persons involved in fatal accidents (per 100,000 population) has outpaced that of the State of Texas. In the last six months of 2021 alone, there were 282 crashes on State Line Avenue with 74 of possible injury, 7 with serious injury; the fatality involving a pedestrian[2]. People report that they would like to feel safe walking along this corridor, visiting shops and obtaining essential services; Improving the safety of the street by 30% would bring the number of fatalities per 100,000 to 24.43. This would be a little higher than the state rate but a great difference in our current rate of fatal accidents.

According to the Texas and Arkansas Department of Transportation's Traffic Count Study, Texarkana exhibits an average daily traffic count (ADT) of 27,000 at the entrance to State Line Avenue, coming from the IH 30 ramp and heading south toward downtown. That traffic doesn't make it to downtown as the ADT is only 6,900 at the intersection of State Line and Texas State Hwy 82/ East 7th Street. If the predominant use of the northern section of State Line is where most of the fatal accidents occur, then it becomes apparent that measures should be taken to provide a safer environment for various uses of transportation. As the traffic slows moving south, the safety measures put in place align with this trend, ensuring that all users of this avenue remain protected. The current infrastructure does not entice people to drive, ride or walk in these areas due to hazardous and uncomfortable conditions. Currently, few areas of the street have adequate sidewalks, the lighting is insufficient, there are no shelters for public transportation users, and intersections have no ADA appropriate crosswalk technology deployed to assist persons with disabilities. In the summers the lack of shelter and tree cover creates a heat island affect, making the street unbearably hot for pedestrians or those waiting on the public Transit, T-line. In winter and in the rain, the street has no tree breaks to slow the wind and rain as many intersections flood due to inadequate stormwater management; again, the users of public transportation are at a loss as they are no shelters for protection against unfortunate weather circumstances. This project will rectify those problems, making the street safe for all transportation uses and more livable.

(b) State of Good Repair

More than thirty years have passed since the last major reimagining of State Line Avenue. In the meantime, the two states and two municipalities have worked on repairing and improving the street in a piecemeal fashion, resulting in inconsistent and often inadequate repairs with no consistent materials or design scheme. Sidewalks are only sometimes available, crosswalks are dangerous if they exist at all. Sections of the road fill with water when there are heavy rains. The concrete and asphalt voids then fill with water and can swell and crack during freeze, creating potholes, cracked slabs and a general sense of neglect on this important thoroughfare.

It is essential that the State Line Cultural Corridor project proceed as a jointly designed and implemented project. Both states and local government are committed to long term, aesthetically consistent maintenance. The road itself is in dire need of repair; since it is concrete the

[2] Data retrieved from Texarkana, Texas and Arkansas Police Department reports. (TTPD and TAPD)

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departments of transportation for both Texas and Arkansas have agreed it is best to completely rehabilitate the avenue, ensuring a higher quality if this grant is awarded. The estimated yearly cost to maintain Stateline Avenue varies per year. The maintenance costs will be reduced by the road renovation and will be maintained with better practices to reduce maintenance costs in the future. If this project is a recipient of grant funding, Stateline Avenue will be managed by the DOTs of Texas and Arkansas. The landscaping added will fall under the city's care.

(c) Economic Competitiveness

The Renew Texarkana Comprehensive Plan and State Line Avenue Cultural Corridor conceptual design used an innovative nodal approach to create a plan focused on revitalizing neighborhoods along the corridor and creating activity centers with enhanced education and employment opportunities. Both cities have been successful in working through this approach in downtown. Using local, state, and federal resources to improve infrastructure has attracted private investment and generated partnership opportunities to further improve the area's economic competitiveness. The table below displays the combined private investments, totaling over $72 million, these improvements have generated:

Table 1: Texarkana State Line & Downtown Development Activity - 5 Previous Years

New Business Name	*TX/AR*	*Investment (approx.)*

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Silvermoon on Broad	TX	$4,500,000
Burman Pharr Phase II	AR	$10,000,000
1894 City Market Lofts	AR	$4,500,000
Brim Healthcare of Texas	TX	$26,800,000
Sidewalk Project	TX	Information Not Available
Pecan Point Brewing	TX	$350,000
Berridge Bikes	TX	$200,000
Grim Hotel Investments	TX	26,000,000
Mother Kelly's	TX	$50,000
Beauty Barr	TX	Information Not Available
Discovery Place Façade Work	TX	Information Not Available
Verona Italian Restaurant	AR	$150,000
Texarkana National Bank & Garage	AR	$110,000
Johnny B's	AR	$150,000
Murals	AR	Information Not Available
Redbone Brewery	TX	Information Not Available
Joseph Raymond Gallery	AR	Information Not Available
Central Fire Station cons.	TX	In progress
Third Street Motors	TX	In progress
Jason Horton Law Firm	TX	$50,000
Perot Renovation	TX	Information Not Available
Sculpture Art	TX	Information Not Available
Lamp Posts	TX	Information Not Available
Goesl's Building – Private Dev		Information Not Available
Crossties	TX	Information Not Available
Hideout Sports Billiard	AR	Information Not Available
Banana Club	AR	Information Not Available
1894 Market & Gallery	AR	Information Not Available
Apartments – Peavy Building	AR	Information Not Available
Columbia Property cons 3rd/Main	TX	Information Not Available
Sears Building cons. – Potter	TX	Information Not Available
Total Investment (5 Years)		**$72,860,000**

Texarkana is considered an Opportunity Zone for economic development which makes the State line Avenue project crucially needed to better connect people throughout the area. Even more so, this project is able to reduce transportation costs by providing the opportunity for people to walk or bike using sidewalks or utilize public transportation in a safer more comfortable manner. This

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reduces the need to drive a car everywhere, which not only reduces costs but also allows those with low income (lower mobility/does not own a vehicle) to be able to participate more in the local economy, as they would be able to access more of State Line and the amenities there.

The State Line Avenue project will increase reliability and long-term efficiency by reviving the road itself and providing better sidewalks and crosswalks which allow more people to choose various forms of transportation instead of being confined to using automobiles.

This project does aid the US economy as Stateline serves as a major thoroughfare into Texarkana for freight movement; by updating this artery we continue the shipping of important goods to and from Texarkana, engaging in the global economy through commerce.

The population of Texarkana, USA now stands at 67,521, consisting of 43% minority residents, with 57% minority in the lowest income census tracts and Opportunity Zones. 56% of the minority population in those areas are African Americans. Conversely in the state of Arkansas, the percentage of the population reporting as minorities is at 26.9% with Texas reporting 59%. The per capital income of $14,901 in the core of Texarkana is a scant 53% of the national average and median household income is $25,888, 48% of the national figure. Texarkana's poorest and highest minority populations live in and around Texarkana Opportunity Zones. The revitalization of Stateline avenue will improve access for visitors and these population members to key amenities in Texarkana such as jobs, healthcare, food and gasoline.

Table 1: Demographics

Source Listed in Footnotes[3]	Bowie Co, TX	Miller Co, AR	TX	AR	USA
Population	92,893	42,600	29,145,505	3,011,524	331,449,281
Unemployment	4.7%	6.9%	4.8%	3.2%	3.8%
Poverty Rate	17.4%	19.2%	13.4%	15.2%	13.4%
Minority	32.9%	29.9%	50.2%	15.4%	36.3%
Med HH Income	$51,200	$50,900	$55,200	$54,800	$67,521
African American	24.8%	25.4%	11.90%	15.50%	14%
Public Assist/SNAP	16.70%	16.60%	14.3%	17.2%	12%
Not in Labor Force	46.40%	40.30%	35.30%	41.30%	36.30%
Per Capita Income	$27,095	$23,729	$26,999	$22,798	$28,155
Children	23.6%	23.3%	25.5%	23.2%	23.30%
Female	49.9%	50.8%	50.3%	50.9%	50.80%
Bach Degree +	20.6%	14.5%	29.9%	23.0%	35%

Improving transportation infrastructure so that there is neighborhood cohesion, a sense

[3] https://www.census.gov/quickfacts/texarkanacity

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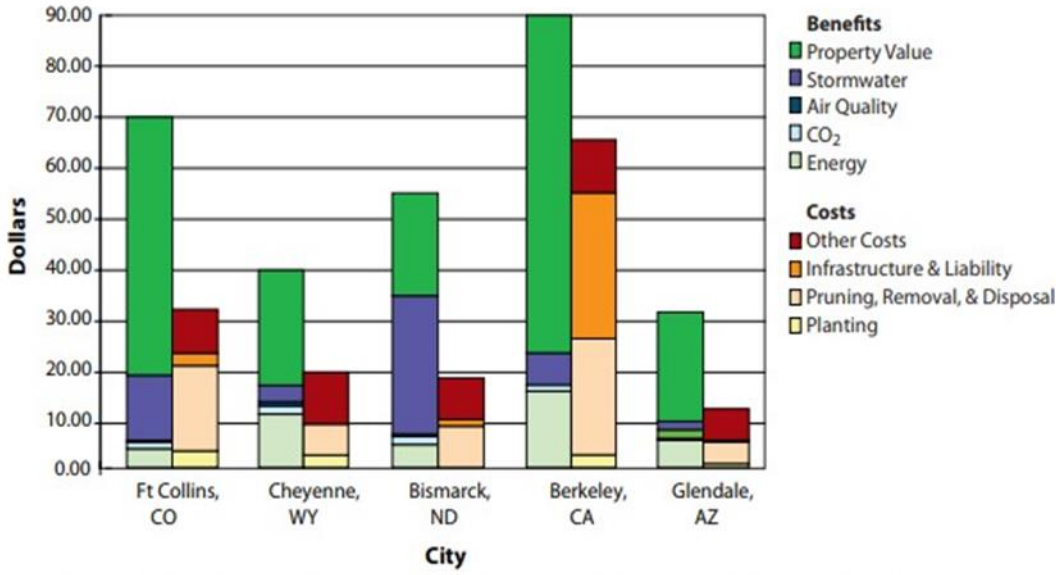
of pride and walkable streets with convenient public transportation will be essential for this corridor's residents to thrive. By doing so, the project will expand opportunities for all people to have access to essential services such as jobs or healthcare.

(d) Environmental Protection

The State Line Avenue Cultural Corridor conceptual design has several strategies aimed at managing stormwater runoff and increasing environmental protections along the corridor. The plan includes increasing the natural green space along the corridor by adding five-foot buffers, native landscaping. bioswells, rainwater gardens pilot areas, stormwater filters, and appropriate street trees.

Figure 9: Total Annual Benefits versus Costs (Per Tree)



Net benefits were positive for all five cities, ranging from $21 per tree in Cheyenne to $38 per tree in Ft. Collins. Blue and green categories indicate benefits; red, orange, and yellow indicate costs.

As environmental issues, sustainability and resiliency continue to stay at the forefront of what cities must combat; trees will not cease to be a dependable, easy solution to reduce carbon emissions and create a more breathable community. "A 2006 field study found that about 15,000 inventoried street trees in Charleston, South Carolina, were responsible for an annual net reduction of over 1,500 tons of CO2. These benefits were worth about $1.50 per tree, based on average carbon credit price"[4]

[4] (McPherson, E.G., J.R. Simpson, P.J. Peper, S.L. Gardner, K.E. Vargas, J. Ho, S. Maco, and Q. Xiao. 2006. City of Charleston, South Carolina Municipal Forest Resource Analysis. Center for Urban Forest Research, USDA Forest Service, Pacific Southwest Research Station.)

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"The net benefit of trees has been found to outweigh the cost by as much as three to one. The net annual benefits of street trees have been estimated to range from $30 to $90 per tree. The initial cost of planting new trees can be substantial, ranging from $200 to $400 per tree,"[5]

McPherson, et al. published a chart, shown above, depicting the increases in property value that seems to soar with the addition of trees, whereas the costs to plant and maintain remain lower than the overall benefits. Storm water management and energy saving benefits seems to rank as second highest benefits, making trees a solution to not just the lack of shade issue, but also in reducing flooding and money spent on air conditioning. For Texas heat, one tree placed near a building could make a difference in hundreds of dollars for business and homeowners by producing savings of up to 56%, according to the USDA Forest service.

By all account's trees seem to be the solution to many issues, they can take on the heat island effect and manage stormwater. Trees reduce carbon emissions and when placed near buildings can lower energy costs. They are affordable, and the maintenance is not overbearing, a practical answer to a city's needs.

These improvements will increase, which reduces idling time, and by adding trees to better filter the stormwater runoff of Stateline this project will reduce the nitrogen oxides in the water and air; thereby reducing the pollution that the major avenue creates. The State Line Avenue project does keep in mind mitigating congestion and the heat island effect, mostly with the addition of trees 5 feet apart on either side of the road which will reap benefits for the transportation users, business owners, and visitors of Stateline Avenue.

(e) Quality of Life

Modeled after the APA's Sustaining Places Initiative, the overall Comprehensive Plan and State Line Avenue Cultural Corridor conceptual design utilized a best practices framework by focusing on creating a livable, healthy community in harmony with nature, creating a resilient local economy, incorporating social equity, and maintaining strong regional ties. The overall vision that serves as the foundation for the plan recommendations is to 'Renew connections and capitalize on opportunities to improve quality of life in Texarkana.' This vision is supported by nine goal themes and fifty-four goals that are linked to each of the action items in the implementation strategy.

The major plan components are organized into two main chapters. The 'Comprehensive City' chapter makes recommendations for how Texarkana can be more sustainable and more equitable through land use decisions, transportation investments, parks and trail amenities, and urban design. The 'Resilient Neighborhoods' chapter presents scenarios for the redevelopment of downtown and gives strategies to revitalize three historic neighborhoods. The implementation chapter identifies priorities, partnerships, and funding mechanisms for implementing those visions.

[5] (McPherson, E.G., J. R. Simpson, P. J. Peper, S. E. Maco, and Q. Xiao. 2005. Municipal Forest Benefits and Costs in Five US Cities. Journal of Forestry. 103(8):411-416.)

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The average home in Texarkana owns two cars, with almost 88% of people reporting that they drive to work. Less than 1% report utilizing the public transport and only 1.21% reported walking. These numbers may seem outrageous, but without bus shelters, designated stops, and sidewalks why would anyone choose to utilize other transportation when the roadways are designed for only cars in mind. As the section on safety on State Line Avenue demonstrated it is dangerous to walk on State Line Avenue, and utilizing public transport is not a comfortable or accessible choice for many due to the conditions and location of the T-line bus stops. The State Line Avenue project will increase choices by providing sidewalks for the entirety of the avenue and bus shelters with better placement of stops by amenities. This will increase connectivity from people's jobs, to stores, and healthcare services along this road. With this project the hope is decrease car usage and promote healthier lifestyles, thereby increasing quality of life for many. Including providing safer and more attractive transportation alternatives for those who have less social or physical mobility.

(f) Innovation

The State Line Avenue Cultural Corridor conceptual design used an innovative nodal approach to create a plan focused on revitalizing neighborhoods along the corridor and creating activity centers with enhanced education and employment opportunities.

Throughout the community engagement and analysis process, existing activity nodes were revealed throughout the corridor. During development of the future land use plan, the major existing community and employment centers were evaluated, and future activity node opportunities were identified to complement those conditions. When implemented, additional development in these defined nodes can enhance and expand on existing conditions and add value in the city. The defined nodes throughout the corridor are ideal locations to add new employment and educational centers that build off existing community amenities.

The identified nodes can create locations for a variety of development opportunities where land use, transportation, recreation, investment, and employment opportunities could be better connected. This planning approach helped define diverse neighborhoods and build a more resilient community. It also helped to prioritize investments and policies to target strategic locations along the roadway.

Innovative Technologies

Innovative technologies to be deployed include solar powered crosswalks signals, public internet access, LED technology, place-making and wayfinding signage, permeable paving technologies, storm-water filtering, and smart intersection technology.

Infiltration/Flow-Through Planters

These are landscape features that are designed to capture and infiltrate runoff. Infiltration is the process through which stormwater runoff penetrates the soil from the ground surface, then flows through planters, which can be located next to a building or near parking areas or sidewalks. The collected runoff during a storm event is then released into the soil. These are especially useful in tight urban spaces that need green space to manage stormwater efficiently and effectively.

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Rain gutters created alongside sidewalks can manage stormwater and reduce flooding in nearby green space or impervious spaces. It's a more affordable route that still renegotiates stormwater drainage. (pictures for explanation purposes)

Cool Pavements

Cool pavements, whether impervious or permeable, create an opportunity to lessen the heat island effect and manage storm water more effectively.

"Cool pavements reflect solar energy, or they may absorb less energy due to a lower mass and moisture characteristics. Cool paving and accompanying strategies can reduce urban temperatures to achieve energy savings during hot weather. The savings from cool paving have not been separately quantified, but increased reflectivity (albedo) of both paving and roofing by 0.1 is estimated to provide 5 to 7% annual savings. Reflective paving also reduces nighttime lighting requirements, such as streetlights, providing direct energy savings. On parking areas, these pavements may provide improved security through improved illumination" This concept is something that will be discussed to see what other cities that have implemented this.

Innovative Project Delivery

Building support for the State Line Avenue Cultural Corridor conceptual design began with the monthly meetings of the Renew Texarkana Comprehensive Plan Steering Committee; key stakeholders that are involved in implementing the plan were members of the Steering Committee, including the Mayor and a City Council representative. Having these members as part of the Steering Committee fostered support for the plan early in the process and made the implementation process smoother.

Innovative Financing

State Line Avenue links two TIRZ districts with a federally designated Opportunity Zone, and four "Qualified Census Tracts" as designated by HUD because of the percentage of people of Low to Moderate Incomes and the poverty rates of the neighborhoods. The project will leverage multiple sources of transportation and non-transportation financing including RAISE, National Endowment for the Arts (NEA) Art Works, Transportation Alternative Program (TAP) funds,

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federal transportation maintenance funds, state transportation maintenance funds, local funds using local water infrastructure and local funding from two separate municipalities

(g) Partnership

Key personnel representing their respective agencies in comprehensive planning and public works make up the project team. Project partners, Texarkana, Arkansas, Texarkana, Texas and the Texarkana MPO formed a working group to bring together the resources needed to apply regional planning, assessment, community engagement, environmental improvement, and redevelopment strategies to the Stateline Cultural Corridor project, traversing the multi-jurisdictional challenges posed by roads, rails, waterways, neighborhoods, and properties that straddle the state line. The Texarkana MPO is uniquely positioned to assist the two cities and two states, Texas DOT and Arkansas DOT, to bring this project to completion.

V. Project Readiness (See D.2. iv. (2) and E.1.ii)

(a) Technical Feasibility

Project resources have been dedicated to planning this project for more than seven years. Feasibility has been established by the Departments of Transportation for both Arkansas and Texas as well as the two Texarkana's public works departments. Relevant highly experienced technical advisors have contributed to the current plans

(b) Project Schedule

(1) This project will be ready to begin expending funds as required by the statutory deadline of September 30, 2031 for FY 2022 funds and will run concurrently with Arkansas and Texas DOT State Line road construction. Texarkana expects to begin working on this project as soon as awards are announced following the schedule below:

2023: Contracts, Surveys, and other documents prepared. Public Meetings held.

2024 - 2026: Construction on State Line Avenue moving north from the Courthouse to 24th Street. Construction from 24th Street to 52nd Street/IH 30 ramps begin. Construction from 24th Street to 52nd Street/IH 30 ramps completed.

2027: Close out processes initiated and completed.

2030: No significant activity. All funds expended prior to deadline.

(2) The project can begin construction quickly. RAISE Transportation funds will be spent prior to the deadline of September 30, 2031.

(3) No acquisition is necessary to establish right-of-way as referenced by 49 CFR part 24, 23 CFR part 710. This project will be implemented within the current footprint of State Line Avenue's rights of way and public private partnership to decrease driveways as part of this project's plans.

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(c) Required Approvals

(1) Environmental Permits and Reviews.

(a) NEPA status

Environmental reviews and NEPA clearances have been completed on multiple sections of State Line with other work by federal, state, and local resources. To date, environmental reviews have been routine, and have not posed significant challenges to any State Line projects in the past ten years.

Work on NEPA requirements will begin after the RAISE grant award announcement and before the 2026 obligation period, meaning some planning costs will be absorbed by the collection of projects due to concurrent status of the State Line Avenue Cultural Corridor with planned Arkansas DOT and Texas DOT work on State Line Avenue.

(b) Information on reviews, approvals, and permits by other agencies.

The Texarkana MPO, Texas Department of Transportation, and Arkansas Department of Transportation have committed to improving State Line Avenue and will work with the Texarkana MPO, Texarkana, Texas and Texarkana, Arkansas to complete approvals of planning and funding documents, formal and relevant permits.

State Line Avenue Cultural Corridor Project is a high priority project for this region. It is at the top of the list for the Texarkana MPO's Transportation Infrastructure Plan. The Arkansas Department of Transportation has approved $12 million for their portion of State Line Avenue. The State of Texas has pledged $12 million and to collaborate on the project in order to create the most cost effective and esthetically pleasing project.

Permits for the project will be obtained first by the State Departments of Transportation. The MPO and Cities will collaborate with the States to complete permitting as needed.

(c) Environmental studies or other documents

http://texarkanampo.com/documents/program-documents/Title%20VI_TXK_05192021_Signed%20Assurances.pdf

(d) A description of discussions with the appropriate DOT operating administration

The Texarkana MPO and both cities have engaged with the ARDOT and TxDOT to bring plans for improvements to State Line Avenue for many years. After more than five years, a strategy for moving forward has emerged. By allowing the MPO to act as a liaison for the cities and the states, the multi-jurisdictional issues can be overcome. The DOT's have decided that within their portion of the project, ARDOT will lead. If RAISE funds are made available, the project can proceed as envisioned.

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(d) Public Engagement

This region embarked on strategic planning processes to enhance Texarkana's economy through targeted, community inclusive planning processes. For example, the City of Texarkana, Texas considered the context of creating a new Comprehensive Plan[6], evaluating and incorporating previous planning for the city and surrounding counties on both sides of the state line. The Metropolitan Planning Organization's Texarkana Urban Transportation Study/Plan (through 2035), the Texarkana Bicycle and Pedestrian Master Plan 2017, the 2017 Sidewalk Inventory and Analysis all address the issues of aging infrastructure, decreased tax base, lack of jobs for residents in these communities, and redevelopment challenges. Other examples of community planning include the Northeast Texas Workforce Development Strategic Plan which explains the need for planning efforts to focus on the transportation corridors and the importance of these efforts to the economy and workforce in the region.

Along with these challenges, residents have identified community opportunities, goals, and priorities.

The community engagement process throughout the development of the corridor plan has been and will continue to be extensive. During the 18-month Comprehensive Plan process, over 30 stakeholder interviews were evaluated, Steering Committee meetings were held monthly, and three interactive public workshops occurred to engage the public at multiple stages throughout the plan development process. At each of the public workshops, students from a local university came to the meetings and provided their input. This was a result of a partnership with Texas A&M University – Texarkana.

The three public engagement workshops had over 300 attendees and the project website had over 6,000 visitors over the course of the project. Another unique engagement effort was the Community Dine on the Line event. Each year, the Main Street Texarkana organization puts on an event that brings together residents of both Texarkana, Texas and Texarkana, Arkansas to have dinner and visit with one another on the state line. During the event in 2016 the project team had a booth and boards which helped solicit input from a variety of citizens from both sides of the state line and educated the public about the future planning effort.

[6] https://www.ci.texarkana.tx.us/DocumentCenter/View/5051/Texarkana-Comp-Plan_2018-FINAL?bidId=

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Both cities have followed their required public engagement plans to approve Comprehensive Plans that incorporated the input of the broadest possible input. Our citizens spoke loud and clear:

In 2021, an additional 9 month long State Line Avenue Corridor plan was completed by MTG Engineers & Surveyors[7]. This ambitious corridor study has utilized the public's input from the very beginning of the study to discuss future objectives and to identify existing key corridor conditions and issues. To keep the community informed, there have been multiple public workshops to discuss the corridor plans and planning process. There were 3 meetings held and each made changes based on the input from those who attended in person or virtually. There was over 500 people that attended all the meetings combined. From there a vision statement was developed and designs and goals were developed from that. A Complete Street concept on State Line Avenue would be for the safety and mobility of the community, as well as using future design features to make the environment more inclusive to the public.

[7] http://www.texarkanampo.org/documents/publications/Final%20Corridor%20Plan.pdf

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Based on the concept, vision and goals, two alternatives were developed, and this project reflects ideas from both alternatives.

State and Local Approvals.

Both the Arkansas Department of Transportation and the Texas Department of Transportation have been deeply involved with planning for improvements to the State Line Cultural Corridor along with the Texarkana Metropolitan Planning Organization and the cities of Texarkana, Arkansas and Texarkana, Texas. Relevant approvals have been obtained or will be obtained provided an award for the project is received. Both cities will present this award to their respective City Councils for approval by the duly elected Council Members representing the citizens of both cities before a final contract for the award can be signed by the cities. The Texarkana MPO has authority to move forward with this project as it is in the appropriate planning documents. They will work with a contractor awarded through a competitive bidding process to submit documents on behalf of the MPO as primary applicant for Environmental Clearance and final plan approvals as required by the RAISE grant and both state DOT's.

In both cities, the RAISE grant contract will require approval of the duly elected respective City Councils. This process takes approximately six weeks from start to finish. Texarkana MPO has a policy board that will likewise approve acceptance of the award before entering into a mutually binding contract.

Federal Transportation Requirements Affecting State and Local Planning.

The State Line Cultural Corridor Project is included in all relevant State, Regional (Texarkana MPO) and Local planning documents in accordance with federal transportation requirements as appropriate. Each entity is experienced with federal awards and the attendant responsibilities, having managed many federal grant programs over the years.

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Assessment of Project Risks and Mitigation Strategies

Material Risks to the project include the following categories:

Risk Category	Most Significant Material Risks for This Project	Applicants' Strategy for Mitigation
Environmental Risk	Design changes require additional Environmental analysis	**Produce environment analysis for current designs**
External Risks	Permits or agency actions delayed or take longer than expected. Or Health Crisis	**Keep timeline up to date and provide a buffer for unforeseen circumstances**
Design Risk	Incomplete quantity estimates	**Ensure quantity estimates are done efficiently and effectively**
Engineering Services Risk	Delay due to traffic management and lane closure for geotechnical subsurface exploration	**Keep the public informed of all delays and provide alternate routes**
Right of Way Risk	Utility relocation requires more time than planned	**Keep timeline up to date and provide a buffer for unforeseen circumstances**
Construction Risk	Inaccurate contract time estimates	**Research and provide accurate contract time estimate and provide a time buffer before project end date**
Project Management Risk	Unplanned work that must be accommodated	**Utilize time buffer worked into timeline to accommodate new workload**
Organizational Risks	**Delays in getting approvals, decisions**	**Work efficiently and effectively towards finishing project, provide time buffer for unforeseen circumstances.**

The DOT's represented in this application have advised on the pre-requisite steps to obligate Federal funds to ensure the schedule is reasonable. The project timeline is well within reasonable expectations for completion, even if/when unforeseen risks become apparent. The three applications and two state DOTs' have ample contract/road construction experience. A two-year time buffer was built into the program design to mitigate project delays.

The City of Texarkana, Texas has the capacity to manage the financial and contractual obligations of this project, including insuring that all federal grant requirements are met in a timely manner. Both cities manage approximately $40,000,000 budgets per year. Both cities also

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maintain large staffs and can bring more resources to this project to provide the financial, contractual, and reporting obligations.

VI. Benefit Cot Analysis (See D.2.vi. and E.1. iii.)

Benefit Cost Analysis Summary

State Line Avenue has a unique position as a corridor as it also functions as the state line for Texas and Arkansas. It plays a major role in the naming of Texarkana and therefore should be a focal point of the city; after all the city has touted it is "Twice as Nice." However, as growth spreads outwards, State Line Avenue has been left in limbo; with growth only occurring sporadically and without regulations to create the eyesore we see today. It should be a boulevard into the heart of historic downtown Texarkana, a hub of culture for the area. Instead, it is a conglomerate of commercial, residential and urban with a dwindling safety resources and accessibility for visitors. State Line Avenue is in desperate need of an overhaul to become a main corridor, growth hot spot, eco-friendly, job-creating, and cultural center that it should be.

Benefit-Cost Ratio

The total value of benefits that would be accrued if the proposals for State Line Avenue were put in place is $424,156,570.41. The total sum costs were $ $48,948,907.58. By using the benefit-cost ratio we receive a ratio of $424,156,570.41/ $48,948,907.58= 8.66. The BCR is incredibly high, which means that the project has a plethora of benefits to outweigh the costs. This ratio representants that not only does the project have the potential to succeed in renovating State Line Avenue into a more positive experience, but it could transform the area into a prized cultural corridor.

Please see Appendix 1 for the Benefit Cost Analysis

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Appendix 1: Benefit Cost Analysis.

Baseline

The current state of State Line Avenue is a 4-lane main corridor with a major intersection with IH 30 and is a main route into the historic downtown of Texarkana Texas and Arkansas. State Line Avenue encompasses commercial, residential and urban aspects along a 3-mile route, allowing for an abundance of opportunities for growth, though in many areas this has become stagnate over the years. Consistent commercial growth rallies around the IH 30 intersection, where travelers can exit for easy access. Because of this, the traffic is most heavy around the IH-30 intersection and lessens as the Avenue reaches downtown Texarkana. There are too many signaled intersections which slow traffic considerably during rush hours. Due to its lack of sidewalks and crosswalks, pedestrian and bicyclists face many safety issues while traveling on State Line Avenue. The traffic signs along the entire stretch only address vehicles, and because of this a “free-for-all” attitude about crossing State Line Avenue has ensued - a hazard for the pedestrians and cars alike. State Line Avenue has become a public safety concern in this regard. Recorded accidents for 2016 and 2017 show a cluster in the urban downtown area as being the most popular for collisions with minor injuries. However, this crash data does not represent the abundance of curb cuts on State Line Avenue, which makes turning and maneuvering especially difficult during high traffic hours. Though many bus stops are located along the main corridor for the Texarkana Public Transportation, T-line, there are few marked areas to wait; this creates dangerous situations for patrons of this service and traffic as a whole. The commercial area close to IH-30 benefits from a few better-landscaped areas, but these decline increasingly as State Line Avenue becomes residential and then urban. This increases environmental concerns regarding storm water runoff and pollution through emissions, which is not well managed by a lack of filtration systems and an abundance of impervious surfaces. As a main corridor of Texarkana, Texas and Arkansas it has been badly unkept, resulting in growing maintenance and operational costs that need to be addressed now while the economic climate is currently in a better state than in past years. State Line Avenue has suffered from loss of public interest due to growth moving eastward, resulting in an increasing loss in revenue, tourism, visitor dollars and tax revenue for the area. The local economy could be blamed for such a decline, especially in the recent recession, but State Line Avenue has failed to meet community needs for much longer. If the project is unable to be funded, this state of State Line Avenue will only continue, creating adverse effects for the local community and Texarkana as a whole. See Appendix 5 for photographs illustrating the current state of State Line Avenue.

Alternative

The proposed changes to State Line Avenue are to decrease lane widths to incorporate a more pedestrian and biker friendly atmosphere. The corridor would have six lanes for the commercial area in the north and maintain its four lanes the urban area in the south, with a center turn lane setup.

In addition, a buffer zone would be introduced with a brand-new sidewalk to accompany the entire State Line Avenue. The buffer zone would include added vegetation and trees; this will not only provide much needed shade for the Texas heat, but aid in stormwater management and

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emission reduction. Filtration systems will be added for stormwater management as well, helping to make State Line Avenue more nature friendly.

Bus Stops with benches and awnings will be introduced to provide cover for shade or unforeseen weather, while marking the spot where the T-line buses would be expected to stop for passengers. Crosswalks will be placed at all major intersections to create a safer way for pedestrians and bikers to cross one of the busiest roads in Texarkana. New signals will be set up in order to make pedestrians, bikers, vehicles and buses all travel smoothly together. The removal of 3 traffic lights along State Line Avenue will speed up traffic by twelve minutes, which will attract people to choose this route as an alternative and create better travel times during rush hours. The overarching goal is to improve quality of life on State Line Avenue; in turn, this will increase property values, and attract people to the historic downtown. As one of the main corridors of Texarkana is renovated to a more attractive, safe and dynamic space, the hope would be that it becomes the yellow brick road to an incredible cultural hot spot in downtown Texarkana, Texas and Arkansas.

Costs and Benefits

In order to perform a Cost-Benefit Analysis the costs of the proposed project must be outlined as well as the benefits. The costs of the proposed project are listed in Table 1 and the benefits in Table 2. The costs involve the technical work of redoing the lane widths, adding over 3 miles of sidewalks, and the addition of much needed safety upgrades. The benefits showcase how these costs will have a positive effect on Texarkana economically, naturally, culturally and aid in prosperity.

