CITY OF TEXARKANA

CITY COUNCIL

MINUTES ● FEBRUARY 14, 2022

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	
Bill Harp	Ward 5	Present	
Jay Davis	Ward 6	Present	

Staff Present: City Manager David Orr, Jennifer Evans, Kristin Peeples, Vashil Fernandez, Karey Parker, Shawn Fitzgerald, Dusty Henslee, Robby Robertson, J.W. Bramlett, and Brandon Uselton.

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 28, 2022 at 6:00 p.m.
Monday, March 14, 2022 at 6:00 p.m.
Monday, March 28, 2022 at 6:00 p.m.

Parks & Recreation Events:

February 24th - 25th 27th Annual ADA Fishing Derby Spring Lake Park

Additional Parks & Recreation information can be found on the city's website at <http://www.ci.texarkana.tx.us> or by contacting staff at (903) 798-3978.

Les Minor, long-time editor of the Texarkana Gazette, is retiring at the end February. He's had a distinguished career with the local newspaper and the city wishes him much success in his future endeavors.

A ribbon cutting was held at the Texarkana Regional Airport, welcoming a new flight carrier, United Airlines, that will provide direct service to Houston. The event was attended by officials from both sides of State Line as well as with excellent support from members of the community. Tyler Brown, Airport Real Estate Manager, said this is truly exciting to see taking place at the airport. There will be one flight a day, leaving at 7:00 a.m. and returning at 7:15 p.m.

United is a world-class major airline carrier and now has joined American Airlines, that currently provides three flights a day out of Texarkana. This is a long-awaited milestone for Texarkana USA and the city anticipates a long-term relationship with United Airlines.

The Annual Black History Parade is scheduled for a 10:00 a.m. start on Saturday, February 26th. The parade will begin at East Broad and Hazel Streets in downtown Texarkana.

IV. OPEN FORUM: COMMENTS FROM THE PUBLIC

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

There were no public comments made at Open Forum.

V. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

There were no appointments made to any board, commission, or committee.

VI. ITEMS FOR CONSIDERATION

Consent Items

(6:17 p.m.)

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

1. Consider approval of the minutes of the Regular Meeting of the City Council held on January 10, 2022 at 6:00 PM.

2. Consider approval of the minutes of the Regular Meeting of the City Council held on January 24, 2022 at 6:00 PM.

3. Ordinance No. 2022-011 amending the Building Maintenance Fund (Fund 228) budget for the fiscal year ending September 30, 2022, to add unspent funds of One Hundred Six Thousand One Hundred Eighty-four Dollars ($106,184) from the preceding fiscal year.

   Public Hearing:
   Council Vote: February 14, 2022

4. Resolution No. 2022-014 approving the request of the Texarkana Airport Authority to enter into a 40-year ground lease with Flight Solutions, LLC., and authorizing the City Manager to sign and execute any documents necessary for the lease.

   Public Hearing:
   Council Vote: February 14, 2022

5. Resolution No. 2022-015 authorizing the City Manager to accept an Enterprise Agreement proposal from SHI Government Solutions of Austin, Texas, for Microsoft Licenses for the City of Texarkana, Texas utilizing Texas State DIR pricing with funds budgeted in City Technology Fund (Fund 115).

   Public Hearing:
   Council Vote: February 14, 2022

6. Resolution No. 2022-016 acknowledging receipt of the Police Department's 2021 Racial Profiling Report as statutorily required.

   Public Hearing:
   Council Vote: February 14, 2022

Action Items

7. Ordinance No. 2022-003 of public convenience and necessity, approving the assignment and transfer of a public utility franchise to Summit Utilities Arkansas, Inc., assignee of CenterPoint Energy Resources Corp., for the continued provision of and to maintain and operate a natural gas utility business system in the City. [City Charter requires this ordinance to be read at three regular meetings of the City Council.]

   Public Hearing: January 24, 2022
   Council Vote: February 14, 2022

Jeff Lewis provided a brief update. Thereafter, the City Secretary proceed with a third reading of the agenda caption.
(6:21 p.m.)

RESULT:	**THIRD READING - ADOPTED [UNANIMOUS]**
MOVER:	Bill Harp, Ward 5
SECONDER:	Jay Davis, Ward 6
AYES:	Matlock, Hart, Williams, Page, Harp, Davis
EXCUSED:	Bruggeman

8. Ordinance No. 2022-004 amending Ordinance No. 2017-083, substituting Summit Utilities Arkansas, Inc., as the natural gas provider and franchise holder for the City, reauthorizing identical residential and commercial rate schedules previously authorized with exceptions, and ordering the rates to be charged by Summit for natural gas and natural gas service to the City's residential and commercial customers.

   Public Hearing: January 24, 2022
   Council Vote: February 14, 2022

   Jeff Lewis provided a brief update. Greg Strickland, of Summit Utilities, also provided information and answered questions for council.
   (6:27 p.m.)

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

VII. FIRST BRIEFINGS

1. Resolution No. 2022-006 amending the Purchasing Policy Manual for the City of Texarkana, Texas.

   Public Hearing:
   Council Vote: February 28, 2022

   Kristin Peeples briefed this agenda item.

RESULT:	**MOVED FORWARD**	**Next: 2/28/2022 6:00 PM**

2. Resolution No. 2022-013 adopting criteria for use in the decennial redistricting process.

   Public Hearing: February 28, 2022
   Council Vote: February 28, 2022

Bob Heath, of Bickerstaff Heath Delgado Acosta LLP, briefed this agenda item from Austin, Texas, via the Zoom video conferencing platform.

RESULT:	**MOVED FORWARD**	**Next: 2/28/2022 6:00 PM**

3. Resolution No. 2022-012 establishing mandatory guidelines for persons submitting specific redistricting proposals and for requiring written comments.

Public Hearing: February 28, 2022
Council Vote: February 28, 2022

Bob Heath, of Bickerstaff Heath Delgado Acosta LLP, briefed this agenda item from Austin, Texas, via the Zoom video conferencing platform.

RESULT:	**MOVED FORWARD**	**Next: 2/28/2022 6:00 PM**

VIII. PUBLIC HEARINGS

1. Ordinance No. 2022-008 granting a Specific Use Permit to allow the location of a single-wide HUD code manufactured home on Lot 3, Block 17, Grandview Addition, located at 4007 Findley Street. Franklin D. Coleman, owner.

Public Hearing: February 14, 2022
Council Vote: February 14, 2022

There were no public comments made at this hearing.
(7:18 p.m.)

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

2. Ordinance No. 2022-009 approving an amendment to PD-20-5(GR) for site plan approval on a 2.206-acre tract of land (being Tract 65A) in the John A. Talbot HRS, A-564, located at 5609 Richmond Rd. Don Robertson, owner.

Public Hearing: February 14, 2022
Council Vote: February 14, 2022

There were no public comments made at this hearing.
(7:19 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Bill Harp, Ward 5
SECONDER:	Jay Davis, Ward 6
AYES:	Matlock, Hart, Williams, Page, Harp, Davis
EXCUSED:	Bruggeman

3. Resolution No. 2022-010 authorizing a written services agreement for provisions of city services to Deaton Place Subdivision in the event the city council adopts an ordinance annexing the tract.

Public Hearing: February 14, 2022
Council Vote: February 14, 2022

There were no public comments made at this hearing.
(7:20 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Bill Harp, Ward 5
SECONDER:	Christie Page, Ward 4
AYES:	Matlock, Hart, Williams, Page, Harp, Davis
EXCUSED:	Bruggeman

IX. ITEMS FOR DISCUSSION - CITY MANAGER'S REPORT

Monthly Sales Tax for January 2022 Texarkana, Texas
Sales tax collections for January totaled $1,657,004, an increase of $246,669.48 (17.49%) over the prior year. Fiscal year-to-date collections are $6,586,025.13, up 14.29% compared to last year, while the twelve-month moving average is 16.90%, higher than this time last year.

Caddo Nation Visit Recap
The recent meeting with Caddo Nation Chairman Bobby Gonzalez and Tribal Preservation Officer Jonathan Rohrer went well. Staff is working on a joint resolution and memorandum of understanding regarding a number of collaborative objectives to be introduced at a future council meeting.

City-Wide Goal Setting Process
With the passage of the city's new mission, vision and values statements, staff has begun the city-wide goal setting process with these statements at the forefront. At this time, 114 goals have been established for all City employees and 43 of those goals have been established by department directors.

Ribbon Cutting & First Flight for United Airlines
The Texarkana Regional Airport held a ribbon cutting for United Airlines on Sunday, February 13th and the first flight to Houston left this morning, February 14th. The city appreciates their investment in the community and looks forward to a long-term partnership with United Airlines.

X. ADMINISTRATIVE COMMENTS

1. City Council

   Council had no administrative comments for staff.

2. City Staff

   Staff had no administrative comments for council.

XI. ADJOURNMENT

A motion was made to adjourn the meeting.
(7:23 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Bill Harp, Ward 5
SECONDER:	Christie Page, Ward 4
AYES:	Matlock, Hart, Williams, Page, Harp, Davis
EXCUSED:	Bruggeman

Jennifer Evans
City Secretary

Bob Bruggeman
Mayor

CITY OF TEXARKANA

CITY COUNCIL

MINUTES • JANUARY 10, 2022

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	
Bill Harp	Ward 5	Present	
Jay Davis	Ward 6	Present	

City Staff: City Manager David Orr, Jennifer Evans, Kristin Peeples, Dusty Henslee, Keith Beason, Lisa Thompson, Karey Parker, Eric Schlotter, Vashil Fernandez, Megan Price, Jennifer Strayhorn, and J.W. Bramlett.

Legal Counsel: Jeff Lewis.

II. INVOCATION AND PLEDGE LED BY COUNCIL MEMBER BILL HARP

III. MAYOR'S REMARKS AND ITEMS OF COMMUNITY INTEREST

Upcoming City Council Meetings:

Monday, January 24, 2022 at 6:00 p.m.
Monday, February 14, 2022 at 6:00 p.m.
Monday, February 28, 2022 at 6:00 p.m.

The annual Chamber of Commerce banquet, scheduled for Friday, January 21st, has been postponed due to COVID-19.

Congratulations were given to Council Member Matlock and Council Member Page who celebrated their birthdays on January 5th and January 7th, respectively.

IV. OPEN FORUM: COMMENTS FROM THE PUBLIC

Per Council rules, comment time is limited to five minutes, or ten minutes if using a translator. Before comments are made, a speaker must complete an information sheet and give to the City Secretary. If your

Minutes Acceptance: Minutes of Jan 10, 2022 6:00 PM (Consent Items)

comment pertains to an agenda item with a scheduled public hearing or public comment, the Council requires that you make your comment at that time; you do not need to complete an information sheet.

There were no public comments made at Open Forum.

V. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

There were no appointments made to any board, commission, or committee.

VI. ITEMS FOR CONSIDERATION

Consent Items

(6:06 p.m.)

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

1. Consider approval of the minutes of the Regular Meeting of the City Council held on December 13, 2021 at 6:00 PM.

Action Items

2. Resolution No. 2021-112 approving a redistricting services contract based on the 2020 U.S. Census.

   Public Hearing:
   Council Vote: January 10, 2022

(6:07 p.m.)

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

3. Resolution No. 2021-116 adopting evaluative factors and administrative procedures for low income housing tax credits resolution requests; containing a fact finding that the City has more than twice the state average of units per capita supported by housing tax credits or private activity bonds.

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Public Hearing:
Council Vote: January 10, 2022

(6:08 p.m.)

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

4. Resolution No. 2021-119 authorizing the City Manager to amend the contract for exclusive ambulance service with Lifenet, Inc.

Public Hearing:
Council Vote: January 10, 2022

Eric Schlotter had one update stating the rate sheet was added to the contract.
(6:09 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Bill Harp, Ward 5
SECONDER:	Jay Davis, Ward 6
AYES:	Matlock, Hart, Williams, Page, Harp, Davis
EXCUSED:	Bruggeman

VII. FIRST BRIEFINGS

1. Ordinance No. 2022-001 amending PD-21-2 (O) for site plan approval an approximate 0.96-acre tract of land (being 336A/336C) in the George Brinlee HRS, A-18, located at 5302 North Kings Highway from Single Family-1 to Planned Development-Office. Shane Satterfield, owner.

Public Hearing: January 24, 2022
Council Vote: January 24, 2022

City Manager Orr briefed this agenda item.

RESULT:	**MOVED FORWARD**	**Next: 1/24/2022 6:00 PM**

2. Resolution No. 2022-002 recognizing New Town Neighborhood Association as an official neighborhood association.

Public Hearing: January 24, 2022
Council Vote: January 24, 2022

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Megan Price briefed this agenda item. Steve Matlock offered additional comments.

RESULT:	MOVED FORWARD	Next: 1/24/2022 6:00 PM

3. Ordinance No. 2022-003 of public convenience and necessity, approving the assignment and transfer of a public utility franchise to Summit Utilities Arkansas, Inc., assignee of CenterPoint Energy Resources Corp., for the continued provision of and to maintain and operate a natural gas utility business system in the City. [City Charter requires this ordinance to be read at three regular meetings of the City Council.]

   Public Hearing: January 24, 2022
   Council Vote: February 14, 2022

   Jeff Lewis briefed this agenda item. Council Member Matlock made a motion for the **first reading** of the agenda caption. Council Member Harp seconded the motion. The vote was unanimous, six (6) to zero (0).
   (6:21 p.m.)

RESULT:	FIRST READING - MOVED FORWARD	Next: 1/24/2022 6:00 PM

4. Ordinance No. 2022-004 amending Ordinance No. 2017-083, substituting Summit Utilities Arkansas, Inc., as the natural gas provider and franchise holder for the City, reauthorizing identical residential and commercial rate schedules previously authorized with exceptions, and ordering the rates to be charged by Summit for natural gas and natural gas service to the City's residential and commercial customers.

   Public Hearing: January 24, 2022
   Council Vote: February 14, 2022

   Jeff Lewis briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 1/24/2022 6:00 PM

VIII. PUBLIC HEARINGS

1. Ordinance No. 2021-107 rezoning an approximate 1.89-acre tract of land (being Tract 139) in the J. W. Johnson HRS, A-308, located at the southwest corner of Jameson Street and Texarkana Avenue from Single Family-2 to Single Family-3. Anthony Lockhart and Latremont McCutchin, owners and John Lane, Agent.

   Public Hearing: January 10, 2022
   Council Vote: January 10, 2022

   There were no public comments made at this hearing.
   (6:28 p.m.)

Minutes Acceptance: Minutes of Jan 10, 2022 6:00 PM (Consent Items)

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

2. Ordinance No. 2021-108 granting a Specific Use Permit to allow the location of a double-wide HUD code manufactured home as a residence on a 1.89-acre tract of land (being Tract 139) in the J.W. Johnson HRS, A-308, located at the southwest corner of Jameson Street and Texarkana Avenue. Anthony Lockhart and Latremont McCutchin, owners, and John Lane agent.

   Public Hearing: January 10, 2022
   Council Vote: January 10, 2022

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

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

3. Ordinance No. 2021-109 rezoning Lots 1, 2, and west part of 3, Block 13, Richmond Pines 3rd Addition, located north of the residence at 3202 Robin Lane from Single Family-1 to Planned Development-Townhouse. Jason Nguyen, owner and Brandon Taylor, 2B Builders, agent.

   Public Hearing: January 10, 2022
   Council Vote: January 10, 2022

   There were no public comments made at this hearing.
   (6:31 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jay Davis, Ward 6
SECONDER:	Bill Harp, Ward 5
AYES:	Matlock, Hart, Williams, Page, Harp, Davis
EXCUSED:	Bruggeman

4. Ordinance No. 2021-110 approving an amendment to PD-21-3(TH) for site plan on Lots 1, 2, and west part of 3, Block 13, Richmond Pines 3rd Addition, located north of the residence at 3202 Robin Lane. Jason Nguyen, owner and Brandon Taylor, 2B Builders, agent.

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Public Hearing: January 10, 2022
Council Vote: January 10, 2022

There were no public comments made at this hearing.
(6:32 p.m.)

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

5. Ordinance No. 2021-111 approving an amendment to PD-01-8 (MF-1) for site plan approval on Lot 1, 2, and 3, Block 2, Brookwood Acres Addition, located in the 500 block of Belt Road. Jason Nguyen, owner, and Brandon Taylor, 2B Builders, agent.

Public Hearing: January 10, 2022
Council Vote: January 10, 2022

There were no public comments made at this hearing.
(6:34 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Christie Page, Ward 4
SECONDER:	Bill Harp, Ward 5
AYES:	Matlock, Hart, Williams, Page, Harp, Davis
EXCUSED:	Bruggeman

6. Ordinance No. 2021-117 closing and abandoning an unopened twenty-five foot (25') street right-of-way of Bradley Street located north of Pacific Avenue, south of Greenview Drive, and east of Lots 49 and 57 in the Belmont Addition.

Public Hearing: January 10, 2022
Council Vote: January 10, 2022

There were no public comments made at this hearing.
(6:35 p.m.)

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

7. Resolution No. 2021-118 authorizing the City Manager to enter into a Chapter 380 economic development agreement with WinCo Foods.

Public Hearing: January 10, 2022
Council Vote: January 10, 2022

Edward Gall spoke in opposition to this proposed resolution during the hearing.
(6:40 p.m.)

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

IX. ITEMS FOR DISCUSSION

City Manager's Report

Sales Tax Update for December 2021
Sales tax collections for December totaled $1,598,955.80, an increase of $279,476.70 (21.18%) over the prior year. Fiscal year to date collections are $4,929,020.99, up 13.25% compared to last year, while the twelve-month moving average is 16.57% higher than this time last year.

The city received a report from Zac Tax, a service used to analyze sales tax and property tax collections that includes a regional Northeast Texas comparison of cities. Interestingly, Texarkana outperformed its peer cities in year over year sales tax growth for 2021 by 16.57% for the year when compared to Tyler 15.75%, Longview 15.36%, Lufkin 14.71%, and Nacogdoches 8.68%.

**It's important to note these current sales tax numbers differ from the city's budgeted sales tax collection numbers which report on an accrual basis two months behind when the funds are actually received from the state.

Architect & Preservationist Karl Komatsu Visit
Staff had a productive two-day visit Karl Komatsu former chair of Texas Historic Commission last week. Karl gave remarks at the Historic Landmark Preservation Committee. Karl also toured the Perot Theatre with the TSO's new management, toured the Ace of Clubs house and met with our Arts & Historic Committee Thursday morning.

POSTPONED: Texarkana Chamber of Commerce Annual Celebration, January 21st at 6pm at the Texarkana, Arkansas Convention Center

POSTPONED: State of the City Breakfast will take place Wednesday, January 26th at 8am at First United Methodist Texarkana, Arkansas.

The city's newly-adopted Mission & Vision statement has been added to the cover page of the council's agenda.

Minutes Acceptance: Minutes of Jan 10, 2022 6:00 PM (Consent Items)

X. ADMINISTRATIVE COMMENTS

1. City Council

   Council had no administrative comments for staff.

2. City Staff

   City Manager Orr said Fire Chief Eric Schlotter was called away to an emergency and will provide a COVID-19 update at the next council meeting.

XI. ADJOURNMENT

A motion was made to adjourn the meeting.
(6:44 p.m.)

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

Jennifer Evans
City Secretary

Bob Bruggeman
Mayor

Minutes Acceptance: Minutes of Jan 10, 2022 6:00 PM (Consent Items)

CITY OF TEXARKANA

CITY COUNCIL

MINUTES • JANUARY 24, 2022

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	
Bill Harp	Ward 5	Present	
Jay Davis	Ward 6	Present	

Staff Present: City Manager David Orr, Jennifer Evans, Karey Parker, Sherry Jackson Hawkins, Vashil Fernandez, Lisa Thompson, Dusty Henslee, Ross Cowling, Eric Schlotter, Keith Beason, and Mashell Daniel.

Legal Counsel: Jeff Lewis.

II. INVOCATION AND PLEDGE LED BY COUNCIL MEMBER JAY DAVIS

III. MAYOR'S REMARKS AND ITEMS OF COMMUNITY INTEREST

Upcoming City Council Meetings:

Monday, February 14, 2022 at 6:00 p.m.
Monday, February 28, 2022 at 6:00 p.m.
Monday, March 14, 2022 at 6:00 p.m.
Monday, March 28, 2022 at 6:00 p.m.