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Opinion of
Probable Cost

State Line Improvements

ITEM NO.	QUANTITY	UNIT	TxDOT Item #	DESCRIPTION	UNIT PRICE	NEW UNIT PRICE	TOTAL
1	1	LS	500	Mobilization	$375,000.00	2%	$760,000.00
2	105	STA	100	Prep ROW	$3,800.00	$4,500.00	$472,500.00
3	24	MO	502	Barricade, Sign, and Traffic Handling	$7,500.00	$11,000.00	$264,000.00
				Earthwork			
4	20,000	CY	110	Common Excavation	$12.00	$20.00	$400,000.00
5	14,000	CY	132	Common Embankment	$15.00	$30.00	$420,000.00
6	3,760	CY	132	Select Fill	$18.00	$30.00	$112,800.00
7	3,760	CY	110	Undercut	$12.00	$20.00	$75,200.00
				Demolition and Abandonment			
8	68,922	SY	104	Remove Concrete Pavement	$17.00	$30.94	$2,132,446.68
9	6,513	SY	104	Remove Concrete Sidewalk	$12.00	$18.44	$120,099.72
10	10,029	SY	104	Remove Concrete Driveways	$14.00	$30.94	$310,297.26
11	3,537	SY	105	Remove Asphalt Driveways	$10.00	$15.00	$53,055.00
12	29,680	SY	105	Remove Asphalt Pavement	$10.00	$15.00	$445,200.00
13	85	EA	610	Remove Light Pole and Foundations	$750.00	$1,000.00	$85,000.00
14	140	EA	636	Remove Signs	$50.00	$75.00	$10,500.00
15	22	EA	680	Remove Traffic Signal Pole and Foundation	$3,500.00	$4,000.00	$88,000.00
16	22	EA	7124	Remove & Replace Fire Hydrant Assembly	$3,700.00	$4,500.00	$99,000.00
17	14	EA	479	Remove & Replace Sanitary Sewer Manhole	$3,000.00	$5,000.00	$70,000.00
18	16	LF		Remove or Abandon 2" Water Line	$1.00	$1.25	$20.00
19	2,618	LF		Remove or Abandon 4" Water Line	$1.00	$1.25	$3,272.50
20	3,880	LF		Remove or Abandon 6" Water Line	$1.00	$1.25	$4,850.00
21	4,455	LF		Remove or Abandon 8" Water Line	$1.00	$1.25	$5,568.75
22	2,468	LF		Remove or Abandon 10" Water Line	$1.00	$1.25	$3,085.00
23	2,638	LF		Remove or Abandon 12" Water Line	$1.00	$1.25	$3,297.50
24	8	LF		Remove or Abandon 16" Water Line	$1.00	$1.25	$10.00
25	883	LF	7127	Remove or Abandon 6" Sewer Line	$1.00	$1.25	$1,103.75
26	281	LF	7127	Remove or Abandon 8" Sewer Line	$1.00	$1.25	$351.25
27	96	EA		Remove Inlets	$2,500.00	$3,000.00	$288,000.00
28	7,000	LF	472	Remove 18" RCP Culvert	$15.00	$25.00	$175,000.00
29	458	LF	472	Remove 24" RCP Culvert	$15.00	$25.00	$11,450.00
30	204	LF	472	Remove 30" RCP Culvert	$15.00	$25.00	$5,100.00
31	2	EA		Remove Junction Box	$1,250.00	$2,000.00	$4,000.00
32	13	LF	472	Remove 4'X4' Box Culvert	$45.00	$75.00	$975.00
33	5,570	LF	472	Remove 36" RCP Culvert	$20.00	$40.00	$222,800.00
34	100	LF	472	Remove 42" RCP Culvert	$25.00	$50.00	$5,000.00
35	70	LF	472	Remove 4'X3' Box Culvert	$45.00	$75.00	$5,250.00
36	60	LF	472	Remove 6'X3' Box Culvert	$45.00	$75.00	$4,500.00
				Street & Storm Construction			
37	13,566	SY	530	Install Concrete Driveways	$80.00	$140.00	$1,899,240.00
38	98,602	SY	360	Install Concrete Pavement	$90.00	$120.00	$11,832,240.00
39	108,640	SY	260	Lime Treated Subgrade	$4.00	$4.50	$488,880.00
40	2,173	TON	260	Lime	$150.00	$170.00	$369,376.00
41	34,511	GAL	310	Asphalt Prime (MC-30)	$4.75	$5.00	$172,553.50
42	21,692	TON	340	Asphalt Pavement Type D	$115.00	$193.00	$4,186,640.92
43	96	EA	465	Install Inlets	$5,500.00	$7,000.00	$672,000.00
44	7,000	LF	472	Install 18" RCP Culvert	$48.00	$75.00	$525,000.00
45	458	LF	472	Install 24" RCP Culvert	$55.00	$90.00	$41,220.00
46	204	LF	472	Install 30" RCP Culvert	$72.00	$115.00	$23,460.00
47	2	EA	465	Install Junction Box	$6,500.00	$10,000.00	$20,000.00
48	13	LF	472	Install 4'X4' Box Culvert	$400.00	$640.00	$8,320.00
49	5,570	LF	472	Install 36" RCP Culvert	$75.00	$120.00	$668,400.00
50	100	LF	472	Install 42" RCP Culvert	$80.00	$130.00	$13,000.00
51	70	LF	472	Install 4'X3' Box Culvert	$375.00	$600.00	$42,000.00
52	60	LF	472	Install 6'X3' Box Culvert	$550.00	$880.00	$52,800.00
53	140	EA	636	Install Signs	$850.00	$950.00	$133,000.00
54	22	EA	680	Install Traffic Signal Pole and Foundation	$100,000.00	$130,000.00	$2,860,000.00
55	367		666	Pavement Marking Symbols & Words	$275.00	$275.00	$100,925.00
56	3,500		666	Pavement Marking (W) 8" SLD	$0.75	$1.00	$3,500.00

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57	3,500		666	Pavement Marking (W) 24" SLD	$15.00	$20.00	$70,000.00
58	4,000		666	Pavement Marking (W) (4") BRK	$0.75	$1.00	$4,000.00
59	4,000		666	Pavement Marking (W) (4") SLD	$0.75	$1.00	$4,000.00
60	40,000		666	Pavement Marking (Y) (4") SLD	$0.75	$1.00	$40,000.00
61	2,000	EA	666	Raised Pavement Marker	$2.60	$3.00	$6,000.00
62	1	LS	668	Construction Pav Markings	$40,000.00	$50,000.00	$50,000.00
63	23,333	LF	506	Install Silt Fence/Straw Wattle	$3.00	$4.00	$93,332.00
64	5	EA	506	Install Concrete Washout	$750.00	$850.00	$4,250.00
65	96	EA	506	Install Inlet Protection	$300.00	$400.00	$38,400.00
				Utilities			
66	85	EA	610	Install Street Light Pole and Fixture	$3,100.00	$3,500.00	$297,500.00
67	85	EA	610	Install Street Light Pole Foundation	$650.00	$1,500.00	$127,500.00
68	64	EA		Install Gate Valves	$275.00	$440.00	$28,160.00
69	16	LF		Install 2" Water Line	$10.00	$16.00	$256.00
70	2,618	LF	5314	Install 4" Water Line	$16.00	$45.00	$117,810.00
71	3,880	LF	5314	Install 6" Water Line	$18.00	$40.00	$155,200.00
72	4,455	LF	5314	Install 8" Water Line	$21.00	$50.00	$222,750.00
73	2,468	LF	5314	Install 10" Water Line	$24.00	$55.00	$135,740.00
74	2,638	LF	5314	Install 12" Water Line	$30.00	$60.00	$158,280.00
75	8	LF	5314	Install 16" Water Line	$40.00	$65.00	$520.00
76	1,164	LF	7017	Install 8" Sewer Line	$20.00	$60.00	$69,840.00
				Pedestrian/Bike Facilities			
77	14,600	LF	531	8' Shared Use Path (Both Sides)		$130.00	$1,898,000.00
78	284	EA	531	Install Curb Ramps	$1,750.00	$2,270.00	$644,680.00
79	3	EA		Pedestrian Hybrid Beacon System Crossing		$65,000.00	$195,000.00
80	150	EA		Pedestrian Ornamental Street Lights (18')		$5,500.00	$825,000.00
				Street Furniture			
81	15	EA		T-Line Bus Shelters & Benches	$2,250.00	$12,000.00	$180,000.00
82	60	EA		Trash Receptacle (Metal)		$1,500.00	$90,000.00
83	10	EA		Bicycle Rack (Metal)		$1,000.00	
84	60	EA		Pedestrian Bench (Metal)		$3,000.00	
85	1	LS	162	Landscaping			$0.00
				Cultural Enhancements			
86	5,800	LF		Upgraded Stamped Concrete Cross Walks		$125.00	$725,000.00
87	450	EA		Street Banners & Brackets		$750.00	$337,500.00
88	2	EA		Colossal Flag (150' Tall)		$35,000.00	$70,000.00
89	2	EA		Flag Lighting		$25,000.00	$50,000.00
90	2	EA		Columns (16' Masonry Pair)		$20,000.00	$40,000.00
91	4	EA		Twin Parks Concept (Allowance per park)		$45,000.00	$180,000.00
92	1	EA		Stateline Crossing Experience		$20,000.00	$20,000.00

Total Amount of Bid-Items 1 through 83		**$37,653,005.83**
Contingency	*10%*	*$3,765,300.58*
Surveying & Design Engineering	*10%*	*$3,765,300.58*
Construction Engineering/Material Testing	*10%*	*$3,765,300.58*
Total		**$48,948,907.58**

MTG engineers & surveyors

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Table 2. Benefits of the Alternatives with Assessed Values

Benefits	Value
Value of Travel Time Savings (North State Line Avenue)	$75,923.85
Value of Travel Time Savings (Middle State Line Avenue)	$61,922.76
Value of Travel Time Savings (South State Line Avenue)	$43,267.65
Safety Benefits	$388,573,650.60
Emission Reduction	$90,096.00
Property Value Increase	$4,027,975.88
Reliability	Qualitative*
Light Pole, Fixture, and Foundation	$425,000.00
Sidewalks and Ramps	$9,758,820.00
New Traffic Signals	$2,860,000.00
Bus Stop Benches and Aprons	$180,000.00
Cultural Enhancements	$1,422,500.00
Tourism	$5,347,927.00
Trees and Landscaping	$566,666.67
Local Businesses	Qualitative*
Planned Development	$10,722,820.00
Total	**$424,156,570.41**

*Some of the benefits are not able to be measured and instead tend to be better described qualitatively. This causes a hole in the quantified benefits to which every person will assign meaning to differently. The value of State Line Avenue and how it has defined cultural growth of Texarkana gives value to what cannot be monetized. Look below for more information on Reliability and Property Value Increases.

The computations for Benefits are listed below in order of Table 2.

Value of Travel Time

The MPO's 2021 Traffic Counts conducted for city of Texarkana showed that for North State Line Avenue 25,421 vehicles per a year were used. For the middle, residential area of State Line Avenue, 20,863 vehicles per a year were utilized. The southern urban area of State Line Avenue had a traffic count of 14,571 vehicles per a year. These counts were conducted by a tube laid across the road; when a vehicle drives over the tube, the number of axles is counted and divided by two. This can produce error if a car has an odd number of axles or has a trailer hitched where the computer might believe it to be more cars than in actuality. Three stoplights will be removed who were deemed unnecessary for the flow of traffic. The cycle of stoplights allows for travel

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south down State Line Avenue to be 12 minutes faster. Due to this change, we expect an increase in usage for the North of State Line Avenue to be 30,000 vehicles, middle State Line Avenue to be 22,000 and Southern State Line Avenue to be 15,500. This is due to the average traffic counts of the area and the growth that area is forecasted to have. According to the USDOT, the value of time for all purposes of vehicle travel is $14.80 per an hour.

North State Line Avenue: VTT (existing) = 14.80/hr. x 0.2 hr. x 25,421 trips per year = $75,246.16 VTT (new) = 14.80/hr. x .02 hr. x 0.5 x 4,579 trips per year = $677.69
VTT = $75,246.16 + $677.69 = $75,923.85
Middle State Line Avenue: = VTT (existing) = 14.80/hr. x 0.2 hr. x 20,863 trips per year = $61,754.48
VTT (new) = 14.80/hr. x .02 hr. x 0.5 x 1,137 trips per year = $168.28 VTT = $61,754.48 +$168.28 = $61,922.76
South State Line Avenue: = VTT (existing) = 14.80/hr. x 0.2 hr. x 14,571 trips per year = $43,130.16
VTT (new) = 14.80/hr. x .02 hr. x 0.5 x 929 trips per year = $137.49 VTT = $43,130.16 +$137.49 = $43,267.65

Safety Benefits

State Line is one of the more dangerous corridors in Texarkana, with car collisions happening daily due to a lack of many safety considerations that are included in our proposed plan. It's incredibly important to make State Line Avenue a safer and more accessible corridor for visitors and residents. According to TxDOT and MPO Texarkana crash data, there were 6,862 total car crashes on State Line Avenue. Due to the improvements we are making to State Line Avenue in the form of crosswalks, new safety signals, sidewalks and other improvements, the reduction of risk is close to 50%. Over half of the wrecks included no Injury which relates to $3,200 in benefits as suggested by USDOT. The rest were, incapacitating, which is $459,000.

Table A. Crash Data with KABCO Levels and Monetized Values

KABCO Level	No Injury	Possible Injury	Non-Incapacitating	Incapacitating		Killed	Total
# of Crashes	4,074	1,546	936	213		48	6,817
% of Total Crashes	0.598	0.227	0.137	0.031		0.007	1.00
USDOT Monetized Value	3,200	63,900	125,000	459,100		9,600,000	-

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Reduction Benefit = 6,862 crashes/year x 50% risk reduction x (0.598 x 3,200 + 0.227 x 63,900 + 0.137 x 125,000 + 0.031 x 459,100 +.007 x 9,600,000)
The total benefits were $388,573,650.60

Emission Reduction

By increasing the speed of traffic, which reduces idling time, adding trees, and helping to better filter the stormwater runoff of State Line Avenue, we will reduce the nitrogen oxides in the area by 12 short tons. The USDOT suggests that the monetized value for one short ton is $7,508 for Nitrogen Dioxides. Nitrogen Dioxides Reduction Benefit = 12 short tons x 7,508/short tons Nitrogen Dioxides Reduction Benefit = $90,096

Property Value Increase

State Line Avenue contains many parcels, all of which have buildings of varying value that are anywhere on the spectrum of low to high. With the proposed changes, accessed values for these parcels will increase according to a study commissioned by the Robert Wood Johnson Foundation-Active Living Research (Ewing and Shoup 2010), “complete, compact, and connected communities” increase land values about 5-12%. This is a one-time additional value for the property, the value of a walkable network put in place by the plan for State Line Avenue will average 7%. It is no surprise that the higher in value land assets are located around the commercial center at the IH 30 intersection. This area, reaching from the interstate intersection to 32nd street is valued at $34,894,000. This would mean the property values for the areas would increase by 7% or $2,442,580 after the addition of the buffer, sidewalks and improved transportation networks to make the area much more interconnected and less of an eyesore. The urban area, which begins at 20th street intersection and ends on Front Street, has parcels that combined value around $18,500,000, which grow by $1,300,000 (7%). This area especially would benefit from the cosmetic and safety features proposed, allowing the possibility of more business to fill the empty buildings and overturn the season of neglect in downtown Texarkana. The residential middle area of State Line Avenue is valued at $4,077,084 and will grow by $285,395.88 (7%). This project would increase property values by adding more transportation opportunities, adding appealing landscaping and providing easier access to the homes in the neighborhoods beyond State Line Avenue. It would be an effective facelift for neighborhoods who fell into decline. With the proposed changes in place, State Line Avenue is set to inherit a sizeable property value increase which will not only benefit the parcel owners but also the city of Texarkana. The total property value increase is (Commercial) $2,442,580 + (Urban) $1,300,000 + Residential) $285,395.88 = $4,027,975.88.

Reliability

This is a benefit that though incredibly important to the daily lives of the people who live in Texarkana cannot be quantified. Reliability deals with how dependable the traffic patterns are on the State Line Avenue corridor. The patterns here tend to stay consistent with other city’s major corridors; large crowds during mealtime hours and heavier traffic during rush hours. However, State Line Avenue has a tendency towards heavier traffic near the IH 30 intersection and then a

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gradual fade of frenzy towards the urban downtown area. The reliability is high, people who frequent the area can expect the same amount of traffic at the same time of day, excluding construction or collisions. This aspect of life will change only slightly with the implementation of changes for State Line Avenue, mostly in a positive way. It will increase the traffic, increasing economic gain for the area. Commercial growth will continue, and more people will frequent the area as a result. The reliability of the area will not change drastically, in fact, residents of State Line Avenue will have new opportunities to travel on bikes or walk to destinations. The addition of these transportation options along with bus stops for the T-line will balance out the additional vehicle traffic, keeping the reliability of State Line Avenue in check.

Cultural Enhancements

Cultural Enhancements include all transportation related improvements such as lighting, crosswalks, signage, public transport shelters, environmental protection, and stormwater management that are sensitive to the local culture and reflect that in design. These will be able to enhance State Line Avenue's already historic past and encourage cultural place-making along the corridor. The cost of the culturally sensitive functional safety additions is $1,422,500, though not adding the qualitative feeling of having a cultural corridor that represents the residents of Texarkana which is priceless.

Tourism

State Line Avenue is a main route into the heart of downtown Texarkana, a cultural district with deep historic routes. Tourism plays a major role in the upkeep of the southern aspects of State Line Avenue and will only continue to be profitable if changes are made to attract more people down the corridor. In a 2016 study performed by the Texarkana Planning and Community Development Department, the importance and influence on the local community of the Arts and Historic District was showcased. 99,812 people attended cultural events in downtown Texarkana, and the total average cost of attending the Perot Theatre, a well-preserved historic icon, was $53.58 per a person. This average includes hotel rooms, childcare, tickets and other costs. The grand total of assets gained by were $5,347,927, all of which aided in growing the local community economically. State Line Avenue plays a generous role in transportation to the Perot Theatre and the cultural district, so by enhancing State Line Avenue, tourism will grow benefitting the historic Texarkana, Texas and Arkansas. With better tourism opportunities, the city will receive more tourism dollars, which can be put back into making State Line Avenue a true cultural avenue.

Trees and Landscaping

In the proposed plan trees would be placed around at increments of 8 feet along the entire corridor in the buffer space provided, which would mean close to 4,000 trees are needed to cover the stretch. The benefit of trees to an area is close to a benefit of almost $100 per a tree, according to a study performed by Houston Advanced Research Center which investigated decreasing the heat island Effect in Dallas. The value of placing a tree in an area with an

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abundance of impervious surfaces, which State Line Avenue has an abundance of, is quite high due to the services tress can provide such as storm water management, reduction of toxins and emission pollutants, and shade protection which reduces the heat island effect effectively

Local Businesses

The state that State Line Avenue is in currently limits growth, and is unappealing for new businesses to move in. With the proposed changes, the corridor would be much easier to navigate and introduce two new forms of transportation which would make accessibility to business better overall. It would create more opportunities for local businesses, allowing people to be better equipped to travel to their locations. The commute on State Line Avenue would be quicker and much more enjoyable then the present state. The proposed changes would attract more visitors off IH 30 which would increase growth for business along State Line Avenue. Local businesses would clearly benefit from the proposed changes, bringing more consumers and creating better accessibility for the corridor. Quantifying this benefit is nearly impossible, since we have no way of knowing what the local business might become, it's revenue annually, or the impact on the community. However, local businesses create a stronger sense of community and do encourage cultural pride in an area which in time can develop to positive economic results.

Planned Development

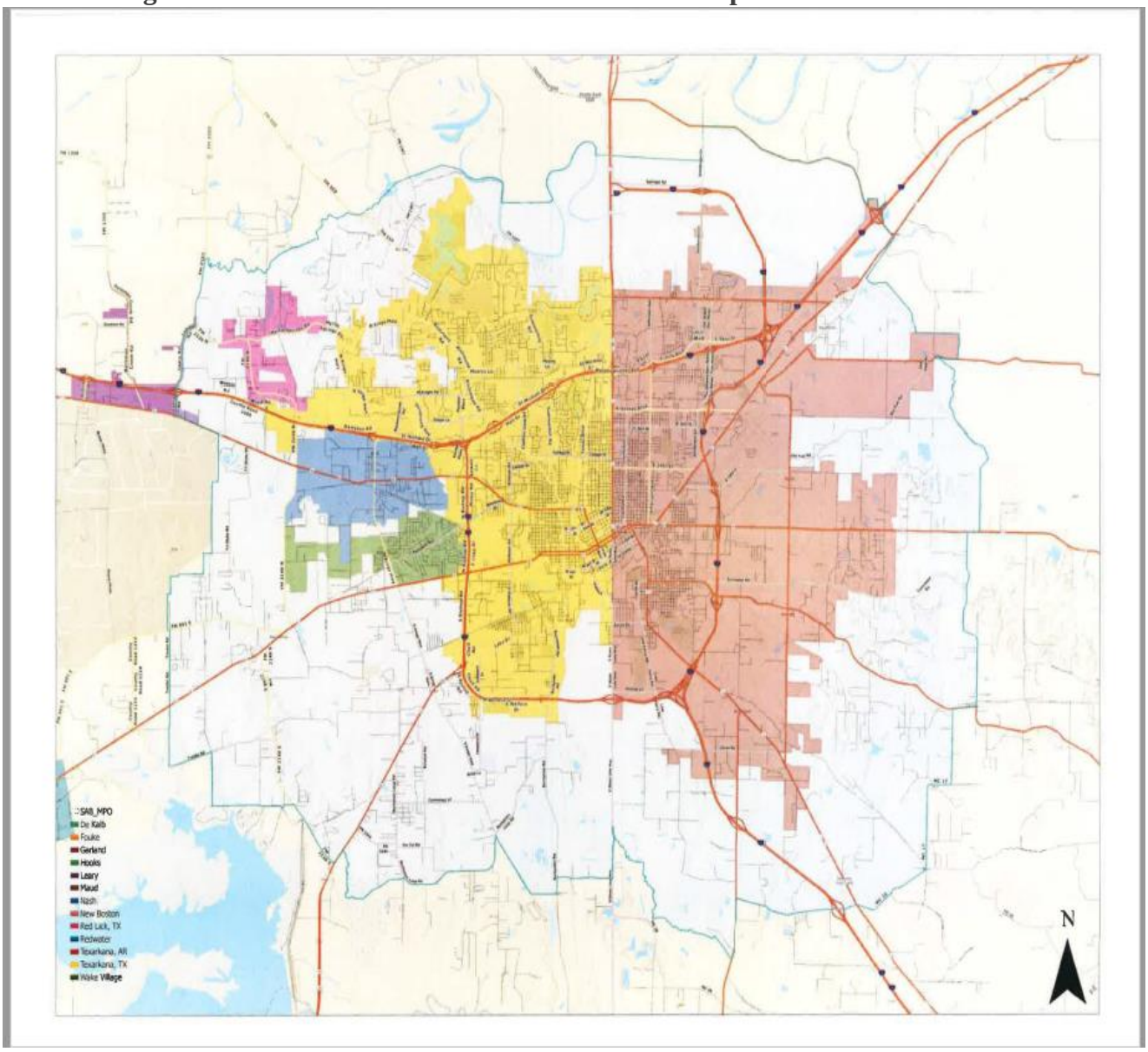
The City of Texarkana has four public investment projects in progress that could be jeopardized if the proposed work for State line Avenue in unable to be fulfilled. The Courthouse, a historic icon of Texarkana that is built on the stateline of Texas and Arkansas and serves both states, is getting a facelift in the square that surrounds it. This will enable the location to become even more of a destination, this project is $650,000 and is CIP funded 2017. Many of the street's downtown are one-way and have become hazardous because of visitors who may lack directional knowledge of the area and street smarts. The conversion to two-streets and on-street parking has been completed to provide a safer and more accessible downtown to everyone, this project is also CIP funded at $130,000. The historic Perot Theatre is being renovated to better serve future generations, it one of the major symbols of Texarkana downtown and is essential to the preservation of cultural district. The Perot renovation is CIP funded at $4,600,000. The improvements to the courthouse square, with the addition of electric charging stations at $742,820. Lastly, the Art Block, a new space for culture and innovation to be presented will increase activity downtown and create more an appealing space for visitors. This last is CIP and is also $4,600,000. State Line Avenue is a direct line to all these projects that will be soon be underway, if the main corridor is not renovated into less of an eye sore these investments may fall to the wayside or fall through entirely. However, if State Line Avenue undergoes the proposed changes, becoming a focal point of Texarkana as it should have been then these projects will be able to flourish.

Total Planned Development = $650,000 +$130,000 + $4,600,000 +$4,600,000+ $742,820 =$10,722,820

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Appendix 2: Maps and Images

Figure 1: Texarkana Urbanized Area Overview Map

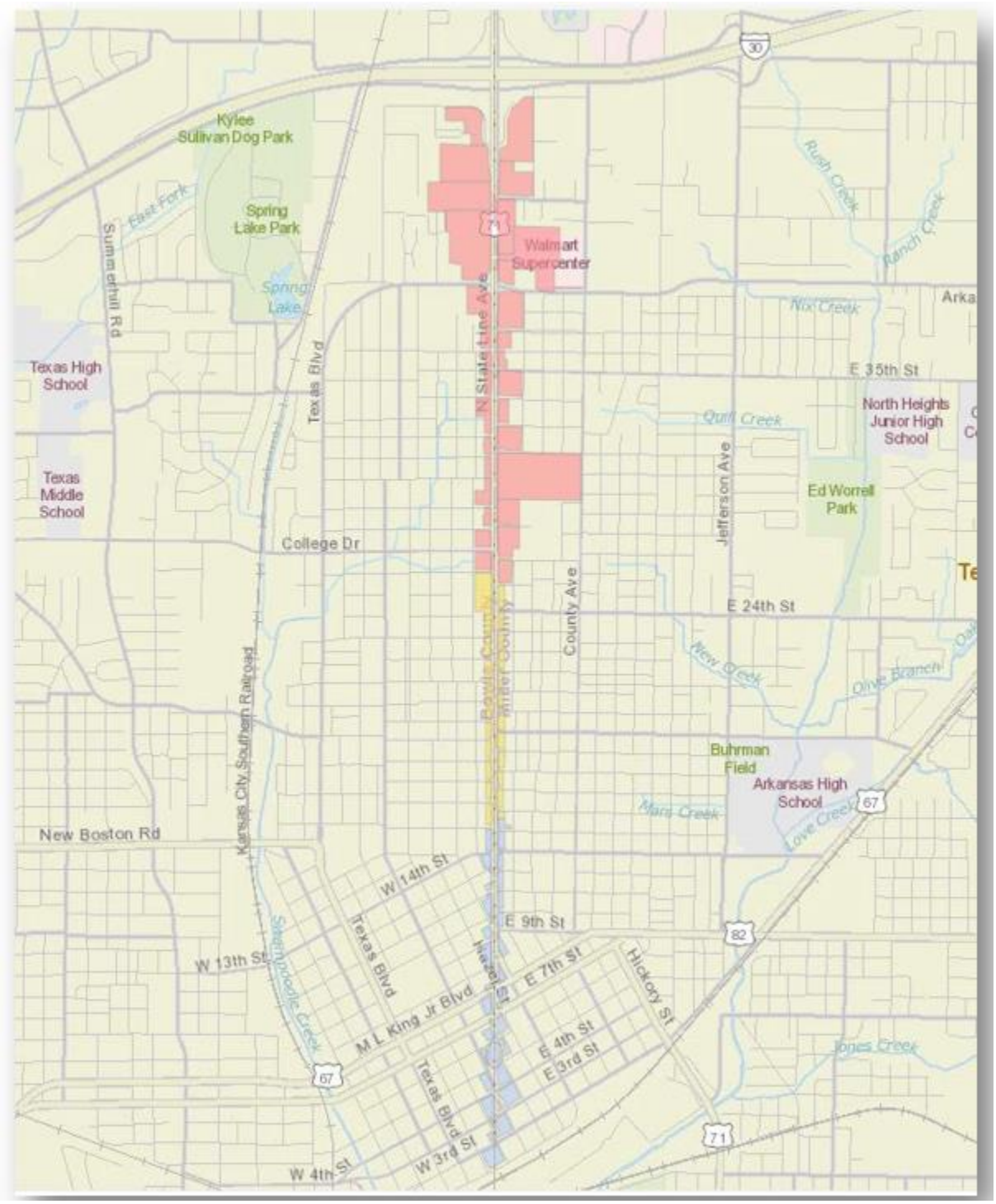


Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Figure 2: State Line Avenue Cultural Corridor Project Location and Overview

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Figure 3: State Line Avenue Cultural Corridor and District Overlay Detail Map

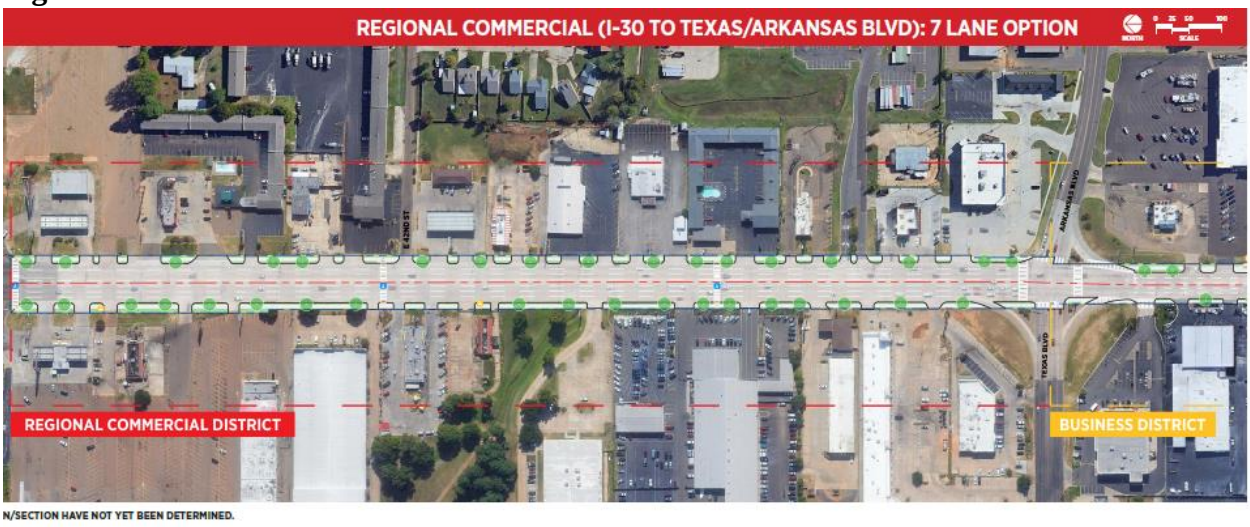


Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

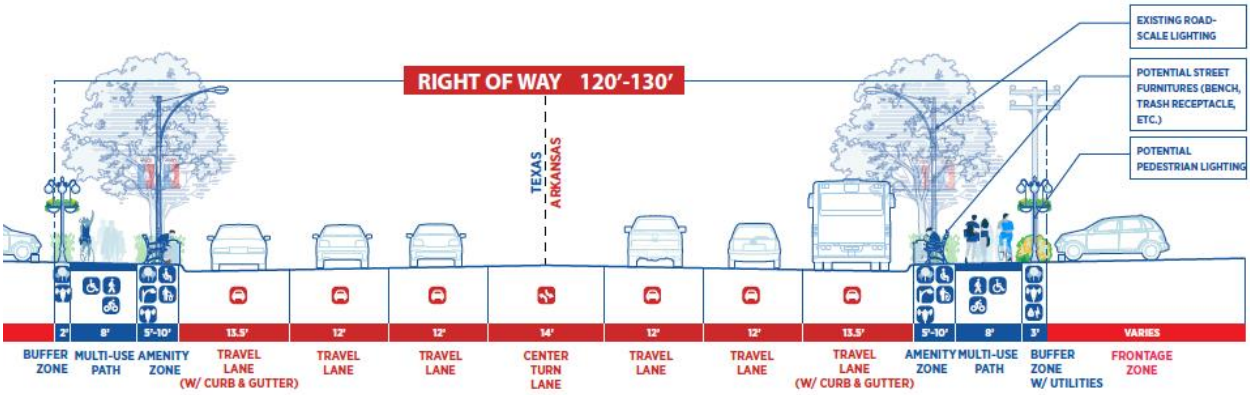
State Line Avenue Unique Undertaking and Cultural Corridor and District Overlay Strategy Images

See the following pages. All are conceptual and subject to change to better fit state and federal regulation. These designs are from the Texarkana Metropolitan Planning Organization 2021 State Line Avenue Corridor Study.

Figure 4: Commercial District

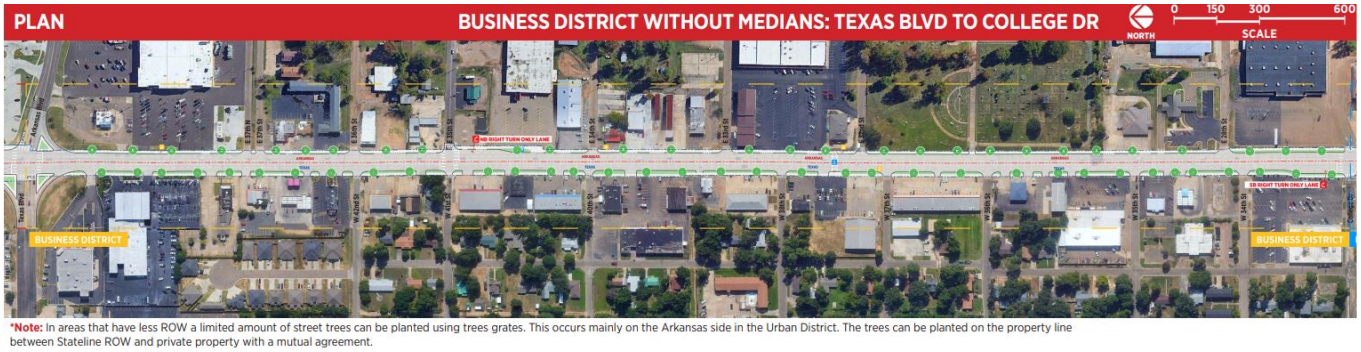


N/SECTION HAVE NOT YET BEEN DETERMINED.

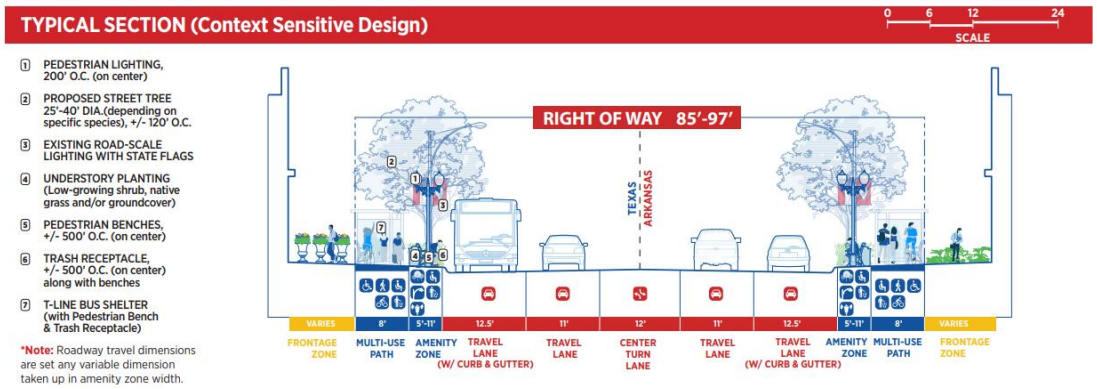


Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Figure 5: Business District

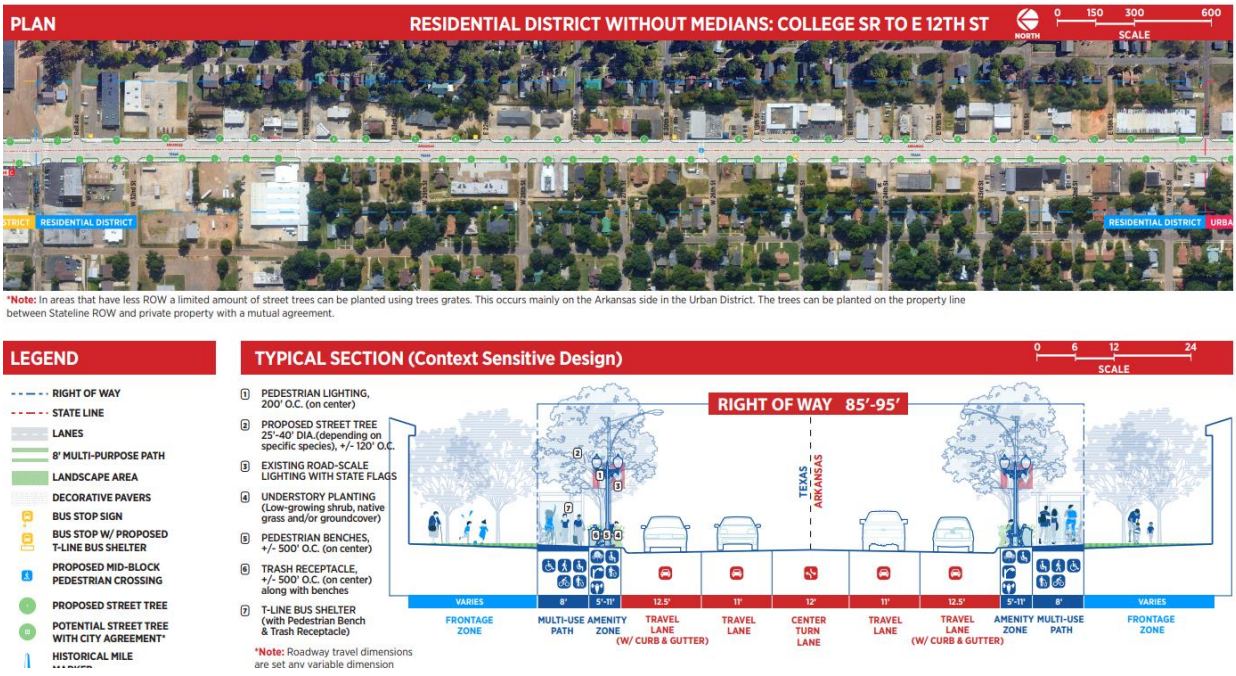


*Note: In areas that have less ROW a limited amount of street trees can be planted using trees grates. This occurs mainly on the Arkansas side in the Urban District. The trees can be planted on the property line between Stateline ROW and private property with a mutual agreement.



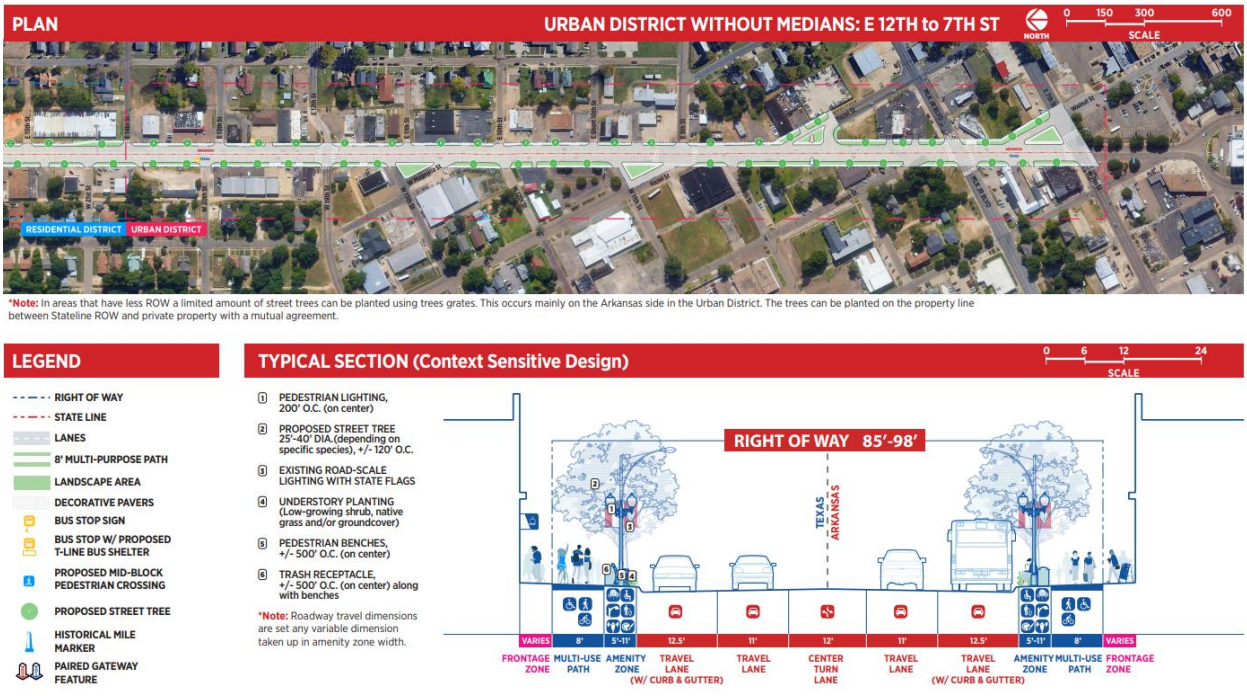
Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Figure 6 Residential District



*Note: In areas that have less ROW a limited amount of street trees can be planted using trees grates. This occurs mainly on the Arkansas side in the Urban District. The trees can be planted on the property line between Stateline ROW and private property with a mutual agreement.

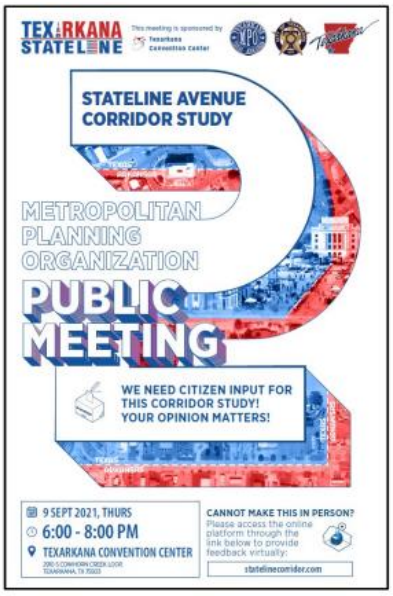
Figure 7: Urban District

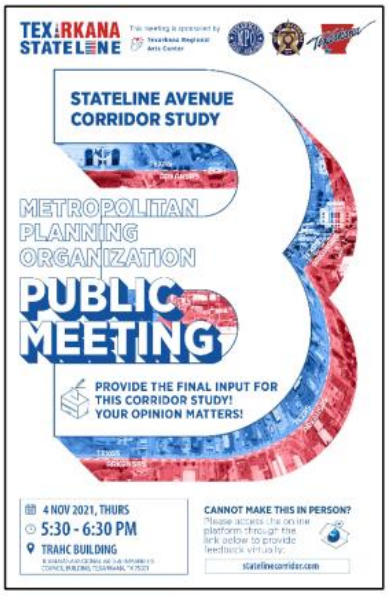


*Note: In areas that have less ROW a limited amount of street trees can be planted using trees grates. This occurs mainly on the Arkansas side in the Urban District. The trees can be planted on the property line between Stateline ROW and private property with a mutual agreement.

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Appendix 3: State Line Corridor 2021 Study Public Engagement meetings





Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Appendix 4: State Line Avenue Photographs

Below are photographs of State Line Avenue, divided by three districts – Commercial, Residential, and Urban - illustrating its current state.

Commercial

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Residential

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Urban

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Appendix 5: Cultural Enhancement Ideas

Cultural Enhancements include all transportation related improvements such as lighting, crosswalks, signage, public transport shelters, environmental protection, and stormwater management that are sensitive to the local culture and reflect that in design. Below are examples of culturally functional designs that aim to create safer transportation environments.

EXHIBIT A: Cultural Crosswalks

Example from Arden Park and Recreation District in Sacramento, District

EXHIBIT B: Downtown Avenue Lighting

Current lamp posts in Texarkana Arts and Historic District which will

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

create a more classic avenue feel when added further up State Line Avenue

EXHIBIT C: Wayfinding Signs

Photos of current Texarkana Arts in Historic District signage which will continue up State Line denoting safety features and wayfinding suggestions

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

EXHIBIT D: Bus Shelters

Examples from Tracy, California and Palm Beach, Florida Bus Shelters

EXHIBIT E: Stormwater Management: Rain Garden

Texas A&M University, College Station Texas Rain Collection garden using Texas native plants.

EXHIBT F: State Emblems

Left – Example of Bristol, Tennessee/Virginia's Metal Street Emblem

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Right – Arts and Historic District Emblem Design

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Attachment: 2023-019 ATTH 02 2023 RAISE Grant Draft (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives		Goals
Serve the Community	☑	Promote an Environmentally Sensitive & Livable Community
	☑	Provide a Safe Community
	☐	Deliver Quality Services
	☐	Foster a Healthy Community
Run the Operations	☐	Enhance Community Preparedness & Responsiveness
	☐	Maximize Partnership Opportunities
	☐	Provide Courteous & Responsive Customer Service
	☑	Model a Positive City Image
	☐	Deliver Efficient Services
	☑	Cultivate Community Involvement & Access
Manage the Resources	☐	Maintain Fiscal Strength
	☑	Maximize Utilization & Resources
	☑	Invest in Infrastructure & Transportation
Develop Personnel	☐	Develop a Skilled & Diverse Workforce
	☐	Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

Resource Impact:

Staff time required if item is approved:	No Additional

Other Potential Impacts:

Public Information Plan:

☐	Newspaper Notice (Required by Statute)	☐	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☐	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☐	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☐	None Required	☐	

Other:

Attachment: 2023-019 Goals & Perspectives (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant application)

TEXARKANA, USA

Twice as Nice

February 13, 2023

Secretary Pete Buttigieg
US Department of Transportation
1200 New Jersey Avenue SE
Washington DC, 20590

Re: Texarkana Metropolitan Planning Organization 2023 RAISE Grant Application State Line Corridor Improvements

Dear Secretary Buttigieg:

In response to the U.S. Department of Transportation's Notice of Funding Opportunity for $1.5 billion in grant funding through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) discretionary grant program, we are writing to you to provide our support for Texarkana's State Line Corridor project.

Furthermore, it is our understanding that the project is currently in design by ARDOT and can be moved to construction ready documents rapidly if funding for the construction is made available for the program. We also understand the project has financial support already from both states and both local municipalities. It supports the goals of both cities and both the Texas Department of Transportation as well as the Arkansas Department of Transportation by providing safe, efficient, and intelligent transportation infrastructure improvements.

In conclusion, we believe that this project demonstrates a valuable contribution to both cities continuing efforts towards building and maintaining pedestrian, bicycle, transit amenities in our community and improving the gateway of Texarkana, USA.

Thank you for your consideration of funding for this project proposal.

Sincerely,

Allen Brown
Mayor of Texarkana, Arkansas

Bob Bruggeman
Mayor of Texarkana, Texas

Attachment: 2023-019 ATTH 01 Joint City Letter of Support 2.13.23 (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Attachment: 2023-019 RES MPO RAISE grant support signed (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Texarkana Texas Resolution No. 2023-019

Texarkana Arkansas Resolution No. 2023-13

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AND THE BOARD OF DIRECTORS OF THE CITY OF TEXARKANA, ARKANSAS, SUPPORTING THE FISCAL YEAR 2023 RAISE GRANT APPLICATION FOR THE STATE LINE CORRIDOR IMPROVMENTS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the U.S. Department of Transportation's Notice of Funding Opportunity for $1.5 billion in grant funding through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) discretionary grant program is open for applications; and

WHEREAS, the two cities and Metropolitan Planning Organization have a shared interest in the improvements to the State Line Corridor; and

WHEREAS, this project demonstrates a valuable contribution to both cities continuing efforts towards building and maintaining pedestrian, bicycle, transit amenities in the community and improving the gateway of Texarkana, USA.

WHEREAS, the Texarkana Metropolitan Planning Organization (MPO) is applying for an amount not to exceed $18,000,000 and, as a rural area, (population of less than 200,000) does not have any match requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AND THE BOARD OF DIRECTORS OF THE CITY OF TEXARKANA, ARKANSAS:

SECTION 1: The City Council of the City of Texarkana, Texas, and the Board of Directors of the City of Texarkana, Arkansas, hereby approve support of the Texarkana Metropolitan Planning Organization 2023 RAISE Grant Application for State Line Corridor Improvements.

SECTION 2: This Joint Resolution shall be in full force and effect from and after its passage and approval by both Cities.

Texarkana, Texas: PASSED AND APPROVED in Regular Council Session on this the **13th day of February, 2023.**

Texarkana, Arkansas: PASSED AND APPROVED this the 21st **day of** FEBRUARY**, 2023.**

TEXARKANA, TEXAS

Bob Bruggeman, Mayor

ATTEST:

Jennifer Evans, City Secretary 6:20p.m.

APPROVED:

Jeffery C. Lewis, City Attorney

TEXARKANA, ARKANSAS

Allen A. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

Joshua Potter, Interim City Attorney

Attachment: 2023-019 RES MPO RAISE grant support signed (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Texarkana, Arkansas: Resolution No. 2023-13

Texarkana, Texas: Resolution No. 2023-019

A JOINT RESOLUTION OF THE BOARD OF DIRECTORS OF THE CITY OF TEXARKANA, ARKANSAS, AND THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, SUPPORTING THE FISCAL YEAR 2023 RAISE GRANT APPLICATION FOR THE STATE LINE CORRIDOR IMPROVMENTS; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the U.S. Department of Transportation's Notice of Funding Opportunity for $1.5 billion in grant funding through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) discretionary grant program; and

WHEREAS, the Metropolitan Planning Organization is applying for the RAISE grant maximum request allowed; and

WHEREAS, the two Cities and Metropolitan Planning Organization have a shared interest in the improvements to the State Line Corridor; and

WHEREAS, this project demonstrates a valuable contribution to both cities' continuing efforts towards building and maintaining pedestrian, bicycle, and transit amenities in our community and improving the gateway of Texarkana, USA;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF TEXARKANA, ARKANSAS, AND THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS:

SECTION 1: That the Board of Directors for the City of Texarkana, Arkansas and the City Council of the City of Texarkana, Texas, hereby approves the support of the Texarkana

Attachment: 2023-019 RES MPO RAISE grant support signed (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

Metropolitan Planning Organization 2023 RAISE Grant Application for State Line Corridor Improvements.

SECTION 2: This Joint Resolution shall be in full force and effect from and after its passage and approval by both Cities.

Texarkana, Arkansas: PASSED AND APPROVED this 21st day of February, 2023.

Texarkana, Texas: PASSED AND APPROVED in Regular Council Session on this the 13th day of February, 2023.

TEXARKANA, ARKANSAS:

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

Joshua Potter, Interim City Attorney

TEXARKANA, TEXAS:

Bob Bruggeman, Mayor

ATTEST:

Jennifer Evans, City Secretary

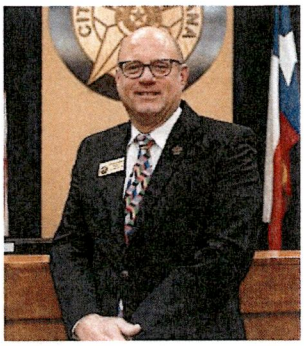
APPROVED:

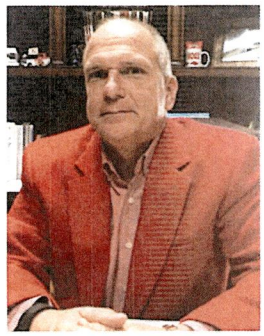
Jeffery C. Lewis, City Attorney

Attachment: 2023-019 RES MPO RAISE grant support signed (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

TEXARKANA, USA

Twice as Nice





February 13, 2023

Secretary Pete Buttigieg
US Department of Transportation
1200 New Jersey Avenue SE
Washington DC, 20590

Re: Texarkana Metropolitan Planning Organization 2023 RAISE Grant Application State Line Corridor Improvements

Dear Secretary Buttigieg:

In response to the U.S. Department of Transportation's Notice of Funding Opportunity for $1.5 billion in grant funding through the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) discretionary grant program, we are writing to you to provide our support for Texarkana's State Line Corridor project.

Furthermore, it is our understanding that the project is currently in design by ARDOT and can be moved to construction ready documents rapidly if funding for the construction is made available for the program. We also understand the project has financial support already from both states and both local municipalities. It supports the goals of both cities and both the Texas Department of Transportation as well as the Arkansas Department of Transportation by providing safe, efficient, and intelligent transportation infrastructure improvements.

In conclusion, we believe that this project demonstrates a valuable contribution to both cities continuing efforts towards building and maintaining pedestrian, bicycle, transit amenities in our community and improving the gateway of Texarkana, USA.

Thank you for your consideration of funding for this project proposal.

Sincerely,

Allen Brown
Mayor of Texarkana, Arkansas

Bob Bruggeman
Mayor of Texarkana, Texas

Attachment: 2023-019 RES MPO RAISE grant support signed (3926 : 2023-019 Joint RES Supporting Texarkana MPO FY2023 RAISE Grant

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/7/2023 11:12 AM

Lead Department: Planning and Community Development **Action Officer:** Daphnea Ryan,

Subject: Ordinance No. 2023-016 amending the budget for a One Million Dollar EPA Revolving Loan Fund Grant and establishing Fund 245.

Briefing: 2/27/2023 **Public Hearing:** **Council Vote:** 2/27/2023

Item Schedule

Schedule 2: Brief once - vote once (two weeks)

Updates/History of Briefing:

Executive Summary and Background Information:

In 2012, the City received our first EPA Brownfields Revolving Loan Fund Grant from the US EPA in the amount of $1,080.00. Each year since 2019, the City has applied for and received Supplemental Funding for the original Revolving Loan Fund. In 2022 the City completed an application for Supplemental funding and was awarded $1,000,000.00. The US EPA funded the 2022 Supplemental Revolving Loan Fund grants through funding US EPA received as a result of the Bipartisan Infrastructure Law (BIL Funding). This requires US EPA to track this funding separate from their normal federal allocation; therefore, it was awarded as a new cooperative agreement that will require us to establish a new fund for tracking expenditures and future program income derived from repayment of loans.

To date, the City has executed three loans for environmental abatement using the EPA Brownfields RLF Program. Target areas for this new funding include loans for environmental cleanup of properties downtown, along the New Boston Road Corridor, and the State Line Corridor; although, funding can be utilized anywhere within the City limits of Texarkana, Texas.

Potential Options:

- Approve
- Deny

Fiscal Implications:

There is no match obligation for this funding; therefore, there are no direct fiscal implications. Staff time for managing the program is already funded through the General Fund.

Staff Recommendation:

Staff recommends approval

Advisory Board/Committee Review:

None

Board/Committee Recommendation:

Not Applicable

Advisory Board/Committee Meeting Date and Minutes:

Not Applicable

Attachments

a. 2023-016 ORD Amending Budget for EPA Brownfields RLF BIL Funding (DOC)
b. 2023-016 ATTH 01 Cooperative Agreement 2022 4B 02F19201-0 (PDF)
c. 2023-016 Goals & Perspectives (DOCX)
d. 2023-016 ORD EPA RLF BIL Funding signed (PDF)

Staff Coordination

Planning and Community Development	Vashil Fernandez	Department Head Review	Completed	01/27/2023 12:53 PM
City Manager	David Orr	City Manager Review	Completed	01/27/2023 3:09 PM
City Council	Jennifer Evans	Meeting	Completed	02/13/2023 6:00 PM

Meeting History

ORDINANCE NO. 2023-016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ESTABLISHING THE EPA BROWNFIELDS BIL REVOLVING LOAN FUND (FUND 245) AND AMENDING BUDGETED REVENUE AND EXPENDITURES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2023, TO INCLUDE THE 2022 EPA BROWNFIELDS REVOLVING LOAN FUND IN THE AMOUNT OF ONE MILLION DOLLARS ($1,000,000); AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City applies yearly for supplemental funding of its EPA Brownfields Revolving Loan Fund; and

WHEREAS, the City was awarded $1,000,000 from its FY22 supplemental application that is funded by EPA through the Bipartisan Infrastructure Law (BIL Funding) and awarded as a new Brownfields Revolving Loan Fund Cooperative Agreement with a grant period of October 1, 2022 to September 30, 2027; and

WHEREAS, City staff recommends amending the budget estimate of the City's revenues and expenditures for the fiscal year beginning October 1, 2022, and ending September 30, 2023, by adding the amount of **ONE MILLION DOLLARS ($1,000,000)** to Fund 245.

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

SECTION 1: The budget estimate of the revenue and expenditures of the City of Texarkana, Texas, as prepared by the City Manager and appropriated by the City Council for the fiscal year beginning October 1, 2022, and ending September 30, 2023, be amended to reflect additional revenue and expenditures appropriated of **ONE MILLION DOLLARS ($1,000,000)** added to the Planning and Community Development EPA Brownfields Revolving Loan BIL Program Fund (Fund 245).

SECTION 2: 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 **27th day of February, 2023**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Attachment: 2023-016 ORD Amending Budget for EPA Brownfields RLF BIL Funding (3919 : 2023-016 ORD Amend Budget for New EPA RLF)

U.S. ENVIRONMENTAL PROTECTION AGENCY

Cooperative Agreement

GRANT NUMBER (FAIN): 02F19201 MODIFICATION NUMBER: 0 PROGRAM CODE: 4B	DATE OF AWARD 09/13/2022
TYPE OF ACTION New	MAILING DATE 09/16/2022
PAYMENT METHOD: ASAP	ACH# 67020

RECIPIENT TYPE:
Municipal

Send Payment Request to:
Contact EPA RTPFC at: rtpfc-grants@epa.gov

RECIPIENT:
City of Texarkana
220 Texas Blvd.
Texarkana, TX 75501
EIN: 75-6000689

PAYEE:
City of Texarkana
220 Texas Blvd.
Texarkana, TX 75501

PROJECT MANAGER	EPA PROJECT OFFICER	EPA GRANT SPECIALIST
Daphnea Ryan P.O. Box 1967 220 Texas Blvd. Texarkana, TX 75504 **Email:** dryan@txkusa.org **Phone:** 903-748-5031	Camisha Scott 1201 Elm Street, Suite 500, LCRRB Dallas, TX 75207 **Email:** Scott.Camisha@epa.gov **Phone:** 214-665-6755	Lisa Kapsh Mission Support Division, MSDCA 1201 Elm Street, Suite 500 Dallas, TX 75270-2102 **Email:** Kapsh.Lisa@epa.gov **Phone:** 214-665-7335

PROJECT TITLE AND DESCRIPTION

City of Texarkana, Texas BIL RLF Cooperative Agreement

See Attachment 1 for project description.

BUDGET PERIOD	PROJECT PERIOD	TOTAL BUDGET PERIOD COST	TOTAL PROJECT PERIOD COST
10/01/2022 - 09/30/2027	10/01/2022 - 09/30/2027	$1,000,000.00	$1,000,000.00

NOTICE OF AWARD

Based on your Application dated 06/15/2022 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards $1,000,000.00. EPA agrees to cost-share 100.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of $1,000,000.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.

ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)	AWARD APPROVAL OFFICE
ORGANIZATION / ADDRESS	ORGANIZATION / ADDRESS
U.S. EPA, Region 6 , Acquisition and Assistance Section 1201 Elm Street, Suite 500 Dallas, TX 75270-2102	U.S. EPA, Region 6, Land, Chemical Redevelopment Division R6 - Region 6 1201 Elm Street, Suite 500 Dallas, TX 75270-2102

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Digital signature applied by EPA Award Official Christopher Watkins - Grant Management Officer	**DATE** 09/13/2022

Attachment: 2023-016 ATTH 01 Cooperative Agreement 2022 4B 02F19201-0 (3919 : 2023-016 ORD Amend Budget for New EPA RLF)

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTA
EPA Amount This Action	$0	$1,000,000	$1,000,0
EPA In-Kind Amount	$0	$0	
Unexpended Prior Year Balance	$0	$0	
Other Federal Funds	$0	$0	
Recipient Contribution	$0	$0	
State Contribution	$0	$0	
Local Contribution	$0	$0	
Other Contribution	$0	$0	
Allowable Project Cost	$0	$1,000,000	$1,000,0

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.818 - Brownfields Multipurpose, Assessment, Revolving Loan Fund, and Cleanup Cooperative Agreements	CERCLA: Secs. 104(k)(3) & 104(k)(5)(E) & 104(k)(10)(B)(iii) & Infrastructure Investment and Jobs Act (IIJA) (PL 117-58)	2 CFR 200, 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Oganization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligatio
TEXARKANA	2206BBR029	22	E4SD	06B5AG7	000D79X89	4114	-	-	$1,000,0
									$1,000,0

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Budget Summary Page

Table A - Object Class Category (Non-Construction)	Total Approved Allowable Budget Period Cost
1. Personnel	
2. Fringe Benefits	
3. Travel	$20,0
4. Equipment	
5. Supplies	$4
6. Contractual	$80,0
7. Construction	
8. Other	$899,5
9. Total Direct Charges	$1,000,0
10. Indirect Costs: 0.00 % Base	
11. Total (Share: Recipient 0.00 % Federal 100.00 %)	$1,000,0
12. Total Approved Assistance Amount	$1,000,0
13. Program Income	$650,0
14. Total EPA Amount Awarded This Action	$1,000,0
15. Total EPA Amount Awarded To Date	$1,000,0

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Attachment 1 - Project Description

Brownfields are real property, the expansion, development or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. This agreement will provide funding under the Infrastructure Investment and Jobs Act for the City of Texarkana to re-capitalize a revolving loan fund as authorized by CERCLA 104(k)(5)(A)(ii) in the City of Texarkana, Texas.

This agreement will provide funding for the recipient to re-capitalize a revolving loan fund from which to make loans and subgrants to clean up brownfield site(s) and conduct other necessary activities to prudently manage the RLF. Additionally, the recipient will competitively procure (as needed) and direct a Qualified Environmental Professional to oversee the environmental site activities and will create a community involvement plan and administrative record for each site that is remediated. The recipient will report on program income,

interim progress, and final accomplishments by completing and submitting relevant portions of the Property Profile Form and Brownfields RLF Form using EPA's Assessment, Cleanup and Redevelopment Exchange System (ACRES). The recipient will issue approximately 4 loans to remediate 4 brownfield site(s); anticipates holding 3 community meetings, finalizing 4 Analysis of Brownfield Cleanup Alternatives, and submitting 20 quarterly reports. Work conducted under this agreement will benefit the residents, business owners, and stakeholders in and near the City of Texarkana, Texas. No subawards are included in this assistance agreement.

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Administrative Conditions

National Administrative Terms and Conditions

General Terms and Conditions

The recipient agrees to comply with the current EPA general terms and conditions available at: https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2021-or-later.

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at: https://www.epa.gov/grants/grant-terms-and-conditions#general

A. Correspondence Condition

The terms and conditions of this agreement require the submittal of reports, specific requests for approval, or notifications to EPA. Unless otherwise noted, all such correspondence should be sent to the following email addresses:

•Federal Financial Reports (SF-425): rtpfc-grants@epa.gov and Lisa Kapsh, Grant Management Specialist at: Kapsh.Lisa@epa.gov and Local Email at: R6_EPA_Grants_Programs@epa.gov.

•MBE/WBE reports (EPA Form 5700-52A): Debora Bradford, DBE Coordinator at: Bradford.Debora@epa.gov and Lisa Kapsh, Grant Management Specialist at: Kapsh.Lisa@epa.gov and Local Email at: R6_EPA_Grants_Programs@epa.gov.

•All other forms/certifications/assurances, Indirect Cost Rate Agreements, Requests for Extensions of the Budget and Project Period, Amendment Requests, Requests for other Prior Approvals, updates to recipient information (including email addresses, changes in contact information or changes in authorized representatives) and other notifications: Camisha Scott, Project Officer at: Scott.Camisha@epa.gov and Lisa Kapsh, Grant Management Specialist at: Kapsh.Lisa@epa.gov and Local Email at: R6_EPA_Grants_Programs@epa.gov.

•Payment requests (if applicable): Camisha Scott, Project Officer at: Scott.Camisha@epa.gov and Lisa Kapsh, Grant Management Specialist at: Kapsh.Lisa@epa.gov and Local Email at: R6_EPA_Grants_Programs@epa.gov.

•Quality Assurance documents, workplan revisions, equipment lists, programmatic reports and deliverables: Camisha Scott, Project Officer at: Scott.Camisha@epa.gov.

Programmatic Conditions

FY22 Revolving Loan Fund (RLF) Cooperative Agreement

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Terms and Conditions

Infrastructure Investment and Jobs Act Funds

Please note that these Terms and Conditions (T&Cs) apply to Brownfields RLF capitalization cooperative agreements awarded under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k), agreements that transitioned to § 104(k), or agreements which have been amended after 12/24/14.

I. GENERAL FEDERAL REQUIREMENTS

Note: For the purposes of complying with certain provisions of the Uniform Grant Guidance (UGG), 2 CFR Part 200, loans made by RLF recipients are *Subawards* as that term is defined at 2 CFR § 200.1. The term subaward also encompasses "grants" made by the RLF recipient under CERCLA § 104(k)(3)(B)(ii). The UGG requirements for subawards in the form of loans and subawards in the form of grants are different. For clarity, these T&Cs refer to "loans" to describe subawards that generate program income from repayments of principal, interest charges and loan processing fees paid by "borrowers". The T&Cs refer to "subgrants" to describe subawards the RLF recipient provides to an eligible entity or nonprofit organization ("subgrantees") under terms that do not require repayment.

A. Federal Policy and Guidance

1. Cooperative Agreement Recipients: By awarding this cooperative agreement, the Environmental Protection Agency (EPA) has approved the application for the Cooperative Agreement Recipient (CAR). These T&Cs are effective for activities occurring after the date of award of this cooperative agreement.

2. In implementing this agreement, the CAR shall comply with and require that work done by borrowers and subgrantees with cooperative agreement funds comply with the requirements of CERCLA § 104(k). The CAR shall also ensure that cleanup activities supported with cooperative agreement funding comply with all applicable federal and state laws and regulations. The CAR must ensure cleanups are protective of human health and the environment.

3. The CAR must consider whether it is required to have borrowers or subgrantees

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conduct cleanups through a State or Tribal response program. If the CAR chooses not to require borrowers and subgrantees to participate in a State or Tribal response program, then the CAR is required to consult with the EPA Project Officer on each loan or subgrant to ensure the proposed cleanup is protective of human health and the environment.

4. A term and condition or other legally binding provision shall be included in all loan and subgrant agreements entered into with the funds awarded under this agreement, or when funds awarded under this agreement are used in combination with non-federal sources of funds, to ensure that the CAR complies with all applicable federal and state laws and requirements. In addition to CERCLA § 104(k), federal applicable laws and requirements include 2 CFR Part 200.

5. The CAR must comply with federal cross-cutting requirements. These requirements include, but are not limited to, DBE requirements found at 40 CFR Part 33; OSHA Worker Health & Safety Standard 29 CFR § 1910.120; Uniform Relocation Act (40 USC § 61); National Historic Preservation Act (16 USC § 470); Endangered Species Act (P.L. 93-205); Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR § 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC §§ 327-333); the Anti-Kickback Act (40 USC § 276c); and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250. For additional information on cross-cutting requirements visit https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements.

6. The CAR must comply with Davis-Bacon Act prevailing wage requirements and associated U.S. Department of Labor (DOL) regulations for all construction, alteration, and repair contracts and subcontracts awarded with funds provided under this agreement by operation of CERCLA § 104(g). For more detailed information on complying with Davis-Bacon please see the Davis-Bacon Addendum to these terms and conditions. See attachment.

7. Refer to the General Term & Conditions for Buy America Sourcing requirements under the Build America, Buy America provisions of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§70911-70917).

8. This is an interim term and condition for management of funding provided under the IIJA. EPA's Award Official or Grants Management Officer may amend this agreement to

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specify additional requirements applicable to IIJA funding as information becomes available. In the interim, the recipient agrees to have financial management and programmatic management systems in place to:

a. Track and report on expenditures of IIJA funds.

b. Track and report outputs and outcomes achieved with IIJA funds.

9. RLF supplemental funding is generally awarded on an annual basis to high-performing CARs who meet specific criteria. The CAR can find additional information on the timing and procedures for supplemental funding requests on the EPA Brownfields Program website (https://www.epa.gov/brownfields/brownfields-revolving-loan-fund-rlf-grants).

II. SITE/BORROWER/SUBGRANTEE ELIGIBILITY REQUIREMENTS

A. Brownfield Site Eligibility

1. All brownfield sites that will be addressed using RLF funds (EPA funds and/or program income) must be located within the geographic area described in the scope of work for this cooperative agreement (i.e., the EPA-approved workplan). The CAR must provide information to the EPA Project Officer about site-specific work prior to incurring any costs under this cooperative agreement for sites that have not already been pre-approved in the CAR's workplan by EPA. The information that must be provided includes whether the site meets the definition of a brownfield site as defined in § 101(39) of CERCLA and whether the CAR is the potentially responsible party under CERCLA § 107, is exempt from CERCLA liability, or has defenses to CERCLA liability.