Parks & Recreation Events:

February 3rd	Youth Zumba Classes Begin	Southwest Center
February 5th	Co-Ed Basketball League Begins	Southwest Center

The Southwest Center now has expanded hours of operation:

Monday	8:00 a.m. - 7:00 p.m.
Tuesday-Friday	8:00 a.m. - 8:00 p.m.

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Saturday 9:00 a.m. - 6:00 p.m.

Additional Parks & Recreation information can be found on the city's website at <http://www.ci.texarkana.tx.us> or by contacting staff at (903) 798-3978.

IV. OPEN FORUM: COMMENTS FROM THE PUBLIC

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

Susie Adkins said the proposed money being considered for a State Line Avenue median could be better spent repairing and improving roads and parking lots in the city.

V. LIFENET ANNUAL REPORT - BY DAVID BAUMGARDNER

LifeNet has a 15-member board and is a not-for-profit company. Mr. Baumgardner said he was happy to report the company has partnered with Texarkana College, training EMTs for future advancement using an accelerated Paramedic program.

Earlier this week, the company had its annual operations audit and its accreditation was renewed by CAAS, the Commission on Accreditation of Ambulance Services. The new Area Director, Weston Davis, made an introduction and shared a few comments.

VI. APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

Mayor Bruggeman reappointed the following people to the Housing Authority Board:

Melva Flowers, Louie George, Craig Manning, and Jo Ann Rice.

Motion to confirm Mayoral reappointments to the Housing Authority Board.

(6:25 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Bill Harp, Ward 5
SECONDER:	Betty Williams, Ward 3
AYES:	Matlock, Hart, Williams, Page, Harp, Davis
EXCUSED:	Bruggeman

VII. ITEMS FOR CONSIDERATION

Consent Items - None

Minutes Acceptance: Minutes of Jan 24, 2022 6:00 PM (Consent Items)

RESULT:	**NO CONSENT ITEMS**

Action Items

1. Ordinance No. 2022-005 accepting a grant award of $30,000 from the Texas Recreation & Park Society and the National Fitness Campaign Grant Committee and amending the budget for the National Fitness Campaign Grant Fund (Fund 244) to reflect additional revenue and expenditures of $30,000.

   Public Hearing:
   Council Vote: January 24, 2022

   Ross Cowling briefed this agenda item and shared a video showcasing the fitness program.
   (6:32 p.m.)

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

VIII. FIRST BRIEFINGS

1. Ordinance No. 2022-008 granting a Specific Use Permit to allow the location of a single-wide HUD code manufactured home on Lot 3, Block 17, Grandview Addition, located at 4007 Findley Street. Franklin D. Coleman, owner.

   Public Hearing: February 14, 2022
   Council Vote: February 14, 2022

   Mashell Daniel briefed this agenda item.

RESULT:	**MOVED FORWARD**	**Next: 2/14/2022 6:00 PM**

2. Ordinance No. 2022-009 approving an amendment to PD-20-5(GR) for site plan approval on a 2.206-acre tract of land (being Tract 65A) in the John A. Talbot HRS, A-564, located at 5609 Richmond Rd. Don Robertson, owner.

   Public Hearing: February 14, 2022
   Council Vote: February 14, 2022

   Mashell Daniel briefed this agenda item.

Minutes Acceptance: Minutes of Jan 24, 2022 6:00 PM (Consent Items)

RESULT:	**MOVED FORWARD**	**Next: 2/14/2022 6:00 PM**

3. Resolution No. 2022-010 authorizing a written services agreement for provisions of city services to Deaton Place Subdivision in the event the city council adopts an ordinance annexing the tract.

   Public Hearing: February 14, 2022
   Council Vote: February 14, 2022

   Mashell Daniel briefed this agenda item.

RESULT:	**MOVED FORWARD**	**Next: 2/14/2022 6:00 PM**

IX. PUBLIC HEARINGS

1. Ordinance No. 2022-001 amending PD-21-2 (O) for site plan approval an approximate 0.96-acre tract of land (being 336A/336C) in the George Brinlee HRS, A-18, located at 5302 North Kings Highway from Single Family-1 to Planned Development-Office. Shane Satterfield, owner.

   Public Hearing: January 24, 2022
   Council Vote: January 24, 2022

   There were no public comments made at this hearing.
   (6:38 p.m.)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Bill Harp, Ward 5
SECONDER:	Jay Davis, Ward 6
AYES:	Matlock, Hart, Williams, Page, Harp, Davis
EXCUSED:	Bruggeman

2. Resolution No. 2022-002 recognizing New Town Neighborhood Association as an official neighborhood association.

   Public Hearing: January 24, 2022
   Council Vote: January 24, 2022

   Steve Matlock spoke in favor of this proposed resolution.
   (6:39 p.m.)

Minutes Acceptance: Minutes of Jan 24, 2022 6:00 PM (Consent Items)

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Christie Page, Ward 4
SECONDER:	Betty Williams, Ward 3
AYES:	Matlock, Hart, Williams, Page, Harp, Davis
EXCUSED:	Bruggeman

3. Ordinance No. 2022-003 of public convenience and necessity, approving the assignment and transfer of a public utility franchise to Summit Utilities Arkansas, Inc., assignee of CenterPoint Energy Resources Corp., for the continued provision of and to maintain and operate a natural gas utility business system in the City. [City Charter requires this ordinance to be read at three regular meetings of the City Council.]

   Public Hearing: January 24, 2022
   Council Vote: February 14, 2022

   (Council Member Page left the meeting at 6:40 p.m.)

   Jeff Lewis provided an update and additional materials related to this proposed ordinance. Kenny Henderson, Director of Governmental Affairs for Summit Utilities, said he looked forward to working with the city during this utility transfer process.

   There were no public comments made at this hearing.

   Council Member Matlock made a motion for the **second reading** of the agenda caption. Council Member Hart seconded the motion. Mayor Bruggeman voted in the absence of Council Member Page. The vote was adopted, six (6) to zero (0).
   (6:51 p.m.)

RESULT:	**SECOND READING - MOVED FORWARD**	**Next: 2/14/2022 6:00 PM**

4. Ordinance No. 2022-004 amending Ordinance No. 2017-083, substituting Summit Utilities Arkansas, Inc., as the natural gas provider and franchise holder for the City, reauthorizing identical residential and commercial rate schedules previously authorized with exceptions, and ordering the rates to be charged by Summit for natural gas and natural gas service to the City's residential and commercial customers.

   Public Hearing: January 24, 2022
   Council Vote: February 14, 2022

   Jeff Lewis said the transaction between Summit Utilities and CenterPoint Energy has closed. This proposed ordinance has been updated based on the pending approval of the franchise agreement, which is Ordinance No. 2022-003. Mr. Henderson, of Summit Utilities, presented himself for questions. He was accompanied by fellow staff member Greg Strickland.

   There were no public comments made at this hearing.

RESULT:	MOVED FORWARD	Next: 2/14/2022 6:00 PM

X. ITEMS FOR DISCUSSION - CITY MANAGER'S REPORT

Water Rights Permit Update
Riverbend and city staff continue to meet with the U.S. Army Corps of Engineers weekly about the city's water rights application and implementation of the Ultimate Rule Curve. A meeting is scheduled next week with the Caddo Nation as part of the Section 106 Environmental & Cultural Review process.

Dr. Riley Harvill & DISC Personality Assessments
Last Tuesday, the leadership team heard from Dr. Riley Harvill and participated in DISC personality assessments. Dr. Harvill specializes in working with municipalities including police and fire departments across Texas as well as the nation. He provided a comprehensive team report and the team plans to continue to use the DISC model throughout the organization to better understand individual employee's strengths and weaknesses.

Waste Management (WM) Sustainability Forum Invitation & December Report
WM holds a Sustainability Forum each year and this year's event will be virtual on February 9th. Doug Sims sent information if council is interested in joining the forum. Also, the December WM report for residential trash, recycling and green waste is available. Recycling volumes continue to be trending upward with 98 tons collected in December.

Strategic Doing Practitioners Training - Feb 2-4th
Council Member Bill Harp and City Manager Orr will be participating in Leadership Texarkana's Strategic Doing Practitioners Training next week Feb 2-4th on the campus of Texarkana College.

COVID-19 Update - by Fire Chief Eric Schlotter

At the end of December into early January, COVID-19 cases started to increase. Hospitalizations have also risen and staff working at both local hospitals are feeling the stress. The state has provided contract nurses to assist with the extra work load in patient care. The infusion center has been extended for another month, but it is limited in its daily capacity.

As this is the time for flu season, it is particularly good for everyone to be diligent in regular hand washing, social distancing, and wearing a mask in public places.

Mayor Bruggeman thanked Emergency Operations Center staff Eric Schlotter, Tracey Litton, Lisa Thompson, and Dr. Matt Young for their excellent work in keeping officials updated with weekly calls relaying vital information. He also thanked the LifeNet crew for their invaluable service to the community, especially, during this pandemic.

Minutes Acceptance: Minutes of Jan 24, 2022 6:00 PM (Consent Items)

XI. ADMINISTRATIVE COMMENTS

1. City Council

   Council Member Harp said even though not all sides agree, the investment of a WinCo grocery store does provide some positives for the city such as:

   An estimated 90 new jobs to be added to the local market,

   Renovation of a building/complex that has been empty for years,

   Demolishing an aging structure and building a new facility using local contractors and building supply businesses,

   Having a grocery store option in a designated "food desert" area on the south side of Interstate 30, and

   Potentially providing a catalyst for future re-development of other properties nearby.

2. City Staff

   City Manager Orr thanked Council Member Harp for his comments just expressed about the WinCo grocery store project.

XII. ADJOURNMENT

A motion was made to adjourn the meeting.
(7:10 p.m.)

RESULT:	**ADOPTED [6 TO 0]**
MOVER:	Bill Harp, Ward 5
SECONDER:	Mary Hart, Ward 2
AYES:	Bruggeman, Matlock, Hart, Williams, Harp, Davis
AWAY:	Page

Jennifer Evans
City Secretary

Bob Bruggeman
Mayor

Minutes Acceptance: Minutes of Jan 24, 2022 6:00 PM (Consent Items)

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/10/2022 11:08 AM

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

Subject: Ordinance No. 2022-011 amending the Building Maintenance Fund (Fund 228) budget for the fiscal year ending September 30, 2022, to add unspent funds of One Hundred Six Thousand One Hundred Eighty-four Dollars ($106,184) from the preceding fiscal year.

Briefing: 2/14/2022 **Public Hearing:** **Council Vote:** 2/14/2022

Item Schedule

Updates/History of Briefing:

Not Applicable

Executive Summary and Background Information:

In Fiscal Year 2017 the Building Maintenance Fund was established to account for the general maintenance of City buildings. The fund's source of revenue is an annual transfer from the General Fund. Revenue and expenditures for building maintenance are accounted for separately in this fund, which allows for the fund to maintain a rolling fund balance exclusively for building maintenance needs. Currently, there is $106,184 in unspent funds available for allocation. Staff is requesting to amend budget expenditures for the Fiscal Year Ending September 30, 2022 for the Building Maintenance Fund (Fund 228) in the amount of $106,184 for funds unspent in the preceding fiscal year.

Potential Options:

- Approve
- Deny

Fiscal Implications:

Allocation of funds already available in the Building Maintenance 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. 2022-011 ORD Amending Budget for 228 Building Maintenance Fund (DOC)
b. 2022-011 Goals & Perspectives (DOCX)
c. 2022-011 ORD Amend. Budg. Bldg Maint fund signed (PDF)

Staff Coordination

Finance Department	Kristin Peeples	Department Head Review	Completed	01/19/2022 4:16 PM
Finance Department	Kristin Peeples	Finance Review	Completed	01/19/2022 4:16 PM
City Manager	David Orr	City Manager Review	Completed	01/19/2022 5:08 PM
City Council	Jennifer Evans	Meeting	Completed	02/14/2022 6:00 PM

Meeting History

ORDINANCE NO. 2022-011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING BUDGETED EXPENDITURES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022, ADDING THE AMOUNT OF ONE HUNDRED SIX THOUSAND ONE HUNDRED EIGHTY-FOUR DOLLARS ($106,184) TO THE BUILDING MAINTENANCE FUND FOR UNSPENT FUNDS FROM THE PRECEDING FISCAL YEAR; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, unspent funds of **ONE HUNDRED SIX THOUSAND ONE HUNDRED EIGHTY-FOUR DOLLARS ($106,184)** from the preceding fiscal year are available in the Building Maintenance Fund (Fund 228); and

WHEREAS, the unspent funds from the preceding fiscal year may be effectively utilized for additional building maintenance needs; and

WHEREAS, City staff recommends amending the budget estimate of the City's expenditures for the fiscal year beginning October 1, 2021, and ending September 30, 2022, by adding the unspent funds to the Building Maintenance Fund (Fund 228).

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, 2021, and ending September 30, 2022, be amended to reflect additional expenditures appropriated of **ONE HUNDRED SIX THOUSAND ONE HUNDRED EIGHTY-FOUR DOLLARS ($106,184)** in the Building Maintenance Fund (Fund 228).

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 **14th day of February, 2022**.

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2022-011 ORD Amending Budget for 228 Building Maintenance Fund (3626 : 2022-011 ORD Amending Building Maintenance

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: 2022-011 Goals & Perspectives (3626 : 2022-011 ORD Amending Building Maintenance Budget)

ORDINANCE NO. 2022-011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING BUDGETED EXPENDITURES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022, ADDING THE AMOUNT OF ONE HUNDRED SIX THOUSAND ONE HUNDRED EIGHTY-FOUR DOLLARS ($106,184) TO THE BUILDING MAINTENANCE FUND FOR UNSPENT FUNDS FROM THE PRECEDING FISCAL YEAR; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, unspent funds of **ONE HUNDRED SIX THOUSAND ONE HUNDRED EIGHTY-FOUR DOLLARS ($106,184)** from the preceding fiscal year are available in the Building Maintenance Fund (Fund 228); and

WHEREAS, the unspent funds from the preceding fiscal year may be effectively utilized for additional building maintenance needs; and

WHEREAS, City staff recommends amending the budget estimate of the City's expenditures for the fiscal year beginning October 1, 2021, and ending September 30, 2022, by adding the unspent funds to the Building Maintenance Fund (Fund 228).

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, 2021, and ending September 30, 2022, be amended to reflect additional expenditures appropriated of **ONE HUNDRED SIX THOUSAND ONE HUNDRED EIGHTY-FOUR DOLLARS ($106,184)** in the Building Maintenance Fund (Fund 228).

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 **14th day of February, 2022**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:14 p.m.

Attachment: 2022-011 ORD Amend. Budg. Bldg Maint fund signed (3626 : 2022-011 ORD Amending Building Maintenance Budget)

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 1/28/2022 9:01 AM

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

Subject: Resolution No. 2022-014 approving the request of the Texarkana Airport Authority to enter into a 40-year ground lease with Flight Solutions, LLC., and authorizing the City Manager to sign and execute any documents necessary for the lease.

Briefing: 2/14/2022 **Public Hearing:** **Council Vote:** 2/14/2022

Item Schedule

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Section 4-25(1) of Chapter 4, Article II "Airport Authority" of the Code of Ordinances, requires the Authority to receive the joint approval of the Cities' governing bodies to enter a contractual obligation for a term greater than five (5) years.

Adoption of this resolution would allow the Texarkana Airport Authority to enter a 40-year ground lease with Flight Solutions LLC.

Potential Options:

- To approve the resolution as presented.
- To deny the resolution as presented.

Fiscal Implications:

The execution of this lease is anticipated to increase airport revenue by $23,112.96 annually with CPI increases.

Staff Recommendation:

Staff recommends approval of this request.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2022-014 RES Flight Solutions Airport Ground Lease (DOCX)
b. 2022-014 EXH 'A' F3- Flight Solutions Reso signed (PDF)
c. 2022-014 EXH 'B' F1-Flight Solutions Ltr (PDF)
d. 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (PDF)
e. 2022-014 Goals & Perspectives (DOCX)
f. 2022-014 RES Airport Lease w Flight Solutions signed (PDF)

Staff Coordination

City Manager	David Orr	Department Head Review	Completed	02/08/2022 8:46 AM
City Manager	David Orr	City Manager Review	Completed	02/08/2022 8:46 AM
City Council	Jennifer Evans	Meeting	Completed	02/14/2022 6:00 PM

Meeting History

RESOLUTION NO. 2022 - 014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING THE REQUEST OF THE TEXARKANA AIRPORT AUTHORITY FOR ENTERING INTO A GROUND LEASE WITH FLIGHT SOLUTIONS LLC; AUTHORIZING THE CITY MANAGER TO SIGN AND EXECUTE ANY DOCUMENTS NECESSARY FOR THE LEASE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Cities of Texarkana, Arkansas, and Texarkana, Texas, created the Texarkana Airport Authority by means of reciprocal ordinances codified in Chapter 6 – Aviation, Article II – Texarkana Airport Authority, of the Code of Ordinances of the City of Texarkana, Arkansas, and Chapter 4 – Airports, Article II – Airport Authority, of the Code of Ordinances of the City of Texarkana, Texas; and

WHEREAS, the Joint Board of the Texarkana Airport Authority, by resolution adopted January 27, 2022, and attached to this resolution as **Exhibit "A"**, has requested that the Cities authorize the Authority to execute a ground lease with Flight Solutions LLC; and

WHEREAS, a 40-year ground lease with the Authority requires a minimum capital investment of $2 million; and

WHEREAS, the proposal to develop hangars on airport property, attached to this resolution as **Exhibit "B"**, is planned to have an investment of $3,450,987; and

WHEREAS, a lease is being offered by the Airport Authority for up to 40 years starting at .32 SFYR for 72,228 SF, increasing airport revenue by $23,112.96 annually with CPI increases, attached to this resolution as **Exhibit "C"**; and

WHEREAS, no lease over 5 years can be entered into by the Authority until required written consent of the City Council of Texarkana, Texas, and the Board of Directors of Texarkana, Arkansas, per Section 4-25 of the municipal codes of the City of Texarkana, Texas, and Section 6-36 of the City of Texarkana, Arkansas, has been satisfied; and

WHEREAS, the City Council of the City of Texarkana, Texas, desires to provide authority and direction to the City Manager to accomplish the purposes set out in **Exhibit "A"** to this resolution.

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

SECTION 1: The City Council consents to the proposed ground lease for Flight Solutions LLC for a term up to 40 years as described in **Exhibits "A", "B", and "C"** to this resolution, incorporated herein by reference for all purposes; the City Council authorizes and directs the City Manager to execute the necessary contracts or other documents in form and substance acceptable to the City Manager and consistent with the consent of the City Council as set forth in this Section.

Attachment: 2022-014 RES Flight Solutions Airport Ground Lease (3630 : 2022-014 RES Airport Lease with Flight Solutions)

SECTION 2: 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 **14th day of February, 2022**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY	BOB BRUGGEMAN, MAYOR

Attachment: 2022-014 RES Flight Solutions Airport Ground Lease (3630 : 2022-014 RES Airport Lease with Flight Solutions)

TEXARKANA AIRPORT AUTHORITY RESOLUTION No. 12722
BE IT RESOLVED by the TEXARKANA AIRPORT AUTHORITY TO ENTER INTO A GROUND LEASE AGREEMENT WITH FLIGHT SOLUTIONS LLC

WHEREAS, the Airport Authority is entrusted with the power of planning, developing, construction, enlargement, and improvement of the Texarkana Regional Airport; and

WHEREAS, the Texarkana Regional Airport Authority was formed under Arkansas Code § 14-361-101 to be jointly owned by the cities of Texarkana AR and Texarkana TX; and

WHEREAS, The city of Texarkana Arkansas Code § 6-31-1 indicates that except upon joint approval of the cities' governing bodies, no contractual obligation shall be entered by the authority for a term greater than five (5) years; and,

WHEREAS, The city of Texarkana Texas Code § 4-25-1 indicates that except upon joint approval of the cities' governing bodies, no contractual obligation shall be entered by the authority for a term greater than five (5) years; and,

WHEREAS, Flight Solutions LLC has provided a proposal to make a capital investment in excess of $2 Million; and,

WHEREAS, Flight Solutions LLC intends to build no less than 3 hangars; and,

WHEREAS, Flight Solutions LLC proposal meets airport minimum standards for intended use;

NOW, THEREFORE, BE IT RESOLVED BY THE TEXARKANA AIRPORT AUTHORITY THAT:

SECTION 1. Mr. Ferdinand Mehrlich, Airport Executive Director is authorized to sign up to a 40-year ground lease agreement with Flight Solutions LLC and Mr. Tyler Brown is authorized to witness said signing.