2. If the site is excluded from the general definition of a brownfield site but is eligible for a property-specific funding determination, then the CAR may request a property-specific funding determination from the EPA Project Officer. In its request, the CAR must provide information sufficient for EPA to make a property-specific funding determination on how financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes. The CAR must not incur costs for cleaning up sites requiring a property-specific funding determination by EPA until the EPA Project Officer has advised the CAR that EPA has determined that the property is eligible.

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3. Brownfield Sites Contaminated with Petroleum

a. For any petroleum-contaminated brownfield site that is not included in the CAR's EPA-approved workplan, the CAR shall provide sufficient documentation to EPA prior to incurring costs under this cooperative agreement which documents that:

i. the State determines there is "no viable responsible party" for the site;

ii. the State determines that the person assessing, investigating, or cleaning up the site is a person who is not potentially liable for cleaning up the site; and

iii. the site is not subject to any order issued under Section 9003(h) of the Solid Waste Disposal Act.

This documentation must be prepared by the CAR or the State, following contact and discussion with the appropriate state petroleum program official. Please contact the EPA Project Officer for additional information.

b. Documentation must include:

i. the identity of the State program official contacted;

ii. the State official's telephone number;

iii. the date of the contact; and

iv. a summary of the discussion relating to the State's determination that there is no viable responsible party and that the person assessing, investigating, or cleaning up the site is not potentially liable for cleaning up the site.

Other documentation provided by a State to the recipient relevant to any of the determinations by the State must also be provided to the EPA Project Officer.

c. If the State chooses not to make the determinations described in Section II.A.3. above, the CAR must contact the EPA Project Officer and provide the information necessary for EPA to make the requisite determinations.

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d. EPA will make all determinations on the eligibility of petroleum-contaminated brownfield sites located on tribal lands (i.e., reservation lands or lands otherwise in Indian country, as defined at 18 U.S.C. § 1151). Before incurring costs for these sites, the CAR must contact the EPA Project Officer and provide the information necessary for EPA to make the determinations.

B. Borrower and Subgrantee Eligibility

1. The CAR may provide loans to an eligible entity, a site owner, a site developer, or another person without regard to whether the borrower is a for-profit organization. Borrowers do not have to own the property throughout the term of the loan unless ownership is required for the purpose of securing collateral or the CAR otherwise determines that borrower site ownership is necessary.

2. The CAR may only provide cleanup subgrants to an eligible entity or nonprofit organization to clean up sites owned by the eligible entity or nonprofit organization at the time of the award of the subgrant. Eligible subgrantees include eligible entities as defined under CERCLA § 104(k)(1), which includes nonprofit organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, and other nonprofit organizations as defined at 2 CFR § 200.70. Nonprofit institutions of higher education as defined at 2 CFR § 200.55 are also eligible for cleanup subgrants. Nonprofit organizations described in Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act of 1995 are not eligible for subgrants.

3. The subgrantee must retain ownership of the site throughout the period of performance of the subgrant. The subgrantee must consult with the CAR, who in turn must consult with the EPA Project Officer prior to transferring title or otherwise conveying the real property comprising the site during the period of performance of the subgrant. Once the subgrant ends, the statutory ownership requirement is extinguished. For the purposes of this agreement, the term “owns” means fee simple title unless EPA Project Officer approves a different ownership arrangement.

4. The CAR shall not provide a subgrant to itself or another component of its own unit of government or organization.

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5. The CAR may discount loans, also referred to as the practice of forgiving a portion of loan principal. For an individual loan, the amount of principal discounted may be any percentage of the total loan amount up to 50%, provided that the total amount of the principal forgiven for that loan shall not exceed $500,000 of total award funds (EPA funds). Eligible entities and nonprofit organizations described in Section II.B.1. are eligible for discounted loans. **Private, for-profit entities are not eligible for discounted loans.** In addition to these terms, a discounted loan shall not be used in combination with a subgrant at the same site. The discounted amount in a discounted loan shall apply towards subgrants in the loan to subgrant ratio described in Section IV.B.3. (i.e., the discounted amount cannot apply towards the 50% of EPA funds that must be spent on loans and associated eligible programmatic expenses). The CAR may request a waiver of the discounted amount, discounted percentage, or the minimum 50% loan to subgrant ratio by consulting with the EPA Project Officer for the waiver process.

6. The CAR shall not loan or subgrant funds that will be used to pay for cleanup activities at a site for which a borrower or subgrantee is potentially liable under CERCLA § 107. In addition, the borrower or subgrantee may not be affiliated with a potentially liable person as described in CERCLA §§ 101(40)(H) and 107(q)(1)(A)(ii). The CAR may rely on its own investigation which can include an opinion from the borrower's or subgrantee's counsel. However, the CAR must advise the borrower or subgrantee that the investigation and/or opinion of its subgrantee counsel is not binding on the Federal Government.

7. For approved eligible petroleum-contaminated brownfield sites, the borrower or subgrantee cleaning up the site must not be potentially liable for cleaning up the site. For brownfield grant purposes, an entity generally will not be considered potentially liable for petroleum contamination if it has not dispensed or disposed of petroleum or petroleumproduct at the site, has not exacerbated the contamination at the site, and taken reasonable steps with regard to the contamination at the site.

8. The CAR shall maintain sufficient documentation supporting and demonstrating the eligibility of the sites, borrowers, and subgrantees.

9. A borrower or subgrantee must submit information regarding its overall environmental compliance history including any penalties resulting from environmental non-compliance at the site subject to the loan or subgrant. The CAR, in consultation with EPA, must consider this history in its analysis of the borrower or subgrantee as a cleanup and business risk.

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10. An entity that is currently suspended, debarred, or otherwise declared ineligible cannot be a borrower or subgrantee.

C. Obligations for CARs, Borrowers, or Subgrantees

1. CARs, borrowers, or subgrantees who are eligible, or seek to become eligible, to receive a loan or subgrant must provide information indicating that cooperative agreement funds will not be used to pay for a response cost at a site for which the CAR, borrower, or subgrantee is potentially liable under CERCLA § 107. The CAR, borrower, or subgrantee must demonstrate that it meets the requirements for one of the Landowner Liability Protections as either a Bona Fide Prospective Purchaser (BFPP), Contiguous Property Owner (CPO), or Innocent Landowner (ILO). These requirements include certain threshold criteria and continuing obligations that must be met in order for the CAR, borrower, or subgrantee to maintain its eligible status. If the CAR, borrower, or subgrantee fails to meet these obligations, EPA may disallow the costs incurred under this cooperative agreement for cleaning up the site under CERCLA § 104(k)(8)(C). The Landowner Liability Protection requirements include:

a. Performing “all appropriate inquiries” into the previous ownership and uses of the property before acquiring the property.

b. Not being potentially liable or affiliated with any other person who is potentially liable for response costs at the site through: any direct or indirect familial relationship, any contractual, corporate, or financial relationships, or through the result of a reorganized business entity that was potentially liable.

While not necessary to obtain ILO protection, the CAR, borrower, or subgrantee must still establish by a preponderance of the evidence that the act or omission that caused the release or threat of release of hazardous substances and any resulting damages were caused by a third party with whom the person does not have an employment, agency, or contractual relationship.

c. Demonstrate that no disposal of hazardous substances occurred at the facility after acquisition by the landowner (does not specifically apply for the CPO protection).

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d. Taking “reasonable steps” with respect to hazardous substance releases by stopping any continuing releases, preventing any threatened future releases, and preventing or limiting human, environmental, or natural resource exposure to any previously released hazardous substance.

e. Complying with any land use restrictions established or relied on in connection with the response action at the site and not impeding the effectiveness or integrity of institutional controls employed in connection with the response action.

f. Providing full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the site from which there has been a release or threatened release.

g. Complying with information requests and administrative subpoenas (does not specifically apply for the ILO protection).

h. Providing all legally required notices with respect to the discovery or release of any hazardous substances at the site (does not specifically apply for the ILO protection).

Notwithstanding the CAR’s, borrower’s, and subgrantee’s continuing obligations under this agreement, the CAR, borrower, and subgrantee are subject to the applicable liability provisions of CERCLA governing its status as a BFPP, CPO, or ILO. CERCLA requires additional obligations to maintain liability limitations for BFPP, CPO, and ILO; the relevant provisions for these obligations include §§ 101(35), 101(40), 107(b), 107(q) and 107(r).

CARs, borrowers, and subgrantees that are exempt from CERCLA liability or do not have to meet the requirements for asserting an affirmative defense to CERCLA liability must also comply with continuing obligation items c.-h.

III. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

A. Sufficient Progress

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1. This condition supplements the requirements of the Termination and Sufficient Progress Conditions in the General Terms and Conditions. EPA's Project Officer will assess whether the recipient is making sufficient progress in implementing its cooperative agreement 2 years from the date of award and on an annual basis thereafter . If EPA determines that the CAR has not made sufficient progress in implementing its cooperative agreement, the CAR, if directed to do so, must implement a corrective action plan concurred on by the EPA Project Officer and approved by the Award Official or Grants Management Officer. Alternatively, EPA may terminate this agreement under 2 CFR § 200.340. for material non-compliance with its terms, or with the consent of the CAR as provided at 2 CFR § 200.340, depending on the circumstances. Sufficient progress at 2 years and annually thereafter is indicated by the CAR having made a loan(s) and/or grant(s), but may also be demonstrated by a combination of all the following: hiring of all key personnel, the establishment and advertisement of the RLF, the development of one or more potential loans/subgrants, or other documented activities that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

2. Partial termination can occur if a CAR fails to complete the initial round of lending in the time schedule provided in the cooperative agreement. In this situation, as provided at 2 CFR §§ 200.340(a)(1) and (5) or 2 CFR § 200.340(a)(3), as appropriate, the agreement may be partially terminated and the following actions may occur:

a. Unused cooperative agreement funds will be deobligated by EPA;

b. The cooperative agreement award may be amended to reflect the reduced amount of the cooperative agreement;

c. EPA may determine whether sufficient funds remain to permit effective RLF operation; or

d. EPA may terminate the agreement and recover the federal share of its assets if it determines that the purpose of the cooperative agreement cannot be met.

B. Substantial Involvement

1. The EPA Project Officer will be substantially involved in overseeing and monitoring this cooperative agreement. Substantial involvement, includes, but is not limited to:

a. Close monitoring of the CAR's performance to verify compliance with the EPA-approved workplan and achievement of environmental results.

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b. Participation in periodic telephone conference calls to share ideas, project successes and challenges, etc., with EPA.

c. Reviewing and commenting on quarterly and annual reports prepared under the cooperative agreement (the final decision on the content of reports rests with the recipient or subrecipients receiving pass-through awards).

d. Verifying sites meet applicable site eligibility criteria (including property-specific funding determinations described in Section II.A.2.) and when the CAR awards a subaward. The CAR must obtain technical assistance from the EPA Project Officer, or his/her designee, on which sites qualify as a brownfield site and determine whether the statutory prohibitions found in CERCLA § 104(k)(5)(B)(i)-(iv) apply. (Note, the prohibition does not allow a subrecipient to use EPA cooperative agreement funds to assess a site for which the subrecipient is potentially liable under CERCLA § 107.)

e. Reviewing and approving Quality Assurance Project Plans and related documents or verifying that appropriate Quality Assurance requirements have been met where quality assurance activities are being conducted pursuant to an EPA-approved Quality Assurance Management Plan.

f. Monitoring the use of program income after the cooperative agreement project period ends.

Substantial involvement may also include, depending on the direction of the EPA Project Officer:

a. Collaboration during the performance of the scope of work including participation in project activities, to the extent permissible under EPA policies. Examples of collaboration include:

i. Consultation between EPA staff and the CAR on effective methods of carrying out the scope of work provided the CAR makes the final decision on how to perform authorized activities.

ii. Advice from EPA staff on how to access publicly available information on EPA or other federal agency websites.

iii. With the consent of the CAR, EPA staff may provide technical advice to the CAR's contractors or subrecipients provided the CAR approves any expenditures of funds necessary to follow advice from EPA staff. (The CAR remains accountable for performing contract and subaward management as specified in 2 CFR § 200.318 and 2 CFR § 200.332 as well as the terms of the EPA cooperative agreement.)

iv. EPA staff participation in meetings, webinars, and similar events upon the request of the CAR or in connection with a co-sponsorship agreement.

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b. Reviewing proposed procurements in accordance with 2 CFR § 200.325, as well as the substantive terms of proposed contracts or subawards as appropriate.

c. Reviewing the qualifications of key personnel (EPA does not have the authority to select employees or contractors, including consultants, employed by the award CAR or subrecipients receiving pass-through awards).

d. Reviewing all costs incurred by the CAR and/or its contractor(s) if needed to ensure appropriate expenditure of grant funds.

EPA may waive any of the provisions in Section III.B.1., except for property-specific funding determinations. The EPA Project Officer will provide waivers to provisions a. – f. in Section III.B.1 in writing.

2. Effects of EPA's substantial involvement include:

a. EPA's review of any project phase, document, or cost incurred under this cooperative agreement will not have any effect upon CERCLA § 128 *Eligible Response Site* determinations or rights, authorities, and actions under CERCLA or any federal statute.

b. The CAR remains responsible for ensuring that all cleanups are protective of human health and the environment and comply with all applicable federal and state laws. If changes to the expected cleanup become necessary based on public comment or other reasons, the CAR must consult with the EPA Project Officer and the State.

c. The CAR and its subrecipients remain responsible for ensuring costs are allowable under 2 CFR Part 200, Subpart E.

C. Cooperative Agreement Recipient Roles and Responsibilities

1. CARs, other than state entities, that procure a contractor(s) (including consultants) where the contract will be more than the micro-purchase threshold in 2 CFR § 200.320(a)(1) ($10,000 for most CARs) must select the contractor(s) in compliance with the fair and open competition requirements in 2 CFR Part 200 and 2 CFR Part 1500. CARs may procure multiple contractors to ensure the appropriate expertise is in place to perform work under the agreement (e.g., expertise to provide oversight on site cleanup activities vs. community engagement) and to allow the ability for work be performed concurrently in multiple target areas and/or at sites.

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2. The CAR is responsible for establishing an RLF team that will implement the program and assign a Program Manager for coordinating the team's activities as outlined below.

3. The CAR must acquire the services of a Qualified Environmental Professional(s) as defined in 40 CFR § 312.10, if it does not have such a professional on staff, to provide technical assistance, advice, and expertise to the CAR while the borrower or subgrantee and their cleanup contractor direct the cleanup at a given site.

4. The CAR shall act as or appoint a qualified "fund manager" to carry out responsibilities that relate to financial management of the loan and/or subgrant program. However, the CAR remains accountable to EPA for the proper expenditure of cooperative agreement funds. Any funding arrangements between the CAR and the fund manager must be consistent with 2 CFR Parts 200 and 1500 and EPA's Subaward Policy . Additional information is available in EPA's Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements.

5. The CAR shall appoint appropriate legal counsel if counsel is not already available. Counsel must review all loan/subgrant agreements prior to execution unless the EPA Project Officer waives this requirement.

6. The CAR is responsible for ensuring that borrowers and subgrantees comply with the terms of their agreements with the CAR, and that agreements between the CAR and borrowers and subgrantees are consistent with the terms and conditions of this agreement.

7. When the CAR makes loans and subgrants under this agreement, they become a pass-through entity for the purposes of the subrecipient oversight and management requirements of 2 CFR §§ 200.331 through 200.332. Requirements for oversight and management of subgrantees are supplemented in EPA's National Term and Condition for Subawards which is included in the General Terms and Conditions of this Cooperative Agreement.

8. The following requirements apply when a pass-through entity (CAR) makes loans. These requirements apply to loans and borrowers in lieu of those specified in EPA's National Term and Condition for Subawards.

a. Pass-through entities must establish and follow a system that ensures all loan

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agreements are in writing and contain all of the elements required by 2 CFR § 200.332(a) with the exception of the indirect cost provision of 2 CFR § 200.332(a)(4). EPA has developed an optional template for subaward agreements that is available in Appendix D of EPA's Subaward Policy which may also be used for loan agreements.

b. Borrowers must comply with the internal control requirements specified at 2 CFR § 200.303 and are subject to the 2 CFR Part 200, Subpart F, *Audit Requirements*. The pass-through entity (CAR) must include a condition in all loans that requires borrowers to comply with this requirement. No other provisions of the Uniform Grant Guidance, including the Procurement Standards, apply directly to borrowers.

c. Prior to making loans or subgrants, the pass-through entity (CAR) must ensure that each borrower or subgrantee has a "unique entity identifier." This identifier is required for registering in the System for Award Management (SAM) and by 2 CFR Part 25 and 2 CFR § 200.332(a)(1). The unique entity identifier (UEI) is generated when an entity registers in SAM. Information on registering in SAM and obtaining a UEI is available in the General Condition of the pass-through entity's (CAR's) agreement with EPA entitled *"System for Award Management and Universal Identifier Requirements."*

d. The pass-through entity (CAR) must ensure that the terms of all loan agreements and subgrants require that borrowers and subgrantees comply with 2 CFR Part 170, *Reporting Subaward and Executive Compensation* under Federal Funding Accountability and Transparency Act (FFATA) set forth in the General Condition of the pass-through entity's (CAR's) agreement with EPA entitled *"Reporting Subawards and Executive Compensation."*

e. In addition to other prudent lending practices described, in Section VI. below, pass-through entities (CARs) must comply with EPA's General T&Cs (Establishing and Managing Subawards).

9. As the pass-through entity, the CAR must report to EPA on its borrower and subgrantee monitoring activities under 2 CFR § 200.332(d), including the following information as part of the CAR's quarterly performance reporting:

a. Summaries of results of reviews of financial and programmatic reports;

b. Summaries of findings from site visits and/or desk reviews to ensure effective borrower or subgrantee performance;

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c. Environmental results the borrower or subgrantee achieved;

d. Summaries of audit findings and related pass-through entity management decisions, if any; and

e. Actions the pass-through entity has taken to correct any deficiencies such as those specified at 2 CFR § 200.332(e), 2 CFR § 200.208, *Specific conditions*, and the 2 CFR § 200.339, *Remedies for Noncompliance*.

10. The CAR agrees to provide the proposed leveraged funding, including any voluntary cost-share contribution or overmatch, that is described in its workplan. If the proposed leveraging does not materialize during the period of award performance, and the CAR does not provide a satisfactory explanation, EPA may consider this factor in evaluating future applications from the CAR. In addition, if the proposed leveraging does not materialize during the period of award performance, then EPA may reconsider the legitimacy of the award. If EPA determines that the CAR knowingly or recklessly provided inaccurate information regarding the leveraged funding in its FY22 application, EPA may take action as authorized by 2 CFR Parts 200 and 1500, and/or 2 CFR Part 180 as applicable.

11. Cybersecurity – The recipient agrees that when collecting and managing environmental data under this cooperative agreement, it will protect the data by following all applicable State law cybersecurity requirements.

a. EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement are secure. For purposes of this section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer no later than 90 days after the date of this award and work with the designated Regional/ Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

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b. The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in Cybersecurity Section a. above if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR § 200.332(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

12. All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov.

D. Quarterly Progress Reports

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.329, *Monitoring and Reporting Program Performance*), the CAR agrees to submit quarterly progress reports to the EPA Project Officer within 30 days after each reporting period. The reporting periods are October 1 – December 31 (1st quarter); January 1 – March 31 (2nd quarter); April 1 – June 30 (3rd quarter); and July 1 – September 30 (4th quarter).

These reports shall cover work status, work progress, difficulties encountered, preliminary data results and a statement of activity anticipated during the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated. A discussion of expenditures and financial status for each workplan task, along with a comparison of the percentage of the project completed to the project schedule and an explanation of significant discrepancies shall be included in the report. The report shall also include any changes of key personnel concerned with the project.

1. The CAR must submit progress reports on a quarterly basis to the EPA project officer through email. Quarterly progress reports must include:

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a. A summary that clearly differentiates between activities completed with EPA funds provided under the Brownfield RLF cooperative agreement, and related activities completed with other sources of leveraged funding.

b. A summary and status of approved activities performed during the reporting quarter; a summary of the performance outputs/outcomes achieved during the reporting quarter; and a description of problems encountered during the reporting quarter that may affect the project schedule.

c. A comparison of actual accomplishments to the anticipated outputs/outcomes specified in the EPA-approved workplan and reasons why anticipated outputs/outcomes were not met.

d. An update on project schedules and milestones, including an explanation of any discrepancies from the EPA-approved workplan.

e. A list of the loans and/or subgrants during the reporting quarter.

f. A budget summary table with the following information: current approved project budget; EPA funds drawn down during the reporting quarter; costs drawn down to date (cumulative expenditures); program income generated and used; and total remaining funds. The CAR should include an explanation of any discrepancies in the budget from the EPA-approved workplan, cost overruns or high unit costs, and other pertinent information. Program income accounting records must differentiate program income generated from interest and fees, versus program income generated from principal repayments.

g. For local governments that are using RLF funding for health monitoring, the quarterly report must also include the specific budget, the quarterly expenditure, and cumulative expenditures to demonstrate that 10% of federal funding is not exceeded.

Note: Each property where cleanup activities were performed and/or completed must have its corresponding information updated in ACRES (or via the Property Profile Form with prior approval from the EPA Project Officer) prior to submitting the quarterly progress report (see Section III.E. below).

3. For the loans executed by the CAR under this agreement, the CAR must also report on the following items as part of the CAR's quarterly performance reporting:

a. Summaries of results of reviews of borrower financial and programmatic reports.

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b. Environmental results achieved by the borrower.

4. The CAR must maintain records that will enable it to report to EPA on the amount of funds (direct EPA funding and program income) disbursed by the CAR to clean up specific properties under this cooperative agreement.

5. In accordance with 2 CFR § 200.329(e)(1) the CAR agrees to inform EPA as soon as problems, delays, or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the EPA-approved workplan.

E. ACRES Data Submission

1. Property Profile Form: The CAR must report on interim progress (i.e., loan signed, clean up started) and any final accomplishments (i.e., clean up completed, contaminants removed, institutional controls, engineering controls) by completing and submitting relevant portions of the Property Profile Form using the Assessment, Cleanup and Redevelopment Exchange System (ACRES). The CAR must enter the data in ACRES as soon as the interim action or final accomplishment has occurred, or within 30 days after the end of each reporting quarter. The CAR must enter any new data into ACRES prior to submitting the quarterly progress report to the EPA Project Officer. The CAR must utilize ACRES unless approval is obtained from the EPA Project Officer to utilize the hardcopy version of the Property Profile Form.

2. Brownfields RLF Form: Additionally, the CAR must also report program income details on the Brownfields RLF Form, which is located on the CAR's RLF cooperative agreement homepage in ACRES.

F. Final Technical Cooperative Agreement Report with Environmental Results

1. In accordance with EPA regulations 2 CFR Parts 200 and 1500 (specifically, § 200.329 *Monitoring and Reporting Program Performance* and 2 CFR § 200.344(a), *Closeout*), the CAR agrees to submit to the EPA Project Officer within 120 days after the expiration or termination of the approved project period a final technical report on the cooperative agreement via email, unless the EPA Project Officer agrees to accept a paper copy of the report. The final technical report shall document project activities over the entire project period and shall include brief information on each of the following

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areas:

a. a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the EPA-approved workplan;

b. reasons why anticipated outputs/outcomes were not met; and

c. other pertinent information, including when appropriate, analysis and explanation of cost overruns or high unit costs.

Iv. FINANCIAL ADMINISTRATION REQUIREMENTS

A. Cost Share Requirement

1. As provided in IIJA, no cost share is required for this agreement.

B. Eligible Uses of the Funds for the Cooperative Agreement Recipient, Borrower, and/or Subgrantee

1. To the extent allowable under the EPA-approved workplan, the CAR may use cooperative agreement funds to capitalize a revolving loan fund to be used for loans or subgrants for cleanup and for eligible programmatic expenses. Eligible programmatic expenses may include activities described in Section V. of these Terms and Conditions. In addition, eligible programmatic expenses may include:

a. Determining whether RLF cleanup activities at a particular site are authorized by CERCLA § 104(k).

b. Ensuring that an RLF cleanup complies with applicable requirements under federal and state laws, as required by CERCLA § 104(k).

c. Limited site characterization to confirm the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed.

d. Preparing and updating an Analysis of Brownfield Cleanup Alternatives (ABCA) which will include information about the site and contamination issues, cleanup standards, applicable laws, alternatives considered, and the proposed cleanup.

e. Ensuring that public participation requirements are met. This includes

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preparing a Community Involvement Plan (previously known as a Community Relations Plan) which will include reasonable notice, opportunity for public involvement and comment on the proposed cleanup, and response to comments.

f. Establishing an Administrative Record for each site.

g. Developing a Quality Assurance Project Plan (QAPP) as required by 2 CFR § 1500.12. The specific requirement for a QAPP is outlined in Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance available at https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial.

h. Ensuring the adequacy of each RLF cleanup as it is implemented, including overseeing the borrowers and/or subgrantees activities to ensure compliance with applicable federal and state environmental requirements.

i. Ensuring that the site is secure if a borrower or subgrantee is unable or unwilling to complete a brownfield site cleanup.

j. Using a portion of a loan or subgrant to purchase environmental insurance for the site. [The loan or subgrant shall not be used to purchase insurance intended to provide coverage for any of the ineligible uses under Section IV., *Ineligible Uses of the Funds for the Cooperative Agreement Recipient, Borrower, and/or Subgrantees*.]

k. Any other eligible programmatic costs, including costs incurred by the recipient in making and managing a loan or subgrant; obtaining RLF fund manager services; quarterly reporting to EPA including preparation of Property Profiles; awarding, managing and monitoring loans and subgrants as required by the terms of this agreement implementing 2 CFR § 200.332 and the “Establishing and Managing Subawards” General Term and Condition; and carrying out outreach pertaining to the loan and subgrant program to potential borrowers and subgrantees.

l. Borrower and subgrantee progress reporting to the CAR.

2. The CAR must maintain records that will enable it to report to EPA on the amount of costs incurred by the CAR, borrowers, or subgrantees at brownfield sites.

3. At least 50% of the total award amount (i.e., funds EPA awards directly to the CAR) must be used by the CAR to provide loans for the cleanup of eligible brownfield sites and associated eligible programmatic costs. The remaining EPA funding may be used for eligible programmatic costs, including issuing and managing subgrants to clean up

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eligible brownfield sites. Note: cleanup subgrants are limited to $500,000 of total award funds (EPA funds) per site. The CAR may request a waiver of the $500,000 subgrant limit or the minimum 50% loan to subgrant ratio by consulting with the EPA Project Officer for the waiver process. However, a waiver is not required for either requirement when only program income is used, since subgrants that are funded with 100% program income are not limited in amount and do not contribute to this 50% limitation. A waiver is also not required for the discounted amount of a loan if the loan is funded with 100% program income.

4. To determine whether a cleanup subgrant is appropriate, the CAR must consider the following as required by CERCLA § 104(k)(3)(C):

a. The extent to which the subgrant will facilitate the creation of, preservation of, or addition to a park, greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;

b. The extent to which the subgrant will meet the needs of a community that has the inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community;

c. The extent to which the subgrant will facilitate the use or reuse of existing infrastructure; and

d. The benefit of promoting the long-term availability of funds from a revolving loan fund for brownfield remediation.

The CAR must maintain sufficient records to support and document these determinations.

5. **Local Governments Only.** If authorized in the EPA-approved workplan and budget narrative, up to 10% of the funds awarded by this agreement may be used by the CAR itself as a programmatic cost for Brownfield Program development and implementation of monitoring health conditions and institutional controls. The health monitoring activities must be associated with brownfield sites at which at least a Phase II environmental site assessment is conducted, and the assessment indicates that the sites are contaminated with hazardous substances. The CAR must maintain records on funds that will be used to carry out this task to ensure compliance with this requirement.

6. If the CAR makes a subgrant to a local government that includes an amount (not to exceed 10% of the subgrant) for Brownfields Program development and implementation, the terms and conditions of that agreement must include a provision that ensures that the local government subgrantee maintains records adequate to ensure compliance with the

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limits on the amount of subgrant funds that may be expended for this purpose.

7. Under CERCLA § 104(k)(5)(E), CARs and subgrantees may use up to 5% of the direct EPA funding for this cooperative agreement for administrative costs, including indirect costs under 2 CFR § 200.414. The limit on administrative costs for the CAR under this agreement is $50,000.00**.** The total amount of indirect costs and any direct costs for cooperative agreement administration by the CAR paid for by EPA under the cooperative agreement shall not exceed this amount. Note that additional administrative costs may be allowed when using program income received under this cooperative agreement (see Section IV.D.2.). Subgrantees and borrowers may use up to 5% of the amount of Federal funds in their subawards for administrative costs. As required by 2 CFR § 200.403(d), the CAR and subgrantees must classify administrative costs as direct or indirect consistently and shall not classify the same types of costs in both categories. [Note, borrowers cannot charge indirect costs.]

The term “administrative costs” does not include:

a. Investigation and identification of the extent of contamination of a brownfield site;

b. Design and performance of a response action; or

c. Monitoring of a natural resource.

Eligible cooperative agreement and subgrant administrative costs subject to the 5% limitation include direct costs for:

a. Costs incurred to comply with the following provisions of the *Uniform Administrative Requirements for Cost Principles and Audit Requirements for Federal Awards* at 2 CFR Parts 200 and 1500 other than those identified as programmatic.

i. Record-keeping associated with equipment purchases required under 2 CFR § 200.313;

ii. Preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 2 CFR § 200.308;

iii. Maintaining and operating financial management systems required under 2 CFR § 200.302;

iv. Preparing payment requests and handling payments under 2 CFR § 200.305;

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v. Financial reporting under 2 CFR § 200.328;

vi. Non-federal audits required under 2 CFR Part 200, Subpart F; and

vii. Closeout under 2 CFR § 200.344 with the exception of preparing the recipient's final performance report. Costs for preparing this report are programmatic and are not subject to the 5% limitation on direct administrative costs.

b. Pre-award costs for preparation of the proposal and application for this cooperative agreement (including the final workplan) or applications for subgrants are not allowable as direct costs but may be included in the CAR's or subrecipient's indirect cost pool to the extent authorized by 2 CFR § 200.460.

c. Borrowers may use up to 5% of the amount of the Federal funds in the loan for loan administration costs. Eligible administrative costs for borrowers include direct costs for:

i. Salaries, benefits, and other compensation for persons who are not directly engaged in the cleanup of the site (e.g., marketing and human resource personnel), but only to the extent to which these persons activities support the cleanup and subsequent re-use of the site;

ii. Facility costs such as depreciation, utilities, and rent on the borrower's administrative offices; and

iii. Supplies and equipment not used directly for cleanup at the site.

d. Eligible direct costs for loan administration include expenses for:

i. Preparing revisions and changes in the budget, workplans, and other documents required under the loan agreement;

ii. Maintaining and operating financial management and personnel systems;

iii. Preparing payment requests and handling payments; and

iv. Audits including non-federal audits required under 2 CFR Part 200, Subpart F.

e. Borrowers shall not use loan funds for indirect costs even if the borrower has an indirect cost rate approved by a cognizant Federal agency.

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C. Ineligible Uses of the Funds for the Cooperative Agreement Recipient, Borrower, and/or Subgrantee

1. Cooperative agreement funds shall not be used by the CAR, borrower and/or subgrantee for any of the following activities:

a. Pre-cleanup Phase I and Phase II environmental site assessment activities with the exception of site monitoring activities that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup;

b. Monitoring and data collection necessary to apply for, or comply with, environmental permits under other federal and state laws, unless such a permit is required as a component of the cleanup action;

c. Construction, demolition, and site development activities that are not cleanup actions (e.g., marketing of property (activities or products created specifically to attract buyers or investors), construction of a new facility, or addressing public or private drinking water supplies that have deteriorated through ordinary use);

d. Job training activities unrelated to performing a specific cleanup at a site covered by a loan or subgrant;

e. To pay for a penalty or fine;

f. To pay a federal cost share requirement (e.g., a cost share required by another federal grant) unless there is specific statutory authority;

g. To pay for a response cost at a brownfield site for which the CAR or recipient of the subgrant or loan is potentially liable under CERCLA § 107;

h. To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup; and

i. Unallowable costs (e.g., lobbying and purchases of alcoholic beverages) under 2 CFR Part 200, Subpart E.

2. Cooperative agreement funds shall not be used for any of the following properties:

a. Facilities listed, or proposed for listing, on the National Priorities List (NPL);

b. Facilities subject to unilateral administrative orders, court orders, and administrative orders on consent or judicial consent decree issued to or entered by parties under CERCLA;

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c. Facilities that are subject to the jurisdiction, custody, or control of the United States government except for land held in trust by the United States government for an Indian tribe; or

d. A site excluded from the definition of a brownfield site for which EPA has not made a property-specific funding determination.

D. Use of Program Income – During the Performance Period

1. Program income for the RLF shall be defined as the gross income received by the recipient, directly generated by the cooperative agreement award or earned during the period of the award. Program income shall include principal repayments, interest earned on outstanding loan principal, interest earned on accounts holding RLF program income not needed for immediate lending, all loan fees and loan-related charges received from borrowers and other income generated from RLF operations including proceeds from the sale, collection, or liquidations of assets acquired through defaults of loans.

2. In accordance with 2 CFR § 200.307 and 2 CFR § 1500.8, during the performance period of the cooperative agreement the CAR is authorized to add program income to the funds awarded by EPA and use the program income under the same terms and conditions of this agreement unless otherwise specified (e.g., Section IV.B.3 regarding use of 50% of the funds for loans). Accordingly, program income may be used for administrative costs, including any applicable indirect costs, provided that the total amount of funds used for administrative costs does not exceed 5% of the sum of direct EPA funding and program income the CAR generates. CARs that intend to use program income for cost share for other Brownfield Grants under 2 CFR § 200.307(e)(3) must obtain prior approval from EPA's Grant Management Officer or Award Official unless the cost share method for using program income was approved at time of award. Note that repayments of principal for loans made all or in part with cooperative agreement funds shall not be used for cost share for other Brownfield Grants. These repayments of principal must be returned to the CAR's Brownfields Revolving Loan Fund.

3. In accordance with 2 CFR § 1500.8(c), to continue the mission of the Brownfields Revolving Loan Fund, recipients may use cooperative agreement funding prior to using program income funds generated by the revolving loan fund.

4. The CAR that elects to use program income to cover all or part of an RLF's programmatic costs shall maintain adequate accounting records and source documentation to substantiate the amount and percent of program income expended for eligible RLF programmatic costs, and comply with OMB cost principles at 2 CFR Part

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200, Subpart E when charging costs against program income. For any cost determined by EPA to have been an ineligible or unallowable use of program income, the recipient shall reimburse the RLF or refund the amount to EPA as directed by EPA's Action Official in its disallowance determination. EPA will notify the recipient of the time period allowed for reimbursement or refund.

5. Loans or subgrants made with a combination of program income and direct funding from EPA are subject to the same terms and conditions as those applicable to this agreement. Loans and subgrants made with direct funding from EPA in combination with non-federal sources of funds are also subject to the same terms and conditions of this agreement.

6. The CAR must obtain EPA approval of the substantive terms of loans and subgrants made entirely with program income unless this requirement is waived by the EPA Project Officer.

E. Interest-Bearing Accounts

1. The CAR must deposit advances of cooperative agreement funds (as described in Section VII.A., *Methods of Disbursement*) and program income (as defined earlier) in an interest-bearing account unique to this cooperative agreement [i.e., separate from post-closeout program income governed under a Closeout Agreement (COA) since separate reporting of funds is required under a COA].

2. Advances of EPA funds (and other Federal funds as well) must also be placed in interest bearing accounts as provided in 2 CFR § 200.305(b)(8) for CARs other than states which are subject to applicable Treasury regulations. Advances of EPA funds must be maintained in an account that is separate from the program income in the RLF. While interest earned by CARs on advances of EPA funds should be minimal given the regulatory and T&C requirements for prompt disbursement of drawn down funds, any interest the CAR does earn on advanced Federal funds is subject to 2 CFR § 200.305(b)(9). This regulation generally requires that interest on advanced Federal funds in excess of $500 must be transmitted annually to the U.S. Department of Health and Human Services.

3. Interest earned on program income is considered additional program income.

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F. Closeout Agreement and Use of Post Cooperative Agreement (i.e., Post-Closeout) Program Income

1. As provided at 2 CFR § 200.307(f) and 2 CFR § 1500.8(c) after the end of the period of performance of the cooperative agreement, the CAR may keep and use program income at the end of the cooperative agreement (retained program income) and use program income earned after the cooperative agreement period of performance (post-closeout program income) in accordance with terms of a COA. At the end of the cooperative agreement period of performance, the CAR shall comply with the attached COA. This award is contingent upon the CAR signing and returning the attached COA to the EPA Project Officer no later than 30 days of award. The COA goes into effect for this assistance agreement number the day after the cooperative agreement period of performance ends unless otherwise designated by EPA's Award Official or Grants Management Officer. The period of performance is identified as the project period in the Notice of Award.

2. This COA is based on the FY22 RLF COA template. EPA plans to modify RLF COA templates every five years. EPA reserves the right to renegotiate the terms of this RLF COA every five years, in conjunction with the template change (e.g., next change will be in FY27). If the CAR agrees to continue to operate the RLF under a COA past FY27, the CAR shall work with EPA's Project Officer to update to the latest COA template. Otherwise, the Project Officer and CAR will negotiate a mutually acceptable disposition of unused program income, and an Authorized EPA Official (e.g., Award Official or Grants Management Officer) will modify the COA accordingly.

V. RLF REQUIREMENTS

A. Authorized RLF Cleanup Activities

1. The CAR, or borrower/subgrantee with CAR concurrence, shall prepare an ABCA, or equivalent state Brownfields program document, which will include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, ability to implement, and the cost of the response proposed. The evaluation of alternatives must

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also consider the resilience of the remedial options to address potential adverse impacts caused by extreme weather events (e.g., sea level rise, increased frequency and intensity of flooding, etc.). The alternatives may additionally consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed of, reduce volume of materials taken to landfills, and recycle and re-use materials generated during the cleanup process to the maximum extent practicable. The evaluation will include an analysis of reasonable alternatives including no action. The cleanup method chosen must be based on this analysis and documented in a decision document upon completion of the public comment period. The CAR, or borrower/subgrantee with CAR concurrence, must consult with the relevant state program (or EPA if there is not a state program that covers the site) to determine if the selected cleanup requires formal modification based on public comments or new information.

2. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling or cleanup), the CAR shall consult with the EPA Project Officer regarding potential applicability of the National Historic Preservation Act (NHPA) (16 USC § 470) and, if applicable, shall assist EPA in complying with any requirements of the NHPA and implementing regulations.

B. Quality Assurance (QA) Requirements

1. If environmental data are to be collected as part of the brownfield cleanup (e.g., cleanup verification sampling, post-cleanup confirmation sampling), the CAR shall comply with 2 CFR § 1500.12 requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. State law may impose additional QA requirements. Recipients implementing environmental programs within the scope of the assistance agreement must submit to the EPA Project Officer an approvable Quality Assurance Project Plan (QAPP) at least 30 days prior to the initiating of data collection or data compilation. The Quality Assurance Project Plan (QAPP) is the document that provides comprehensive details about the quality assurance, quality control, and technical activities that must be implemented to ensure that project objectives are met. Environmental programs include direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology.

The QAPP should be prepared in accordance with EPA QA/R-5: EPA Requirements for Quality Assurance Project Plans. No environmental data collection or data compilation

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may occur until the QAPP is approved by the EPA Project Officer and Quality Assurance Regional Manager. Additional information on the requirements can be found at the EPA Office of Grants and Debarment website at https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial.

2. **Competency of Organizations Generating Environmental Measurement Data:** In accordance with Agency Policy Directive Number FEM-2012-02, *Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements*, the CAR agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, the CAR agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The CAR shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at http://www.epa.gov/fem/lab_comp.htm or a copy may also be requested by contacting the EPA Project Officer for this award.

C. Public Involvement and Community Outreach in RLF Cleanup Activities

1. All RLF loan and subgrant cleanup activities require a site-specific Community Involvement Plan that includes providing reasonable notice, and the opportunity for public involvement and comment on the proposed cleanup options under consideration for the site. All information, including responses to public comments and administrative records, may be made available to the public to the extent consistent with 2 CFR § 200.338 and applicable state, tribal, or local law.

2. The CAR agrees to clearly reference EPA investments in the project during all phases of community outreach outlined in the EPA-approved workplan which may include the development of any post-project summary or success materials that highlight achievements to which this project contributed.

a. If any documents, fact sheets, and/or web materials are developed as part of this cooperative agreement, then they shall comply with the *Acknowledgement Requirements for Non-ORD Assistance Agreements* in the General Terms and Conditions of this agreement.

b. If a sign is developed as part of a project funded by this cooperative agreement, then the sign shall include either a statement (e.g., this project has been funded, wholly or in part, by EPA) and/or EPA's logo acknowledging that

Attachment: 2023-016 ATTH 01 Cooperative Agreement 2022 4B 02F19201-0 (3919 : 2023-016 ORD Amend Budget for New EPA RLF)

EPA is a source of funding for the project. The EPA logo may be used on project signage when the sign can be placed in a visible location with a direct linkage to site activities. Use of the EPA logo must follow the sign specifications available at https://www.epa.gov/grants/epa-logo-seal-specifications-signage-produced-epa-assistance-agreement-recipients.

3. The CAR agrees to notify the EPA Project Officer of public or media events publicizing the

accomplishment of significant events related to construction and/or site reuse projects as a result of this agreement, and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.

4. To increase public awareness of projects serving communities where English is not the predominant language, CARs are encouraged to include in their outreach strategies communication in non-English languages. Translation costs for this purpose are allowable, provided the costs are reasonable.

5. All public awareness activities conducted with EPA funding are subject to the provisions in the General Terms and Conditions on compliance with section 504 of the Americans with Disabilities Act.

D. Administrative Record

1. The CAR shall establish an Administrative Record that contains the documents that form the basis for the selection of a cleanup plan. Documents in the Administrative Record shall include the ABCA; site investigation reports; the cleanup plan; cleanup standards used; responses to public comments; and verification that shows that cleanups are complete. The CAR shall keep the Administrative Record available at a location convenient to the public and make it available for inspection. The Administrative Record must be retained for three (3) years after the termination of the cooperative agreement subject to any requirements for maintaining records of site cleanups ongoing at the time of termination contained in the CAR's COA.

E. Implementation of RLF Cleanup Activities

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1. The CAR shall ensure the adequacy of each RLF cleanup in protecting human health and the environment as it is implemented. Each loan and subgrant agreement shall contain terms and conditions, subject to any required approvals by the state or tribal regulatory oversight authority, that allow the CAR to change cleanup activities as necessary based on comments from the public or any new information acquired.

2. If the borrower or subgrantee is unable or unwilling to complete the RLF cleanup, the CAR shall ensure that the site is secure. The CAR shall notify the appropriate state agency and EPA to ensure an orderly transition should additional activities become necessary.

F. Completion of RLF Cleanup Activities

1. The CAR shall ensure that the successful completion of an RLF cleanup is properly documented. This must be done through a final report or letter from a Qualified Environmental Professional, or other documentation provided by a State or Tribe that shows cleanups are complete (including No Further Action letters, institutional controls, etc.). This documentation must be included as part of the Administrative Record.

VI. REVOLVING LOAN FUND REQUIREMENTS

A. Prudent Lending and Subgranting Practices

1. The CAR is expected to establish economically sound structures and day-to-day management and processing procedures to maintain the RLF and meet longterm brownfield cleanup lending/subgranting objectives. These include establishing: underwriting principles that can include the establishment of interest rates, repayment terms, fee structure, and collateral requirements sufficient to recover, as a minimum, the principal amount of the loan less any repayment discounts; and, lending/subgranting practices that can include loan/subgrant processing, documentation, approval, servicing, administrative procedures, collection, and recovery actions.

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2. The CAR shall not incur costs under this cooperative agreement for loans subgrants or other eligible costs until an RLF cooperative agreement workplan has been submitted to and approved by the EPA Project Officer or program manager. “Though the workplan must identify tasks and milestones for establishing and operating the RLF, more detailed information may be submitted in supplemental documents, e.g., an “implementation plan.” The CAR shall ensure that the objectives of the workplan are met through its or the fund manager’s selection and structuring of individual loans/subgrants and lending/subgranting practices. These activities shall include, but not be limited to the following:

a. Considering awarding subgrants on a competitive basis. If the CAR decides not to award any such subgrants competitively, it must document the basis for that decision and inform the EPA Project Officer in the first quarterly performance report. The CAR must inform the EPA Project Officer if the CAR subsequently decides to award subgrants competitively in the quarterly performance report immediately following the decision.

b. Establishing appropriate project selection criteria consistent with federal and state requirements, the intent of the RLF program, and the cooperative agreement entered into with EPA.

c. Establishing threshold eligibility requirements whereby only eligible borrowers or subgrantees receive RLF financing.

d. Developing a formal protocol for potential borrowers or subgrantees to demonstrate eligibility, based on the procedures described in the initial RLF application proposal and cooperative agreement application. Such a protocol shall include descriptions of projects that will be funded, how loan monies will be used, and qualifications of the borrower or subgrantee to make legitimate use of the funds. Additionally, CARs shall ask borrowers or subgrantees for an explanation of how a project, if selected, would be consistent with RLF program objectives, statutory requirements and limitations, and protect human health and the environment.

e. Requiring that borrowers or subgrantees submit information describing the borrower’s or subgrantee’s environmental compliance history. The CAR shall consider this history in an analysis of the borrower or subgrant recipient as a cleanup and business risk.

f. Establishing procedures for handling the day-to-day management and processing of loans and repayments.

g. Establishing standardized procedures for the disbursement of funds to the borrower or subgrantee.

Attachment: 2023-016 ATTH 01 Cooperative Agreement 2022 4B 02F19201-0 (3919 : 2023-016 ORD Amend Budget for New EPA RLF)

B. Inclusion of Additional Terms and Conditions in RLF Loan and Subgrant Documents

1. All loans and subgrants must include the information required by 2 CFR § 200.332(a). EPA has developed an optional template to use in creating this agreement that is available on EPA's Subaward Policy internet page. EPA does not require CARs to use the template.

2. The CAR shall ensure that the borrower or subgrantee meets the cleanup and other program requirements of the RLF cooperative agreement by including the following special terms and conditions in RLF loan agreements and subgrants:

a. Borrowers or subgrantees shall use funds only for eligible activities and in compliance with the requirements of CERCLA § 104(k) and applicable federal and state laws and regulations. (See Section I.A.2. and Section II.)

b. Borrowers or subgrantees shall ensure that the cleanup protects human health and the environment.

c. Borrowers or subgrantees shall document how funds are used.

d. Borrowers or subgrantees shall maintain records for a minimum of three (3) years following completion of the cleanup financed all or in part with RLF funds unless one of the conditions described at 2 CFR § 200.334 is present. Borrowers or subgrantees shall obtain written approval from the CAR prior to disposing of records, so that the CAR can maintain the records, if necessary, for complying with the CAR's obligations under 2 CFR § 200.334. CARs shall also require that the borrower or subgrantee provide access to records relating to loans and subgrants supported with RLF funds to authorized representatives of the federal government. As stated in the attached COA, records related to the COA must be retained by the CAR for the duration of the COA and retained for a period of three (3) years following termination or discontinuation of the COA.

e. Borrowers or subgrantees shall certify that they are not currently, nor have they been, subject to any penalties resulting from environmental noncompliance at the site subject to the loan or subgrant.

f. Borrowers or subgrantees shall certify that they are not potentially liable under CERCLA § 107 for the site or that, if they are, they qualify for a limitation or defense to liability under CERCLA. If asserting a limitation or defense to liability, the borrower or subgrantee must state the basis for that assertion. When using cooperative agreement funds for petroleum-contaminated brownfield sites, borrowers or subgrantees shall certify that they are not a viable responsible party or potentially liable for the petroleum contamination at the site. The CAR may

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consult with EPA for assistance with this matter.

g. Borrowers or subgrantees shall conduct cleanup activities as required by the CAR.

h. Subgrantees, other than borrowers, shall comply with all applicable EPA assistance regulations (2 CFR Parts 200 and 1500). All procurements conducted with subgrant funds, but not loans, must comply with Procurement Standards of 2 CFR §§ 200.317 through 200.327, as applicable.

i. Borrowers must comply with the internal control requirements specified at 2 CFR § 200.303 and are subject to the 2 CFR Part 200, Subpart F, *Audit Requirements*. The CAR must oversee and manage loans as required by 2 CFR §§ 200.330 through 200.332. No other provisions of the Uniform Grant Guidance apply directly to borrowers.

j. A term and condition or other legally binding provision shall be included in all loans and subgrants entered into with the funds under this agreement, or when funds awarded under this agreement are used in combination with non-federal sources of funds, to ensure that borrowers and subgrantees comply with all applicable federal and state laws and requirements. In addition to CERCLA § 104(k), federal applicable laws and requirements include 2 CFR Parts 200 and 1500.

k. EPA provides general information on statutes, regulations and Executive Orders that apply to EPA grants on the Grants internet site at www.epa.gov/grants. Many federal requirements are agreement or program specific and EPA encourages CARs to review the terms of their cooperative agreement carefully and consult with their EPA Project Officer for advice if necessary.

C. Default

1. In the event of a loan default, the CAR shall make reasonable efforts to enforce the terms of the loan agreement including proceeding against the assets pledged as collateral to cover losses to the loan. If the cleanup is not complete at the time of default, the CAR is responsible for:

a. documenting the nexus between the amount paid to the borrower (bank or other financial institution) and the cleanup that took place prior to the default; and

b. securing the site (e.g., ensuring public safety) and informing the EPA Project Officer and the State.

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D. Conflict of Interest

1. The CAR shall establish and enforce conflict of interest provisions that prevent the award of subawards that create real or apparent personal conflicts of interest, or the CAR's appearance of lack of impartiality. Such situations include, but are not limited to, situations in which an employee, official, consultant, contractor, or other individual associated with the CAR (affected party) approves or administers a grant or subaward to a subaward recipient in which the affected party has a financial or other interest. Such a conflict of interest or appearance of lack of impartiality may arise when:

a. The affected party,

b. Any member of his immediate family,

c. His or her partner, or

d. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the subrecipient.

Affected employees will neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients. Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by affected parties.

VII. DISBURSEMENT, PAYMENT, AND CLOSEOUT

For the purposes of these Terms and Conditions, the following definitions apply: "payment" is

EPA's transfer of funds to the CAR; the CAR incurs an "obligation" when it enters into an agreement with a borrower or a subgrantee; "disbursement" is the transfer of funds from the CAR to the borrower or subgrantee. The CAR may also disburse funds to a contractor or to pay an allowable cost (e.g. personnel compensation) as provided in 2 CFR § 200.305(b)(1). "Closeout" refers to the process EPA follows to both ensure that all administrative actions and work required under the cooperative agreement have been completed and to establish a COA to govern the use of program income.

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A. Methods of Disbursement

1. The CAR may choose to disburse funds to the borrower or subgrantee by means of 'actual expense' or 'schedule.' If the schedule method is used, the recipient must ensure that the schedule is designed to reasonably approximate the borrower's or subgrantee's incurred costs.

a. An 'actual expense' disbursement approach requires the borrower or subgrantee to submit documentation of the borrower's or subgrantee's expenditures (e.g., invoices) to the CAR prior to requesting payment from EPA.

b. A 'schedule' disbursement is one in which all, or an agreed upon portion, of the obligated funds are disbursed to the borrower or subgrantee on the basis of an agreed upon schedule (e.g., progress payments) provided the schedule minimizes the time elapsing between disbursement by the CAR and the borrower or subgrantee's payment of costs incurred in carrying out the loan/subgrant. In unusual circumstances, disbursement may occur upon execution of the loan or subgrant. The CAR shall submit documentation of disbursement schedules to EPA.

c. If the disbursement schedule of the loan/subgrant agreement calls for disbursement of the entire amount of the loan/subgrant upon execution, the CAR shall demonstrate to the EPA Project Officer that this method of disbursement is necessary for purposes of cleaning up the site covered by the loan/subgrant. Further, the CAR shall include an appropriate provision in the loan/subgrant agreement which ensures that the borrower/subgrantee uses funds promptly for costs incurred in connection with the cleanup and that interest accumulated on schedule disbursements is applied to the cleanup.

B. Schedule for Closeout

1. There are two fundamental criteria for closeout:

a. Final payment of funds from EPA to the CAR following the end date for the cooperative agreement or prior to the end date when the CAR has disbursed all of the EPA funding of the funds awarded; and

b. Completion of all cleanup activities funded completely, or in part, by direct EPA funding from the amount of the award.

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2. The first criterion of cooperative agreement closeout is met when the CAR receives all payments from EPA. The second closeout criterion is met when all cleanup activities funded by the cooperative agreement are complete.

3. The CAR must follow the attached COA for any retained and future program income generated after closeout. Eligible uses include continuing to operate an RLF for brownfield site cleanup and/or other brownfield site activities as identified in the attached COA.

C. Compliance with Closeout Schedule

1. If the CAR fails to comply with the closeout schedule, any funds attributable to the cooperative agreement, including retained program income not obligated under loan agreement to a borrower or subgrantee, may be subject to federal recovery.

D. Final Requirements

1. The CAR must submit the following documentation:

a. The Final Technical Cooperative Agreement Report as described in Section III.E. of these Terms and Conditions.

b. Administrative and Financial Reports as described in the General Terms and Conditions of this agreement.

2. The CAR must ensure that all appropriate data have been entered into ACRES or all hardcopy Property Profile Forms are submitted to the EPA Project Officer.

E. Recovery of RLF Assets

1. In case of termination, the CAR shall return to EPA its fair share of the value of the RLF assets consisting of cash, receivables, personal and real property, and notes or other financial instruments developed through use of the funds. EPA's fair share is the amount computed by applying the percentage of EPA participation in the total

Attachment: 2023-016 ATTH 01 Cooperative Agreement 2022 4B 02F19201-0 (3919 : 2023-016 ORD Amend Budget for New EPA RLF)

capitalization of the RLF to the current fair market value of the assets thereof. EPA also has remedies under *Remedies for Noncompliance* at 2 CFR §§ 200.339 through 200.342 and CERCLA § 104(k) when EPA determines that the value of such assets has been reduced by improper/illegal use of cooperative agreement funding. In such instances, the CAR may be required to compensate EPA over and above the EPA's share of the current fair market value of the assets. Nothing in this agreement limits EPA's authorities under CERCLA to recover response costs from a potentially responsible party.

F. Loan Guarantees

1. If the CAR chooses to use the RLF funds to support a loan guarantee approach, the following terms and conditions apply:

a. The CAR shall:

i. Document the relationship between the expenditure of CERCLA § 104(k) funds and cleanup activities;

ii. Maintain an escrow account expressly for the purpose of guaranteeing loans, by following the payment requirement described under the Escrow Requirements term and condition below; and

iii. Ensure that cleanup activities guaranteed by RLF funds are carried out in accordance with CERCLA § 104(k), CERCLA § 104(g) relating to compliance with the Davis-Bacon Act, and applicable federal and state laws and will protect human health and the environment.

b. Payment of funds to a CAR shall not be made until a guaranteed loan has been issued by a participating financial institution. Loans guaranteed with RLF funds shall be made available as needed for specified cleanup activities on an "actual expense" or "schedule" basis to the borrower. (See Section VII.A., *Methods of Disbursement*). The CAR's escrow arrangement shall be structured to ensure that the CERCLA § 104(k) funds are properly "disbursed" by the recipient for the purposes of the cooperative agreement as required by 2 CFR § 200.305. If the funds are not properly disbursed, the CERCLA § 104(k) funds that the recipient places in an escrow account will be subject to the interest recovery provisions of 2 CFR § 200.305.

c. To ensure that funds transferred to the CAR are disbursements of assisted funds, the escrow account shall be structured to ensure that:

Attachment: 2023-016 ATTH 01 Cooperative Agreement 2022 4B 02F19201-0 (3919 : 2023-016 ORD Amend Budget for New EPA RLF)

i. The recipient does not retain the funds;

ii. The recipient does not have access to the escrow funds on demand;

iii. The funds remain in escrow unless there is a default of a guaranteed loan;

iv. The organization holding the escrow (i.e., the escrow agency), shall be a bank or similar financial institution that is independent of the recipient; and

v. There must be an agreement with the financial institution participating in the guaranteed loan program which documents that the financial institution has made a guaranteed loan to clean up a brownfield site in exchange for access to funds held in escrow in the event of a default by the borrower or subgrantee.

d. Federal Obligation to the Loan Guarantee Program - Any obligations that the CAR incurs for loan guarantees in excess of the amount awarded under the cooperative agreement are the CAR's responsibility. This limitation on the extent of the Federal Government's financial commitment to the CAR's loan guarantee program shall be communicated to all participating banks and borrower or subgrantee.

e. Repayment of Guaranteed Loans - Upon repayment of a guaranteed loan and release of the escrow amount by the participating financial institution, the CAR shall return the cooperative agreement funds placed in escrow to EPA based on disposition instructions provided by the EPA Project Officer. Alternatively, the CAR may, with EPA approval:

i. Guarantee additional loans under the terms and conditions of the agreement; or

ii. Amend the terms and conditions of the agreement to provide for another disposition of funds that will redirect the funds for other brownfield sites' related activities authorized by the terms of the cooperative agreement or, if applicable, a COA.

Attachment: 2023-016 ATTH 01 Cooperative Agreement 2022 4B 02F19201-0 (3919 : 2023-016 ORD Amend Budget for New EPA RLF)

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☑ Promote an Environmentally Sensitive & Livable Community
	☑ Provide a Safe Community
	☑ Deliver Quality Services
	☑ Foster a Healthy Community
Run the Operations	☑ Enhance Community Preparedness & Responsiveness
	☐ Maximize Partnership Opportunities
	☐ Provide Courteous & Responsive Customer Service
	☑ Model a Positive City Image
	☐ Deliver Efficient Services
	☑ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength
	☑ Maximize Utilization & Resources
	☑ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce
	☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

Resource Impact:

Staff time required if item is approved:	No Additional

Other Potential Impacts:

Public Information Plan:

☐	Newspaper Notice (Required by Statute)	☐	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☐	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☐	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☑	None Required	☐	

Other:

Attachment: 2023-016 Goals & Perspectives (3919 : 2023-016 ORD Amend Budget for New EPA RLF)

ORDINANCE NO. 2023-016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ESTABLISHING THE EPA BROWNFIELDS BIL REVOLVING LOAN FUND (FUND 245) AND AMENDING BUDGETED REVENUE AND EXPENDITURES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2023, TO INCLUDE THE 2022 EPA BROWNFIELDS REVOLVING LOAN FUND IN THE AMOUNT OF ONE MILLION DOLLARS ($1,000,000); AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City applies yearly for supplemental funding of its EPA Brownfields Revolving Loan Fund; and

WHEREAS, the City was awarded $1,000,000 from its FY22 supplemental application that is funded by EPA through the Bipartisan Infrastructure Law (BIL Funding) and awarded as a new Brownfields Revolving Loan Fund Cooperative Agreement with a grant period of October 1, 2022 to September 30, 2027; and

WHEREAS, City staff recommends amending the budget estimate of the City's revenues and expenditures for the fiscal year beginning October 1, 2022, and ending September 30, 2023, by adding the amount of **ONE MILLION DOLLARS ($1,000,000)** to Fund 245.

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

SECTION 1: The budget estimate of the revenue and expenditures of the City of Texarkana, Texas, as prepared by the City Manager and appropriated by the City Council for the fiscal year beginning October 1, 2022, and ending September 30, 2023, be amended to reflect additional revenue and expenditures appropriated of **ONE MILLION DOLLARS ($1,000,000)** added to the Planning and Community Development EPA Brownfields Revolving Loan BIL Program Fund (Fund 245).

SECTION 2: 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 **27th day of February, 2023**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:23p.m.

Attachment: 2023-016 ORD EPA RLF BIL Funding signed (3919 : 2023-016 ORD Amend Budget for New EPA RLF)

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/6/2023 9:18 AM

Lead Department: City Manager **Action Officer:** David Orr, City Manager

Subject: Resolution No. 2023-020 adopting legislative priorities for the City of Texarkana.

Briefing: 2/27/2023 **Public Hearing:** 2/27/2023 **Council Vote:** 2/27/2023

Item Schedule
Schedule 1: Brief twice - vote once (six weeks)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

The Northeast Texas Regional Alliance Legislative Trip is scheduled for March 1st and 2nd, 2022 in Austin where our region's priorities will be discussed with elected members of the Texas State Legislature.

During the 88th Session, it is anticipated the Texas State Legislature will decide many significant issues that will impact residents, non-profit organizations and businesses of Texarkana.

The attached legislative priorities of the City of Texarkana are proposed for adoption for the 88th session of the Texas State Legislature.

Potential Options:

- Approve
- Deny

Fiscal Implications:

None

Staff Recommendation:

Staff recommends approval.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

City of Texarkana, Texas

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2023-020 RES Adopting Legislative Priorities (DOCX)
b. 2023-020 Goals & Perspectives (DOCX)
c. 2023-020 EXH 'A' Texarkana Legislative Priorities (DOCX)
d. 2023-020 RES Legislative Priorities signed (PDF)

Staff Coordination

City Manager	David Orr	Department Head Review	Completed	02/01/2023 4:53 PM
City Manager	David Orr	City Manager Review	Completed	02/01/2023 4:53 PM
City Council	Jennifer Evans	Meeting	Completed	02/13/2023 6:00 PM

Meeting History

RESOLUTION NO. 2023 - 020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ADOPTING THE CITY OF TEXARKANA'S LEGISLATIVE PRIORITIES FOR THE 88TH SESSION OF THE TEXAS LEGISLATURE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Texarkana, Texas, desires to adopt legislative priorities of the City of Texarkana for the 88th session of the Texas State Legislature; and

WHEREAS, the Northeast Texas Regional Alliance Legislative Trip is scheduled for March 1st and 2nd, 2023 in Austin where the local region's priorities will be discussed with elected members of the Texas State Legislature; and

WHEREAS, during the 88th Session, it is anticipated the Texas State Legislature will decide many significant issues that will impact residents, non-profit organizations, and businesses of Texarkana.

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

SECTION 1: The City Council of the City of Texarkana, Texas, hereby approves and adopts the City's Legislative Priorities for the 88th Session of the Texas State Legislature (**Exhibit A**).

SECTION 2: 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 **27th day of February, 2023.**

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2023-020 RES Adopting Legislative Priorities (3927 : 2023-020 RES Adopting Legislative Priorities)

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:	
Perspectives	**Goals**
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☑ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☐ Maximize Partnership Opportunities ☑ Provide Courteous & Responsive Customer Service ☐ Model a Positive City Image ☑ Deliver Efficient Services ☑ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture
Perspectives and Goals Additional Comments:	

Resource Impact:	
Staff time required if item is approved:	No Additional
Other Potential Impacts:	

Public Information Plan:			
☐	Newspaper Notice (Required by Statute)	☐	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☐	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☐	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☐	None Required	☐	
Other:			

Attachment: 2023-020 Goals & Perspectives (3927 : 2023-020 RES Adopting Legislative Priorities)

CITY OF
TEXARKANA
220 TEXAS BOULEVARD TEXARKANA TEXAS 75501 TEXAS

Legislative Priorities

Support the Texas Municipal League's legislative efforts to uphold cities home-rule authority and oppose legislation that diminishes home-rule authority.

Support local responsibility for land use, development, and annexation authority.

Support legislation that would maintain the current revenue structure of the City of Texarkana and other home-rule municipalities in the state.

Economic Development & Tourism

Support all economic development programs currently available under Texas law.

Support state and local utilization of tax abatements and other economic development incentives including Ch. 313 extension proposals.

Support further funding of the Broadband Development Office and prioritize funding distribution to local governmen entities.

Support amendments to the Hotel Occupancy Tax statute in a manner that provides all Texas cities the authority to spend Hotel Occupancy Tax revenue on existing sports facilities and fields in a manner that promotes tourism within the city.

Support amendments to the Hotel Occupancy Tax statute that would rebate a portion of the state Hotel Occupancy Tax revenues to Texas cities for use in the development, maintenance and operations of convention centers and other performance facilities.

Transportation

Support increasing Texas Department of Transportation (TxDOT) funding for new projects and maintenance. Local project priorities include I-30 widening, State Line Ave, and Texarkana MPO established transportation priorities.

Support legislation that would allow for greater flexibility by cities to fund local airport transportation projects.

Water

Support legislation which promotes maintaining local authority of water rights within individual districts and/or municipalities and make funding available to water rights holders for bi-state development of water resources.

Support legislation to streamline the water project permitting process at both the state and federal level.

Open Government & Elections

Support efforts and legislation to maintain the May and November Uniform Election dates.

Attachment: 2023-020 EXH 'A' Texarkana Legislative Priorities (3927 : 2023-020 RES Adopting Legislative Priorities)

RESOLUTION NO. 2023 - 020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ADOPTING THE CITY OF TEXARKANA'S LEGISLATIVE PRIORITIES FOR THE 88TH SESSION OF THE TEXAS LEGISLATURE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Texarkana, Texas, desires to adopt legislative priorities of the City of Texarkana for the 88th session of the Texas State Legislature; and

WHEREAS, the Northeast Texas Regional Alliance Legislative Trip is scheduled for March 1st and 2nd, 2023 in Austin where the local region's priorities will be discussed with elected members of the Texas State Legislature; and

WHEREAS, during the 88th Session, it is anticipated the Texas State Legislature will decide many significant issues that will impact residents, non-profit organizations, and businesses of Texarkana.

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

SECTION 1: The City Council of the City of Texarkana, Texas, hereby approves and adopts the City's Legislative Priorities for the 88th Session of the Texas State Legislature (**Exhibit A**).

SECTION 2: 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 **27th day of February, 2023.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:30p.m.

Attachment: 2023-020 RES Legislative Priorities signed (3927 : 2023-020 RES Adopting Legislative Priorities)

CITY OF
TEXARKANA
220 TEXAS BOULEVARD TEXARKANA TEXAS 75501 TEXAS

Legislative Priorities

Support the Texas Municipal League's legislative efforts to uphold cities home-rule authority and oppose legislation that diminishes home-rule authority.

Support local responsibility for land use, development, and annexation authority.

Support legislation that would maintain the current revenue structure of the City of Texarkana and other home-rule municipalities in the state.

Economic Development & Tourism

Support all economic development programs currently available under Texas law.

Support state and local utilization of tax abatements and other economic development incentives including Ch. 313 extension proposals.

Support further funding of the Broadband Development Office and prioritize funding distribution to local governmen entities.

Support amendments to the Hotel Occupancy Tax statute in a manner that provides all Texas cities the authority to spend Hotel Occupancy Tax revenue on existing sports facilities and fields in a manner that promotes tourism within the city.

Support amendments to the Hotel Occupancy Tax statute that would rebate a portion of the state Hotel Occupancy Tax revenues to Texas cities for use in the development, maintenance and operations of convention centers and other performance facilities.

Transportation

Support increasing Texas Department of Transportation (TxDOT) funding for new projects and maintenance. Local project priorities include I-30 widening, State Line Ave, and Texarkana MPO established transportation priorities.

Support legislation that would allow for greater flexibility by cities to fund local airport transportation projects.

Water

Support legislation which promotes maintaining local authority of water rights within individual districts and/or municipalities and make funding available to water rights holders for bi-state development of water resources.

Support legislation to streamline the water project permitting process at both the state and federal level.

Open Government & Elections

Support efforts and legislation to maintain the May and November Uniform Election dates.

Attachment: 2023-020 RES Legislative Priorities signed (3927 : 2023-020 RES Adopting Legislative Priorities)

City of Texarkana, Texas

Version:

Briefing Sheet

Update Date: 2/3/2023 10:58 AM

Lead Department: City Attorney **Action Officer:** Jeffery Lewis,

Subject: Resolution No. 2023-021 authorizing a written services agreement for provision of city services to RaceTrac, Inc., site [US 59 & S. Kings Hwy] in the event the City Council adopts an ordinance for full-purpose annexation of the tract.