SECTION 2. This Resolution shall take effect immediately upon adoption by both the City of Texarkana Arkansas and the City of Texarkana Texas.

Adopted this 27th day of January, 2022

ATTEST

Ferdinand P Mehrlich III, Director

SIGNED

David Baumgardner, Chairman

Attachment: 2022-014 EXH 'A' F3- Flight Solutions Reso signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

FLIGHT SOLUTIONS, LLC

210 North State Line, Suite 507
Texarkana, Arkansas 71854

January 11, 2022

Paul Mehrlich, III C.M. ACE
Executive Director of Aviation
Texarkana Regional Airport
201 Airport Drive
Texarkana, Arkansas 71854

Mr. Mehrlich,

Please accept this letter as my land lease request by Flight Solution, LLC, or assigns. I am in receipt of your email dated October 6, 2021, outlining the application process. I have attached an aerial that shows the general location of the proposed project and multiple site plans for the addition of future hangars. It is my intention to work with you to develop an agreed upon site plan. To move forward with finalizing the site plans, we will need to order topo survey of the area.

I am also in receipt of the "DRAFT" lease agreement for the construction of a private hangar. I acknowledge the terms of the agreement and commit to abide by the terms of the Aeronautical Use Agreement of Lease.

Further, I am in receipt of and acknowledge the Recommendation of Minimum Standards for the Construction of Aircraft Hangars. I will abide by the Minimum Standards adopted by the Airport Authority in the construction of new hangars and the associated improvements. The plans will be developed with the use of professional architects and engineers. The plans will meet all local, state, and federal requirements. The plans will be submitted to the Airport Director for review and approval prior to submittal to the city for building permits. I will abide by not only to the letter of the standards, but in the spirit with which it was intended.

Executive Summary (Explaining the Purpose of Proposal)

The purpose of this proposal is to develop construction ready pad sites for hangar construction with the immediate construction of two to three hangars with a fueling area.

Organizational Description ("Who you are," potential employees for the development, management etc.)

Flight Solutions, LLC currently operates a hangar and fuel tank at the Texarkana Regional Airport and currently has a ground lease with the Airport. Flight Solutions, LLC, has recently expanded the size of our hangar following all the terms and conditions set forth by the Airport

Attachment: 2022-014 EXH 'B' F1-Flight Solutions Ltr (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Authority. We are proud of the expansion project and look forward to working with the Airport to construct several new hangars on the field. I will be the management contact and responsible for the construction of the hangars. Employees after construction consist of the future tenant's pilots and my maintenance personnel.

Hangar Use Description (i.e. Private, Business, Commercial etc.)

The proposal is for the development of private hangars.

Number and Type of Aircraft and Equipment

The number and type of aircraft to be hangared are not known at this time. Working with MCE, the initial drawings and specifications used for the site plan development were to accommodate aircraft as large as a Praetor 500.

Provide Proof of Insurance Required by the DRAFT Lease Agreement

Flight Solutions currently maintains all insurance policies required by the ground lease for the existing hangar on Globe Avenue. We maintain building insurance, general liability, hangar's keepers, and insurance covering the operation of the fuel tank. The new hangars will be added to the existing policies upon completion. Flight Solutions will abide by the terms of the lease, including the insurance provisions.

Project Description

All plans and specifications will be submitted to the Airport Director for approval. No buildings or other material shall be ordered without the approval of the ground lease by the Board and the approval of the Airport Director of all plans and specifications. Preliminary Cost Estimates will be provided. Upon completion of the plans and specifications, updated cost figures will be provided. The Airport Director, at the sole expense of the Airport, is welcome to audit the final construction figures.

Construction Bond

A personal guarantee or construction bond will be provided as needed prior to the start of construction by Flight Solutions, LLC.

Capital Investment Breakdown

A complete Capital Investment Breakdown or construction take-off will be provided with the plans and specifications to the Airport Director upon completion of the plan set. Initial estimates of taxiways and ramp construction have already been provided by MCE.

Attachment: 2022-014 EXH 'B' F1-Flight Solutions Ltr (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Projected Cost Estimate

The total projected cost of the completed project is projected to be $3,450,987.

In closing, I am requesting approval from the Board for the ground lease of three hangar pad sites with associated improvements plus a fueling area. The exact square footage of the proposed ground lease to be determined by survey after approval of a site plan. If the Board chooses to approve this development concept, I will proceed with ordering a topo survey. We need the topo survey to further advance the site plan development.

With kindest regards,

David J. Potter II
Manager
Flight Solutions, LLC

Attachment: 2022-014 EXH 'B' F1-Flight Solutions Ltr (3630 : 2022-014 RES Airport Lease with Flight Solutions)

FLIGHT SOLUTIONS, LLC
HANGAR PROJECT

Hanger and Landside Improvements	$2,487,261.00
Ramp (MCE Estimate)	$400,000.00
Fuel Tank, Pad, and Access Road	$250,000.00
Sub-Total Cost	$3,137,261.00
OHP	$313,726.10
Total Cost	$3,450,987.10

Attachment: 2022-014 EXH 'B' F1-Flight Solutions Ltr (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Texas Contracting Company, LLC

Job Budget List

202005 - Three New Hangers

Original Contract: .0

Original Estimate: .0

Phase No / Cost Code	Description	Bid Amount	Est. Quantity	UM	Class	Est. Dollars	Est. Units
1	**General Conditions**						
1.120	Builders Risk	.00	.0000000	LS	7	2,500.00	.00
1.130	General Liability Insurance	.00	.0000000	LS	7	6,500.00	.00
1.160	Architectural Fees	.00	.0000000	LS	7	49,000.00	.00
1.170	Engineering Fees	.00	.0000000	LS	7	21,000.00	.00
1.175	Geotechnical	.00	.0000000	LS	7	15,000.00	.00
1.180	Building Permit	.00	.0000000	LS	7	6,500.00	.00
1.220	Plans	.00	.0000000	LS	7	750.00	.00
1.260	Superintendent	.00	.0000000	LS	1	72,000.00	.00
1.290	Superintendent Fuel Expense	.00	.0000000	LS	7	4,000.00	.00
1.330	Project Management	.00	.0000000	LS	1	4,000.00	.00
1.370	Field Office	.00	.0000000	LS	5	3,000.00	.00
1.390	Temporary Toilet	.00	.0000000	LS	5	1,800.00	.00
1.400	Temporary Utilities	.00	.0000000	LS	7	3,000.00	.00
1.430	Daily Clean Up	.00	.0000000	LS	1	5,750.00	.00
1.440	Dumpster Fees	.00	.0000000	LS	7	8,000.00	.00
1.450	Final Clean Up	.00	.0000000	LS	3	1,500.00	.00
1.500	Equipment Rental	.00	.0000000	LS	5	7,500.00	.00
	Phase Totals	0.00				211,800.00	
2	**Site Construction**						
2.130	Termite Treatment	.00	.0000000		3	5,250.00	.00
2.140	Concrete Paving	.00	.0000000	LS	3	478,270.00	.00
2.190	Parking Bumpers & Striping	.00	.0000000	LS	3	1,975.00	.00
2.200	Earthwork	.00	.0000000	LS	3	45,000.00	.00
2.210	Landscaping	.00	.0000000	LS	3	15,000.00	.00
2.260	Site Utilities	.00	.0000000	LS	7	10,500.00	.00
	Phase Totals	0.00				555,995.00	
3	**Concrete**						
3.100	Slab on Grade	.00	.0000000	LS	3	168,000.00	.00
	Phase Totals	0.00				168,000.00	
6	**Wood & Plastic**						
6.110	Framing	.00	.0000000	LS	1	24,000.00	.00
				LS	2	4,770.00	.00
6.115	Sheetrock	.00	.0000000	LS	2	2,100.00	.00
6.140	Decking	.00	.0000000	LS	2	1,800.00	.00
6.170	Cabinets	.00	.0000000	LS	3	6,300.00	.00
	Phase Totals	0.00				38,970.00	
7	**Thermal Moisture Protection**						
7.140	Siding	.00	.0000000	LS	2	2,700.00	.00
	Phase Totals	0.00				2,700.00	
8	**Doors & Windows**						
8.100	Hollow Metal Doors & Frames	.00	.0000000	LS	2	3,300.00	.000
8.120	Hardware	.00	.0000000	LS	2	1,950.00	.000

Attachment: 2022-014 EXH 'B' F1-Flight Solutions Ltr (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Texas Contracting Company, LLC

Job Budget List

202005 - Three New Hangers

Original Contract: .0

Original Estimate: .0

Phase No / Cost Code	Description	Bid Amount	Est. Quantity	UM	Class	Est. Dollars	Est. Units
8	**Doors & Windows**						
8.150	Overhead Door	.00	.0000000	LS	1	67,200.00	.00
				LS	3	248,499.00	.00
8.800	Glass & Glazing	.00	.0000000	LS	3	1,800.00	.00
	Phase Totals	0.00				322,749.00	
9	**Finishes**						
9.150	Floor	.00	.0000000	LS	3	5,700.00	.00
9.200	Ceiling	.00	.0000000	LS	3	4,800.00	.00
9.220	Float, Texture & Paint	.00	.0000000	LS	3	7,800.00	.00
	Phase Totals	0.00				18,300.00	
10	**Specialties**						
10.400	Signage	.00	.0000000	LS	2	750.00	.00
10.520	Fire Extinguishers & Cabinets	.00	.0000000	LS	2	750.00	.00
	Phase Totals	0.00				1,500.00	
12	**Furnishings**						
12.100	Blinds	.00	.0000000	LS	3	600.00	.00
	Phase Totals	0.00				600.00	
13	**Special Construction**						
13.100	Preengineered Metal Building	.00	.0000000	LS	3	707,523.00	.00
13.120	Erection - Metal Building	.00	.0000000	LS	3	175,000.00	.00
13.130	Insulation - Metal Building	.00	.0000000	LS	3	54,150.00	.00
	Phase Totals	0.00				936,673.00	
15	**Mechanical**						
15.100	Plumbing	.00	.0000000	LS	3	22,500.00	.00
15.200	HVAC Systen	.00	.0000000	LS	3	14,400.00	.00
15.860	Fans	.00	.0000000	EA	2	26,460.00	.00
	Phase Totals	0.00				63,360.00	
16	**Electrical**						
16.160	Electrical	.00	.0000000	LS	3	76,614.00	.00
	Phase Totals	0.00				76,614.00	
18	**Misc. Allowances**						
18.002	Unallocated Costs	.00	.0000000	EA	7	30,000.00	.00
18.100	Contingency	.00	.0000000	EA	7	60,000.00	.00
	Phase Totals	0.00				90,000.00	
	Job Totals	0.00				90,000.00	
	Report Totals	.00				2,487,261.00	

Attachment: 2022-014 EXH 'B' F1-Flight Solutions Ltr (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Recommendation of Minimum Standards for the Construction of Aircraft Hangars

The following is a list of items that the Department of Aeronautics recommends be included in the construction of aircraft hangars:

Hangars

1 Concrete floor with subgrade moisture barrier
2 Minimum concrete strength of 4000 psi
3 Metal Frame Which meets current State code requirements
4 Metal exterior siding 26 ga minimum
5 Interior insulation including ceiling and doors
6 Tracking for roller doors must be placed in concrete
7 Must be designed to prevent drainage infiltration
8 Termite/pest protection
9 Door opening must accommodate maximum aircraft size reasonably expected in 20 year plan.

All mechanical and electrical work should meet or exceed existing State codes. All hangars should also have a paved apron approach. Current State of Arkansas code requirements are as follows:

70 mph wind loading
Seismic requirements depending upon Zone I, II, or III
Deflection Loading:
Ceiling L/180
Dead + Live L/120
Lateral Drift L/120
Minimum collateral load + 3#/sq. ft.
Minimum Live Load 20#/sq. ft. except in southern most areas of the State.

July 2011

Attachment: 2022-014 EXH 'B' F1-Flight Solutions Ltr (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Globe Ave
Airport Dr
Texarkana Flying Club

W:\AIRPORTS\TEXARKANA REGIONAL\HANGAR PROPOSAL\MCE Conceptual Hangar Layout.dwg, PRINTED ON: November 3, 2021 @ 7:46 AM

LEGEND:

35' BUILDING RESTRICTION LINE PER JANUARY, 2010 ALP

TAXIWAY SAFETY AREA

PROPOSED SECURITY FENCE

DESIGNED BY: MRV	DRAWN BY: SJM		
DATE: NOVEMBER, 2021	REVISION:		
SCALE: 1" = 60'	JOB NUMBER:		
6			

HANGAR LAYOUT

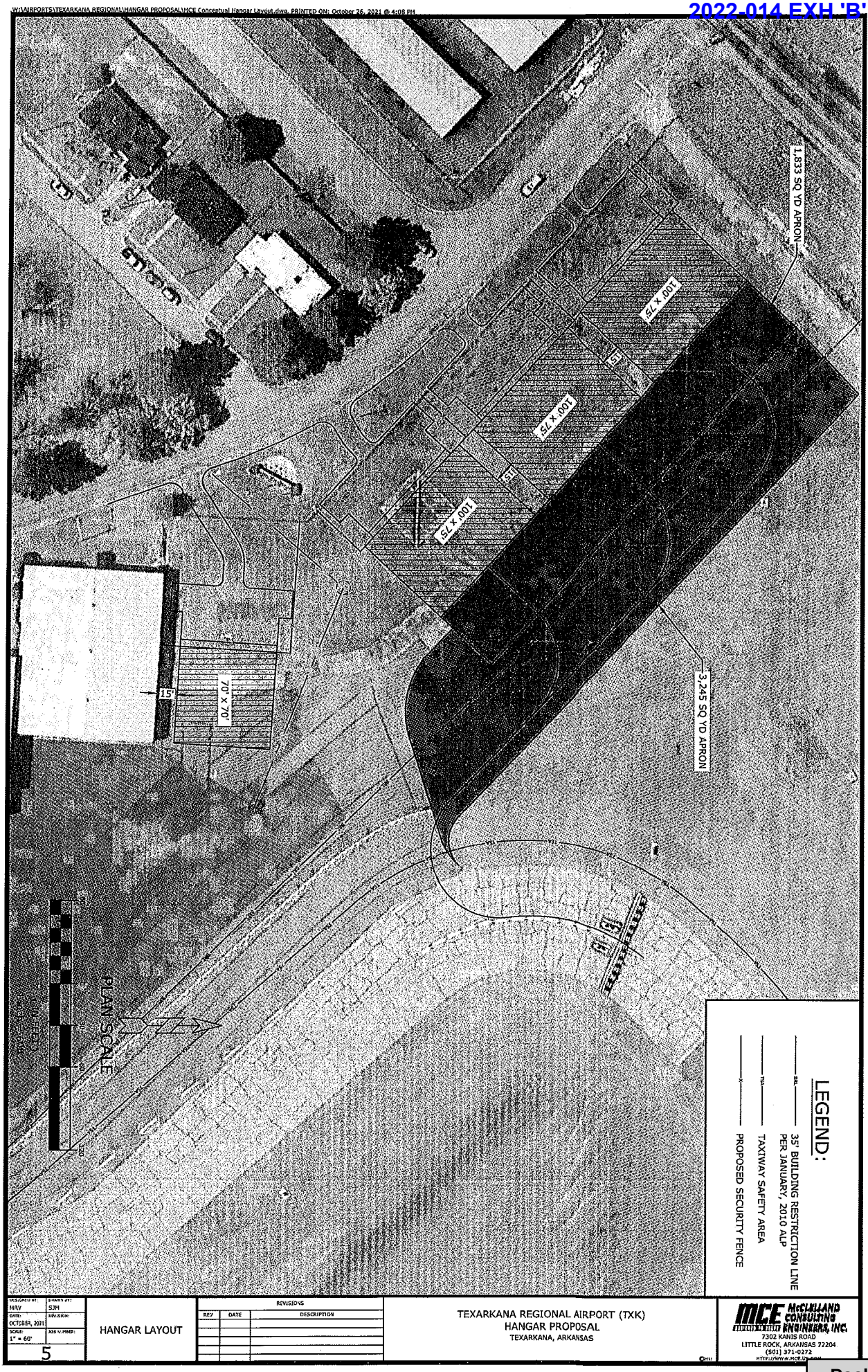
REVISIONS		
REV	DATE	DESCRIPTION

TEXARKANA REGIONAL AIRPORT (TXK)
HANGAR PROPOSAL
TEXARKANA, ARKANSAS

MCE McCLELLAND CONSULTING ENGINEERS, INC.
7302 KANIS ROAD
LITTLE ROCK, ARKANSAS 72204
(501) 371-0272

Attachment: 2022-014 EXH 'B' F1-Flight Solutions Ltr (3630 : 2022-014 RES Airport Lease with Flight Solutions)

2022-014 EXH 'B'



Attachment: 2022-014 EXH 'B' F1-Flight Solutions Ltr (3630 : 2022-014 RES Airport Lease with Flight Solutions)

W:\AIRPORTS\TEXARKANA REGIONAL\HANGAR PROPOSAL\MCE Conceptual Hangar Layout.dwg, PRINTED ON: October 19, 2021 @ 1:16 PM

DESIGNED BY: MRV	DRAWN BY: SJM	HANGAR LAYOUT	TEXARKANA REGIONAL AIRPORT (TXK) HANGAR PROPOSAL TEXARKANA, ARKANSAS
DATE: OCTOBER, 2021	REVISION:		
SCALE: 1" = 60'	JOB NUMBER:		
2A			

REVISIONS

REV	DATE	DESCRIPTION

McCLELLAND CONSULTING ENGINEERS, INC.
7302 KANIS ROAD
LITTLE ROCK, ARKANSAS 72204
(501) 371-0272

Attachment: 2022-014 EXH 'B' F1-Flight Solutions Ltr (3630 : 2022-014 RES Airport Lease with Flight Solutions)

AERONAUTICAL USE AGREEMENT OF LEASE

BETWEEN

Name/Org.: **Flight Solutions, LLC** Street Address: **210 N State Line Ave, Ste 507** City/State/Zip Code: **Texarkana, AR, 71854** ("LESSEE")	**&**	**TEXARKANA REGIONAL AIRPORT AUTHORITY** 201 Airport Dr Texarkana, Arkansas 71854 ("LESSOR")

DATED: _____

TEXARKANA
REGIONAL AIRPORT

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

AGREEMENT OF LEASE

BETWEEN

TEXARKANA REGIONAL AIRPORT AUTHORITY

AND

FLIGHT SOLUTIONS, LLC

AGREEMENT OF LEASE
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Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

AGREEMENT OF LEASE

THIS AGREEMENT OF LEASE, made by and between the **TEXARKANA REGIONAL AIRPORT AUTHORITY** ("Lessor") and **FLIGHT SOLUTIONS, LLC**, a corporation organized under the laws of the State of **Arkansas**, having offices at **210 North State Line Avenue, Suite 507 Texarkana, AR 71854**, and authorized to do business in the State of Arkansas, as Lessee ("Lessee").

RECITALS:

WHEREAS, Lessor owns, operates, and maintains the Texarkana Regional Airport, ("Airport"); and,

WHEREAS, Lessee is a **private corporation**; and,

WHEREAS, Lessor and Lessee now desire to set forth the terms, covenants, and conditions for Lessee to lease premises at the Airport for Lessee's construction of multiple private aircraft hangars;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the Parties agree as follows:

SECTION 1. DEFINITIONS

The following terms set forth below, when used in this Agreement, shall be defined as follows:

(a) **Agreement** shall mean this Agreement of Lease, including any supplements, modifications, or amendments thereof.

(b) **Aircraft Fuel Dispenser** shall mean each and every fuel facility that is now or hereafter located at the Premises.

(c) **Airport** shall mean the Texarkana Regional Airport and all property located within its boundaries located in Texarkana, Arkansas and Texarkana, Texas.