Briefing: 2/27/2023 **Public Hearing:** 2/27/2023 **Council Vote:** 2/27/2023

Item Schedule

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

RaceTrac, Inc., the owner of an 8.755 acre tract on the northeast corner of U.S. Highway 59 and S. Kings Highway, has requested that the City annex the acreage into the city limits. The tract is within the Limited Purpose Property described in the City's Strategic Partnership Agreement with Macedonia-Eylau Municipal Utility District No. 1 of Bowie County, approved by the City Council on October 24, 2022 [Res. No. 2022-130].

Prior to RaceTrac, Inc., acquiring ownership of this tract, the City Council approved limited-purpose annexation of the Property consistent with the Strategic Partnership Agreement [Ord. No. 2022-137] and authorized and ordered for the tract the legal sale of malt beverages and wine for off-premise consumption consistent with City ordinances and the Texas Alcoholic Beverage Code [Ord. No. 2022-138], both ordinances to be effective upon the execution of the proposed services agreement. RaceTrac, Inc., represented by legal counsel, has agreed to and signed the proposed services agreement.

Under Texas law, a city that elects to annex an area by petition of landowner must first negotiate and enter into a written agreement with the owner of land in the area for the provision of services in the area, with the agreement including (1) a list of each service the city will provide on the effective date of the annexation, and (2) a schedule that includes the period within which the city will provide each service that is not provided on the effective date of the annexation.

Approval of this resolution does not annex the tract. Annexation must be accomplished by ordinance; and before a city may adopt an ordinance annexing an area by petition of landowners, the governing body must conduct a public hearing, providing persons interested in the annexation the opportunity to be heard, and thereafter the governing body may adopt an ordinance annexing the area.

Approval of this resolution authorizes infrastructure work to commence for delivery of retail water and sewer service to the site, consistent with Section 3.4 of the City's Strategic Partnership Agreement with Macedonia-Eylau Municipal Utility District.

Potential Options:

Approve (or not) the proposed services agreement.

Fiscal Implications:

The infrastructure work for delivery of retail water and sewer service to the site is outlined in the attached Strategic Partnership Agreement with Macedonia-Eylau Municipal Utility District.

Staff Recommendation:

City staff recommends that the City Council elect to begin the process of consideration of annexation of the subject tract: authorizing the City Manager to negotiate and execute the proposed services agreement pertaining to development incentives and services to be provided by the City in the event the City Council, in its discretion, favorably votes to annex the subject tract; and authorizing infrastructure work to commence for delivery of retail water and sewer service to the site, consistent with Section 3.4 of the City's Strategic Partnership Agreement with Macedonia-Eylau Municipal Utility District.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2023-021 RES RaceTrac serv agmt (DOCX)
b. 2023-021 ATTH 01 Serv Agmt RT (PDF)
c. 2023-021 ATTH 02 SPA City & M-E MUD (PDF)
d. 2023-021 Goals & Perspectives (DOCX)

Staff Coordination

City Attorney	Jeffery C. Lewis	Department Head Review	Completed	02/03/2023 10:59 AM
Water Utilities	Gary Smith	Review	Completed	02/03/2023 11:30 AM
Public Works Department		Dusty Henslee	Review	Completed 02/03/2023 12:45 PM

City of Texarkana, Texas

City Manager	David Orr	City Manager Review	Completed	02/03/2023 1:47 PM
City Council	Jennifer Evans	Meeting	Completed	02/13/2023 6:00 PM

Meeting History

RESOLUTION NO. 2023 - 021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ELECTING TO BEGIN THE PROCESS OF CONSIDERING THE VOLUNTARY ANNEXTION OF AN 8.755 ACRE TRACT, H. S. JANES HRS A-306, INTO THE CITY LIMITS OF THE CITY OF TEXARKANA, TEXAS, BY AUTHORIZING A WRITTEN SERVICES AGREEMENT FOR PROVISION OF CITY SERVICES IN THE EVENT THE CITY COUNCIL ADOPTS AN ORDINANCE ANNEXING THE TRACT; AUTHORIZING INFRASTRUCTURE WORK FOR DELIVERY OF RETAIL WATER AND SEWER SERVICE; DIRECTING THE PREPARATION OF A FORM ANNEXATION ORDINANCE AND A PUBLIC HEARING BEFORE INSTITUTING ANY ANNEXATION PROCEEDINGS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, RaceTrac, Inc., the owner of an 8.755 lying and situated in the H. S. Janes Headright Survey, Abstract 306, Bowie County, Texas, described in Section 1 of the proposed "Municipal Services Agreement" ("MSA") attached to this resolution as **ATTH 01**, has requested that the City of Texarkana, Texas, annex the acreage into the city limits and has signed the proposed MSA; and

WHEREAS, the tract is within the Limited Purpose Property as defined and described in the Strategic Partnership Agreement ("SPA") authorized by Section 43.0751 of the Texas Local Government Code entered into by and between the City and Macedonia-Eylau Municipal Utility District No. 1 of Bowie County ("District"); and

WHEREAS, prior to RaceTrac, Inc., acquiring ownership of the Property, the City Council approved limited-purpose annexation of the Property consistent with the SPA [Ord. No. 2022-137] and authorized and ordered for the Property the legal sale of malt beverages and wine for off-premise consumption consistent with City ordinances and pursuant to Section 251.725 of the Texas Alcoholic Beverage Code [Ord. No. 2022-138], both ordinances to be effective upon the execution of the services agreement attached to this resolution; and

WHEREAS, pursuant to the Texas Local Government Code, the governing body of a city that elects to annex an area by petition of landowner must first negotiate and enter into a written agreement with the owner of land in the area for the provision of services in the area, with the agreement including (1) a list of each service the city will provide on the effective date of the annexation, and (2) a schedule that includes the period within which the city will provide each service that is not provided on the effective date of the annexation; and

WHEREAS, before a city may adopt an ordinance annexing an area by petition of landowners, the governing body must conduct a public hearing, providing persons interested in the annexation the opportunity to be heard, and thereafter the governing body may adopt an ordinance annexing the area; and

WHEREAS, City staff recommends that the City Council elect to begin the process of consideration of annexation of the subject tract by first authorizing the City Manager to negotiate

Attachment: 2023-021 RES RaceTrac serv agmt (3928 : 2023-021 RES RaceTrac agmt)

and execute the proposed MSA attached to this resolution pertaining to development incentives and services to be provided by the City in the event the City Council, in its discretion, favorably votes to annex the subject tract.

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

SECTION 1: The City Council elects to begin the process of considering the voluntary annexation of the tract described in Section 1 of the attached Municipal Services Agreement **[ATTH 01]** and authorizes the City Manager to execute the agreement.

SECTION 2: The City Council's approval of this resolution does not bind the City Council to approve annexation of the subject tract; and nothing in this resolution promises or guarantees a favorable vote by the City Council to approve annexation of the tract.

SECTION 3: Consistent with Section 3.4 of the SPA and the Statement of Work for implementing full-purpose annexation of the Corridor, and upon execution of the MSA, the Council authorizes the City Manager to begin such infrastructure work, within Council-approved budgeted parameters, for delivery of retail water and sewer service to the tract described in Section 1 of the attached MSA.

SECTION 4: Upon execution of the MSA, the City Council directs the City Manager to prepare a proposed annexation ordinance for the subject tract; and, at an appropriate time as determined by the City Manager and consistent with Texas law before instituting any annexation proceedings, the City Council shall give all interested persons the right to appear and to be heard at a public hearing during a regular meeting of the City Council pertaining to a proposed annexation for the subject tract.

SECTION 5: The City Manager or designee shall cause to be issued all newspaper publications and notices as required by law for the proceedings and hearings authorized by this Resolution.

SECTION 6: 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 **27th day of February, 2023**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Attachment: 2023-021 RES RaceTrac serv agmt (3928 : 2023-021 RES RaceTrac agmt)

Municipal Services Agreement – Commercial

* * * * *

Owner-Consent Voluntary Annexation

This Municipal Services Agreement ("Agreement") is entered into by and between the City of Texarkana, Texas, a home-rule municipality of the State of Texas ("City"), and RaceTrac, Inc. ("Owner").

Recitals

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement.

WHEREAS, pursuant to the Texas Local Government Code, the governing body of a city that elects to annex an area by petition of landowner must first negotiate and enter into a written agreement with the owners of land in the area for the provision of services in the area, with the agreement including (1) a list of each service the city will provide on the effective date of the annexation, and (2) a schedule that includes the period within which the city will provide each service that is not provided on the effective date of the annexation; and

WHEREAS, RaceTrac, Inc., has acquired a certain parcel of land situated in Bowie County, Texas, within the City's extraterritorial jurisdiction, more particularly described in Section 1, below ("the Property"); and

WHEREAS, the Property is located within the Limited Purpose Property as defined and described in the Strategic Partnership Agreement ("SPA") authorized by Section 43.0751 of the Texas Local Government Code entered into by and between the City and Macedonia-Eylau Municipal Utility District No. 1 of Bowie County ("District"); and

WHEREAS, prior to RaceTrac, Inc., acquiring ownership of the Property, the City Council approved limited-purpose annexation of the Property consistent with the SPA [Ord. No. 2022-137] and authorized and ordered for the Property the legal sale of malt beverages and wine for off-premise consumption consistent with City ordinances and pursuant to Section 251.725 of the Texas Alcoholic Beverage Code [Ord. No. 2022-138], both ordinances to be effective upon the execution of this Agreement; and

WHEREAS, by this Agreement, Owner requests and consents to full-purpose annexation of the Property by the City; and

WHEREAS, City and Owner desire to set out their agreements for the development of the Property by confirming development incentives, pre-annexation development of the Property, the process for City Council consideration of full-purpose annexation of the Property, and — in the event the City Council approves full-purpose annexation — the City services to be provided for the Property on or after the effective date of full-purpose annexation.

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

Attachment: 2023-021 ATTH 01 Serv Agmt RT (3928 : 2023-021 RES RaceTrac agmt)

1. **PROPERTY.** This Agreement is only applicable to the Property described below:

All that certain lot, tract or parcel of land lying and situated in the H. S. Janes Headright Survey, Abstract 306, Bowie County, Texas, being all of that certain tract of land described as Tract 1 with 4 acres, and Tract 2, with 0.74 in the deed from N. E. Jones Oil Company, Inc. to Cole & Prewitt, LLC., dated April 14, 2015, recorded in Document No. 2015-3696 of the Real Property Records, Bowie County, Texas, being all of that certain tract of land described as 3.963 acres in the deed from Gary Tipton, et al to Cole & Prewitt, LLC., dated December 29, 2015, recorded in Document No. 2016-35 of the Real Property Records, Bowie County, Texas, being all of that certain tract of land described as 0.215 acres in the Order to Close, Abandon, and Vacate Black Drive, from the Bowie County Commissioners Court to Cole & Prewitt, LLC, recorded in Document No. 2022-00012360 of the Real Property Records of Bowie County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1 inch square pipe found for a corner, lying in the East right-of-way line of Farm-to-Market Road 989 (South Kings Highway), the Northwest corner of the said 4 acre tract, and the Southwest corner of that certain tract of land described as 20.903 acres in the deed from Woody Ridge Livestock Auction, LLC to SMBL Cattle Company, LLC, dated August 25, 2016, recorded in Document No. 2016-10474 of the Real Property Records, Bowie County, Texas

THENCE North 70 degrees 46 minutes 33 seconds East a distance of 244.41 feet generally along a fence line and the South line of the said 20.903 acre tract to a 1/2 inch steel pipe (control monument), found for a corner, the Northeast corner of the said 4 acre tract, the Northwest corner of the said 3.963 acre tract, and at an angle point in the South line of the said 20.903 acre tract;

THENCE North 87 degrees 38 minutes 42 seconds East a distance of 265.29 feet generally along a fence line, the North line of the said 3.963 acre tract and the South line of the said 20.903 acre tract to a 1/2 inch steel pipe (control monument), found for a corner, at an angle point in the North line of the said 3.963 acre tract, the Southeast corner of the said 20.903 acre tract, and the Southwest corner of Lot No. 3, Block No. 2 of Lake Drive Plaza Subdivision, according to the plat recorded in Volume 5435, Page 1 of the Real Property Records, Bowie County, Texas;

THENCE North 87 degrees 48 minutes 46 seconds East a distance of 29.53 feet generally along a fence line, the North line of the said 3.963 acre tract and the South line of the said Lot No. 3 to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, the Northeast corner of the said 3.963 acre tract, lying in the South line of the said Lot No. 3, and the Northwest corner of that certain tract of land described as 1.916 acres in the deed from Thomas A. Simpson, et ux, to Gary W. Treadway, dated March 11, 2015, recorded in Document No. 2015-3028 of the Real Property Records, Bowie County, Texas, said corner bears North 87 degrees 48 minutes 46 seconds East a distance of 176.16 feet to a 1/2 inch steel rod, found for the Northeast corner of the said 1.916 acre tract;

THENCE South 23 degrees 41 minutes 34 seconds East a distance of 576.41 feet generally along a fence line, the East line of the said 3.963 acre tract and the West line of the said 1.916 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, lying the North right-of-way line of U.S. Highway No. 59 (South Lake Drive), the Southeast corner of the said 3.963 acre tract, and the Southwest corner of the said 1.916 acre tract, at the beginning of a circular curve, to the left, said corner bears North 49 degrees 49 minutes 52 seconds East a distance of 162.86 feet to a 1/2 inch steel rod, found for the Southeast corner of the said 1.916 acre tract;

Attachment: 2023-021 ATTH 01 Serv Agmt RT (3928 : 2023-021 RES RaceTrac agmt)

THENCE in a Southwesterly direction along the arc of the said circular curve a distance of 414.64 feet, with a delta angle of 06 degrees 05 minutes 31 seconds, a radius of 3899.84 feet, a chord bearing of South 45 degrees 35 minutes 23 seconds West, and a chord distance of 414.45 feet to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, at an angle point in the South line of the said 0.74 acre tract and the North right-of-way line of the said South Lake Drive;

THENCE South 80 degrees 46 minutes 00 seconds West a distance of 124.00 feet along the South line of the said 0.74 acre tract and the North right-of-way line of the said South Lake Drive a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, lying at intersection of the North right-of-way of the said South Lake Drive, and the East right-of-way line of the said South Kings Highway, the Southwest corner of the said 0.74 acre tract;

THENCE North 24 degrees 17 minutes 59 seconds West a distance of 130.54 feet along the East right-of-way line of the said South Kings Highway and the West line of the said 0.74 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, the Northwest corner of the said 0.74 acre tract, the Southwest corner of the said Black Street 0.215 acre tract;

THENCE North 24 degrees 27 minutes 14 seconds West a distance of 687.99 feet along the East right-of-way line of the said South Kings Highway, the West line of the said 0.215 acre tract, and the West line of the said 4 acre tract to the point of beginning and containing 8.755 acres of land, more or less.

2. **OWNER CONSENT FOR FULL-PURPOSE ANNEXATION and PROPERTY DEVELOPMENT PLAN.**

a. Owner requests, consents, covenants, and agrees to full-purpose annexation of the Property by the City; with such consent, and subject to Section 3 of this Agreement, City intends for this Agreement to provide for the delivery of specific municipal services to the Property in accordance with state law and accomplished through any means permitted by law.

b. In the event of full-purpose annexation of the Property, Owner agrees and consents to a zoning classification of Planned Development / Commercial according to City's Code of Ordinances; and Owner shall prepare all site plan documentation in anticipation of and consistent with this zoning classification. Owner shall defer to the City's discretion with respect to the timing for initiating full-purpose annexation proceedings, which may occur on or about Owner requesting a certificate of occupancy in the latter part of the calendar year 2023.

c. Except as provided herein, Owner agrees to comply with — and City is authorized to enforce and shall enforce — all of City's ordinances, regulations, and planning authority for the Property as authorized by law, this Agreement, and the SPA, in the same manner such ordinances and regulations are enforced within the City's boundaries; provided, however, that City shall not require Owner to obtain a demolition permit for demolition of existing structures upon the Property, which Owner intends to commence promptly following execution of this Agreement.

3. **MUNICIPAL SERVICES.** In accordance with applicable City ordinances, rules, regulations, and policies, Owner and City agree that the City will provide the municipal services set forth in Exhibit "A", attached hereto and incorporated herein by reference for all purposes (hereinafter, "Services"), at the times, events, or conditions specified therein for each of the

Attachment: 2023-021 ATTH 01 Serv Agmt RT (3928 : 2023-021 RES RaceTrac agmt)

Services. Unless otherwise expressly stated in Exhibit "A", Owner acquisition of the Property and full-purpose annexation of the Property is a condition precedent for the provision of Services pursuant to this Agreement; provided, however, that nothing in this Agreement should be construed as requiring the City to annex the Property for full-purpose annexation (and if such requirement exists under law, the parties agree such requirement is waived).

4. **PROPERTY DEVELOPMENT INCENTIVE.** To incentivize prompt development of the Property prior to City Council consideration of full-purpose annexation of the Property, and consistent with the SPA by and between City and District, Owner and City agree – and by this Agreement make effective – City Council Ordinances Nos. 2022-137 and 2022-138, approving limited-purpose annexation of the Property consistent with the SPA and authorizing and ordering for the Property the legal sale of malt beverages and wine for off-premise consumption consistent with City ordinances and pursuant to Section 251.725 of the Texas Alcoholic Beverage Code. Owner agrees, represents, and warrants that the Property (1) is not more than one percent of the total area covered by the City, (2) all of the land in the Property is zoned for commercial use only, and (3) the Property is not adjacent to residential, church, or school property. To further incentivize prompt development of the Property, Owner and City agree that the fee or fees set by the City Council for any discrete annexation proceeding (e.g., limited-purpose annexation, full-purpose annexation, or both) shall be waived.

5. **SEVERABILITY.** Except as otherwise provided herein, if any part, term, or provision of this Agreement is held by a court to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement; provided, however, that Sections 2, 4, 9, 10, and 11 are not severable from this Agreement.

6. **GOVERNING LAW, INTERPRETATION, and VENUE**. The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that this Agreement shall be fairly interpreted in accordance with its terms and conditions and not for or against either party. Venue for any litigation relating to this Agreement shall be in the state or federal courts located in Bowie County, Texas.

7. **NO WAIVER.** The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

8. **GOVERNMENTAL POWERS and FUNCTIONS.** Owner and City agree that no provision of this Agreement is in any way intended to constitute a waiver of the City's governmental immunities from suit or from liability; Owner and City acknowledge that the terms, provisions, and execution of this Agreement, together with the provision of Services, constitute

Attachment: 2023-021 ATTH 01 Serv Agmt RT (3928 : 2023-021 RES RaceTrac agmt)

governmental functions of the City, and that the City does not waive or surrender any of its governmental powers or immunities by execution or performance of this Agreement.

9. **FORCE MAJEURE.** "Force Majeure" means an event, circumstance, or act that is beyond a party's reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes, other labor disturbances, supplier performance, supply chain interruption, hurricanes, earthquakes, fires, floods, epidemics, pandemics, embargoes, war, riots, ransomware or cyber events, or any other similar cause. Neither party will be liable for its non-performance or delayed performance if caused by a Force Majeure. A party that becomes aware of a Force Majeure that will significantly delay performance will notify the other party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, any deadline for provision of Services shall be extended for a time period that is reasonable under the circumstances, and any suspension of provision for Services shall be reasonable under the circumstances.

10. **AGREEMENT BINDS AND BENEFITS SUCCESSORS AND RUNS WITH THE LAND.** This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns. Upon annexation of the Property, Owner shall file this Agreement in the Deed Records of Bowie County, Texas, at such time prior to any sale of any portion of the Property to third parties. The terms of this Agreement constitute covenants running with the land comprising the Property, is binding on the Owner and the City, is binding on subsequent owners of any portion of the Property, and is enforceable by any current or future owner of any portion of the Property.

11. **COSTS/FEES TO PAY OR REIMBURSE.** In addition to any costs or fees set out in this Agreement or exhibits thereto, Owner agrees to reimburse or pay the following:

a. City's cost of publication of any ordinance pursuant to Section 251.725 of the Texas Alcoholic Beverage Code authorizing the sale of malt beverages and wine for off-premise consumption for the Property;

b. Publication costs incurred by City and the District relating to noticing public hearings required by Section 43.0751 of the Texas Local Government Code for consideration of a strategic partnership agreement authorized by that law;

c. City's filing costs to file the SPA in the Real Property Records of Bowie County, Texas;

d. City's cost of notice, publication, and advertising as may be required by law or City Charter for any discrete annexation proceeding of the Property, including the publication costs of proposed annexation ordinances for the Property in the form in which such may be finally passed as required by Article I, Section 5 of the City Charter of the City of Texarkana, Texas;

e. Owner shall be responsible for paying or otherwise reimbursing the City for all infrastructure or development costs on the Property; Owner agrees that such costs shall include rerouting of the water main.

Attachment: 2023-021 ATTH 01 Serv Agmt RT (3928 : 2023-021 RES RaceTrac agmt)

f. The amount of compensation required to be paid by City pursuant to Texas Health & Safety Code Section 775.022 with respect to annexation of the Property.

12. **AUTHORITY and ENTIRE AGREEMENT.** City and Owner represent that they have full power, authority, and legal right to execute, deliver and perform their obligations pursuant to this Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between said parties. Except as provided herein, this Agreement shall not be amended unless approved by the City Council and executed in writing by both parties; provided, however, during such time prior to full-purpose annexation of the Property, the City Council delegates to the City Manager the authority to agree to and execute written amendments that do not materially obligate the City to extend services beyond the scope of this Agreement, and such written amendments upon execution shall be appended to this Agreement.

13. **GOVERNMENTAL IMMUNITY.** This Agreement is expressly made subject to City's governmental immunity as provided by the Texas Constitution, Texas law, and applicable federal law. The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of the City's immunities from suit or from liability.

14. **ASSIGNMENT.** This Agreement shall be binding upon the respective successors and assigns of the parties; provided, however, that neither party may assign this Agreement without the other party's prior written consent.

15. **JOINT DRAFTING.** The drafting of this Agreement shall not be attributed to either Party: the parties prepared this Agreement jointly, following arm's length and careful negotiation, with each party represented by legal counsel; and each party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of its provisions.

16. **SECTION HEADINGS**. The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers.

17. **EFFECTIVE DATE.** This Agreement shall be effective upon the execution by both City and Owner.

City of Texarkana, Texas

By: _____ Date: _____, 2023
David W. Orr, PhD
City Manager

Owner, RaceTrac, Inc.:

By: _____ Date: 2/2, 2023
Justen Gilmanton

Attachment: 2023-021 ATTH 01 Serv Agmt RT (3928 : 2023-021 RES RaceTrac agmt)

Exhibit A to Municipal Services Agreement - Commercial

The term "annexation" as used in this exhibit refers only to full-purpose annexation of the Property, as distinguished from limited-purpose annexation.

I. Services to be Provided Upon Annexation of Property.

A. Fire

Fire suppression service from the City's Fire Department will be available to the Property upon annexation. Primary fire response will be provided by Fire Station No. 7, located at 3101 S. Lake Dr. Fire prevention activities will be provided by the Fire Marshall's office as needed.

B. Police

Currently, the Property is under the jurisdiction of the Bowie County Sheriff's Office. Upon annexation, the City's Police Department will extend regular and routine patrols to the Property.

C. Building Inspection

The City's Building Inspection Department will provide Inspection Services upon annexation. This includes issuing building, electrical, and plumbing permits for any new construction and remodeling and enforcing all other applicable codes which regulate building construction within the City of Texarkana, Texas.

D. Planning and Zoning

The Planning and Zoning Department's responsibility for regulating development and land use through the administration of the City of Texarkana Zoning Ordinance will extend to this Property upon annexation. The property will also continue to be regulated under the requirements of the City of Texarkana Subdivision Ordinance.

E. Library

Upon annexation, free library use privileges with issuance of a free library card will be available to anyone residing in this Property. A free library card for those in the City limits includes checkouts for books, DVDs, and audiobooks. Also, databases are available that can be accessed from home, including free tutoring for grade school through college, foreign language, genealogy, Consumer Reports, and downloadable audiobooks and e-books.

Attachment: 2023-021 ATTH 01 Serv Agmt RT (3928 : 2023-021 RES RaceTrac agmt)

F. Health Department

The Texarkana-Bowie County Health Department will provide health services to eligible residents, if any, of the Property upon annexation.

G. Code Enforcement

The City's Code Enforcement Division will provide Code Enforcement services upon annexation. These services include enforcing the City's health ordinances, health inspections, and enforcing the City's Code of Ordinances governing litter, junk vehicles, high grass and weeds, and substandard structures. Animal Control services will be provided to the Property as needed.

H. Parks

Existing park use privileges subject to Parks Rules and Regulations will be available to anyone residing within the Property upon annexation.

I. Traffic Engineering

Upon annexation, City will provide traffic engineering services and regulatory signage services in accordance with the City policies and procedures and applicable laws.

J. Water and Sewer Service

Owner acknowledges and agrees that its proposed development shall be required to connect to the City's water and sewer system at Owner's expense.

II. Services to be Provided to the Property Upon Specific Conditions or Events Following Annexation.

A. Drainage and Stormwater Management

Owner must provide stormwater drainage at its own expense and will be inspected by the City Engineers at time of completions. After inspection, the City will thereafter maintain the drainage only upon approval by City Engineers and only if drainage is dedicated in the public drainage easement and the City accepts the dedication; provided, however, that nothing herein should be construed as requiring the City to accept such dedication.

Maintenance of existing drainage facilities will be provided by the City upon annexation only if the drainage facilities are located in the street right-of-way or a public drainage easement. Owner shall be responsible and agrees to pay for maintenance of any drainage facility that is not in the street right-of-way or public drainage easement.

Attachment: 2023-021 ATTH 01 Serv Agmt RT (3928 : 2023-021 RES RaceTrac agmt)

B. Solid Waste Services

Beginning with occupancy of residential structures, if any, Solid Waste Collection shall be provided to the Property in accordance with City ordinance and policies.

III. General Provisions

A. The parties acknowledge and agree that the City is not required to provide a service that is not identified herein.

B. Owner understands and acknowledges that City departments referenced herein may change names or be re-organized by the City Manager. Any reference to a specific department also includes any subsequent City department that will provide the same or similar service.

Attachment: 2023-021 ATTH 01 Serv Agmt RT (3928 : 2023-021 RES RaceTrac agmt)

RESOLUTION NO. 2022-130

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING A STRATEGIC PARTNERSHIP AGREEMENT BY AND BETWEEN THE CITY OF TEXARKANA, TEXAS, AND MACEDONIA-EYLAU MUNICIPAL UTILITY DISTRICT NO. 1 OF BOWIE COUNTY; CONTAINING LEGISLATIVE FINDINGS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Local Government Code Section 43.0751 ("the Act") authorizes the City of Texarkana, Texas, a home-rule municipality operating under a municipal charter adopted as authorized by Article XI, Section 5, of the Texas Constitution and as recognized by Texas Local Government Code Section 5.004 and having full power of local self-government ("City"), and Macedonia-Eylau Municipal Utility District No. 1 of Bowie County, a municipal utility district created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, and Article III, Section 52, of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, as amended ("District"), to negotiate and enter into a strategic partnership agreement by mutual consent; and

WHEREAS, City and District desire to enter into the "Strategic Partnership Agreement" attached to this resolution and incorporated herein by reference for all purposes; and

WHEREAS, District encompasses a coverage area for water and sewer service to the west and southwest of City, and portions of District are located within City's extraterritorial jurisdiction ("ETJ"); and

WHEREAS, the "Strategic Partnership Agreement" sets out the terms acceptable to District and City for limited-purpose annexation of any commercial property within delineated areas or boundaries wholly within the District and City's ETJ ("Limited Purpose Property"), and full-purpose annexation at the option of the City of certain commercial property in and within such boundaries; and

WHEREAS, subject to the terms and conditions of the Strategic Partnership Agreement and for the health, safety, and welfare of the residents within the District, the District is willing to allow the City to annex any portion of Limited Purpose Property for the limited purposes set forth in the agreement; and

WHEREAS, in accordance with the Act, City and District provided notice of and conducted two joint public hearings — the first joint meeting held within the City on August 8, 2022, and the second joint meeting held within the District on September 13, 2022 — for the purpose of providing the public with an opportunity to speak or present testimony or evidence regarding this Agreement and the proposed limited-purpose annexation, together with providing separate locations within City and District where copies of the proposed Agreement may be obtained prior to each hearing; and

Attachment: 2023-021 ATTH 02 SPA City & M-E MUD (3928 : 2023-021 RES RaceTrac agmt)

WHEREAS, in accordance with the requirements of Subsection (p) of the Act, the Strategic Partnership Agreement (1) does not require District to provide revenue to City solely for the purpose of an agreement with City to forgo annexation of any District Property, and (2) provides benefits to City and District, including revenue, services, and regulatory benefits, which are reasonable and equitable with regard to the benefits provided by the other party; and

WHEREAS, District's Board of Directors adopted and approved this Agreement on September 26, 2022. in open session at a meeting held in accordance with Chapter 551 of the Texas Government Code; and

WHEREAS, all notices, hearings, and other requirements imposed by law for the City's adoption of this Agreement have been met.

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

SECTION 1: The City Council approves the "Strategic Partnership Agreement" attached to this Resolution **(EXH 1)** and authorizes the City Manager to execute the Agreement on behalf of the City and to take any other action necessary to effectuate the Agreement and its intent.

SECTION 2: The Recitals set out in this Resolution are true and correct and are incorporated herein and made a part hereof as legislative findings of the City Council for all purposes.

SECTION 3: 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 **24th day of October, 2022**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:24 p.m.

Attachment: 2023-021 ATTH 02 SPA City & M-E MUD (3928 : 2023-021 RES RaceTrac agmt)

Strategic Partnership Agreement

* * * * *

Macedonia-Eylau Municipal Utility District No. 1 of Bowie County and City of Texarkana, Texas

This Strategic Partnership Agreement ("Agreement"), authorized by Section 43.0751 of the Texas Local Government Code, is entered into by and between the City of Texarkana, Texas, a home-rule municipality operating under a municipal charter adopted as authorized by Article XI, Section 5, of the Texas Constitution and as recognized by Texas Local Government Code Section 5.004 and having full power of local self-government ("City"), and Macedonia-Eylau Municipal Utility District No. 1 of Bowie County, a municipal utility district created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, and Article III, Section 52, of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, as amended ("District").

RECITALS

WHEREAS, Local Government Code Section 43.0751 (the "Act") authorizes City and District to negotiate and enter into a strategic partnership agreement by mutual consent; and

WHEREAS, City and District desire to enter into this Agreement, which they negotiated by mutual consent; and

WHEREAS, District encompasses a coverage area for water and sewer service to the west and southwest of City as set out in **Exhibit "A"**, and portions of District are located within City's extraterritorial jurisdiction ("ETJ"); and

WHEREAS, this Agreement sets out the terms acceptable to District and City for limited- purpose annexation of any commercial property within the delineated boundaries of **Exhibit "B"** which is wholly within the District and City's ETJ ("Limited Purpose Property"), and full-purpose annexation at the option of the City of certain commercial property in and within such boundaries as set forth herein, with a corresponding Statement of Work to implement such full-purpose annexation detailed in **Exhibit "C"**; and

WHEREAS, this Agreement sets out the terms acceptable to District and City for limited- purpose annexation of any commercial property within the delineated boundaries of **Exhibit "D"** which is wholly within the District and City's ETJ ("Limited Purpose Property"), and full-purpose annexation at the option of the City of property in and within such boundaries as set forth herein; and

[Type here]

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WHEREAS, subject to the terms and conditions of this Agreement and for the health, safety, and welfare of the residents within the District, the District is willing to allow the City to annex any portion of Limited Purpose Property for the limited purposes set forth herein; and

WHEREAS, in accordance with the Act, City and District provided notice of and conducted two joint public hearings — the first joint meeting held within the City on August 8, 2022, and the second joint meeting held within the District on September 13, 2022 — for the purpose of providing the public with an opportunity to speak or present testimony or evidence regarding this Agreement and the proposed limited-purpose annexation, together with providing separate locations within City and District where copies of the proposed Agreement may be obtained prior to each hearing; and

WHEREAS, District's Board of Directors adopted and approved this Agreement on September 26, 2022, in open session at a meeting held in accordance with Chapter 551 of the Texas Government Code; and

WHEREAS, following District's adoption and approval of this Agreement, City, by its City Council, adopted and approved this Agreement on October 24, 2022, in open session at a meeting held in accordance with Chapter 551 of the Texas Government Code; and

WHEREAS, all notices, hearings, and other requirements imposed by law for the adoption of this Agreement have been met; and

WHEREAS, in accordance with the requirements of Subsection (p) of the Act, this Agreement (1) does not require District to provide revenue to City solely for the purpose of an agreement with City to forgo annexation of any District Property, and (2) provides benefits to City and District, including revenue, services, and regulatory benefits, which are reasonable and equitable with regard to the benefits provided by the other party.

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants and conditions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and District agree as follows:

Article I. Recitals

The above and foregoing recitals are true and correct and are incorporated herein and made a part hereof as findings by both District and City for all purposes.

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Article II. Adoption and Term of Agreement

2.1 Public Hearings. District and City acknowledge and agree that prior to the execution of this Agreement, the governing bodies of the District and the City conducted two joint public hearings for the purpose of considering the adoption of this Agreement and that such hearings were noticed and conducted in accordance with the terms of the Act, this Agreement, and Chapter 551 of the Government Code.

2.2 Effective Date and Filing. Pursuant to Subsection (c) of the Act, this Agreement is effective on the date that the City adopts and approves this Agreement ("Effective Date"). City shall file this Agreement in the Real Property Records of Bowie County, Texas; provided, however, that the filing date of this Agreement shall not be construed as the Effective Date of this Agreement.

2.3 Term. This Agreement commences on the Effective Date and shall continue until the City annexes the entirety of Limited Purpose Property for full purposes or disannexes the entirety of Limited Purpose Property; and except as otherwise provided herein, this Agreement shall not apply to any portion of the Limited Purpose Property that has been fully annexed by City.

Article III. Scope of Agreement

3.1 District Continuity; Powers and Functions Retained by District. District shall continue in existence during the term of this Agreement and is authorized to exercise all of its powers and functions provided by existing law or any amendments or additions thereto as it pertains to the Limited Purpose Property. District's assets, liabilities, indebtedness, and obligations will remain the responsibility of District. [*See* Act, subsection (f)(1).] This Agreement does not convert District into a "Limited District" as defined by law. [*See* Act, subsections (a)(3), (f)(6).]