(d) **Airport Terminal and Terminal** means the passenger terminal building at the Airport.

(e) **Assigned Area** shall mean the area or areas at the Airport designated by this Agreement described on **Exhibit A** and **Exhibit B** attached hereto and made part hereof subject to easements and rights-of-way of record, together with all buildings, structures, pavements, facilities, and other improvements now or hereafter constructed thereon, the equipment permanently affixed therein, such as electrical, plumbing, sprinkler, fire protection and fire alarm, heating, steam, sewage, drainage, refrigerating, tubes, conduits, equipment and fixtures and all paving, drains, culverts, ditches, and catch basins.

(f) **Commencement Date** shall mean **March 1, 2022**.

(g) **Lessor** shall mean the Texarkana Regional Airport Authority through and by its Executive Director.

(h) **Executive Director** shall mean the Executive Director of the Texarkana Regional Airport or their designee.

(i) **Lessor's Associates** shall mean Lessor's officers, airport board of directors, engineers, consultants, contractors, commissioners, employees, and agents.

(j) **FAA** shall mean the Federal Aviation Administration, or any successor agency.

(k) **Improvements** shall mean any and all buildings, pavements, fixtures, permanently affixed equipment, facilities (both above ground and below ground), and all other structures now or hereafter constructed on the Premises, and all additions, alterations, modifications, renovations, and replacements thereto.

(l) **Lease Year** shall mean the period beginning on the first day of **March**, ending on the last day of **February**, and each twelve-month period thereafter, until the termination of this Agreement

(m) **Lessee** shall mean **Flight Solutions, LLC**, its successors or assigns, as permitted herein.

(n) **Lessee's Associates** shall mean any of its sublessees, officers, employees, engineers, consultants, contractors, subcontractors, commissioners, invitees, guests, agents, or anyone acting by, through, or under Lessee's direction and/or control.

(o) **Premises** shall mean the areas specifically and fully described in the Exhibits to this Agreement of Lease, between **Flight Solutions, LLC**, and Lessor and also referred to as the "Premises".

(p) **Rent and Fees** shall mean the compensation paid to the Airport in order to conduct business or provide a service at the Airport.

(q) **Tenant** shall mean any individual, company, corporation, partnership or other entity who has an agreement, lease, permit, or license to conduct business on the Airport.

(r) **Termination Date** shall mean as set forth in **Section 3** of this Agreement.

(s) **TSA** shall mean the Transportation Security Administration, or any successor agency.

(t) **Term of this Agreement** or similar import shall mean the Term set forth in **Section 3** hereof, including the initial Term and any optional term(s), as applicable.

SECTION 2. LETTING

(a) Lessor hereby lets to Lessee and Lessee hereby leases from Lessor, the "Premises" as herein above defined in **Section 1** and shown on **Exhibit A** and **Exhibit B** at the Texarkana Regional Airport, subject to Lessee's strict adherence to the terms, covenants, and conditions of this Agreement of Lease ("Agreement"). The Premises must be used solely for the purposes as described in **Section 5** hereof and for no other purposes.

(b) The parties agree that **Exhibit A** and **Exhibit B** show only an approximate depiction of the boundaries of the Premises. Accordingly, Lessee shall promptly obtain, if not already in possession of, at its own expense, and provide Lessor a copy of, a precise boundary survey of the Premises, prepared by a certified professional surveyor. Upon approval by Lessor, the survey shall be deemed incorporated by reference into this Agreement and will be the controlling interpretation of the boundaries of the Premises.

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

(c) Lessor reserves the right to further develop and improve the Airport, including but not limited to all landing areas and taxiways of the Airport, as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance.

(d) Except to the extent required for the performance of any of the obligations of Lessee hereunder, nothing contained in this Agreement shall grant to Lessee any rights whatsoever in the air space above the Premises. In that regard, Lessor reserves the right to take any action whatsoever that it considers necessary to protect the aerial approaches of the Airport against obstructions, including but not limited to, demolition or removal of structures upon the Premises, together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure at the Premises which, in the opinion of Lessor, would limit the usefulness of or interfere with the operations at the Airport, or constitute a hazard to aircraft.

(e) This Agreement, and all provisions hereof, is subject and subordinate to the terms, covenants, and conditions of the instruments and documents under which Lessor acquired the Airport from the United States of America, State of Arkansas, and City of Texarkana, Arkansas, and shall be given only such effect as will not conflict or be inconsistent with the terms, covenants, and conditions contained in such instruments and documents and any existing or subsequent amendments thereto. This Agreement and all provisions hereof, is subject and subordinate to any ordinances, rules or regulations which have been, or may hereafter be adopted by Lessor pertaining to the Airport. This Agreement, and all provisions hereof, is subject and subordinate to the provisions of any agreement heretofore or hereafter made between Lessor and the United States Government relative to the operation or maintenance of the Airport, or the execution of which has been required as a condition precedent to the transfer of Federal rights or property to Lessor for Airport purposes, or the execution of which has been required as a condition precedent to the expenditure of Federal funds for the improvement or development of the Airport, including without limitation the expenditure of Federal funds for the development of the Airport under the provisions of the Federal Aviation Act of 1958, as codified in the United States Code, Title 49, as it has been amended from time to time. In addition, this Agreement is subordinate and subject to the provisions of all resolutions heretofore and hereafter adopted by Lessor in connection with any revenue bonds issued by Lessor with respect to the operations of the Airport, or any improvements to the Airport or any of its facilities, and to the provisions of all documents executed in connection with any such bonds, including without limitation, any pledge, transfer, hypothecation or assignment made at any time by Lessor to secure any such bonds.

(f) Lessor reserves unto itself, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the Premises together with the right to cause in said airspace such noise and other intrusions as may be inherent in the operations of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for aircraft landing on, taking off from, or operating at the Airport.

(g) Lessee, Lessee's Associates, its successors and assigns, agrees to restrict the height of structures, objects of natural growth and other obstructions on the Premises to a height in order to comply with all provisions of this Agreement and all applicable Federal Aviation Regulations, including but not limited to 14 CFR Part 77.

(h) Lessee expressly agrees, for itself, Lessee's Associates, its successors and assigns, to prevent any use of the Premises which would interfere with or adversely affect the operation or maintenance of the Airport, or otherwise constitute a hazard to aircraft or others.

 _____Lessee's Initials

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

(i) Lessor reserves the right to maintain such utility easements on the Premises as may now or in the future be determined to be necessary to serve the needs of the Airport, and Lessee agrees to take the Premises subject to said easement requirements. Such easements will be used for, but not limited to, the installation of water distribution, sewage collection, underground electrical, telephone and telecommunications conduits, above ground street lighting and power poles. However, it is understood and agreed that Lessor will restore any improvements which Lessee has made, if such improvements are materially damaged by any installation made by Lessor. Furthermore, Lessor shall take reasonable steps to ensure that any such installation be the least disruptive to Lessee's operations.

(j) **CONDITION AND USE OF THE PREMISES AND LEASEHOLD IMPROVEMENTS.** Lessor makes no representations or warranties whatsoever as to: (i) the condition of the Premises, or (ii) whether the Premises, or any part thereof, is in compliance with applicable Federal, State, and Municipal laws, ordinances, rules, or regulations, including without limitation, City ordinances, rules and regulations; or (iii) the permitted or available uses of the Premises under any applicable Federal, State, and Municipal laws, ordinances, rules, or regulations, including without limitation those of Lessor. Lessor makes no representations or warranties whatsoever as to the legality, permissibility, or availability of any use of the Premises that may be contemplated by Lessee. **Lessor makes no representations or warranties concerning habitability or fitness for any particular purpose.** Lessee specifically obligates itself to conduct its own due diligent investigation as to the Premises and the suitability thereof for Lessee's purposes. The Premises and all components thereof are hereby demised in "**AS IS CONDITION**" and "**WITH ALL FAULTS**." Lessee represents, acknowledges, and agrees that it has had sufficient opportunity to inspect the Premises, and all components thereof, and hereby accepts the Premises, and all components thereof, in "**AS IS CONDITION**" and "**WITH ALL FAULTS**." Lessee hereby **ASSUMES ALL RISK** of non-compliance of the Premises, or any part thereof, with any Federal, State, and Municipal laws, ordinances, rules, or regulations, including without limitation, any Lessor rules, or regulations. Upon receipt of notice of any non-compliance with any such laws, ordinances, rules or regulations, Lessee hereby agrees to make any and all repairs, alterations, and additions to the Premises and to take all corrective measures as may be necessary to bring the Premises into compliance with all laws, ordinances, rules and regulations. Lessee shall not be entitled to any adjustment of any rentals hereunder on account of the condition of the Premises or any failure of any of the component parts to be in working order or because of any necessity of Lessee to repair or take corrective actions with respect to any part thereof or because of the inability of obtaining or any delay in obtaining any required development approvals from any governmental body having jurisdiction, including but not limited to local agencies. Furthermore, Lessee hereby releases Lessor and Lessor's Associates of any and all claims and liabilities whatsoever on account of the condition of the Premises or any failure of any of the component parts to be in working order or because of any necessity of Lessee to repair or take corrective actions with respect to any part thereof, or the necessity for obtaining any development approvals from any governmental body, including without limitation local agencies. In the event of any conflict between these provisions and any other provisions of this Agreement, the provisions of this subparagraph (j) shall control. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that: (1) this subparagraph (j) is not intended to address or apply to the release of any "Materials" (as hereinafter defined in **Section 15**) at the Premises, and (2) with respect to any such Materials, the provisions of **Section 15** shall apply.

_____Lessee's Initials

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

SECTION 3. TERM

(a) The **Term** of this Agreement shall be for ten (10) years, beginning on the Commencement Date of **March 1, 2022**, and shall terminate on **March 1, 2032**. ("Termination Date"), unless sooner terminated as provided herein.

(b) Lessee shall, if not at the time in default under this Agreement, have the following extension option(s), as follows, on the same terms, covenants, and conditions as set forth herein and subject to adjustments in rental rates and fees, provided the option(s) are not in conflict with the needs of the Airport or with Lessor's planning strategy, as decided by Lessor:

[ ] One (1) ten (10) year extension option, provided Lessee has added or constructed permanent capital improvements on or to the Premises in the amount of not less than two hundred thousand dollars ($200,000), during the **Term** of this Agreement.

[ ] Up to two (2) ten (10) year extension options, provided Lessee has added or constructed permanent capital improvements on or to the Premises in the amount of not less than one million dollars ($1,000,000), during the **Term** of this Agreement.

[ ] Up to three (3) ten (10) year extension options, provided Lessee has added or constructed permanent capital improvements on or to the Premises in the amount of not less than two million dollars ($2,000,000), during the **Term** of this Agreement.

Lessee's option to extend may be exercised only if Lessee provides written notice to Lessor, no later than one (1) year before the expiration of the **Term**, of their intent to extend this Agreement and shall provide documentation that such capital improvements have in fact been made and are valued equal to or more than the amount required above. Notwithstanding any provision in this Agreement, all improvements and additions so made shall become the property of Lessor, without any action or cost to Lessor at the end of the lease **Term** or any extension thereof.

(c) Lessee covenants and agrees to yield and deliver peaceably and promptly to Lessor, possession of the Premises, on the date of cessation of the letting, whether such cessation be by termination, expiration or otherwise. Lessee shall surrender the Premises in the condition required under **Section 9**. All maintenance and repairs shall be completed prior to surrender. Lessee shall deliver to Lessor all keys to the Premises immediately upon surrender. Lessee shall at its expense take all actions required by Federal, State, and Municipal laws, ordinances, rules, or regulations to remove from the Premises any hazardous substances or other Materials, whether stored in drums, or found in vats, containers, distribution pipelines, or the like or discharged into the ground. All such substances shall be removed by Lessee in a manner that complies with all applicable Federal, State, and Municipal laws, rules and regulations and the provisions of **Section 15** shall be applicable.

(d) Lessor, through its authorized agents or employees, at all reasonable times, and after notice to Lessee when practical, shall have the right to enter the Premises to show the Premises to potential interested tenants during Lessee's regular business hours with at least twenty-four (24) hours advance notice, if Lessee is in default of this Agreement, or if Lessee has not exercised any remaining renewal option with less than one (1) year remaining on the term of the Agreement.

(e) No agreement of surrender or to accept a surrender of this Agreement shall be valid unless and until same shall have been reduced to writing and signed by the duly authorized representatives of Lessor and of Lessee. Except as expressly provided in this Agreement, neither the doing of nor any omission

to do any act or thing by any of Lessor's Associates shall be deemed an acceptance of a surrender of letting under this Agreement.

(f) In the event Lessee remains in possession of the Premises after expiration or termination of this Agreement without any written renewal thereof, such holding over shall not be deemed as a renewal or extension of this Agreement, nor waive any default under this Agreement and Lessor may terminate such occupancy as a tenancy at-will in accordance with State law. During such holdover tenancy, Lessee shall remain bound by all terms, covenants, and conditions of this Agreement, and Lessee shall pay the following rent: ground rent at the highest rate then charged at the Airport and rent for the improvements at fair market value based on Lessor's survey of rent for similarly situated facilities at the Airport and at other airports (which Lessor shall determine in its sole discretion). Said holdover tenancy shall be subject to Lessor's termination and repossession of the Premises at any time. Lessee shall be liable to Lessor for all loss or damage on account of any holding over against Lessor's will after the expiration or termination of this Agreement, whether such loss or damage may be contemplated at this time or not. No receipt or acceptance of money by Lessor from Lessee after the expiration, termination or cancellation of this Agreement or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of Lessor to retake and resume possession of the Premises.

(g) This Agreement may be modified, altered or expanded with the written approval of all parties signatory to this document.

(h) Notwithstanding any contrary provision contained herein, Lessee shall have the period up until and including the date that is eighteen (18) months after the Commencement Date of this Agreement (the "Feasibility Period") to perform such studies, tests, and examinations of the Premises as Lessee may desire. In the event Lessee is not satisfied with the results of such studies, tests, and examinations or experiences complications with obtaining necessary governmental permits and approvals needed for construction, not including the cost thereof, Lessee may, at its option, terminate this Agreement, without penalty, by giving written notice to Lessor at any time prior to the expiration of the Feasibility Period. Lessor shall cooperate with Lessee with respect to such studies, tests, and examination.

(i) The expiration or termination of this Agreement shall not relieve Lessee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective termination date. Upon the expiration or termination of this Agreement, Lessee shall cease forthwith all operations upon the Premises, shall immediately vacate the Premises, and shall pay in full all fees and other amounts payable to Lessor as set forth in this Agreement, then due and owing.

SECTION 4. PREMISES AND PRIVILEGES

(a) Lessor hereby leases to Lessee and Lessee leases from Lessor the Premises located at the Airport consisting of approximately **72,228 SQ Ft**. of land, divided into four (4) individual Lots to accommodate multiple, separate aeronautical developments (hereinafter called "**Lot**," "**Lots**," "**Lot A**," "**Lot B**," "**Lot C**," or "**Lot D**"). The Premises is situated off **Airport Dr. in Texarkana, Arkansas 71854** near Highway 67, more particularly identified and shown on **Exhibit A** and **Exhibit B** attached hereto, together with any and all rights, privileges, easements, and appurtenances now or hereafter constructed or belonging on the Premises, subject, however, to all liens, easements, restrictions, and other encumbrances of record.

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(b) This Agreement will be amended to account for any reductions in leased square footage, upon the assignment of **Lot A**, **Lot B**, **Lot C**, or **Lot D** and sale of improvements thereon to another individual or organization.

(c) Lessee and Lessor have agreed for Lessor to obtain and utilize two 90/10 State Aeronautics Grants issued to it by the Arkansas Department of Aeronautics **(with a total amount of $300,000)** to design and construct a common-use taxiway that provides the Premises/Lots access to the airfield at the Airport. Lessee and Lessor recognize that Lessor has a financial obligation to cover any match's associated with obtaining such State Aeronautics Grants. Lessee and Lessor further recognize that the total grant amount may not cover the total cost of designing and constructing the common-use taxiway. As such, Lessee has agreed to provide Lessor a lump sum to cover any match's associated with obtaining the two State Aeronautics Grants as well as to account for 20% inflation of prices and any overage in design and construction costs. Lessor will deduct such lump sum, whatever the amount may be, from future rent payments from Lessee. Lessee acknowledges and understands that Lessor cannot guarantee a timeline for receiving the State Aeronautics Grants and recognizes that such funding is contingent upon its availability with the Arkansas Department of Aeronautics.

(d) Any subsequent modification of areas occupied by Lessee will be mutually determined by Lessee and Lessor and will be accomplished by executing revised exhibits accompanied by a written amendment as provided in this Agreement.

(e) Lessee shall provide vehicle parking for Lessee and Lessee's Associates, in accordance with the minimum standards adopted by the Airport and the City code of Texarkana, Arkansas, which parking shall be the responsibility of Lessee. Lessee, and Lessee's Associates, shall have ingress and egress to the Premises via appropriate public ways to be used in common with other tenants and users of the Airport, provided that Lessor may, from time to time, substitute other suitable means of ingress and egress, so long as an alternate adequate means of ingress and egress is available.

(f) Subject to the provisions of this Agreement, Lessee, its invitees, licensees, agents and guests shall have ingress and egress between the Premises and the runways at the Airport by means of taxiways existing or hereafter to be constructed by Lessor to be used in common with other tenants and users of the Airport, provided that Lessor may, from time to time, substitute other suitable means of ingress and egress, so long as an alternate adequate means of ingress and egress is available.

(g) Lessor may at any time temporarily or permanently close or consent to or request the closing of any street, roadway, taxiway, and any other area at the Airport presently or hereafter used as such, so long as an alternate adequate means of ingress and egress is made available to the Premises. Lessee hereby releases and discharges Lessor, or Lessor's Associates, successors and assigns, of and from any and all claims, demands or causes of action which Lessee may now or at any time hereafter have against any of the foregoing arising or alleged to arise out of the closing of any street, roadway, taxiway, or other area used as such, whether within or outside the Airport, provided that Lessor makes available to the Premises an adequate means of ingress and egress.

SECTION 5. USES OF THE PREMISES.

(a) Lessee covenants and agrees to use and occupy the Premises at all times **only** for the purposes of constructing multiple private aircraft hangars and any other improvements necessary for such operation, which together with the Premises itself, shall be limited to aeronautical purposes, including the fueling, only of Lessee owned or leased aircraft (in accordance with **Exhibit F**), parking, storing, cleaning, and preventative maintenance *(as explained in Federal Aviation Regulations Part 43*

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Appendix A(c), "Preventative maintenance" as amended and/or renumbered) of aircraft owned or leased by Lessee. Lessee shall comply with the minimum standards adopted by the Airport as they may be amended from time to time and all other all rules, regulations, and requirements set forth by any Federal, State, and Municipal government body having jurisdiction, including Lessor. Any other activities not specifically enumerated in this section regarding the use and occupancy of the Premises shall be subject to the prior written approval of Lessor.

(b) Lessee shall be **expressly prohibited** from providing the following services:

1. Terminal facilities for scheduled passenger airline operations which would normally be accommodated in the Airport Terminal.

2. Restaurant, coffee shop, lounge or cafeteria (except a cafeteria provided solely for the employees, guests, contractors, and vendors of Lessee).

3. Any charter and/or "for hire" service, including with Aircraft to be stored on the Premises.

4. Display of aircraft held by Lessee or others for sale (except in the case of an isolated sale of an aircraft owned by Lessee), or for any other purpose common to Fixed Base Operators or Commercial Operators.

5. Sale and provision of fuel to any aircraft other than Lessee owned or leased aircraft.

6. Any and all types of public parking, pay for parking, or any type of operation that competes with Lessor parking lots and garage.

7. Any and all types of automobile rental, maintenance, parking, or storage, or any type of operation that competes with Lessor authorized on-airport automobile rental businesses and/or activities.

8. Sale of alcoholic beverages.

9. Sale of non-aviation products, except company products in company store.

10. Air shows

11. Any use prohibited by law or not related to aviation.

12. Any commercial use

13. Lessee shall not park or store or allow the parking or storage of any vehicles whatsoever on the Premises that are not used in the operation permitted to be conducted on the Premises.

(c) Lessee has expressed to Lessor its intent to use the Premises to construct aircraft hangars on the Lots intended for **private use only**. Pursuant to **Section 4(b)**, if a potential assignee desires to use a Lot for a commercial use, they will be required to provide a complete proposal, subject to Lessor's written approval, that meets the Airport's minimum standards and rules and regulations prior to such assignment taking place.

(d) It is not the intent of this Agreement to grant Lessee the exclusive right to provide any or all of the services described in this section at any time during the term of this Agreement; provided, however, that Lessee shall have the exclusive right to provide such services on the Premises. Lessor reserves

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the right, at its sole discretion, to grant others certain rights and privileges at the Airport which are identical in part or in whole to those granted to Lessee. However, Lessor does covenant and agree that:

1. It shall enforce all minimum operating standards or requirements for all aeronautical and non-aeronautical endeavors and activities conducted at the Airport.

2. No other tenant performing the same services will be permitted to operate at the Airport under rates, terms, or conditions which are more favorable than those set forth in this Agreement.

3. It will not permit the conduct of any commercial endeavor or activity at the Airport except under an approved lease and operating agreement.

(e) Storage on the Premises shall be primarily for aeronautical purposes, including, but not limited to, the parking and storing of aircraft owned or leased by Lessee and other improvements necessary for the operation permitted to be conducted on the Premises. Lessee shall not store on the Premises any inoperable equipment, or materials likely to create an Airport hazard or appear to be discarded or unsightly to the public and other Airport users; shall not use areas outside of enclosed buildings for storage; and shall store trash in covered metal receptacles approved by Lessor.

(f) Lessee covenants and agrees that it will not do nor permit anything to be done upon or about the Premises that in any way interferes with the rights of tenants, owners, or occupants of adjoining property, or that conflicts with Federal, State, and Municipal laws, rules, or the regulations of any department, board, or bureau thereof, or that creates a nuisance, or that is dangerous to the life or safety of persons on or about the Premises. Should a conflict arise between Lessee and other tenants at the Airport regarding the scope of privileges, the Executive Director of Lessor or their designee will serve as the arbiter. Lessee has the right to appeal to Lessor and agrees to abide by its decision. Upon written notice, Lessor has the right to amend the Agreement to avoid violation of existing agreements or violation of Federal grant assurances concerning discrimination among other tenants and similar provisions.

SECTION 6. RENTALS, FEES, AND CHARGES

(a) Rentals for the Premises shall be:

- **Thirty-two cents ($0.32) per square foot per year for land.**

(b) The annual rental, subject to adjustment as hereinafter provided, shall be paid by Lessee in twelve (12) equal monthly installments, together with all applicable sales taxes thereon.

(c) The annual rental payable during the first (1st) Lease Year shall be **23,112.96 Dollars ($)**, plus applicable sales taxes. The monthly installment payment of rentals during the first Lease Year shall be **1,926.08 Dollars ($)** each month, plus applicable sales taxes, as set forth on **Exhibit C**, attached hereto and made a part hereof. **Exhibit C** shall be updated each time the rental required herein is adjusted**.** Rental shall be subject to annual CPI adjustments as provided for in **Section 6(h)**.

(d) Within thirty (30) days of the Commencement Date of this Agreement, Lessee shall deposit with Lessor an irrevocable letter of credit, in an amount equal to the estimate of twenty-five thousand dollars ($25,000.00), to serve as security for the full and faithful performance by Lessee of all terms, covenants, and conditions of this Agreement. Lessee's failure to supply a security deposit or letter of

credit with Lessor will constitute a breach of this Agreement and will entitle Lessor to all remedies available under this Agreement or at law. Lessor will release and return the security deposit or letter of credit posted under this **Section 6** upon the termination or expiration of this Agreement, provided Lessee has fully and timely paid any rents (and applicable taxes and assessments) payable to date and is not then in default of any terms, covenants, and conditions of this Agreement. Lessor reserves the right to withhold some or all the deposit if Lessee abandons or damages the leasehold in a condition that requires Lessor to expend money or labor to repair.

(e) The "Rent Commencement Date," unless otherwise specified in this Agreement, shall be the same date as the Commencement Date, as defined in **Section 3(a)**. In the event the Commencement Date does not fall on the first (1st) day of a calendar month, rent during any partial month shall be prorated on the basis of a thirty (30) day month, and shall be due payable on or before the Commencement Date.

(f) During the term hereof, Lessee shall pay as additional rent, any expenses payable to Lessor or any other person which are required to be incurred by Lessee pursuant to the provisions of this Agreement.

(g) Lessee shall pay to Lessor a Flowage Fee for all aviation fuel dispensed by Lessee pursuant to the regulations and/or rates established by Lessor, at any time, in Lessor's sole discretion. By the 10th of each month, Lessee's fuel provider must provide Lessor with a written Fuel Flowage report (in a form satisfactory to Lessor) setting forth the amount of fuel delivered to Lessee, accompanied by payment of the Flowage Fees collected. The Fuel Flowage fee is set by Lessor at its sole discretion and shall apply to all tenants and operators at the Airport. Lessor reserves the right, at any time and at its sole option upon thirty (30) days prior written notice to Lessee, to increase or decrease the amount of Fuel Flowage fees to be paid by Lessee. Fuel Flowage Fees collected shall not be used as a set off or as part of the calculation of any other of Lessee's rent, rates, fees, or charges due to Lessor.

(h) **CONSUMER PRICE INDEX (CPI) ADJUSTMENT.** After the first year of this Agreement, and each **year** thereafter (Adjustment Date), the rental provided to be paid in **Section 6(a)** above is subject to CPI adjustment annually as follows. Commencing on **March 1, 2023**, said rentals shall be adjusted by Lessor based on the percentage increase in the CPI for the previous **year**. Said CPI is the Consumer Price Index (All Urban Consumers) as published by the U.S. Department of Labor, Bureau of Labor Statistics, or the generally accepted national replacement or successor index, as readjusted to the base month, and computed by comparison of the **current** index with the index of the preceding **year**. In no event shall the rental rate decrease due to a decrease in the CPI. Said rentals are due and payable monthly on or before the first day of each month during the term of this Agreement.

(i) It is understood and agreed that if a rental and/or other fees adjustment is required or made hereunder, the previous rental and/or other fees then being paid shall continue until Lessor provides notice of the adjusted rent amount and/or other fees. Any rental adjustment shall be retroactive to the Adjustment Date. The sum constituting the rental adjustment for the months of the period which have passed prior to the determination of the amount of the rental adjustment shall be due and payable within thirty (30) calendar days after such determination.

(j) Upon determining a rental and/or other fee adjustment, Lessor shall advise Lessee of the new monthly rental installment and/or other fees for such period, which shall be accompanied by evidence supporting the manner in which the new adjusted rent and/or other fees was determined, which evidence shall be in sufficient detail to enable Lessee to verify the calculations.

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(k) Rental for a portion of a month shall be pro-rated. Payments shall be made in lawful money of the United States, free from all claims, demands, set offs, or counterclaims of any kind against Lessor. Any payments not paid when due shall be subject to the maximum interest allowable under Arkansas State Law.

(l) If requested by Lessor, Lessee shall employ an independent Certified Public Accountant who shall furnish a written audit to Lessor within ninety (90) days of the last day of the preceding Lease Year. The Statement shall include the opinion that the rentals and fees paid by Lessee to Lessor during the preceding Lease Year pursuant to this Agreement were made in accordance with the terms of this Agreement.

(m) Should any examination, inspection, and audit of Lessee's books and records by Lessor disclose an underpayment by Lessee in excess of five percent (5%) of the total rentals or payments due, Lessee shall promptly reimburse Lessor for all costs incurred in the conduct of such examination, inspection, and audit in addition to remitting the amount of such underpayment plus the maximum interest rate allowable under Arkansas State Law. In the event that Lessor deems it necessary to utilize the services of legal counsel in connection with such examination, inspection, and/or audit, and such examination, inspection, or audit results in reimbursement to Lessor, Lessee shall reimburse Lessor for reasonable attorney's fees and litigation expenses in addition to any deficiencies due.

(n) All rentals payable by Lessee to Lessor hereunder is due and owing, in advance, **without notice or demand** and without deduction or offset, on or before the first day of each and every calendar month or annually in advance throughout the term of this Agreement. Any other payments due or reimbursable to Lessor by Lessee hereunder shall be paid when incurred or immediately upon receipt of Lessor's invoice therefore and shall be deemed delinquent if not paid within ten (10) days of the date due. Payments shall be made to the offices of the Texarkana Regional Airport Authority, **201 Airport Drive, Texarkana, AR 71854**, or at such other place as Lessor may hereafter notify Lessee and shall be made in legal tender of the United States.

(o) Without waiving any other right of action available to Lessor in the event of monetary default hereunder, in the event that Lessee is delinquent for a period of ten (10) days or more in payment of any rents or other sums due to Lessor pursuant to this Agreement, Lessee shall pay to Lessor interest thereon at the maximum allowable rate permitted by Arkansas State Law per annum from the date such rents or other sums were due and payable until paid. Such interest shall not accrue with respect to disputed charges being contested in good faith by Lessee.

(p) If, at any time, Lessee shall become entitled to an abatement of rental by the provisions of this Agreement or otherwise, the abatement of rental shall be made on an equitable basis taking into consideration the amount and character of the space, the use of which is denied to Lessee as compared with the entire Premises, and the period of time for which such use is denied to Lessee.

SECTION 7. UTILITIES AND TAXES

(a) Lessee agrees to extend to the Premises and pay the cost of all utilities, including, without limitation, electric power, water, gas, sewer, telephone, and garbage collection. Lessee shall have the right, at its sole expense, to construct, install and maintain all necessary tap lines and facilities and to connect the same to any electric power, water, gas and sewerage lines installed by Lessor at or near the boundary of the Premises, and to receive all said utilities and services on the Premises, provided, however, that the services for electric power, water, gas, sewerage, and garbage collection at the Premises are properly metered so that all charges associated therewith are billed directly to Lessee. Lessor and

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Lessor's Associates will not be held liable for loss of life, injury, or damage to any person or property or operation of Lessee and/or Lessee's Associates, caused by or resulting from any interruption of such utility services and shall indemnify Lessor and Lessor's Associates as to same.

(b) Lessee shall pay (or in good faith contest), on or before their respective due dates, to the appropriate collecting authority, all Federal, State, and Municipal taxes, special taxes, assessments, special assessments and fees which are now or may hereafter be levied or assessed upon the Premises, the improvements, the personal property, or any of Lessee's property used in connection therewith; and shall maintain in current status all Federal, State, and Municipal licenses and permits required for the operation conducted by Lessee. Lessee shall furnish to Lessor promptly upon request, proof of the payment of any tax, assessment, and other governmental or similar charge which is payable by Lessee as provided herein. In the event of any contest permitted hereby, Lessee shall fully indemnify and hold Lessor and Lessor's Associates harmless from all loss, cost, damage, and expense incurred or suffered as a result of any such contest.

SECTION 8. IMPROVEMENTS TO PREMISES

(a) Lessee will, at Lessee's own cost and expense, perform all design, obtain all permits, complete all site work, and construct on three (3) Lots of the Premises, the following minimum required improvements for each Lot:

1. One (1) aircraft hangar and facility incidental to the storage, parking, and preventative maintenance of aircraft, comprised of approximately **4,900 SQ. Ft. – 7,500 SQ. Ft.**

2. Adjoining aircraft ramp space, as defined by the Airport Minimum Standards;

3. Adequate parking, as defined by the Airport Minimum Standards and in accordance with the City code of Texarkana, Arkansas; and

4. All associated improvements required by the City code of Texarkana, Arkansas, or any government entity, including but not necessarily limited to, sidewalks, pedestrian ways, lighting, utility lines, fire protection, stormwater detention, retention, and control systems, fencing, berms, landscaping, and roads and driveways for ingress/egress, and circulation.

(b) Pursuant to **Exhibit F**, Lessee shall have the option to initially construct two (2) aircraft fuel dispensers **OR** a fourth aircraft hangar development (in accordance with **Section 8(a)** above) on the remaining fourth Lot. Should Lessee choose to initially construct the aircraft fuel dispensers, it shall reserve the right to replace such aircraft fuel dispensers with a fourth aircraft hangar development at a later date within the Term of this Agreement. Upon demolition/removal of the aircraft fuel dispensers in turn for a fourth aircraft hangar development, Lessee, its successors or assigns, acknowledge, and agree that no other aircraft fuel dispensers will be constructed on the Premises or any of its Lots for the remainder of this Agreement. Should Lessee choose not to pursue a fourth aircraft hangar development on the remaining fourth Lot, the aircraft fuel dispensers may remain in the original spot.

(c) Lessee, its successors or assigns, acknowledge that the aircraft fuel dispensers that may be initially constructed on the remaining fourth Lot is to be used to service **ONLY** aircraft owned or leased by Lessee, its successors or assigns that may lease a Lot on the Premises.

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(d) Lessee may, during the term of this Agreement, construct improvements on the Premises or may alter or modify any buildings or other improvements constructed, to facilitate the use of the Premises for the purposes set forth within.

(e) Prior to the commencement of construction or refurbishment of any improvements on the Premises, Lessee shall submit to Lessor for its written approval, a site plan and complete plans and specifications of the contemplated construction. The plans and specifications shall be certified by an architect or engineer licensed to practice in the State of Arkansas and shall consist of: (i) working drawings, (ii) technical specifications, (iii) bid documents, if applicable, (iv) schedule for accomplishing improvements, (v) schedule of finishes and graphics, (vi) list of furnishings, fixtures and equipment, (vii) certified estimate of the design, development and construction costs, and (viii) such other information as may be required by Lessor. All construction, improvements, signs, equipment, and landscaping must be made in accordance with the requirements set forth in this Agreement and must conform to the standard requirements of Lessor that are applicable to tenants of the Airport. All the plans and specifications shall be in such detail as may reasonably permit Lessor to make a determination as to whether the facilities will be consistent with the provisions of this Agreement and the standards of Lessor. The plans and specifications for the facilities that have received Lessor's written approval, and any amendments and changes thereto that have received Lessor's written approval, are hereinafter referred to collectively, as the "Approved Plans." No work may be performed on the Premises, except pursuant to Approved Plans.

(f) All plans and specifications, including without limitation, "as built" plans provided pursuant to subparagraph(s), below, shall not identify any conduit ducts for cable, telecommunications, electric service, and the like by any specific company name, and such plans shall identify the purpose of such conduits by generic reference only (e.g., "phone conduit," "telecommunications conduit," or "power conduit"). No material changes shall be made to any Approved Plans, without the prior written approval of Lessor, which approval shall not be unreasonably withheld or delayed. Any change that requires the issuance of a building permit or modifies an existing building permit shall be considered a material change.

(g) Any and all construction shall be performed in such a manner as to provide that the facilities shall:

1. Be structurally sound and safe for human occupancy, and free from any hazards;

2. Provide sufficient clearance for taxiways, runways, and aprons, and shall not intrude into any aeronautical surfaces or exceed any height limitations and shall not interfere with the operations of arriving and departing aircraft at the Airport;

3. Be designed for use for only those purposes permitted under **Section 5**, hereof;

4. Comply with the provisions of the deed under which Lessor acquired its title to the Airport from the United States of America, and the provisions of any grant agreements or other agreements between Lessor and the United States Government or the State of Arkansas that are applicable to the Premises;

5. Comply with the terms and provisions of this Agreement;

6. Lessor reserves the right to require that all development within the Airport is consistent with the overall Airport system architecture and the Airport Master Plan, as well as reasonable standards of safety and quality.

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Lessor may refuse to grant approval if, in its opinion, the proposed facilities and improvements as shown on such plans and specifications will fail to meet the criteria set forth above or in other provisions of this Agreement, or for any other reason whatsoever, in its sole discretion.

(h) It is understood and agreed that in the course of any construction or refurbishment of any improvements on the Premises undertaken by Lessee during the Term of this Agreement, Lessee shall be responsible for all costs associated with any removal, replacement, relocation and protection of all utilities, whether such utilities are located at the Premises or on adjacent property, including but not limited to water, wastewater disposal, sewer, telephone, electric, airfield lighting system, conduit ducts for cable, telecommunications and electric service, and Federal Aviation Administration navigational aid systems. All underground utilities conduits installed at the Premises, including without limitation cable, electric and telecommunications, shall be deemed leasehold improvements and ownership thereof shall be vested in Lessor upon installation. All such conduits shall be installed by Lessee at its expense, and shall be free of all liens, claims and encumbrances, including any claims of any utilities provider.

(i) All improvements, equipment and interior design and decor constructed or installed by Lessee, its agents, or contractors, including the plans and specifications relating to same, shall conform to all applicable Federal, State, and Municipal statutes, ordinances, advisory circulars, building codes, fire codes, laws, rules and regulations.

(j) The parties hereby acknowledge that all existing fixtures, structures, facilities, pavements, and other leasehold improvements are the sole property of Lessor. Any improvements, additions and alterations made to the Premises by Lessee (except trade fixtures not permanently affixed to the Premises and equipment not permanently affixed to the Premises, and any other personalty of Lessee) shall automatically become Lessor owned property, free and clear of all liens, claims and encumbrances, upon termination or expiration of the Agreement, for any reason, or upon the occurrence and continuance of a default hereunder and shall be surrendered with and remain on the Premises. Any addition, fixture or other improvement that is nailed, bolted, stapled, or otherwise affixed to the Premises and is not readily removable as a trade fixture or item of equipment, is a leasehold improvement. If any personalty, including furnishings, trade fixtures or equipment, are removed by Lessee or Lessee's Associates, Lessee shall restore any damage to the Premises. All utilities conduits installed at the Premises, by Lessee, including without limitation cable, electric and telecommunications, shall be deemed leasehold improvements and ownership thereof shall be vested in Lessor. All such conduits shall be installed by Lessee at its expense. All such conduits shall be free of all liens, claims and encumbrances, including without limitation, any claims of any utilities provider.

(k) Lessee will use diligent effort to pursue the minimum required improvements on the Premises, pursuant to **Section 8(a)**, obtain necessary governmental permits, and thereafter commence and continue bona fide construction of the intended development on the Premises no later than twenty-four (24) months from the Commencement Date of this Agreement. Lessee shall have twelve (12) months from when Lessee initiates construction of the minimum required improvements to obtain a Certificate of Occupancy or to construct or refurbish the minimum required improvements otherwise fully. Lessee and Lessor recognize that time is of the essence of this Agreement and that Lessee's failure to use diligent effort to pursue the intended development on the Premises, obtain necessary governmental permits, and thereafter commence and continue bona fide construction of the minimum required improvements on the Premises will constitute a material breach of this Agreement and entitle Lessor the right to any remedies or interest that are allowable under this Agreement or under law for Lessee's breach. If at any time Lessor believes that Lessee has failed to use diligent effort to pursue

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the intended development, as described above, Lessor, in its sole discretion, shall have the right to terminate the Agreement within sixty (60) days by giving written notice to Lessee. If Lessee has demonstrated an effort of diligently pursuing the development of the minimum required improvements but such development will not be completed within the twelve (12) month period allowed, Lessee may petition, in writing, Lessor for an extension of time to complete the development. An extension of time to complete the development is not automatic upon application but may be granted at the sole discretion of Lessor. If such extension is not granted, then Lessor shall have the right to terminate the Agreement, and all of Lessee's interest in the Premises shall revert to Lessor. Lessor makes no representations or warranties regarding the above contingencies, and Lessee undertakes such efforts solely at its own risk.

(l) Lessor shall receive copies of the issuance of a Certificate of Occupancy by the City of Texarkana Building Department which will be considered acceptance of the Premises for the minimum required improvements, pursuant to **Section 8(a)**.

(m) Within one hundred and twenty (120) calendar days after the Certificate of Occupancy Date with respect to any improvements, Lessee must provide to Lessor: (i) a certified Statement from the construction contractor(s) specifying the total construction cost and stating that the improvements are free and clear of all liens, claims or encumbrances by any material suppliers, subcontractors, or laborers; and (ii) a certified Statement from the architect or engineer stating the total architect's or engineer's fees and that the improvements have been constructed in accordance with the Approved Plans and in compliance with all applicable codes (City, building and fire), laws, rules, ordinances, and regulations. Lessee shall provide, upon request, such back-up documentation and releases of lien as may be required by Lessor.