3.2 District Consent: Limited-Purpose Annexation. District, on behalf of itself and all present and future landowners within the District, hereby requests that City annex any commercial property within the Limited Purpose Property (**Exhibit "B"** and **Exhibit "D"** of this Agreement) for the express limited purposes as set forth in this Agreement; District consents to such limited-purpose annexation; District further consents to noncontiguous annexation of such commercial property [*see* Act, subsection (r)]; and such consent shall bind District and all current and future landowners within the District. City

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may commence limited-purpose annexation of any commercial property within the Limited Purpose Property following the Effective Date. District acknowledges that City may adopt and approve one or more limited-purpose annexation ordinances at one or more meetings conducted in accordance with Chapter 551 of the Government Code at various times throughout the Term of this Agreement; and District acknowledges and agrees that no additional notices, hearings, or other procedures are required by law in order for City to adopt and approve such limited-purpose annexations. District and City agree that limited-purpose annexation of any commercial property in and within the Limited Purpose Property pursuant to this Agreement shall not obligate the City to provide any municipal services to such property. Should City choose to annex any commercial property within the Limited Purpose Property for a limited-purpose annexation and thereby exercise any authority set out in this Agreement over such property, then from and after the date of such limited-purpose annexation, (i) such limited-purpose annexation and exercise of authority shall not be interpreted to bind City to the assumption or repayment of District debt, (ii) neither District nor any landowners of taxable property within the District are liable for any present or future City debts, (iii) current and future ad valorem taxes levied by City will not be levied on taxable property within the District; and (iv) City may enact any ordinance not otherwise proscribed by law or this Agreement for zoning, health, safety, and use of such limited-purpose annexed property, including any ordinance authorized by Chapter 251 of the Texas Alcoholic Beverage Code.

3.3 Voting Rights: Limited-Purpose Annexation. District and City anticipate that the Limited Purpose Property will consist of commercial property. If, however, the Limited Purpose Property includes residential dwellings as part of a mixed-use development, then the qualified voters of an area annexed for limited purposes are entitled to vote in City municipal elections regarding the election or recall of members of the City Council and the amendment of the City's municipal charter. However, such voters may not vote in any municipal bond election; and a resident of an area annexed for limited purposes is not eligible to be a candidate for or to be elected to a City municipal office. [*See* Act, subsection (q), and Tex. Loc. Gov't Code §§ 43.130 (a) and (b).]

3.4 District Consent: Full-Purpose Annexation of U.S. Hwy. 59 Corridor to Kings Highway. District consents to full-purpose annexation of commercial property in and within the Limited Purpose Property generally along the U.S. Hwy. 59 corridor bordered to the west by Kings Highway and to the east by the City's territorial city limits ("Corridor") pursuant to the terms set forth in this section. [*See* Act, subsections (f)(4), (f)(5), and (h).] Specifically, the Corridor shall encompass (1) the commercial property only on the north side of the Corridor and abutting U.S. Hwy. 59, (2) the portion of the U.S. Hwy. 59 footprint within the Corridor, and (3) the right-of-way only on the south side

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of the Corridor. District further consents to noncontiguous annexation of such commercial property. [*See* Act, subsection (r).] District acknowledges that City may adopt and approve a full-purpose annexation ordinance for the Corridor at a meeting conducted in accordance with Chapter 551 of the Government Code; the date of City's approval and adoption of such ordinance shall be deemed the full-purpose annexation date of the Corridor; and District acknowledges and agrees that no additional notice, hearing, or other procedures are required by law in order for City to adopt and approve such full-purpose annexation. City may utilize, but is not required by this Agreement to utilize, other applicable annexation law for full-purpose annexation of the Corridor. Nothing in this Agreement shall be construed to require the City to submit to its City Council for approval or the City Council to approve full-purpose annexation of any or all of the Corridor. In the event of full-purpose annexation of any or all of the Corridor, City and District shall work cooperatively to obtain updated Certificates of Convenience and Necessity from the Texas Commission on Environmental Quality consistent with full-purpose annexation of the Corridor. **Exhibit "C"** to this Agreement sets out the Statement of Work for implementing full-purpose annexation of the Corridor. The parties shall execute respective bills of sale for any and all assets conveyed for implementation of full-purpose annexation of the Corridor. Upon full-purpose annexation of the Corridor:

(a) In exchange for City acquisition of water customers and respective water revenues from full-purpose annexation of the Corridor, City shall transfer the account of the Liberty-Eylau Middle School and associated respective water revenues to District together with relocating master meters at the respective locations at City's cost;

(b) City will be required to install sewer flow meters at two lift stations which currently have non-operational flow meters, and District will be required to install flow meters at other lift stations in its system; and

(c) District will transfer to City ownership the existing three-inch force main within the right-of-way on the south side of the Corridor that City currently maintains for District.

3.5 District Consent: Full-Purpose Annexation of Certain Terry St. / S. Bishop Rd. Acreage. District consents to full-purpose annexation of commercial property in and within the Limited Purpose Property as detailed in **Exhibit "D"**, generally bordered to the north in part by Terry St. and to the east by S. Bishop Rd. ("Terry/Bishop Tracts") pursuant to the terms set forth in this section. [*See* Act, subsections (f)(4), (f)(5), and (h).] District further consents to noncontiguous annexation of such property. [*See* Act, subsection (r).] District represents that it cannot provide either water or sewer service to the Terry/Bishop Tracts. District acknowledges that City may adopt and approve a full-purpose annexation ordinance for one or more of the Terry/Bishop Tracts at a meeting or meetings conducted in accordance with Chapter 551 of the Government Code; the date of City's approval and

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adoption of such respective ordinance for one or more of such tracts shall be deemed the full-purpose annexation date of the respective Terry/Bishop Tracts; and District acknowledges and agrees that no additional notice, hearing, or other procedures are required by law in order for City to adopt and approve such full-purpose annexation. City may utilize, but is not required by this Agreement to utilize, other applicable annexation law for full-purpose annexation of the Terry/Bishop Tracts. Nothing in this Agreement shall be construed to require the City to submit to its City Council for approval or the City Council to approve full-purpose annexation of any or all of the Terry/Bishop Tracts. In the event of full-purpose annexation of any or all of the Terry/Bishop Tracts, City and District shall work cooperatively to obtain updated Certificates of Convenience and Necessity from the Texas Commission on Environmental Quality consistent with such full-purpose annexation.

3.6 Other Full-Purpose Annexation. Except as provided in Sections 3.4 and 3.5 of this Agreement, City and District must supplement this Agreement in the event of full-purpose annexation of other commercial property in and within the Limited Purpose Property pursuant to the terms set forth in this section. [*See* Act, subsections (f)(4), (f)(5), and (h).] District consents to noncontiguous annexation of such commercial property. [*See* Act, subsection (r).] City may, but is not required by this Agreement to utilize, other applicable annexation law for full-purpose annexation of other commercial property in and within the Limited Purpose Property; and supplementation of this Agreement shall not be a requirement for City to utilize such other applicable annexation law for full-purpose annexation of other commercial property in and within the Limited Purpose Property.

3.7 Request for Annexation. In the event a person requests City annexation of property wholly within the District and City's ETJ but not designated as Limited Purpose Property in this Agreement, and District's General Manager confirms to the City Manager that the District cannot provide water or sewer service to such property, then representatives of City and District shall meet and confer to evaluate and respond to the request as may be deemed to be in the best interests of the District and the City.

Article IV. Breach, Notice, and Remedies

4.1 Notification of Breach. If either party commits a breach of this Agreement, the non-breaching party shall give Notice to the breaching party that described the breach in reasonable detail.

4.2 Cure of Breach. The breaching party shall commence curing such breach within fourteen (14) calendar days after receipt of Notice of the breach and shall complete

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the cure within fourteen (14) calendar days from the date of commencement of the cure; however, if the breach is not reasonable susceptible to cure by the breaching party within such fourteen (14) day period, the non-breaching party shall not bring any action so long as the breaching party has commenced to cure the breach within such fourteen (14) day period and diligently completes the cure within a reasonable time without unreasonable cessation.

4.3 Remedies for Breach. If the breaching party does not substantially cure such breach within the stated period of time, the non-breaching party may, in its sole discretion, and without prejudice to any other right under this Agreement, law, or equity, seek relief available at law or in equity, including, but not limited to, an action under the Uniform Declaratory Judgment Act, specific performance, mandamus and injunctive relief; provided, however, the non-breaching party shall not be entitled to terminate this Agreement. Damages, if any, to which any non-breaching party may be entitled shall be limited to actual damages and shall not include special or consequential damages.

Article V. Additional Provisions

5.1 Notices. All notices under this Agreement ("Notice") shall be in writing, shall be signed by or on behalf of the party giving the Notice, and shall become effective as follows: (a) on the third (3rd) business day after being deposited with the United States mail service, Certified Mail, Return Receipt Requested with a confirming copy sent by facsimile; (b) on the day delivered by private delivery or private messenger service (such as FedEx or UPS) as evidenced by a receipt signed by any person at the delivery address (whether or not such person is the person to whom the Notice is addressed); or (c) otherwise on the day actually received by the person to whom the Notice is addressed, including, but not limited to, delivery in persona and delivery by regular mail. All Notices given pursuant to this section shall be addressed as follows:

To City:

City of Texarkana, Texas
Attn: City Manager
220 Texas Boulevard
Texarkana, TX 75501

With copy to:
Atchley, Russell, Waldrop & Hlavinka, L.L.P.
Attn: Jeffery C. Lewis
1730 Galleria Oaks Dr.
Texarkana, TX 75503

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To District:

Macedonia-Eylau Municipal Utility
District No. 1 of Bowie County
Attn: General Manager
701 S Kings Hwy
Texarkana, TX 75501

With copy to:
Miller, James, Miller & Hornsby, L.L.P.
Attn: Troy Hornsby
1725 Galleria Oaks Drive
Texarkana, Texas 75503

5.2 No Waiver. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement shall not be deemed a waiver thereof, and the party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement. No provision of this Agreement may be waived except in writing signed by the party waiving such provision. Any waiver shall be limited to the specific purpose for which it is given. No waiver by any party hereto of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

5.3 Governing Law and Venue. This Agreement must be construed and enforced in accordance with the laws of the State of Texas, as they apply to contracts performed within the State of Texas and without regard to any choice of law rules or principles to the contrary. The Parties acknowledge that this Agreement is performable in Bowie County, Texas, and hereby submit to the jurisdiction of the courts of Bowie County, Texas, and agree that any such court with proper jurisdiction shall be a proper forum for the determination of any dispute arising hereunder.

5.4 Authority to Execute. City warrants that this Agreement has been approved by the City Council in accordance with all applicable public meeting and public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of City has been authorized to do so. District warrants that this Agreement has been approved by the Board in accordance with all applicable public meeting and public notice requirements (including, but not limited to, notices required by the Open Meetings Act) and the individual executing this Agreement on behalf of District has been authorized to do so.

5.5 Entire Agreement; Severability. City and District have other agreements in effect pertaining to water and wastewater, and this Agreement shall not be construed as amending those agreements in any manner. With respect to matters authorized by law under the Act, this Agreement constitutes the entire agreement between City and District and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement. If any provision of this Agreement is determined by a court of

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competent jurisdiction to be unenforceable for any reason, then (a) such unenforceable provision shall be deleted from this Agreement; (b) the unenforceable provision shall, to the extent possible, be rewritten to be enforceable and to give effect to the intent of City and District; and (c) the remainder of this Agreement shall remain in full force and effect and shall be interpreted to give effect to the intent of City and District.

5.6 Changes in State or Federal Law. If any state or federal law changes so as to make it impossible for the City or the District to perform its obligations under this Agreement, the Parties will cooperate to amend this Agreement in such a manner that is most consistent with the original intent of this Agreement and legally possible.

5.7 Assignability; Successors and Assigns. This Agreement shall not be assignable by any party without the other party's written consent. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, successors and assigns.

5.8 Amendment. This Agreement may be amended only by written agreement with approval of the governing bodies of both the City and the District.

5.9 Interpretation. City and District acknowledge that each party and its legal counsel have reviewed and drafted this Agreement such that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

5.10 No Third-Party Beneficiaries. This Agreement is solely for the benefit of City and District. Neither City nor District intends by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit or enforceable rights under this Agreement or otherwise upon anyone other than City and District.

5.11 Governmental Powers. By execution of this Agreement, neither City nor District waives or surrenders any of its respective governmental functions, powers, immunities, or rights. Nothing in this Agreement shall waive any claims, defenses or immunities that City or District has with respect to suits against City or District by persons or entities not a party to this Agreement.

5.12 Incorporation of Exhibits by Reference. All exhibits attached to this Agreement are incorporated into this Agreement by reference for the purposes set forth herein, as follows:

Exhibit "A" Coverage Map of District

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Exhibit "B" Map of Limited Purpose Property
Exhibit "C" Statement of Work to Implement Full-Purpose Annexation of Corridor-
Exhibit "D" Map of Limited Purpose Property ("Terry/Bishop Tracts")

Macedonia-Eylau Municipal Utility District No. 1 of Bowie County

By: _____ Date: 10-19-2022, 2022

Debra Elijah
Board President

City of Texarkana, Texas

By: _____ Date: 10-24-, 2022

David W. Orr, Ph.D.
City Manager

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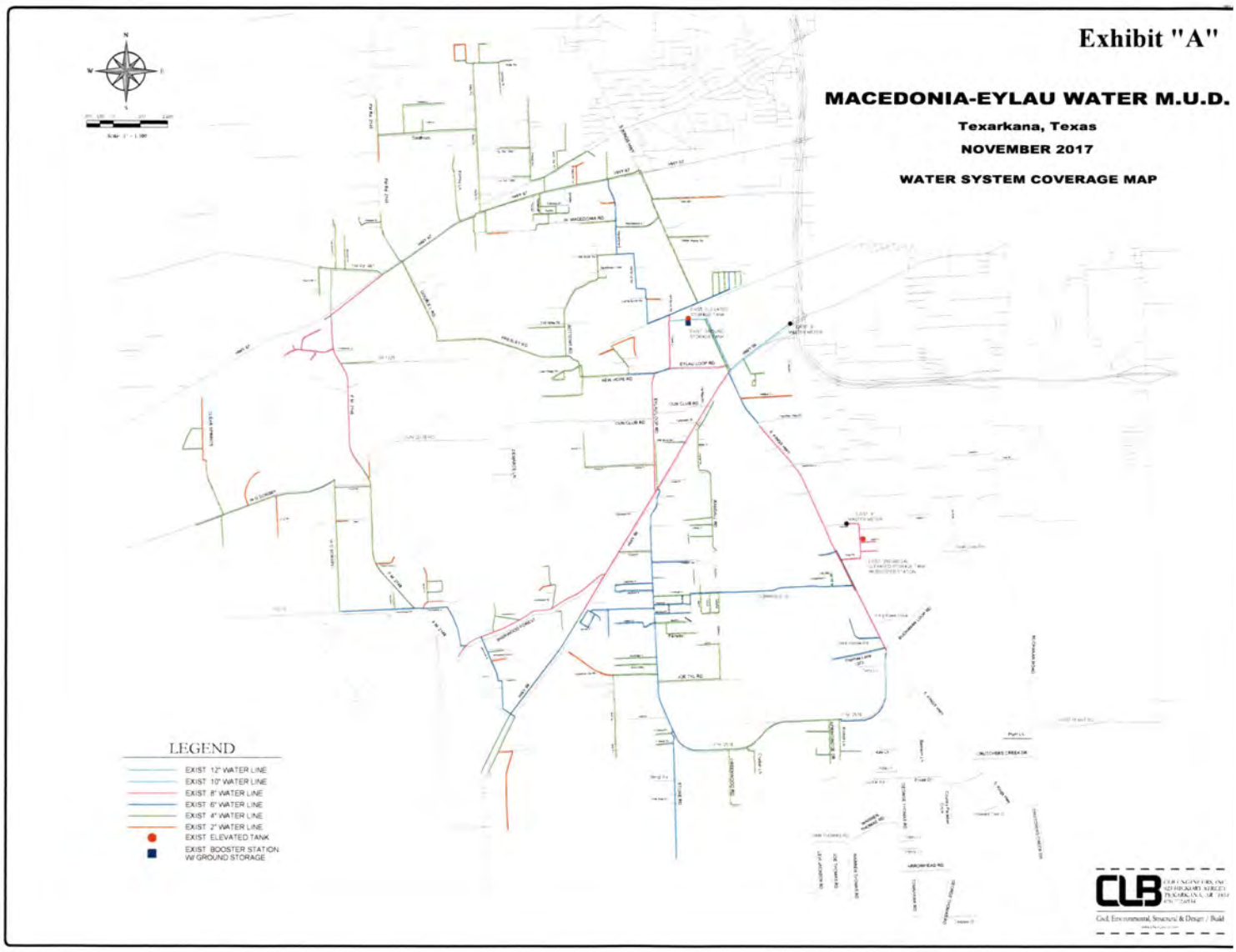

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Exhibit "B"

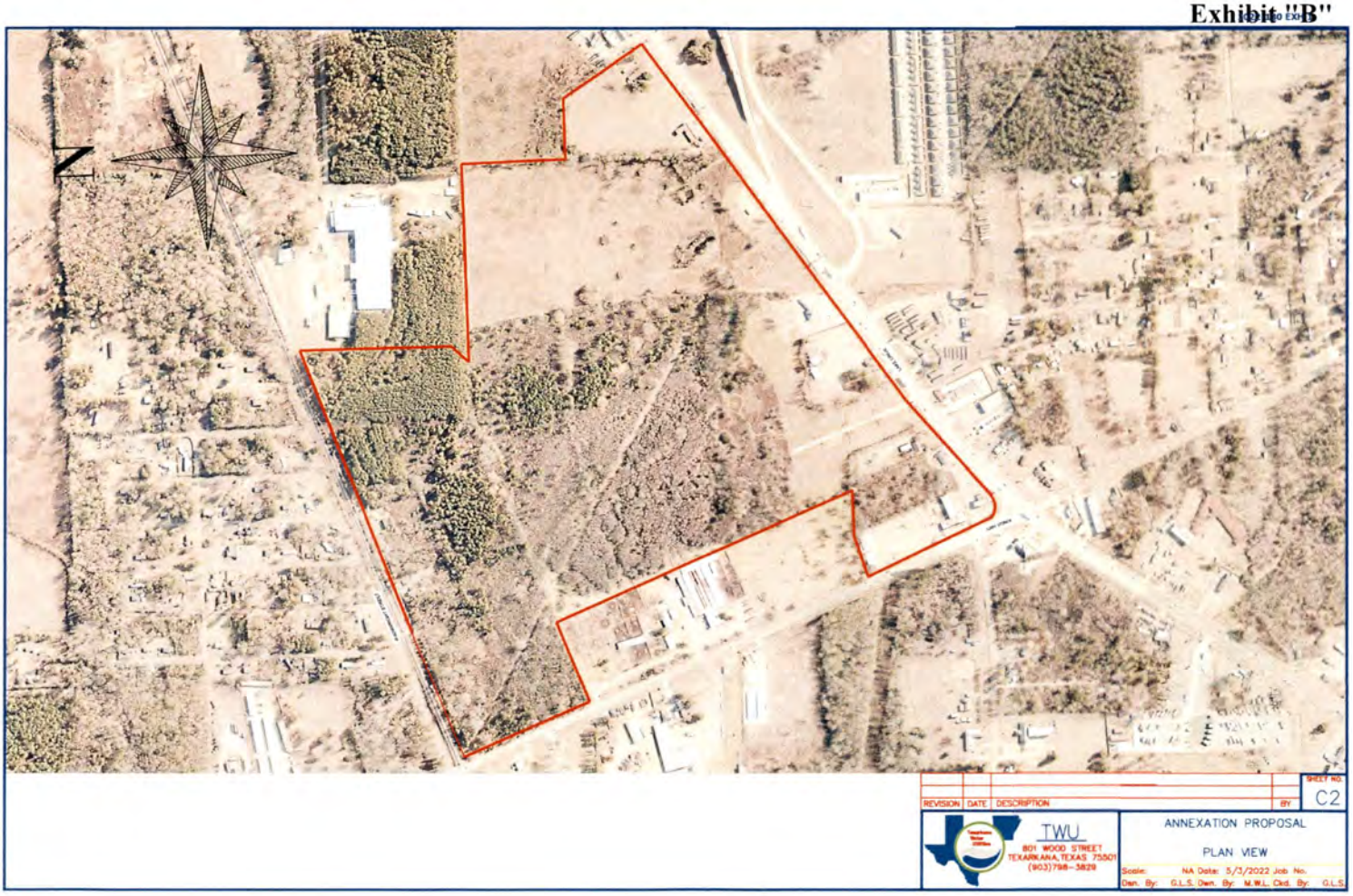

EXHIBIT "C"

Statement of Work to Implement Full-Purpose Annexation of Corridor

City and District set out their Statement of Work ("SOW") to implement Section 3.4 of the Agreement and full-purpose annexation of the Corridor as described in the Agreement.

Cost estimates and detail maps for certain aspects of this SOW are attached to this exhibit; estimates are preliminary and may not reflect actual costs.

City delegates to its City Manager, and District delegates to its General Manager, the authority to agree to written change orders or modifications to this SOW consistent with the intent of the parties as set out in the Agreement, including revisions of cost estimates to reflect actual costs; and such change orders or modifications, upon execution, shall be appended to this exhibit.

Except as otherwise stated herein, this Statement of Work is conditioned upon the City, through its City Council, approving full-purpose annexation of any or all of the Corridor.

I. Wastewater/Sewer

A. A commercial business has made inquiry to both District and City for a proposed commercial development within the Corridor on the northeast corner of Kings Highway and US Hwy 59 ("the Prospect"). District intends to convey to City the lift station on US Hwy 59 and the associated eight-inch (8") force main, located on the North side of US Hwy 59 and just to the east of the proposed commercial development (the proposed development would gravity flow into this lift station). City intends to install a flow meter on this lift station: when the City reads the meter, the usage of the Prospect (based on the water meter readings of the Prospect) will be deducted, and the difference would calculate the District's flow going into this lift station; District will be responsible for the cost of its flow. Prior to full-purpose annexation of the Corridor, City and District will work to secure the following information: customer usage and flow into the lift station, including dry weather flow and wet weather flow; the demands on the lift station with regard to the Prospect and existing customers within the Corridor to the east of the proposed development; whether the proposed commercial development or other factors relating to the Prospect's anticipated use may require a new lift station for existing and proposed customers; if a new lift station is required, the fair market value of the cost of the lift station attributable to the Prospect or other factors, and the equitable allocation of costs as between City and District.

B. City intends to install a flow meter on the lift station located in the southwest quadrant of the intersection of US Hwy 67 and Kings Highway.

C. City and District intend to re-route the Golden Rule force main to connect to the District's manhole (which flows into the lift station described in subsection A, above) located on the south side of US Hwy 59. Prior to full-purpose annexation of the Corridor, City and District

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will work collaboratively on the installation of a meter on the lift station that serves the duplex subdivision located on the south side of US Hwy 59 just west of Loop 151, operation and ownership of the lift station after full-purpose annexation, and the equitable allocation of costs as between City and District.

II. Treated Water

A. City intends to relocate District's existing six-inch (6") master meter (located at the northwest quadrant of the intersection of US Hwy 59 and Loop 151) to the northeast quadrant of the intersection of US Hwy 59 and Kings Highway.

B. City intends to run a new six-inch (6") water main, beginning just west of the new master meter location, on the north side of Hwy 59, connecting to the existing four-inch (4") water main at Golden Rule (and City will decommission Golden Rule's existing connection to the existing twelve-inch (12") water main located on the north side of US Hwy 59), which will put the Golden Rule area on the downstream side of the new master meter location; and City intends to add an additional water line of approximately 750 feet to connect the 12" water line that serves the duplex subdivisions.

C. City intends to relocate District's existing four-inch (4") master meter (located at the intersection of Leopard Drive and Stipp Lane) to just north of Liberty Eylau's Middle School's northern-most water meter located on Leopard Drive. This will facilitate the transfer of the school's customer account as set out in the Agreement.

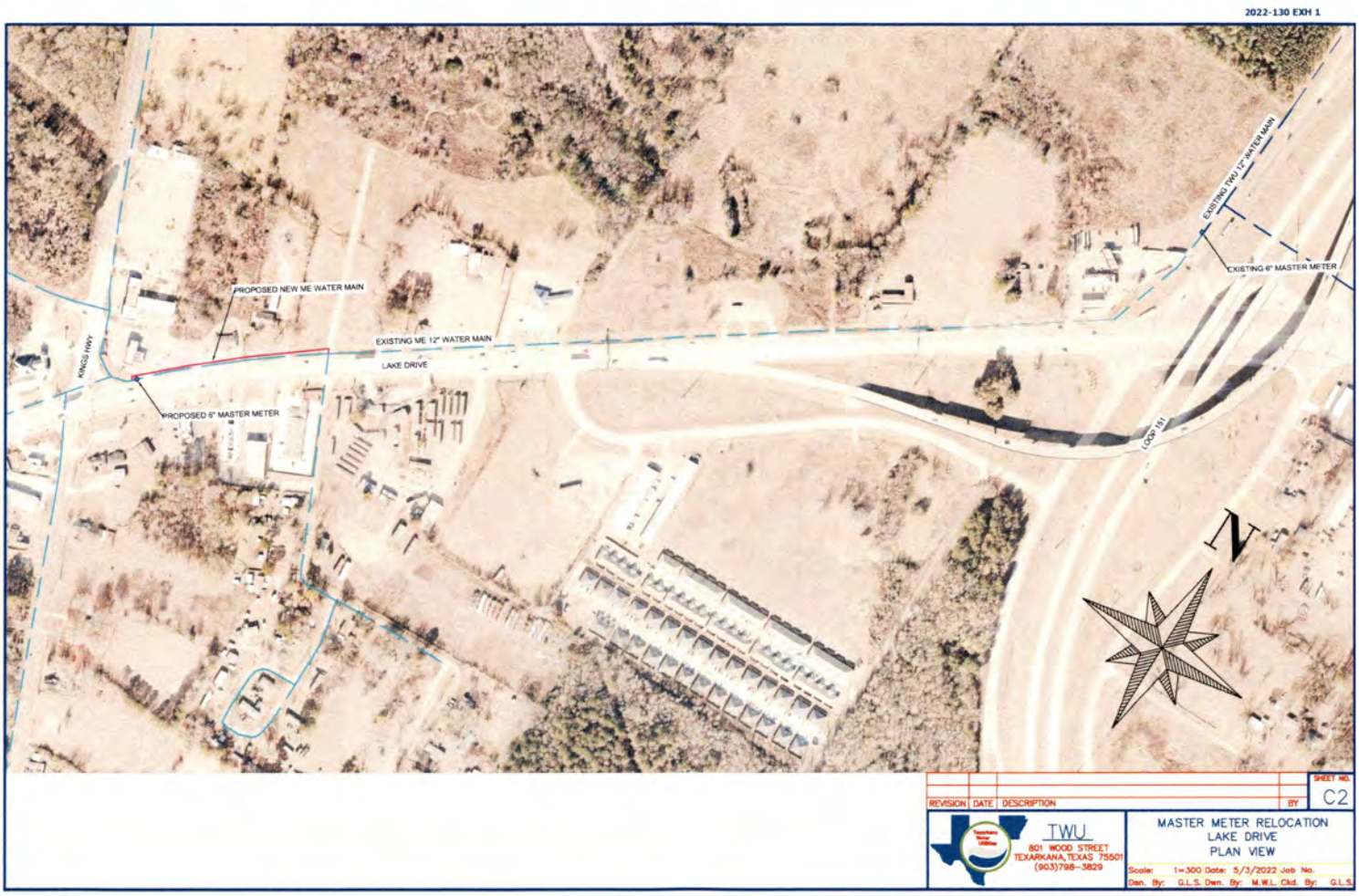
Attachment: 2023-021 ATTH 02 SPA City & M-E MUD (3928 : 2023-021 RES RaceTrac agmt)

INSTALLATION OF SEWER METERS					
PRELIMINARY COST ESTIMATE - MAY 15, 2022 REVISED JUNE 23, 2022					
Item No.	Description	Unit	Bid Quantity	Unit Price	Total Bid
1	Mobilization, Bonds, & Submittals	EA	1	$5,000.00	$5,000.00
2	Mag Meter	EA	3	$3,506.00	$10,518.00
3	Signal Converter	EA	3	$1,642.00	$4,926.00
4	Vault	EA	3	$8,500.00	$25,500.00
5	Installation of Vault, Meter, & Controls	EA	3	$5,000.00	$15,000.00
6	Remote Monitoring System	EA	3	$15,000.00	$45,000.00
7	8" Sewer Pipe	LF	120	$50.00	$6,000.00
8	Electrical Power to Site	EA	3	$7,000.00	$21,000.00
9	Equipment Electrical Connections	EA	3	$1,500.00	$4,500.00
10	Fencing	LF	75	$30.00	$2,250.00
11	Gate	EA	3	$250.00	$750.00
12	Miscellaneous	LS	1	$7,500.00	$7,500.00
13	3" Force Main & Connection	LF	200	$20.00	$4,000.00
17	Cut, Plug, & Abandon 3" Force Main	EA	1	$1,000.00	$1,000.00
20	Trench Protection	LS	1	$3,000.00	$3,000.00
21	Cellulose Fiber Mulch Seeding	LS	1	$2,000.00	$2,000.00
22	Golden Rule 3" FM by Open Cut	LF	210	$20.00	$4,200.00
23	Golden Rule 3" FM by Bore	LF	20	$50.00	$1,000.00
24	3" Force Main Connection to Exist. MH	EA	1	$1,500.00	$1,500.00
25	Remove & Replace Concrete	SY	70	$400.00	$28,000.00
	SUB-TOTAL				**$192,644.00**
	15% CONTINGENCIES				$28,896.60
	SUB-TOTAL				**$221,540.60**
	ENGINEERING				$22,154.06
	TOTAL				**$243,694.66**

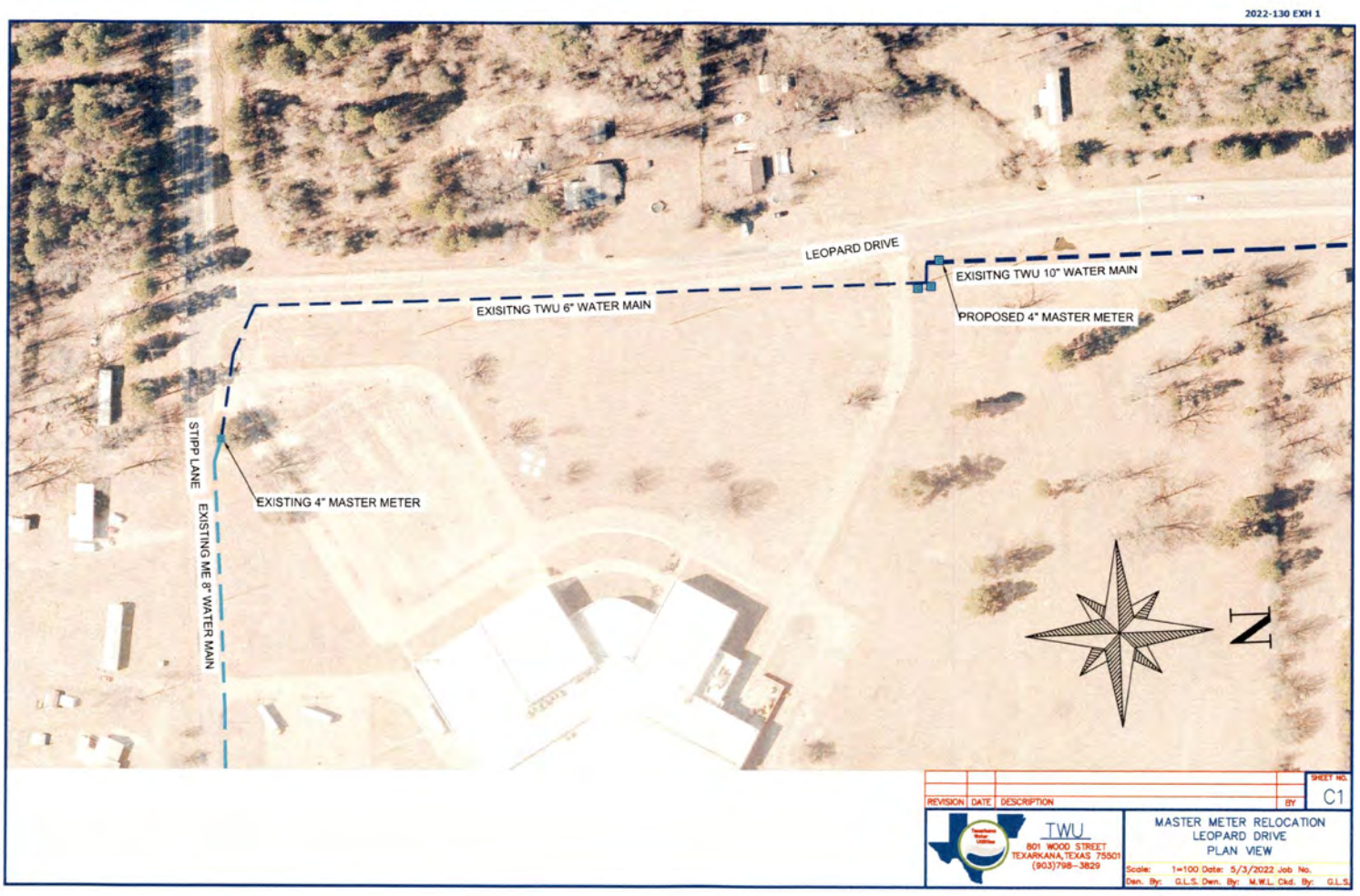
Attachment: 2023-021 ATTH 02 SPA City & M-E MUD (3928 : 2023-021 RES RaceTrac agmt)