(n) Lessee hereby represents, warrants, and covenants to Lessor that the Premises and all improvements now and hereafter constructed or placed thereon shall be at all times free and clear of all liens, claims and encumbrances. If any lien or notice of lien shall be filed against the Premises or any improvements, Lessee shall, within thirty (30) calendar days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, or order of a court of competent jurisdiction. The provisions hereof shall not apply to any leasehold mortgage to which Lessor has consented as provided in this Agreement, or any purchase money security interest in any movable trade fixtures installed at the Premises.

(o) Within ninety (90) calendar days after the Certificate of Occupancy Date with respect to any improvements, Lessee shall at its expense, provide Lessor with a complete set of "as built" plans and specifications on CDs or other electronic media containing electronic data in an AUTOCAD format that meets Lessor's graphic standards of the "as-constructed" or "record" plans for such improvements.

(p) In addition to Lessor's approval, Lessee shall obtain any required approval from all other agencies having jurisdiction over any improvements, including but not limited to departments, divisions or offices of the City of Texarkana, Arkansas, the State of Arkansas, and the Federal government.

(q) All improvements must be coordinated with the FAA, including the filing of required forms and the provision of any documentation the FAA may request.

(r) Lessee shall reimburse Lessor for any costs and expenses incurred, including surveying and attorney's fees (i) as a result of the fact that the improvements, alterations and additions do not comply with Federal, State, and Municipal laws, rules, or regulations, (ii) in defending against, settling, or

satisfying any claim that Lessor is responsible for paying regarding improvements, alterations, and additions on the Premises, or (iii) in defending against, settling, or satisfying any mechanic's lien and/or other claims, asserted because of the non-payment for improvements, alterations, and additions on the Premises.

(s) All improvements hereafter made to the Premises shall be in conformity and consistent with all applicable provisions of the Americans with Disabilities Act of 1990, as same may be amended from time to time.

(t) Lessee shall not make any improvements, or additions, alterations, modifications, or replacements to any improvements at the Premises unless Lessee shall first have submitted to Lessor, for its written approval, complete plans and specifications for same in accordance with this **Section 8**. All improvements and additions, alterations, modifications, and replacements shall comply with all provisions of this Agreement, including without limitation, this **Section 8**. In the event any improvements and additions, alterations, modifications, and replacements are made without Lessor approval pursuant to this **Section 8**, then, upon notice in writing to do so, Lessee shall remove same or at the option of Lessor cause same to be changed to the satisfaction of Lessor. In the case of any failure on the part of Lessee to comply with such notice, Lessor may affect the removal or change and Lessee shall pay the cost thereof to Lessor.

(u) Lessee shall require that any contractor or contractors who performs work on the Premises herein, or otherwise, at the Premises provide a current and valid Construction Bond or Letter of Credit in a form acceptable to Lessor, in an amount not less than the full amount of the contract price for completing the construction on the Premises herein designated, as surety for the faithful performance of the contract by contractor, and for the payment of all persons performing labor and furnishing material in connection with the work. Said Construction Bond or Letter of Credit shall be executed by a surety company or bank of recognized standing authorized to do business in the State of Arkansas and having a resident agent in Miller County and having been in business with a record of successful continuous business for at least five (5) years. Each bond shall be in form and substance satisfactory to Lessor. Furthermore, such surety company must have at least an "A" minimum rating in the latest revision of Best's Insurance Report.

(v) Contractors must be licensed in the State of Arkansas. Lessee shall further require the contractor to procure Contractor's General Public Liability and Property Damage Insurance in an amount not less than one million dollars **($1,000,000), combined** single limit, and Worker's Compensation Insurance. Such Public Liability and Property Damage Insurance policies shall name Lessor, and Lessor's Associates as additional insured. Lessee shall, before the commencement of any work, furnish Lessor with evidence that the contractor or contractors are covered to the satisfaction of Lessor with insurance as outlined above. If at any time during the continuance of the contract a surety on the contractor's bond or bonds becomes irresponsible, Lessor shall have the right to require additional and sufficient sureties which the contractor shall furnish within ten (10) days after notice to do so.

(w) Lessee may, at its own expense, install and operate necessary and appropriate identification signs on the Premises for its purpose, subject to the approval of the Executive Director of Lessor as to the number, size, height, location, color and general type and design. Such approval shall be subject to revocation by Executive Director of Lessor at any time. Upon the occurrence and continuance of an event of default, Lessee shall remove said sign(s) if requested to do so by Lessor and Lessee shall repair all damage to the Premises caused by removal.

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(x) Lessee shall coordinate all construction and refurbishment of improvements and any other additions, alterations, modifications, or replacements to the Premises or improvements with the Airport, and shall minimize any disruption to Airport activities, tenants, and users. Lessor shall have the right, but not the duty, to direct that Lessee and/or Lessee's Associates cease activities or revise work plans to avoid disruption. Lessee and/or Lessee's Associates shall meet with Lessor, as requested by Lessor, as the work progresses and provide Lessor with information as may be required. Lessor may require Lessee to comply with other measures that are in Lessor's best interests in connection with any construction activities, such as coordination with Airport Operations/Maintenance, City of Texarkana, Arkansas Police, TSA, and local FAA Air Traffic Control.

(y) The building(s), and all other improvements made by Lessee which have assumed the nature of realty, will become property of Lessor upon termination or expiration of this Agreement, without compensation to Lessee, and free of all liens and claims. Lessee will have the right to remove any furnishings, trade fixtures, equipment, and improvements that have not assumed the nature of realty, provided the same is done prior to termination or expiration of this Agreement, Lessee is not in default of this Agreement, and Lessee repairs any damage caused by such removal. Any such property remaining after the termination or expiration of this Agreement will immediately become property of Lessor unless otherwise agreed to by Lessor in writing.

SECTION 9. MAINTENANCE AND REPAIRS

(a) Lessee agrees to provide at its own expense such maintenance, custodial, and cleaning services and supplies as may be necessary or required in the operation and maintenance of the Premises, improvements, and Personal Property.

(b) Lessee shall throughout the Term of the Agreement assume the entire responsibility and shall relieve Lessor from all responsibility for all repair and maintenance whatsoever on the Premises (which shall include, without limitation, all buildings and improvements thereon), whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. Maintenance and repairs shall be in quality and class comparable to the original work, to preserve the Premises in good order and condition.

(c) Lessor shall be responsible for maintenance of the common areas and systems associated with the Premises. Lessee covenants to properly use and not abuse the common areas and systems maintained by Lessor.

(d) Lessee shall be required to keep all buildings and other improvements in good, tenantable, useable condition throughout the Term of this Agreement, and without limiting the generality thereof, Lessee shall:

1. Paint the exterior and interior of the Premises as needed and Lessee shall repair and maintain all doors, windows, pavements, equipment, lighting fixtures, furnishings, fixtures, roof, exterior walls, and structural support system.

2. Always keep the Premises in a clean and orderly condition and appearance, including without limitation, upkeep and maintenance of all landscaping and upkeep and maintenance of all of Lessee's fixtures, equipment and personal property which are located in any part of the Premises which is open to or visible by the general public.

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3. Provide and maintain all obstruction lights and similar devices, fire protection and safety equipment and all other equipment of every kind and nature required by any law, rule, order, ordinance, resolution, or regulation of any applicable governmental authority.

4. Repair any damage to the pavement or other surface of the Premises caused by operations of Lessee, Lessee's Associates and any others entering upon or using the Premises at any time during the Term, including without limitation any oil, gasoline, grease, lubricants or other liquids and substances having a corrosive or detrimental effect thereon and report the incident of such spill pursuant to **Section 15**.

5. Take anti-erosion measures, including but not limited to, the planting and replanting of grasses with respect to all portions of the Premises not paved or built upon.

6. Be responsible for the maintenance and repair of all utilities including but not limited to, service lines for the supply of water, gas service lines, electrical power, telephone and telecommunications conduits and lines, sanitary sewers and storm sewers which are now, or which may be subsequently located upon the Premises leased to Lessee and which are used exclusively by Lessee.

7. Be responsible for the maintenance and repair of all perimeter fences and all gates before, during, and after construction of any improvements.

(e) Lessor reserves the right to approve any contractor retained for construction, maintenance and repair of the Premises.

(f) Lessor shall have the right to enter the Premises upon reasonable written notice and at reasonable times to inspect same for purposes of determining if Lessee is maintaining the Premises as required by this Agreement. In the event Lessee fails in any material respect to commence to maintain, clean, repair, replace, or rebuild within a reasonable period of time and/or after written notice from Lessor to do so; or fails in any material respect diligently to continue to complete the maintenance, repair, replacement, or rebuilding of all of the Premises required to be maintained, repaired, replaced, or rebuilt by Lessee under the terms of this Agreement, Lessor may, at its option, and in addition to any other remedies which may be available to it, maintain, repair, replace, or rebuild all or any part of the Premises included in said notice and the cost thereof shall be payable by Lessee to Lessor upon demand. Lessee shall have a period of thirty (30) calendar days to commence any required action hereunder, except for emergency and public safety items which shall be immediately undertaken by Lessee.

(g) Lessee shall remove from the Airport or otherwise dispose of in a manner approved by Lessor all garbage, debris and other waste material arising out of its occupancy of the Premises or out of its operations. Lessee shall keep and maintain the Premises in a neat and orderly manner and shall keep the grass cut and all improvements painted. Any garbage, debris or waste which may be temporarily stored in the open shall be kept in suitable garbage or waste receptacles, the same to be made of metal and equipped with tight fitting covers and to be of a design to safely and properly contain whatever may be placed therein. Lessee shall use extreme care when effecting removal of all such waste.

SECTION 10. LIABILITY, INDEMNITY, AND INSURANCE

THERE IS NO EXPECTATION OF ANY INDEMNIFICATION BEING PROVIDED TO LESSEE BY THE AIRPORT OR LESSOR.

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(a) Lessee shall protect, defend, indemnify, and hold Lessor and Lessor's Associates completely harmless from and against any and all debts, expenses, penalties, costs, and judgments arising by reason of the injury or death of any person or damage to any property or economic loss of any nature (including but not limited to those relating to or arising out of the violation of any Environmental Laws or any Federal, State, and Municipal health, or safety law, regulation, rule, or ordinance), including all reasonable costs of investigation and defense thereof (including but not limited to attorneys' and consultants' fees and court costs), arising out of or incidental to any acts or omissions or misrepresentations of Lessee, and/or Lessee's Associates related to (i) this Agreement, (ii) Lessee's use or occupancy of or operations on or in connection with the Premises, the improvements, or any portion thereof, (iii) any Environmental Laws, or (iv) Lessee's rights, obligations, responsibilities, or duties under this Agreement; except to the extent such injury, death, loss, or damage is caused by the gross negligence or willful misconduct of Lessor and /or Lessor's Associate's. This indemnity shall cover any problems in, on, under, or affecting the Premises or any areas surrounding the Premises which are a direct or indirect result of actions or omissions of Lessee and/or Lessee's Associate's. Lessor shall give Lessee reasonable notice of any such claims or actions. Lessee, in carrying out its obligations hereunder, may use counsel and consultants selected by it, but such counsel and consultants shall be reasonably acceptable to, and cooperative with, Lessor. The provisions of this **Section 10(a)** shall survive the expiration or earlier termination of this Agreement.

(b) Lessee shall, at a minimum, provide, pay for, and maintain in full force at all times during the Term of this Agreement (unless otherwise provided), the insurance coverages set forth in the paragraphs below, in accordance with the terms, covenants, and conditions required by this **Section 10**. Such policy or policies shall be without any deductible amount (except as may be expressly authorized herein) and shall be issued by a company(s) of recognized standing authorized to do business in the State of Arkansas and having a resident agent in the State of Arkansas and having been in business with a record of successful continuous business for at least five (5) years. Furthermore, such company(s) must have at least an "A" minimum rating in the latest revision of Best's Insurance Report. Lessee shall specifically protect Lessor by naming Lessor as additional insured under the Property Damage Insurance, and Commercial General Liability Policy and all environmental and impairment liability policies only.

(c) Lessee shall, during the Term of this Agreement, insure and keep insured to the extent of not less than one hundred percent (100%) of the insurable replacement value thereof, all buildings, improvements, structures, fixtures and equipment on the Premises against such hazards and risks as may now or in the future be included under the Standard Form of Fire and Extended Coverage insurance policy of the State of Arkansas and also against the following applicable hazards and risks:

1. Sprinkler leakage - by which is meant damage caused by water or any other substance discharged from any part of the fire protection equipment for Lessee's Premises or from adjoining premises; collapse or fall of tanks forming part of such fire protection equipment or the component parts or supports of such tanks.

2. Damage caused by such perils and hazards as may now or in the future be included under any Boiler and Machinery policy filed with and approved by the Insurance Commissioner of the State of Arkansas, or if there be no such policy so filed, then reasonable coverage against perils and hazards occasioned by the existence and operation of such boilers, provided that Lessee shall be required to maintain such insurance only with respect to such buildings and structures in which boilers are installed.

 _____Lessee's Initials

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(d) Such policies of insurance shall be limited to a deductible for windstorm of not more than two percent (2%) of the insurable replacement value of the improvements. In addition, the deductible for all other than windstorm perils shall be not more than One Hundred Thousand Dollars ($100,000.00), which amount Lessee shall self-insure. In the event of any damage to the Premises, if the cost of repair or replacement is less than the deductible amount, Lessee shall nevertheless be required to make such repair or replacement and to restore the Premises to the condition required by **Section 11**.

(e) All policies of such insurance and renewals thereof shall insure Lessor and Lessee as their interest may appear, and shall provide that the loss, if any, shall be adjusted with and payable to Lessor, except as otherwise provided in **Section 11** hereof.

(f) In the event the Premises or any part thereof shall be damaged by any casualty against which insurance is carried pursuant to this **Section 10**, and if such loss is to be adjusted with and payable to Lessor, Lessee shall promptly furnish to Lessor such information and data as may be necessary to enable Lessor to adjust the loss.

(g) **Commercial General Liability Insurance** shall be provided to protect against bodily injury and property damage liability in an aggregate amount of not less than One Million Dollars ($1,000,000.00) per occurrence, combined single limit, and One Million Dollars ($1,000,000.00) per aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include: Premise and/or Operations, Personal Injury, Independent Contractors, Broad Form Property Damage and Broad Form Contractual Coverage covering all liability arising out of the terms of this Agreement. Lessee is responsible for all deductibles in the event of a claim.

(h) **Aircraft and Passenger Liability Insurance** shall be provided to protect against bodily injury and property damage liability in an amount of not less than One Million Dollars ($1,000,000.00) per occurrence, combined single limit, of One Million Dollars ($1,000,000.00) per aggregate, with a limit of One Hundred Thousand Dollars ($100,000) each person. Coverage must be afforded on a form no more restrictive than the latest edition of the Aircraft and Passenger Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: Premise and/or Operations, Personal Injury, Independent Contractors, Broad Form Property Damage and Broad Form Contractual Coverage covering all liability arising out of the terms of this Agreement. Lessee is responsible for all deductibles in the event of a claim.

(i) **If applicable, Environmental and Impairment Liability Insurance** shall be provided in the minimum amount of One Million Dollars ($1,000,000.00) per claim, subject to a maximum deductible of One Hundred Thousand Dollars ($100,000.00) per claim. Such policy shall include a One Million Dollars ($1,000,000.00) annual policy aggregate and name Lessor as additional insured. Lessee is responsible for all deductibles in the event of a claim.

(j) "**Environmental and Impairment Liability Insurance**" is defined as a specialized insurance policy that covers liability and cleanup costs associated with discharge of "Materials" (as defined in **Section 15**). It provides broader coverage than the general liability policy by covering gradual as well as sudden and accidental releases.

(k) **If applicable, Workers' Compensation and Employer's Liability Insurance** shall be provided to apply for all employees in compliance with the "Workers' Compensation Law" of the State of

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Arkansas and all applicable Federal laws. In addition, the policy(ies) must include Employers' Liability with a limit of One Hundred Thousand Dollars ($100,000) each accident.

(l) Lessee shall furnish to Lessor, Certificates of Insurance evidencing the insurance coverages specified by this **Section 10** prior to the commencement of this Agreement.

(m) Coverage is not to cease and is to remain in full force (subject to cancellation notice) throughout the Term of this Agreement and until all performance required hereunder is completed. All policies must be endorsed to provide Lessor with at least thirty (30) calendar days' prior written notice of expiration, cancellation and/or restriction. If any of the insurance coverages will expire prior to the expiration or termination of this Agreement, copies of renewal certificates shall be furnished at least thirty (30) calendar days prior to the date of their expiration. Any insurance coverage that is written on a "claims made" basis must remain in force for two (2) years after the expiration or termination of this Agreement. Comprehensive General and Commercial General Liability Insurance shall be written on an "occurrence" basis and shall not be written on a "claims made" basis.

(n) The aforesaid minimum limits of insurance shall be reviewed from time to time by Lessor and may be adjusted if Lessor determines that such adjustments protect Lessor's interest. When such policies or certificates have been delivered by Lessee to Lessor as aforesaid and at any time or times thereafter, Lessor may notify Lessee, in writing, that the insurance represented thereby does not conform to the provisions of this **Section 10** either because of the amount or because of the insurance company or for any other reason, and Lessee shall have fifteen (15) calendar days in which to cure any such defect.

(o) **Subrogation.** Notwithstanding anything to the contrary herein, Lessee waives any right of recovery against Lessor for any loss or damage to the extent the same is required to be covered by Lessee's insurance hereunder. Lessee shall obtain from its insurers a waiver of any subrogation the insurer may have against Lessor in connection with any loss or damage covered by Lessee's insurance.

(p) The certificate holder address shall read "Texarkana Regional Airport Authority, 201 Airport Drive, Texarkana, Arkansas 71854," as may be amended or changed.

(q) Compliance with the foregoing requirements shall not relieve Lessee of its liability and obligations under any other provision of this Agreement.

(r) If, at any time, Lessee shall fail to obtain the insurance as required herein, Lessee will be deemed in default and, at its sole option, Lessor may terminate this Agreement upon thirty (30) days written notice.

(s) Lessor shall not be liable to Lessee for any injury or damage to Lessee or Lessee's property from any cause except if caused by Lessor's or Lessor's Associates' negligence. Lessee waives all claims against Lessor for damage to persons or property arising from any reason.

SECTION 11. DAMAGE TO OR DESTRUCTION OF PREMISES

(a) **Removal of Debris.** If the Premises or any part thereof shall be damaged by fire, the elements, or other casualty, Lessee shall promptly remove all debris resulting from such damage from the Premises, and Lessee shall promptly take such actions and cause such repairs to be made to the Premises as will place the Premises in a neat and orderly condition and as are necessary for the safety of persons entering upon the Premises. To the extent, if any, that such measures are covered by any insurance obtained by Lessee, the proceeds thereof shall be made available to Lessee for such

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purpose. If Lessee shall fail to promptly comply with the provisions hereof, then Lessor may take such measures as it deems necessary to render the Premises in a neat, orderly, and safe condition, and Lessee shall be responsible for any costs expended by Lessor in connection therewith and the proceeds of any insurance covering the Premises shall be adjusted with and paid to Lessor.

(b) **Minor Damage.** If the Premises, or any part thereof shall be damaged by fire, the elements, or other casualty but not rendered untenable or unusable, then there shall be no abatement of rent and the Premises shall be repaired with due diligence in accordance with the plans and specifications for the Premises as they existed prior to such damage, or in accordance with new plans approved by Lessor pursuant to **Section 8**, hereof, by and at the expense of Lessee and, if such damage is covered by insurance, the proceeds thereof shall be made available to Lessee for that purpose.

(c) **Major Damage to or Destruction of the Premises.** If the Premises or any part thereof shall be destroyed or so damaged by fire, the elements or other casualty as to render the Premises untenable or unusable, then:

1. Lessee shall have an option to make the necessary repairs or replacements for the restoration thereof in accordance with the plans and specifications as the same existed prior to such damage or destruction, provided that Lessee within forty-five (45) calendar days after the occurrence of such damage or destruction notifies Lessor in writing that it elects to exercise its option to make the necessary repairs or replacements. If Lessee elects to make such repairs or replacements it shall do so with reasonable dispatch and, if such destruction or damage was covered by insurance, the proceeds thereof shall be adjusted with and paid to Lessee.