RELOCATE 6" & 4" MASTER METERS					
PRELIMINARY COST ESTIMATE - MAY 2, 2022 REVISED JUNE 23, 2022					
Item No.	Description	Unit	Bid Quantity	Unit Price	Total Bid
1	Mobilization, Bonds, & Submittals	LS	1	$5,000.00	$5,000.00
2	6" Master Meter & Vault	LS	1	$65,000.00	$65,000.00
3	12" x 6" Tapping Sleeve & Valve	EA	2	$5,000.00	$10,000.00
4	12" Stop Valve	EA	2	$10,000.00	$20,000.00
5	Cut, Plug, & Abandon 12"	EA	2	$2,500.00	$5,000.00
6	Miscellaneous Piping	LS	1	$5,000.00	$5,000.00
7	Remove Exist. 6" Meter & Install Pipe	LS	1	$2,500.00	$2,500.00
8	Remove & Replace Existing Pavement	SY	45	$400.00	$18,000.00
9	6" PVC C-900 Water Pipe by Open Cut	LF	1000	$45.00	$45,000.00
10	6" Certa-Lok C-900 Water Pipe by Bore	LF	460	$120.00	$55,200.00
11	6" x 6" Tapping Sleeve & Valve	EA	1	$4,000.00	$4,000.00
12	Cut, Plug, & Abandon 6"	EA	1	$2,500.00	$2,500.00
13	12" x 6" Tapping Sleeve & Valve	EA	1	$5,000.00	$5,000.00
14	6" x 4" Tapping Sleeve & Valve	EA	1	$3,000.00	$3,000.00
15	Cut, Plug, & Abandon 4"	EA	2	$2,000.00	$4,000.00
16	4" Master Meter & Vault	LS	1	$45,000.00	$45,000.00
17	10" x 4" Tapping Sleeve & Valve	EA	2	$3,500.00	$7,000.00
18	10" Stop Valve	EA	2	$10,000.00	$20,000.00
19	Cut, Plug, & Abandon 10"	EA	2	$2,500.00	$5,000.00
20	Miscellaneous Piping	LS	1	$4,000.00	$4,000.00
21	Remove Exist. 4" Meter & Install Pipe	LS	1	$2,500.00	$2,500.00
22	Trench Protection	LS	1	$3,500.00	$3,500.00
23	Cellulose Fiber Mulch Seeding	LS	1	$4,000.00	$4,000.00
24	Silt Fence	LF	490	$6.50	$3,185.00
	SUB-TOTAL				**$343,385.00**
	15% CONTINGENCIES				$51,507.75
	SUB-TOTAL				**$394,892.75**
	ENGINEERING				$39,489.28
	TOTAL				**$434,382.03**

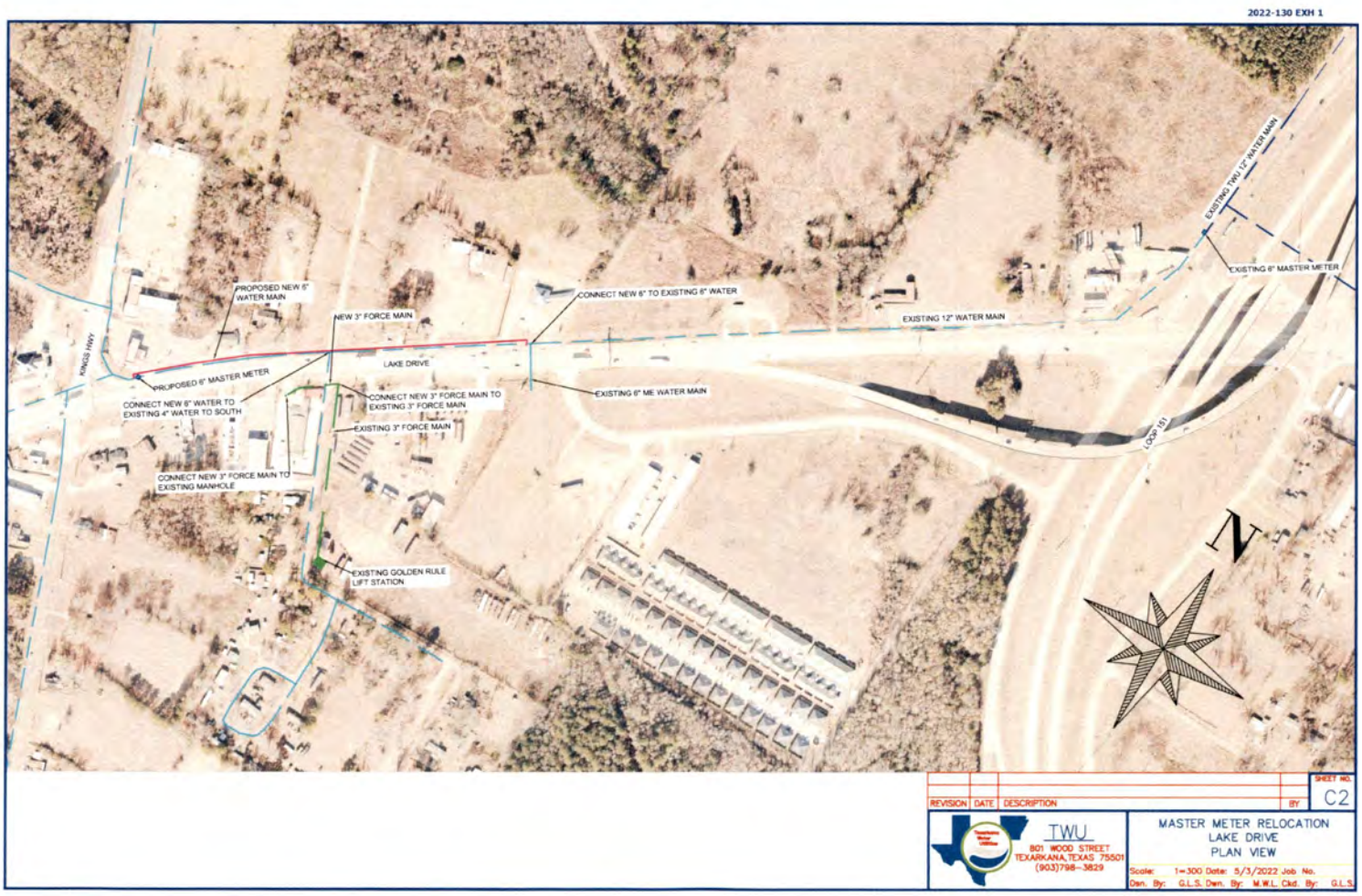
Attachment: 2023-021 ATTH 02 SPA City & M-E MUD (3928 : 2023-021 RES RaceTrac agmt)



Attachment: 2023-021 ATTH 02 SPA City & M-E MUD (3928 : 2023-021 RES RaceTrac agmt)



Attachment: 2023-021 ATTH 02 SPA City & M-E MUD (3928 : 2023-021 RES RaceTrac agmt)



Attachment: 2023-021 ATTH 02 SPA City & M-E MUD (3928 : 2023-021 RES RaceTrac agmt)

Exhibit "D"

Attachment: 2023-021 ATTH 02 SPA City & M-E MUD (3928 : 2023-021 RES RaceTrac agmt)

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

Perspectives	Goals
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☑ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☑ Maximize Partnership Opportunities ☑ Provide Courteous & Responsive Customer Service ☐ Model a Positive City Image ☑ Deliver Efficient Services ☐ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☑ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture

Perspectives and Goals Additional Comments:

Resource Impact:

Staff time required if item is approved:	No Additional

Other Potential Impacts:

Public Information Plan:

☐	Newspaper Notice (Required by Statute)	☐	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☐	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☐	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☐	None Required	☐	

Other:

Attachment: 2023-021 Goals & Perspectives (3928 : 2023-021 RES RaceTrac agmt)

City of Texarkana, Texas

Version:

Briefing Sheet

Update Date: 1/9/2023 8:33 AM

Lead Department:	Planning & Zoning Commission	**Action Officer:**	Laura Puckett, Administrative Coordinator
Subject:	Ordinance No. 2023-015 rezoning on an approximate 2.999-acre tract of land (being Tract 71B), Thomas Price HRS, A-466, located at 530 Sowell Lane from Planned Development-Office to Commercial. Wes Haley, representing Haley's Body Shop, owner.		

Briefing: 2/13/2023 **Public Hearing:** 2/13/2023 **Council Vote:** 2/13/2023

Item Schedule

Schedule 2: Brief once - vote once (two weeks)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

This is a request by Wes Haley, representing Haley's Body Shop, owner, to rezone an approximate 2.999-acre tract of land (being Tract 71B), Thomas Price HRS, A-466, located at 530 Sowell Lane from Planned Development-Office to Commercial.

The Future Land Use Map has designated this property as "Regional Commercial".

The adjacent zoning is General Retail to the North, Single Family-2 to the east, Planned Development-Office to the south and Commercial to the west. The adjacent land use is a church to the north, vacant land to the east and south, and I-369 to the west.

Applicant is requesting that the Planned Development be removed and that the parcel be zoned Commercial to conform to the already existing parcel zoned Commercial. Staff recommends for approval of this request.

The applicant should also be aware that if this zoning change is approved, all other applicable city code/ordinance requirements must be met including but not limited to new drainage ordinance, stormwater design manual, building codes, setbacks, subdivision, fire, parking, drainage, water and sewer prior to the issuance of building permits.

All notification and application requirements have been met to consider this request.

Potential Options:

Approve or deny

Fiscal Implications:

NOT APPLICABLE

Staff Recommendation:

Staff recommends for approval of this request.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of this request.

Advisory Board/Committee Meeting Date and Minutes:

January 3, 2023

Attachments

a. 2023-015 ORD Rezoning 530 Sowell Lane (DOCX)
b. 2023-015 EXH 'A' (Legal Description) (PDF)
c. 2023-015 ATTH 01 (Maps) (PDF)
d. 2023-015 Goals & Perspectives (DOCX)
e. 2023-015 ORD rez 530 Sowell Ln signed (PDF)

Staff Coordination

Building Code Administration	Mashell Daniel	Reviewer	Completed	01/19/2023 9:50 AM
City Manager	David Orr	Reviewer	Completed	01/19/2023 1:46 PM
City Council	Jennifer Evans	Meeting	Completed	01/23/2023 6:00 PM

Meeting History

01/23/23	City Council	MOVED FORWARD	Next: 02/13/23

Z-23-1

ORDINANCE NO. 2023-015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE ZONING ORDINANCE OF THE CITY OF TEXARKANA, TEXAS, BY REZONING AN APPROXIMATE 2.999-ACRE TRACT OF LAND (BEING TRACT 71B), THOMAS PRICE HRS, A-466, LOCATED AT 530 SOWELL LANE, IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS, FROM PLANNED DEVELOPMENT-OFFICE TO COMMERCIAL; CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed requesting an amendment to the Zoning Ordinance of the City of Texarkana, Texas, to rezone an **approximate 2.999-acre tract of land (being Tract 71B), Thomas Price HRS, A-466 (Exhibit 'A'), located at 530 Sowell Lane,** in the City of Texarkana, Bowie County, Texas, from **Planned Development-Office to Commercial**; and

WHEREAS, the Planning and Zoning Commission of the City of Texarkana, Texas, and the City Council of the City of Texarkana, Texas, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and have afforded and held full and fair hearings to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof; and

WHEREAS, after consideration of said application, the Planning and Zoning Commission of the City of Texarkana, Texas, **voted five (5) to zero (0) to recommend for approval of the application for rezoning from Planned Development-Office to Commercial on an approximate 2.999-acre tract of land (being Tract 71B), Thomas Price HRS, A-466 (Exhibit 'A'), located at 530 Sowell Lane** to the City Council of Texarkana, Texas; and

WHEREAS, after consideration of said application and the recommendation of the Planning and Zoning Commission, applicant agreed to amend the application from **Planned Development-Office to Commercial**; and

WHEREAS, after consideration of said application and the recommendation of the Planning and Zoning Commission, the City Council of the City of Texarkana, Texas, does hereby find that rezoning the property from **Planned Development-Office to Commercial** is in the best interest of the public health, safety, morals and general welfare of the City.

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

SECTION 1: That the Zoning Ordinance of the City of Texarkana, Texas, Ordinance No. 127-70, passed and approved on September 14, 1970, be and is hereby further amended to rezone an **approximate 2.999-acre tract of land (being Tract 71B), Thomas Price HRS, A-466 (Exhibit**

Attachment: 2023-015 ORD Rezoning 530 Sowell Lane (3918 : 2023-015 ORD rezoning PD-Office to Commercial 530 Sowell Ln)

'A'), located at 530 Sowell Lane in the City of Texarkana, Bowie County, Texas, from **Planned Development-Office to Commercial.**

SECTION 2: It is further provided that in case a section, clause, sentence or part of this ordinance shall be deemed or adjudged by a court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair, or invalidate the remainder of this ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 4: 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 **13th day of February, 2023.**

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2023-015 ORD Rezoning 530 Sowell Lane (3918 : 2023-015 ORD rezoning PD-Office to Commercial 530 Sowell Ln)

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BOWIE COUNTY CLERK
NEW BOSTON, TEXAS
MARYLENE MEGASON

Prepared By: EDWARD MILLER, Attorney, of the law firm of:
KEENEY, ANDERSON, MILLER, JAMES & TATE
P. O. Box 2044 - 1012 Olive Street
Texarkana, Texas 75504

WARRANTY DEED

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BOWIE §

That LOCAL UNION NO. 526, INTERNATIONAL CHEMICAL WORKERS BUILDING CORPORATION, a private corporation duly incorporated under and by virtue of the laws of the State of Texas, acting herein by and through its PRESIDENT R. C. PAULEY, hereunto duly authorized by resolution and official action of the Board of Directors of such corporation made at a meeting held on August 19th, 1989, hereinafter referred to as "GRANTOR", for and in consideration of the sum of TEN and NO/100 ($10.00) DOLLARS and other good and valuable consideration, to Grantor cash in hand paid by HALEY'S BODY SHOP, INC., a Texas corporation, whose address is P. O. Box 1822, Texarkana, Texas 75504, hereinafter referred to as "GRANTEE", the receipt of which is hereby acknowledged and confessed; and for the further sum of EIGHTY THOUSAND and NO/100 - ($80,000.00) - DOLLARS, to Grantor cash in hand paid by THE STATE FIRST NATIONAL BANK OF TEXARKANA, Texarkana, Arkansas, hereinafter referred to as "LENDER", which sum is paid to Grantor by Lender at the special instance and request of the Grantee, to evidence which said Grantee has executed the Grantee's one certain Promissory Note, hereinafter referred to as "NOTE", of even date herewith as follows:

> Promissory Note in the principal sum of $80,000.00, bearing interest at the rate therein stated and payable to Lender as specified in said note, said Note providing for past due principal and interest to bear interest from maturity until paid, for acceleration of maturity in case of default and for attorney's fees if placed in the hands of an attorney for collection or if collected through Probate Court or other legal proceedings, and a Vendor's Lien is herein and hereby retained against the hereby conveyed property to secure the payment of said Note and interest to accrue thereon, the superior title to which is hereby transferred and assigned to said Lender, said note being further secured by a Deed of Trust of even date herewith to J. MICHAEL CROSS, Trustee for said Lender, upon said property and all the terms, conditions and provisions of said consideration herein are fully secured by the Vendor's Lien retained herein; and,

has GRANTED, SOLD and CONVEYED and by these presents does GRANT, SELL and CONVEY unto the said Grantee, the following described property, to-wit:

> All that certain tract or parcel of land situated in the THOMAS PRICE HEADRIGHT SURVEY, Abst. No. 466, Bowie County, Texas, and being a portion of a certain 12.078 acre tract of land deeded to Local Union No. 526, International Chemical Workers Building Corp., said 12.078 acre tract being a part of a certain 50 acre tract of land described by Deed dated December 15, 1903, and recorded in Volume 39, Page 110, Deed Records, Bowie County, Texas; subject tract being more particularly described by metes and bounds as follows:
> COMMENCING at an iron pipe for corner at a fence corner, the Northeast corner of a certain 8.394 acre tract of land conveyed to the State of Texas by Deed dated July 6, 1960, of record in Volume 386, Pages 219-223, Deed Records, Bowie

Attachment: 2023-015 EXH 'A' (Legal Description) (3918 : 2023-015 ORD rezoning PD-Office to Commercial 530 Sowell Ln)

County, Texas, and being 450 feet North of the Southeast corner of said 50 acre tract, said point being the Southeast corner of said 12.078 acre tract;
THENCE North 00° 04' 23" West, with the East line of said 12.078 acre tract, 386.04 feet to an iron pipe for corner at the Northeast corner of a certain 3.654 acre tract of land sold to Westside Church of Christ, and the PLACE OF BEGINNING for the herein described tract of land;
THENCE West with the North line of said Church tract, 634.55 feet to an iron pipe for corner on the East right-of-way line of Loop 151 (US-59);
THENCE North 00° 49' 54" East with the East right-of-way line of said Loop 151 (US-59), 177.66 feet to a concrete right-of-way marker at an angle point;
THENCE North 02° 48' 06" West, continuing with said right-of-way line, 28.82 feet to an iron pipe for corner;
THENCE East 633.12 feet to an iron pipe for corner in the East line of said 12.078 acre tract;
THENCE South 00° 04' 23" East, with the East line of said 12.078 acre tract, 206.43 feet to the PLACE OF BEGINNING; and,
CONTAINING 3.000 acres of land, more or less.

The above described property and this instrument are SUBJECT TO Easement in favor of Southwestern Gas and Electric Company, recorded in Volume 321, Page 371 of the Deed Records, Bowie County, Texas.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, and unto the Grantee's successors and assigns forever; and Grantor does hereby bind itself, its successors and assigns, to Warrant and Forever Defend all and singular the said premises unto the said Grantee, and unto the Grantee's successors and assigns, against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

But it is expressly agreed and stipulated that a Vendor's Lien is retained against the above described property, premises and improvements as security for said Note and transferred to said Lender, as above provided, until said Note and all interest thereon is fully paid according to its face and tenor, effect and reading, when this deed shall become absolute.

IN WITNESS WHEREOF, the said Corporation has caused these presents to be signed by its duly authorized officer and to be sealed with the Seal of the Corporation at Texarkana, Texas, on November 1, 1989.

LOCAL UNION NO. 526, INTERNATIONAL
CHEMICAL WORKERS BUILDING CORPORATION

By: R.C. Pauley

THE STATE OF TEXAS §
§
COUNTY OF BOWIE §

This instrument was acknowledged before me on November 1, 1989, by R. C. PAULEY, PRESIDENT of LOCAL UNION NO. 526, INTERNATIONAL CHEMICAL WORKERS BUILDING CORPORATION, a Texas corporation, on behalf of said corporation.

CAROLYN S. KING
Notary Public
STATE OF TEXAS
My Comm. Exp. Oct. 21, 1990

Carolyn S. King
Notary Public in and for the
State of TEXAS
My commission expires: _____.

Printed Name of Notary Public

Attachment: 2023-015 EXH 'A' (Legal Description) (3918 : 2023-015 ORD rezoning PD-Office to Commercial 530 Sowell Ln)

2023-015 EXH 'A'

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Z-23-1

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COMPARED

Local Union # 526,
International Chemical Workers Bldg Corp

to

Nature Body Shop, Inc

11-1-89

'89 NOV 3 AM 11 46

BOWIE COUNTY CLERK
NEW BOSTON, TEXAS
MARYLENE MEGASON

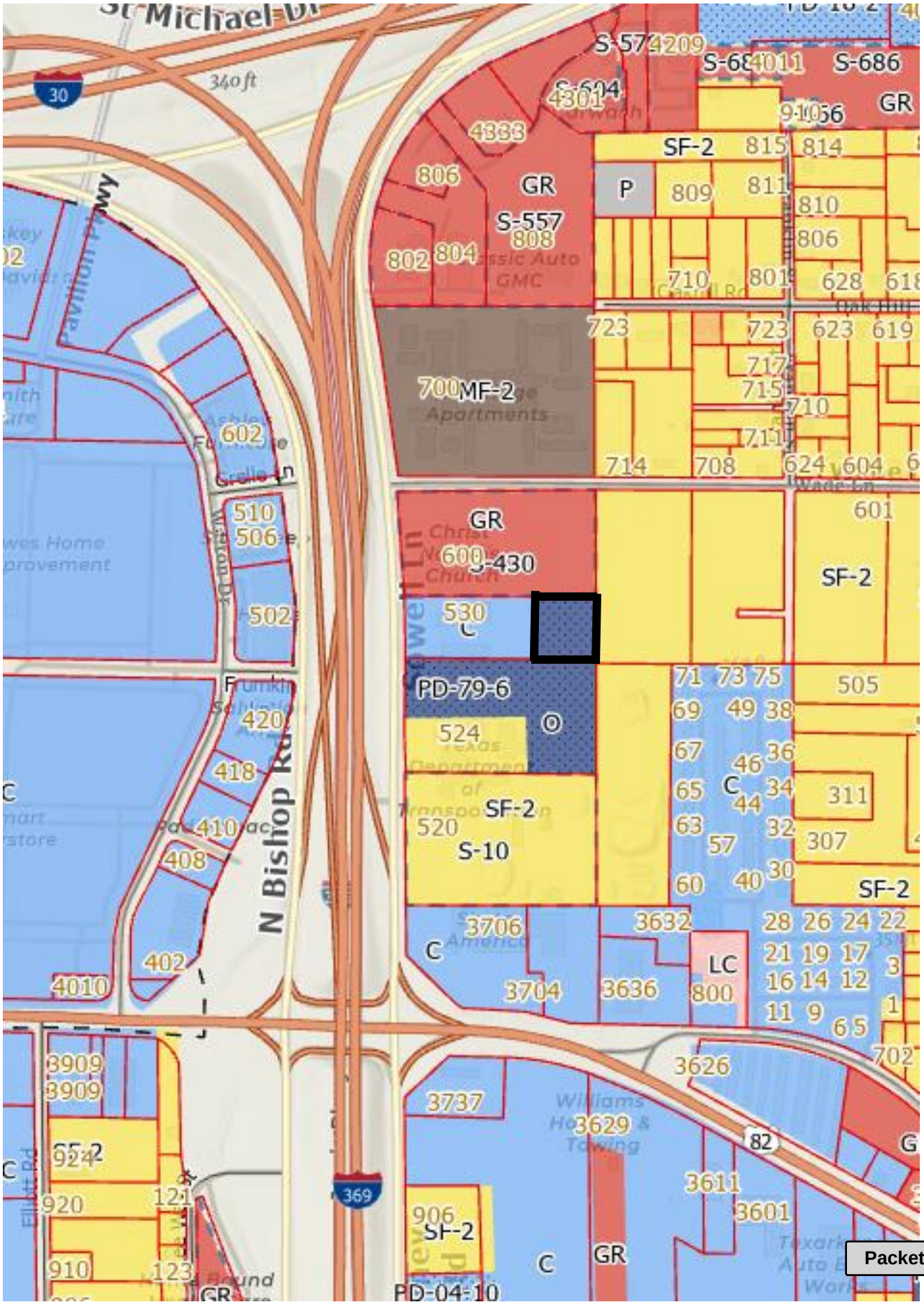
Stewart Title

MARYLENE MEGASON, COUNTY CLERK, BOWIE COUNTY, TEXAS

BY: Debbie Wade DEPUTY

Attachment: 2023-015 EXH 'A' (Legal Description) (3918 : 2023-015 ORD rezoning PD-Office to Commercial 530 Sowell Ln)

530 Sowell Lane



Attachment: 2023-015 ATTH 01 (Maps) (3918 : 2023-015 ORD rezoning PD-Office to Commercial 530 Sowell Ln)

2023-015 ATTH 01
Z-23-1

530 Sowell Lane

Attachment: 2023-015 ATTH 01 (Maps) (3918 : 2023-015 ORD rezoning PD-Office to Commercial 530 Sowell Ln)

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:	
Perspectives	**Goals**
Serve the Community	☐ Promote an Environmentally Sensitive & Livable Community ☐ Provide a Safe Community ☑ Deliver Quality Services ☐ Foster a Healthy Community
Run the Operations	☐ Enhance Community Preparedness & Responsiveness ☐ Maximize Partnership Opportunities ☐ Provide Courteous & Responsive Customer Service ☐ Model a Positive City Image ☑ Deliver Efficient Services ☐ Cultivate Community Involvement & Access
Manage the Resources	☐ Maintain Fiscal Strength ☐ Maximize Utilization & Resources ☐ Invest in Infrastructure & Transportation
Develop Personnel	☐ Develop a Skilled & Diverse Workforce ☐ Create a Positive & Rewarding Work Culture
Perspectives and Goals Additional Comments:	

Resource Impact:	
Staff time required if item is approved:	No Additional
Other Potential Impacts:	

Public Information Plan:			
☑	Newspaper Notice (Required by Statute)	☑	Public Hearing (Required by Statute)
☐	Public Forum/Input Session	☐	Press Release
☐	E-News Distribution	☐	Website Notice
☐	Social Media (Twitter, Facebook, etc.)	☐	Special Mailing
☐	Flyers Posted	☐	Banners Posted
☐	Survey	☐	Automated Phone Call
☐	None Required	☐	
Other:			

Attachment: 2023-015 Goals & Perspectives (3918 : 2023-015 ORD rezoning PD-Office to Commercial 530 Sowell Ln)

Z-23-1

ORDINANCE NO. 2023-015

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE ZONING ORDINANCE OF THE CITY OF TEXARKANA, TEXAS, BY REZONING AN APPROXIMATE 2.999-ACRE TRACT OF LAND (BEING TRACT 71B), THOMAS PRICE HRS, A-466, LOCATED AT 530 SOWELL LANE, IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS, FROM PLANNED DEVELOPMENT-OFFICE TO COMMERCIAL; CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed requesting an amendment to the Zoning Ordinance of the City of Texarkana, Texas, to rezone an **approximate 2.999-acre tract of land (being Tract 71B), Thomas Price HRS, A-466 (Exhibit 'A'), located at 530 Sowell Lane,** in the City of Texarkana, Bowie County, Texas, from **Planned Development-Office to Commercial**; and

WHEREAS, the Planning and Zoning Commission of the City of Texarkana, Texas, and the City Council of the City of Texarkana, Texas, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and have afforded and held full and fair hearings to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof; and

WHEREAS, after consideration of said application, the Planning and Zoning Commission of the City of Texarkana, Texas, **voted five (5) to zero (0) to recommend for approval of the application for rezoning from Planned Development-Office to Commercial on an approximate 2.999-acre tract of land (being Tract 71B), Thomas Price HRS, A-466 (Exhibit 'A'), located at 530 Sowell Lane** to the City Council of Texarkana, Texas; and

WHEREAS, after consideration of said application and the recommendation of the Planning and Zoning Commission, applicant agreed to amend the application from **Planned Development-Office to Commercial**; and

WHEREAS, after consideration of said application and the recommendation of the Planning and Zoning Commission, the City Council of the City of Texarkana, Texas, does hereby find that rezoning the property from **Planned Development-Office to Commercial** is in the best interest of the public health, safety, morals and general welfare of the City.

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

SECTION 1: That the Zoning Ordinance of the City of Texarkana, Texas, Ordinance No. 127-70, passed and approved on September 14, 1970, be and is hereby further amended to rezone an **approximate 2.999-acre tract of land (being Tract 71B), Thomas Price HRS, A-466 (Exhibit**

Attachment: 2023-015 ORD rez 530 Sowell Ln signed (3918 : 2023-015 ORD rezoning PD-Office to Commercial 530 Sowell Ln)

'A'), located at 530 Sowell Lane in the City of Texarkana, Bowie County, Texas, from **Planned Development-Office to Commercial.**

SECTION 2: It is further provided that in case a section, clause, sentence or part of this ordinance shall be deemed or adjudged by a court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair, or invalidate the remainder of this ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 4: 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 **13th day of February, 2023.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:30 p.m.

Attachment: 2023-015 ORD rez 530 Sowell Ln signed (3918 : 2023-015 ORD rezoning PD-Office to Commercial 530 Sowell Ln)

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BOWIE COUNTY CLERK
NEW BOSTON, TEXAS
MARYLENE MEGASON

Prepared By: EDWARD MILLER, Attorney, of the law firm of:
KEENEY, ANDERSON, MILLER, JAMES & TATE
P. O. Box 2044 - 1012 Olive Street
Texarkana, Texas 75504

WARRANTY DEED

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BOWIE §

That LOCAL UNION NO. 526, INTERNATIONAL CHEMICAL WORKERS BUILDING CORPORATION, a private corporation duly incorporated under and by virtue of the laws of the State of Texas, acting herein by and through its PRESIDENT R. C. PAULEY, hereunto duly authorized by resolution and official action of the Board of Directors of such corporation made at a meeting held on August 19th, 1989, hereinafter referred to as "GRANTOR", for and in consideration of the sum of TEN and NO/100 ($10.00) DOLLARS and other good and valuable consideration, to Grantor cash in hand paid by HALEY'S BODY SHOP, INC., a Texas corporation, whose address is P. O. Box 1822, Texarkana, Texas 75504, hereinafter referred to as "GRANTEE", the receipt of which is hereby acknowledged and confessed; and for the further sum of EIGHTY THOUSAND and NO/100 - ($80,000.00) - DOLLARS, to Grantor cash in hand paid by THE STATE FIRST NATIONAL BANK OF TEXARKANA, Texarkana, Arkansas, hereinafter referred to as "LENDER", which sum is paid to Grantor by Lender at the special instance and request of the Grantee, to evidence which said Grantee has executed the Grantee's one certain Promissory Note, hereinafter referred to as "NOTE", of even date herewith as follows:

> Promissory Note in the principal sum of $80,000.00, bearing interest at the rate therein stated and payable to Lender as specified in said note, said Note providing for past due principal and interest to bear interest from maturity until paid, for acceleration of maturity in case of default and for attorney's fees if placed in the hands of an attorney for collection or if collected through Probate Court or other legal proceedings, and a Vendor's Lien is herein and hereby retained against the hereby conveyed property to secure the payment of said Note and interest to accrue thereon, the superior title to which is hereby transferred and assigned to said Lender, said note being further secured by a Deed of Trust of even date herewith to J. MICHAEL CROSS, Trustee for said Lender, upon said property and all the terms, conditions and provisions of said consideration herein are fully secured by the Vendor's Lien retained herein; and,

has GRANTED, SOLD and CONVEYED and by these presents does GRANT, SELL and CONVEY unto the said Grantee, the following described property, to-wit:

> All that certain tract or parcel of land situated in the THOMAS PRICE HEADRIGHT SURVEY, Abst. No. 466, Bowie County, Texas, and being a portion of a certain 12.078 acre tract of land deeded to Local Union No. 526, International Chemical Workers Building Corp., said 12.078 acre tract being a part of a certain 50 acre tract of land described by Deed dated December 15, 1903, and recorded in Volume 39, Page 110, Deed Records, Bowie County, Texas; subject tract being more particularly described by metes and bounds as follows:
> COMMENCING at an iron pipe for corner at a fence corner, the Northeast corner of a certain 8.394 acre tract of land conveyed to the State of Texas by Deed dated July 6, 1960, of record in Volume 386, Pages 219-223, Deed Records, Bowie

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County, Texas, and being 450 feet North of the Southeast corner of said 50 acre tract, said point being the Southeast corner of said 12.078 acre tract;
THENCE North 00° 04' 23" West, with the East line of said 12.078 acre tract, 386.04 feet to an iron pipe for corner at the Northeast corner of a certain 3.654 acre tract of land sold to Westside Church of Christ, and the PLACE OF BEGINNING for the herein described tract of land;
THENCE West with the North line of said Church tract, 634.55 feet to an iron pipe for corner on the East right-of-way line of Loop 151 (US-59);
THENCE North 00° 49' 54" East with the East right-of-way line of said Loop 151 (US-59), 177.66 feet to a concrete right-of-way marker at an angle point;
THENCE North 02° 48' 06" West, continuing with said right-of-way line, 28.82 feet to an iron pipe for corner;
THENCE East 633.12 feet to an iron pipe for corner in the East line of said 12.078 acre tract;
THENCE South 00° 04' 23" East, with the East line of said 12.078 acre tract, 206.43 feet to the PLACE OF BEGINNING; and,
CONTAINING 3.000 acres of land, more or less.

The above described property and this instrument are SUBJECT TO Easement in favor of Southwestern Gas and Electric Company, recorded in Volume 321, Page 371 of the Deed Records, Bowie County, Texas.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, and unto the Grantee's successors and assigns forever; and Grantor does hereby bind itself, its successors and assigns, to Warrant and Forever Defend all and singular the said premises unto the said Grantee, and unto the Grantee's successors and assigns, against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

But it is expressly agreed and stipulated that a Vendor's Lien is retained against the above described property, premises and improvements as security for said Note and transferred to said Lender, as above provided, until said Note and all interest thereon is fully paid according to its face and tenor, effect and reading, when this deed shall become absolute.

IN WITNESS WHEREOF, the said Corporation has caused these presents to be signed by its duly authorized officer and to be sealed with the Seal of the Corporation at Texarkana, Texas, on November 1, 1989.

LOCAL UNION NO. 526, INTERNATIONAL
CHEMICAL WORKERS BUILDING CORPORATION

By: R C Pauley

THE STATE OF TEXAS §
§
COUNTY OF BOWIE §

This instrument was acknowledged before me on November 1, 1989, by R. C. PAULEY, PRESIDENT of LOCAL UNION NO. 526, INTERNATIONAL CHEMICAL WORKERS BUILDING CORPORATION, a Texas corporation, on behalf of said corporation.

CAROLYN S. KING
Notary Public
STATE OF TEXAS
My Comm. Exp. Oct. 21, 1990

Carolyn S King

Notary Public in and for the
State of TEXAS
My commission expires: _____.

Printed Name of Notary Public

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WD COMPARED

Local Union #526,
International Chemical Workers Bldg Corp

to

Waluje Body Shop, Inc

11-1-89

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BOWIE COUNTY CLERK
NEW BOSTON, TEXAS
MARYLENE MEGASON

Stewart Title

MARYLENE MEGASON, COUNTY CLERK, BOWIE COUNTY, TEXAS

BY: _____ DEPUTY

Attachment: 2023-015 ORD rez 530 Sowell Ln signed (3918 : 2023-015 ORD rezoning PD-Office to