2. If Lessee fails to notify Lessor in writing of its intention to make the necessary repairs or replacements within the forty-five (45) day period provided in subparagraph (1), above, or if within said forty-five (45) day period Lessee notifies Lessor in writing that it does not elect to make such repairs or replacements, then Lessor may at its election make such repairs and replacements, provided that Lessor notifies Lessee of its election to do so within thirty (30) calendar days following the expiration of said forty-five (45) day period. If Lessor elects to make such repairs or replacements, it shall do so with reasonable dispatch, and Lessee shall be responsible for any costs expended by Lessor in connection therewith and the proceeds of any insurance covering the Premises shall be adjusted with and paid to Lessor.

3. In the event that restoration is made pursuant to either subparagraph (1) or (2), above, the rent shall abate from the date of the damage or destruction until the Premises have been placed in a usable condition. Such abatement shall be made pursuant to **Section 6(p)** hereof. All restoration work shall be made pursuant to plans and specifications that have received the prior approval of Lessor and all such work shall comply with the terms and provisions of this Agreement, including without limitation, **Section 8** hereof.

4. In the event that neither of the two parties elects to make such repairs and replacements, then this Agreement shall terminate upon the earlier of: (i) the expiration of seventy-five (75) calendar days from the occurrence of such destruction or damage or (ii) the date established by written notice by Lessor to Lessee; and in any such event, the proceeds of insurance applicable to the damage or destruction (other than the proceeds applicable to Lessor's costs of debris removal and removal of damaged improvements) shall be distributed between Lessee and Lessor as their interest may appear. The interest of Lessee shall not exceed the unamortized value of the improvements existing on the Premises as of the date immediately preceding the date of the casualty (excepting any Lessor-owned improvements for which rent has been paid

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by Lessee, if any, which shall be excluded from the calculation) then depreciated over the Term of the Agreement. In such event, the payment of rentals shall terminate as of the date of the damage or destruction.

SECTION 12. TERMINATION OF AGREEMENT- ASSIGNMENT AND TRANSFER

(a) This Agreement shall terminate at the end of the full term hereof, and any extensions thereto, as set forth in **Section 3** of this Agreement, and Lessee shall have no further right or interest herein.

(b) Lessor may terminate this Agreement by giving Lessee thirty (30) days advance written notice, to be served as hereinafter provided, upon the happening of any one of the following events:

1. The filing by Lessee of a voluntary petition for bankruptcy.

2. The institution of proceedings in bankruptcy against Lessee and adjudication of Lessee as a bankrupt pursuant to said proceedings.

3. The taking by a court of competent jurisdiction of Lessee and its assets pursuant to proceedings brought under the provision of any Federal reorganization act.

4. The appointment of a receiver of Lessee's assets.

5. The divestiture of Lessee's estate herein by operation of law.

6. The abandonment by Lessee of its conduct of operation upon the Premises.

7. The conduct of any operation or performance of any acts not specifically authorized herein.

8. Default in the performance of any of the terms, covenants and conditions required herein (except rental payment) to be kept and performed by Lessee and such default continues for a period of thirty (30) days from the date of written notice from Lessor to cure said default; provided however that: (i) if, in the judgement of Lessor, the nature of the default is such that it cannot be cured in a period of thirty (30) days from the date of said default; (ii) Lessee commences good faith efforts to cure such default immediately upon receipt of such notice; (iii) such efforts are diligently prosecuted to completion to Lessor's satisfaction, then it shall be deemed that no default shall have occurred under the provisions of this subparagraph 8.

In any of the aforesaid events, termination shall be effective upon the date specified in Lessor's written notice to Lessee, and, upon said date, Lessee shall be deemed to have no further rights hereunder and Lessor may take immediate possession of the Premises and remove Lessee's effects, by forcible eviction, if necessary, without being deemed guilty of trespassing.

(c) If Lessee fails to pay the whole or any part of the rent, charges or fees due hereunder for a period of thirty (30) days after such payments become due, and continues to fail to pay said amounts in full within ten (10) days from Lessor's transmittal to Lessee of a written Past Due Statement therefore, Lessor may, at its option, immediately cancel this Agreement, by written notice thereof, and may enter upon the Premises (or any part thereof) and repossess the same from Lessee and this Agreement shall be considered terminated, whether or not such entry is actually made.

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(d) Lessee may terminate this Agreement at any time that Lessee is not in default of its payments to Lessor hereunder, by giving Lessor sixty (60) calendar days advance written notice to be served as hereafter provided, upon or after the happening of any one of the following events:

1. Issuance by any court of competent jurisdiction of an injunction in anyway preventing or restraining the use of the Airport or any part thereof for airport purposes, and the remaining in force of such injunction for a period of at least ninety (90) days.

2. The default by Lessor in the performance of any covenant or agreement herein required to be performed by Lessor and the failure of Lessor to remedy such default for a period of sixty (60) calendar days after receipt from Lessee of written notice to remedy same; provided, however, that no notice of termination, as provided herein, shall be of any force or effect if Lessor shall have remedied the default prior to receipt of Lessee's notice of termination.

3. The lawful assumption by the United States Government or any authorized agency thereof of the operation, control or use of the Airport and facilities, or any substantial part or parts thereof, in such a manner as to substantially restrict Lessee, for a period of at least sixty (60) days, from operating thereon.

(e) Upon expiration or any sooner termination or cancellation of this Agreement, Lessor may require Lessee to remove any improvements erected, installed or constructed by Lessee except for buildings and other substantial improvements to the Premises. Such removal, if required of Lessee, shall be at Lessee's expense. Notice of such removal will be given to Lessee prior to termination of this Agreement and completion of the removal will be within a reasonable time period determined by Lessor. Notwithstanding the foregoing, upon expiration or any sooner termination or cancellation of this Agreement, title to all structures, improvements, facilities or alterations erected, installed or constructed by Lessee which are not required by Lessor to be removed shall automatically vest in Lessor without any further act on the part of either party. If this Agreement is canceled by Lessee pursuant to **Section 12(d)** hereof, or if this Agreement is otherwise canceled by Lessor before expiration of the term pursuant to other provisions of this Agreement and without cause against Lessee, Lessor shall be required to provide a suitable Airport lease site and reimbursement for replacement improvements constructed on the Premises by Lessee in accordance with the provisions of this Agreement.

(f) Lessee is granted the right, upon any termination of this Agreement, to remove its Trade Fixtures (as defined below); provided, however, in the event that the Premises are damaged by reason of, or in the course of, the removal of Lessee's Trade Fixtures, Lessee, at its cost, shall promptly repair any and all such damage and restore the Premises to the same condition as prior to installation or to a condition approved by Lessor. The failure to remove its Trade Fixtures shall not constitute a holdover, but all such property not removed within ten (10) days after any termination of this Agreement shall be deemed abandoned and thereupon shall become the property of Lessor. "Trade Fixtures" as herein defined, shall include, but are not limited to, personal property, signs used to identify Lessee's operation in and about the Premises, and all machinery and equipment installed in or placed on or about the Premises and used in connection with Lessee's operation.

(g) Lessee shall not, in any manner, assign, transfer, mortgage, pledge, encumber or otherwise convey an interest in this Agreement, nor sublet the Premises or any part thereof, without the prior written consent of Lessor and unless the assignee or sub-lessee is qualified by Lessor to do business at the Airport pursuant to such nondiscriminatory standards as may be established by Lessor, including without limitation that such proposed assignee or sub-lessee have and be able to demonstrate

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substantial and profitable experience in the same or directly related operation as Lessee and have and be able to demonstrate on the proposed date of such assignment or sublease a net worth equal to or greater than that of Lessee on the date hereof. Lessee shall submit a written request for consent by Lessor at least sixty (60) calendar days prior to the commencement of the proposed assignment or sublease (unless waived by Lessor), including a detailed statement of the assignee's or sub-lessee's proposed activity with a copy of the proposed assignment or sublease. Lessor may deny consent if Lessor determines the assignment or sublease is not in its best interest; if Lessee has been declared in default of any of the terms, covenants, and conditions of this Agreement; if the proposed assignment or sublease is not permitted under this Agreement; or for other valid reasons. Subject to Lessor's written consent as aforesaid, Lessee shall have the right to assign or sublease the Premises only for the same purpose permitted under this Agreement, any such assignment or sublease shall be subject to the same conditions, obligations and terms as set forth herein, and Lessee shall be responsible for the observance by its assignor or sub-lessee of the terms and covenants contained in this Agreement.

SECTION 13. GOVERNMENTAL CONDITIONS

(a) Lessor covenants that it will operate and maintain the Airport as a public airport consistent with and pursuant to the Sponsor's Assurances given by Lessor to the United States Government under the Airport and Airway Improvement Act of 1982, as the same may be amended from time to time.

(b) Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance.

(c) Lessor reserves the right but shall not be obligated to Lessee to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport together with the right to direct and control all activities of Lessee in this regard.

(d) Lessor reserves unto itself, its successors, and assigns, for the use and benefit of the public, the right of flight for the passage of aircraft in the airspace above the surface of the Premises. This right of flight shall include the right to cause in said airspace such noise as may be inherent in the operation of any aircraft now known or hereafter used for navigation or flight through the said airspace for landing at, taking off from or operating on the Airport.

(e) It is understood and agreed that nothing contained in this Agreement shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308a of the **Federal Aviation Act of 1958 (49 U.S.C. 1349a),** as the same may be amended from time to time.

(f) This Agreement shall be subject and subordinate to the provisions of all laws and regulations and of any existing or future agreement between Lessor and the United States of America, or any agency thereof, relative to the operation or maintenance of the Airport. Lessor shall, to the extent permitted by law, use its best efforts to cause any such agreements to include provisions protecting and preserving the rights of Lessee in and to the Premises, and to compensation from the United States of America for taking thereof, interference therewith, and damage thereto, caused by such agreement or by actions of Lessor or the United States of America pursuant thereto.

(g) During the time of war or national emergency, Lessor shall have the right to lease the landing area or any part thereof to the United States Government for military use and, if such lease is executed, the applicable provisions of this Agreement, insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended.

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(h) Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree to the following, as a covenant running with the land:

1. Subordination of Agreement - This Agreement and all provisions set forth herein are and shall be subject and subordinate to the terms, covenants, and conditions of any instruments and documents under which Lessor acquired the land or improvements thereto, of which the Premises are a part, and shall be given only such effect as will not conflict with or be inconsistent with such terms, covenants, and conditions. It is further understood and agreed by Lessee that this Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States of America, or any of its agencies, relative to the development, operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport.

2. Compliance with Title 49 - In the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, as said regulations may be amended (49 CFR Part 21).

3. Compliance with Title VI of Civil Rights Act of 1964 - No person, on the grounds of race, color, creed, sex, age, national origin or handicap, shall be excluded from participation, denied the benefits of or be otherwise subjected to discrimination in the use of said facilities. In the construction of any improvements on, over or under the land and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of or otherwise be subject to discrimination on the grounds of race, color, creed, sex, age, national origin or handicap; Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21.

4. Breach of Nondiscrimination Covenants - In the event of breach of any of the above nondiscrimination covenants described in Paragraphs 2 and 3 above, Lessor shall have the right to terminate this Agreement and to re-enter and repossess said land and the facilities thereon and hold the same as if this Agreement had never been made or issued; provided, however that Lessee allegedly in breach shall have the right to contest said alleged breach under applicable FAA procedures, and any sanctions under or termination of this Agreement shall be withheld pending completion of such procedures.

5. Nondiscriminatory Pricing - Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof, and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit of service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers. Noncompliance with this paragraph and failure to substantially remedy such noncompliance within a reasonable period of time shall constitute a material breach hereof; and, in the event of such noncompliance, Lessor shall have the right to

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terminate this Agreement without liability therefor or, at the election of Lessor or the United States Government, either or both shall have the right to judicially enforce this paragraph.

6. Inclusion of Provisions in Lessee's Agreements - Lessee agrees that it shall insert the provisions of Paragraphs 2 through 5 of this **Section 13**, inclusive, in any agreement by which Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises. Upon request by Lessor, Lessee shall provide all agreements by which Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises available for the review of Lessor to allow Lessor to ascertain compliance with such requirements prescribed by this **Section 13(h)6**.

7. Disadvantaged Business Enterprise Program - Lessee shall, as applicable to its operation, abide and be bound by 49 CFR Part 23, Participation by Disadvantaged Business Enterprise in Department of Transportation Programs.

8. Affirmative Action Plan - Lessee shall, as applicable to its operation, abide by and be bound by 14 CFR Part 152, Subpart E, as may be amended from time to time, to ensure that no person shall, on the grounds of race, creed, color, national origin or sex, be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures, as applicable to its operation, that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by said Subpart. Lessee assures that it will require, as applicable to its operation, that its covered sub-organizations provide assurances to Lessee and Lessor that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

(i) This Agreement is subject to any applicable review by the FAA or any Federal agency having regulatory jurisdiction, to determine satisfactory compliance with Federal law, as applicable to Lessee's operation, and said Agreement shall be in full force and effect and binding upon both parties pending such review and approval by the FAA or other Federal regulatory agency, as applicable; provided, however, that upon such review, all parties hereto agree to modify any of the terms hereof which may be determined to be in violation of or contrary to existing laws, regulations, assurances or other requirements.

(j) It is anticipated that changes will come from regulatory agencies having jurisdiction over the Airport or Lessor in the form of regulatory changes. It is Lessee's responsibility to obtain all Notices of Proposed Rule Making directly from such agencies. Where possible, Lessor may provide notice of proposed changes, but nothing contained herein shall render this provision unenforceable by virtue of Lessee not receiving notice of proposed changes.

(k) In the event a United States governmental agency shall demand and take over the entire facilities of the Airport, or that portion of the Airport containing the Premises, for public purposes, then and in that event Lessor shall be released and fully discharged from any and all liability hereunder and this Agreement shall thereupon terminate.

(l) Lessee certifies, to the best of its knowledge and belief, that:

1. No Federally appropriated funds have been paid or will be paid by or on behalf of Lessee, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a

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member, officer or employee of Congress, or an employee or member of Congress in connection with the award of any Federal contract, in making any Federal grant or Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member, officer or employee of Congress, or an employee or member of Congress in connection with any contract, grant, loan or cooperative agreement relating to this Agreement, Lessee shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

3. Lessee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

(m) Lessee, by execution of this Agreement, certifies that it:

1. It is not owned or controlled by one or more citizens or nationals of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);

2. It has not knowingly entered into any contract or subcontract for this project with a contractor that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list; and

3. It has not procured any product or subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to any party hereunder that is unable to certify to the above. If Lessee knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use of the project, the FAA may direct, through Lessor, cancellation of such contract at no cost to the Government.

Further, Lessee agrees that it will incorporate this provision, as it pertains to the Premises, for certification without modification in each contract and in all lower tier subcontracts. Lessee may rely upon the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous. Lessee shall provide immediate written notice to Lessor if it learns that a prospective contractor's certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide immediate written notice to Lessee, if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that Lessee or any subcontractor knowingly rendered an erroneous certification, the FAA may direct, through Lessor, cancellation of the contract or subcontract for default at no cost to the Government.

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Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a Lessee is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

SECTION 14. AIRPORT SECURITY PROGRAM

(a) Lessee agrees to observe all security requirements and other requirements implemented by Federal Aviation Regulations applicable to Lessee, including without limitation, all regulations of the United States Department of Transportation, the Federal Aviation Administration and the Transportation Security Administration, and Lessee agrees to comply with Lessor's Airport Security Program (including without limitation the access to the Air Operations Area ("AOA"), and any amendments thereto, and to comply with such other rules and regulations as may be reasonably prescribed by Lessor and to take such steps as may be necessary or directed by Lessor to insure that Lessee's Associates observe these requirements. If required by Lessor, Lessee shall conduct background checks of its employees in accordance with applicable Federal Regulations. If as a result of the acts or omissions of Lessee and/or Lessee's Associates, Lessor incurs any fines and/or penalties imposed by any governmental agency, including without limitation, the United States Department of Transportation, the Federal Aviation Administration or the Transportation Security Administration, or any expense in enforcing any Federal regulations, including without limitation, airport security regulations, or the rules or regulations of Lessor, and/or any expense in enforcing Lessor's Airport Security Program, then Lessee agrees to pay and/or reimburse to Lessor all such costs and expenses, including all costs of administrative proceedings, court costs, and attorneys' fees and all costs incurred by Lessor in enforcing this provision. Lessee further agrees to promptly rectify any security deficiency or other deficiency as may be determined as such by Lessor or the United States Department of Transportation, Federal Aviation Administration, the Transportation Security Administration, or any other Federal agency with jurisdiction. In the event Lessee fails to promptly remedy any such deficiency, Lessor may do so at the sole cost and expense of Lessee. Lessor reserves the right to take whatever action is necessary to rectify any security deficiency or other deficiency.

1. **Access to Security Identification Display Areas and Access Credentials.** Lessee shall be responsible for requesting Lessor to issue a security identification badge ("access credentials") to Lessee and all of Lessee's Associates who are authorized access to the Security Identification Display Areas ("SIDA") on the Airport. In addition, Lessee shall be responsible for the immediate reporting of all lost or stolen access credentials and the immediate return of the access credentials of Lessee's Associates transferred from the Airport, or terminated from the employ of Lessee, or upon termination of this Agreement. Before access credentials are issued to Lessee and any Associate of Lessee, Lessee and any Associate of Lessee shall comply with the requirements of applicable Federal regulations with regard to fingerprinting for criminal history record checks and security threat assessments and shall require that Lessee and each Associate of Lessee complete SIDA or security awareness training programs conducted by Lessor. Lessee shall pay or cause to be paid to Lessor such charges as may be established from time to time for lost or stolen access credentials and those not returned to Lessor in accordance with these provisions. Lessor shall have the right to require Lessee to conduct background investigations and to furnish certain data on Lessee's Associates before the issuance of access credentials, which data may include the fingerprinting of employee applicants for such credentials. Lessee agrees that Airport access

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credentials are the property of Lessor and may be suspended or revoked by Lessor in its sole discretion at any time, for failure to obey the rules and regulations set forth by the FAA, TSA and Lessor's rules and regulations. Lessee must be the signatory holder for all access credentials issued to Lessee and all of Lessee's Associates in connection with this Agreement. Lessee must sign for and dispense all access credentials to Lessee's Associates and will assume full responsibility for all lost or stolen access credentials and the immediate return of the access credentials to Lessor for any reason.

2. **Security Fence.** Lessee agrees to construct, relocate, replace, or maintain, at its own expense, and in accordance with any FAA and TSA standards, security fencing between the Premises and the Airport and any other fencing damaged or removed by Lessee in locations to be determined by Lessor. At all times before, during and after construction, Lessee must maintain fencing and other Airport security measures, in accordance with FAA and TSA standards, as determined by Lessor so as not to jeopardize Airport safety or security. Lessee must always maintain a secure fencing perimeter, protecting the Airport Operations Area, all times before, during and after construction, to the satisfaction of Lessor, FAA, and TSA.

3. **Operation of Vehicles on the AOA.** If the Premises has access to the AOA, then before Lessee shall permit any employee to operate a motor vehicle of any kind or type on the AOA (and unless escorted by a Lessor approved escort), Lessee shall ensure that all such vehicle operators possess current, valid, and appropriate driver's licenses. Lessee agrees that Lessee's AOA vehicle access may be suspended or revoked by Lessor in its sole discretion at any time, for failure to observe all security requirements and other requirements of the Federal Aviation Regulations applicable to Lessee, including without limitation, all regulations of the United States Department of Transportation, the FAA and the TSA. Lessee will be issued a vehicle hangtag for vehicular access to the Premises, which may be revoked at any time at the sole and absolute discretion of Lessor. Issuance of hangtags is at the sole and absolute discretion of the Airport Operations Manager, including the number or amount issued. Lessee must always display their vehicle hangtag plainly visible from the exterior of the vehicle while in or around the Premises. Failure of Lessee to properly display their vehicle hangtag may result in suspension and revocation of their vehicle hangtag. Only vehicles that have received a vehicle hangtag from Lessor will be allowed in or around the Premises.

4. **Consent to Search/Inspection.** Lessee agrees that its vehicles, cargo, goods and other personal property are subject to being inspected and searched when attempting to enter or leave and while on the AOA. Lessee acknowledges and understands that the foregoing requirements are for the protection of users of the Airport and are intended to reduce incidents of cargo tampering, aircraft sabotage, thefts and other unlawful activities at the Airport. For this reason, Lessee agrees that persons not executing such consent-to-search/inspection form shall not be employed by Lessee at the Airport in any position requiring access to the AOA or allowed entry to the AOA by Lessee or any of Lessee's Associates.

5. **Escorting Requirements.** Unless necessary for Lessee's use, occupancy, or operations at the Premises or the Airport, Lessee and/or any of Lessee's Associates shall not allow an individual without access credentials into the SIDA area of the Airport, including those that have access credentials but do not have them properly displayed. If, however, Lessee and/or Lessee's Associates with access credentials require the need to escort an individual without access credentials into the SIDA area of the Airport for Lessee's use, occupancy, or operations at the Premises or the Airport, they must have escort privileges and must always remain with that individual while inside the SIDA area. Lessee and/or Lessee's Associates, having escort

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privileges, must always provide the initial ingress and egress of the SIDA area of the Airport for an individual without access credentials that they are escorting. Failure to comply with these requirements may subject Lessee to penalties and/or fines assessed by the TSA and termination of this Agreement.

(b) The provisions hereof shall survive the expiration or any other termination of this Agreement.

SECTION 15. ENVIRONMENTAL COMPLIANCE; ENVIRONMENTAL CONTAINMENT AND REMOVAL

(a) Lessee acknowledges and agrees that Lessor makes no representations or warranties whatsoever as to whether any pollutant, or hydrocarbon contamination, hazardous materials, or other contaminants or regulated materials (collectively, "Materials") exist on or in the Premises or the improvements in violation of any Federal, State, and Municipal law, rule or regulation or in violation of any order or directive of any Federal, State, and Municipal court or entity with jurisdiction of such matter. It shall be the responsibility of Lessee to make sufficient inspection of the Premises and the improvements to satisfy itself as to the presence or absence of any such Materials.

(b) Lessee shall provide Lessor, if requested at any time, with a list of all hazardous, bio-hazardous, or other Materials stored, used, generated, or disposed of on the Premises. Lessee shall complete the form attached hereto as **Exhibit E** with respect to matters pertaining to the Premises and shall deliver same to Lessor contemporaneously with its execution of this Agreement. Lessee represents that the matters disclosed on such form will be accurate and complete as of the date of execution of this Agreement. At the request of Lessor (not more than once a year) Lessee shall provide an accurate and complete update with respect to the Premises as to the matters set forth on **Exhibit E**.

(c) Lessee agrees to comply with all existing and future Federal, State, and Municipal environmental laws, ordinances and regulations, and the requirements of any Development Order covering the Airport, issued to Lessor, pursuant to Arkansas Statutes, including without limitation those addressing the following:

1. Proper use, storage, treatment, and disposal of Materials, including contracting with a licensed hazardous waste transporter and/or treatment and disposal facility to assure proper transport and disposal of hazardous waste and other regulated Materials.

2. Proper use, disposal, and treatment of storm water runoff, including the construction and installation of adequate pre-treatment devices or mechanisms on the Premises, if applicable. Lessee shall have in place, and make available to Lessor for review, all required environmental licenses and documents including, but not limited to, site specific Stormwater Pollution Prevention Plan and Spill Prevention, Control, and Countermeasure Plan.

3. Adequate inspection, licensing, insurance, and registration of existing and future storage tanks, storage systems, and ancillary facilities to meet all Federal, State, and Municipal standards, including the installation and operation of adequate monitoring devices and leak detection systems.

4. Adequate facilities on the Premises for management and, as necessary, pretreatment of industrial waste, industrial wastewater, and regulated Materials and the proper disposal thereof.

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5. Compliance with reporting requirements of Title III of the Superfund Amendment, as applicable and as such laws may be amended from time to time.

(d) The release of any Materials at the Premises caused by Lessee, and/or Lessee's Associates, or by any invitee or trespasser on the Premises, or the release of any Materials on any other Airport property caused by Lessee, and/or Lessee's Associates, that is in an amount that is in violation of any Federal, State, and Municipal law, rule or regulation or in violation of an order or directive of any Federal, State, and Municipal court or governmental authority, whether committed prior to or subsequent to the date of execution of this Agreement, shall be, at Lessee's expense, and upon demand of Lessor or any of its agencies or any Federal, State, and Municipal regulatory agency, immediately contained or removed to meet the requirements of applicable environmental laws, rules and regulations. If Lessee does not take action immediately to have such Materials contained, removed and abated, Lessor or any of its agencies may upon reasonable notice to Lessee (which notice shall be written unless an emergency condition exists) undertake the removal of the Materials; however, any such action by Lessor or any of its agencies shall not relieve Lessee of its obligations under this or any other provision of this Agreement or as imposed by law. No action taken by either Lessee or Lessor to contain or remove Materials, or to abate a release, whether such action is taken voluntarily or not, shall be construed as an admission of liability as to the source of or the person who caused the pollution or its release. As used in this Agreement, "Lessee's operations" and "Lessee's actions" and words of similar import, shall include all actions and inaction by Lessee, and/or Lessee's Associates.

(e) Lessee shall provide Lessor with notice of releases of Materials occurring at any area used by Lessee or occasioned due to Lessee's operations at the Airport, which notices shall be provided in accordance with the requirements of Lessor's policies and procedures manual. Lessee shall maintain a log of all such notices and shall also maintain all records required by Federal, State, and Municipal laws, rules and regulations and also such records as are reasonably necessary to adequately assess environmental compliance in accordance with applicable laws, rules and regulations. Upon request by Lessor, Lessee shall make all documentation required by this subparagraph available for the review of Lessor representatives.

(f) As required by law, Lessee shall provide the Federal, State, and Municipal regulatory agencies with notice of spills, releases, leaks or discharges (collectively, "release") of Materials on the Premises or on the Airport property which exceeds an amount required to be reported to any Federal, State, and Municipal regulatory agency under applicable environmental laws, rules and regulations, which notice shall be in accordance with applicable environmental laws, rules and regulations. Lessee shall further provide Lessor with written notice within one (1) business day following commencement of same, of the curative measures, remediation efforts and/or monitoring activities to be effected on the Premises. Lessee shall have an updated contingency plan in effect relating to such releases which provide minimum standards and procedures for storage of regulated Materials and other Materials, prevention and containment of spills and releases, and transfer and disposal of regulated Materials and other Materials. The contingency plan shall describe design features, response actions and procedures to be followed in case of releases or other accidents involving hazardous Materials, bio-hazardous Materials or petroleum products or other Materials. Lessee agrees to permit entry at all reasonable times, of inspectors of Lessor and of other regulatory authorities with jurisdiction.

(g) Lessor, upon reasonable written notice to Lessee, shall have the right to inspect all documents relating to the environmental condition of the Premises, including without limitation, any release of Materials at the Premises, or any curative, remediation, or monitoring efforts, and any documents required to be maintained under applicable environmental laws, rules and regulations or any development order issued to Lessor pertaining to the Airport, pursuant to Arkansas Statutes, including, but not limited to,

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manifests evidencing proper transportation and disposal of Materials, environmental site assessments, and sampling and test results. If requested at any time by Lessor, Lessee shall provide Lessor with copies of any such documents. Lessee agrees to allow inspection of the Premises by appropriate Federal, State, and Municipal agency personnel in accordance with applicable environmental laws, rules and regulations and as required by any development order issued to Lessor pertaining to the Airport, pursuant to Arkansas Statutes.

(h) If Lessor arranges for the removal of any Materials on the Premises that were caused by Lessee, and/or Lessee's Associates, all costs of such removal incurred by Lessor shall be paid by Lessee to Lessor within ten (10) calendar days of Lessor's written demand, with interest at the maximum rate permissible under Arkansas State Law thereafter accruing.

(i) Lessee shall not be liable for the release of any Materials caused by anyone other than Lessee, and/or Lessee's Associates. Nothing herein shall relieve Lessee of its general duty to cooperate with Lessor in ascertaining the source and containing, removing, and abating any Materials. Lessor shall cooperate with Lessee with respect to Lessee's obligations pursuant to these provisions, including making public records available to Lessee in accordance with Arkansas law; provided, however, nothing herein shall be deemed to relieve Lessee of its obligations hereunder or to create any affirmative duty of Lessor to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action in accordance with Lessor codes, ordinances, rules and regulations, Federal laws and regulations, State, and Municipal laws and regulations, development orders and grant agreements. Lessor and its employees, contractors, and agents, upon reasonable written notice to Lessee, and the Federal, State, and Municipal agencies, and their employees, contractors, and agents, at times in accordance with applicable laws, rules, and regulations, shall have the right to enter the Premises for the purposes of the foregoing activities and conducting such environmental assessments (testing or sampling), inspections and audits as it deems appropriate.

(j) Lessee hereby agrees that upon any assignment of this Agreement, and at any time during the Term of this Agreement, and at any time during the year following any termination of this Agreement, Lessor shall have the right to require Lessee to conduct a facility inspection of the Premises, at Lessee's expense. If documentation warrants, Lessor shall have the right to require Lessee to conduct a further assessment of the Premises at Lessee's expense which may include, but shall not be limited to, soil and water samples.

(k) If any assessment or inspection indicates that further actions should be conducted, then Lessor shall have the right to have such further actions conducted at Lessee's expense. Nothing herein shall be construed to limit Lessor's right of entry onto the Premises pursuant to other provisions of this section or of this Agreement, or pursuant to its regulatory powers. Lessee shall have the right to split any soil or water samples obtained by Lessor. Lessee shall reimburse to Lessor the cost of such assessments and inspections as are chargeable to Lessee pursuant hereto, within ten (10) calendar days following written demand therefor, with maximum interest rate permissible under Arkansas State Law thereafter accruing.

(l) In the event Lessor shall arrange for the removal of Materials on the Premises that are not the responsibility of Lessee to correct, and if any such clean-up activities by Lessor shall prevent Lessee from using the Premises for the purposes intended, the rent shall be abated in accordance with **Section 6(p),** hereof, from the date that the use of the Premises for its intended purposes is precluded and until the Premises again becomes available for Lessee's use. Lessor shall use reasonable efforts to

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not disrupt Lessee's operation, however, in no event shall Lessee be entitled to any amount on account of lost profits, lost rentals or other damages as a result of Lessor's clean-up activities.

(m) The provisions of this section shall survive the expiration or other termination of this Agreement.

SECTION 16. NOTICES

Except as herein otherwise expressly provided, all notices required to be given to Lessor and/or Lessee hereunder shall be in writing and shall be sent by overnight courier, express mail or certified mail, return receipt requested, addressed to:

FOR LESSEE
Flight Solutions, LLC
Attn: Mr. David J. Potter II
210 North State Line, Suite 507
Texarkana, AR 71854

FOR LESSOR
Texarkana Regional Airport
Attn: Executive Director
201 Airport Drive
Texarkana, AR 71854

WITH A COPY TO:
Airport Real Estate Manager
201 Airport Drive
Texarkana, AR 71854

Notices as provided in this **Section 16** shall be deemed received five (5) business days after placed in the mail. The parties, or either of them, may designate in writing from time to time any changes in address or addresses of substitute or supplementary persons in connection with said notices.

SECTION 17. CONDEMNATION

(a) If the entire Premises are taken for any public or quasi-public use under any government law, ordinance, or regulation, or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, this Agreement will terminate on the date the title to the Premises vests in taking condemning Lessor. Rent will be prorated to the date of termination.

(b) If a portion of the Premises (or all reasonable access to the adjacent roadways from the then-existing or comparable curb cut locations) shall be taken for any public or quasi-public use under any government law, ordinance, or regulation, or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, by right of eminent domain, Lessee shall have the option to terminate this Agreement by providing an advance written notice to Lessor, no later than ninety (90) days after entry of the order of condemning, specifying the date on which the Agreement will terminate, which date shall be the last day of any calendar month that falls within the period for giving Lessee's notice of its election to terminate. Rent will be prorated to the date of termination.

(c) If Lessee does not elect to exercise this option, then: (i) Lessee will be entitled to participate in the award of the taking; (ii) Lessee shall restore and reconstruct the improvements thereon, provided such

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restoration and reconstruction shall make the same reasonably tenantable and suitable for the uses for which the Premises are leased; and (iii) this Agreement shall continue in full force and effect except that the rent payable hereunder shall be equitably adjusted.

(d) If this Agreement is terminated by reason of a condemning, any compensation awarded for such taking of the Premises will be equitably apportioned between Lessor and Lessee to reflect the respective values of the encumbered fee and the leasehold interest. The termination of this Agreement shall not reflect the rights of the respective parties to such awards.

SECTION 18. GENERAL PROVISIONS

(a) It is understood and agreed that the rights and remedies of Lessor and Lessee specified in this Agreement are not intended to be and shall not be exclusive of one another or exclusive of any common law right of either of the parties hereto.

(b) Lessor and Lessee shall each be entitled to specific performance and injunctive or other appropriate equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. The specific remedies provided for in this Agreement are cumulative and are not exclusive of any other remedy. The failure of either party to insist in any one or more cases upon strict performance shall not be construed as a waiver or relinquishment for the future. No acceptance of rent with knowledge of any default shall be deemed a waiver of such default.

(c) No Trustee, officer, employee or other agent or associate of Lessor or Lessee shall be charged personally or held contractually liable by or to the other party under the provisions of or in connection with this Agreement or because of any breach thereof or because of its or their execution or attempted execution.

(d) Lessee has appointed a local manager, currently, United States Corporation Company as an agent for service of process in Arkansas. Due to any failure on the part of said agent or the inability of said agent to perform, Lessee does designate the Secretary of State, State of Arkansas, its agent for the purpose of service of process in any court action between it and Lessor arising out of or based upon this Agreement, and the service shall be made as provided by the laws of the State of Arkansas for service upon a nonresident. It is further expressly agreed, covenanted, and stipulated that if for any reason service of such process is not possible, and as an alternative method of service of process, Lessee may be personally served with such process out of the State of Arkansas by the registered mailing of such complaint and process to Lessee at the address set forth herein. Any such service out of this State shall constitute valid service upon Lessee as of the date of mailing.

(e) This Agreement and all the provisions hereof shall be subject to whatever right the United States Government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport or the exclusive or nonexclusive use of the Airport by the United States Government during time of war or national emergency.

(f) In the event suit or action is instituted to enforce any of the terms, covenants or conditions of this Agreement or litigation concerning the rights and duties of the parties to this Agreement, or to recover any amounts due hereunder, the losing party shall pay to the prevailing party, in addition to the costs and disbursements allowed by statute, such sum as the court may adjudge reasonable as attorney's fees in such suit or action, in both trial court and appellate court.

(g) Except as herein otherwise expressly provided, whenever the approval of Lessor or its Executive Director, or of Lessee, is required herein, no approval shall be unreasonably requested or withheld.

(h) In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either Lessor or Lessee in its respective rights and obligations contained in the valid covenants, conditions and provisions of this Agreement.

(i) Except as specifically set out in this Agreement, the terms and provisions of this Agreement shall in no way affect or impair the terms, obligations, or conditions of any other agreement between Lessee and Lessor.

(j) Neither party to this Agreement shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strike, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, act of superior governmental authority, weather conditions, riots, rebellion or sabotage, or any other circumstances for which it is not responsible, or which is not within its control.

(k) This Agreement shall be deemed to have been made in and be construed in accordance with the laws of the State of Arkansas.

(l) No amendment to this Agreement shall be effective except those agreed to in writing and signed by both of the parties to this Agreement.

(m) The headings of the Sections of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

(n) It is hereby understood and agreed that Lessor in no way purports to be a bailee and is, therefore, not responsible in any way for any damage to the property of others, including, but not limited to, the property of Lessee, Lessee's Associates.

(o) Lessee agrees to pay, in addition to the monthly rent provided herein, all applicable sums as may be required by law for payment of leasehold or other tenant tax as required, imposed, assessed, or imputed by the state of Arkansas or other tax entity, as such laws now exist or are hereafter amended. Lessee shall present proof of local property taxes paid upon demand from Lessor.

(p) No waiver of default by either party of any of the terms, covenants, and conditions hereto to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by the other party.

(q) Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship between the parties hereto. The parties shall understand and agree that neither the method of computation of rent, nor any other provision contained here, nor any acts of the parties hereto creates a relationship other than the relationship of Lessor and Lessee.

 _____Lessee's Initials

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

(r) The Executive Director shall be designated as the official representative of Lessor in all matters pertaining to this Agreement and shall have the right and authority to act on behalf of Lessor with respect to all action required of Lessor in this Agreement.

(s) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto, where permitted hereunder.

(t) No act or event, whether foreseen or unforeseen, shall operate to excuse Lessee from prompt payment of Rent or any other amounts required to be paid under this Agreement. If Lessor or Lessee in connection with obligations other than payment obligations, is delayed or hindered in any performance under this Agreement by a Force Majeure event, such performance shall be excused to the extent so delayed or hindered during the time when such Force Majeure event is in effect, and such performance shall promptly occur or resume thereafter at the expense of the party so delayed or hindered. A Force Majeure event is an act or event whether foreseen or unforeseen, that prevents a Party in whole or in part from performing as provided for in this Agreement, that is beyond the reasonable control of and not the fault of such Party, and that such Party has been unable to avoid or overcome by exercising due diligence, and may include, but is not limited to acts of nature, war, riots, strikes, accidents, fire and changes in the law. Lessee hereby releases Lessor and Lessor's Associates from any and all liability, whether in contract or tort, including strict liability and negligence, for any loss, damage or injury of any nature whatsoever sustained by Lessee or Lessee's Associates during the Term, including but not limited to, loss, damage or injury to the personal property of Lessee or Lessee's Associates that may be located or stored in the Premises due to a Force Majeure event.

(u) This Agreement consists of: **Sections 1-18**, together with **Exhibits A** through **G**, attached hereto, constitute the entire agreement of the parties on the subject matter hereof and supersedes all prior agreements between the parties in connection with the Premises. This Agreement may not be changed, modified, discharged, or extended except by written instrument duly executed by the duly authorized representatives of Lessor and Lessee. Lessee agrees that no representations or warranties shall be binding upon Lessor unless expressed in writing in this Agreement or by valid amendment.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

_____Lessee's Initials

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: TEXARKANA REGIONAL AIRPORT AUTHORITY, signing by and through the Executive Director, authorized to execute same by Lessor action on the _____day of _____, 2022, and FLIGHT SOLUTIONS, LLC, a private corporation, signing by and through its Manager, duly authorized to execute same.

AGREEMENT OF LEASE BETWEEN TEXARKANA REGIONAL AIRPORT AUTHORITY

AND

FLIGHT SOLUTIONS, LLC
(LESSEE)

Representative	**Attest**
Signature: _____	Signature: _____
Printed Name: _____	Printed Name: _____
Title: _____	
Date: _____	

TEXARKANA REGIONAL AIRPORT AUTHORITY

Executive Director of Aviation
Texarkana Regional Airport Authority

Signature: _____Printed Name: _____

Date: _____

Chair or Vice Chair
Texarkana Regional Airport Authority

Signature: _____Printed Name: _____

Date: _____

APPROVED AS TO FORM

Authority Attorney
Barber Law Firm PLLC

Signature: _____Printed Name: _____

Date: _____

_____Lessee's Initials

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

EXHIBIT A
PREMISES

2022-014 EXH 'C'

LOT EXHIBIT

TEXARKANA REGIONAL AIRPORT (TXK)
HANGAR PROPOSAL
TEXARKANA, ARKANSAS

REV	DATE	REVISIONS DESCRIPTION

DESIGNED BY: V
DRAWN BY: SJM
CHECKED BY:
DATE: JANY, 2022
SCALE: 1" = 60'
REVISION:
JOB NUMBER:

PLAN SCALE
1 inch = 60ft
(IN FEET)
60 0 30 60 120

LOT AREA 14,685 SF

LOT AREA 57,543 SF

LEGEND:

- BRL — 35' BUILDING RESTRICTION LINE PER JANUARY, 2010 ALP
- TSA — TAXIWAY SAFETY AREA
- X — PROPOSED SECURITY FENCE

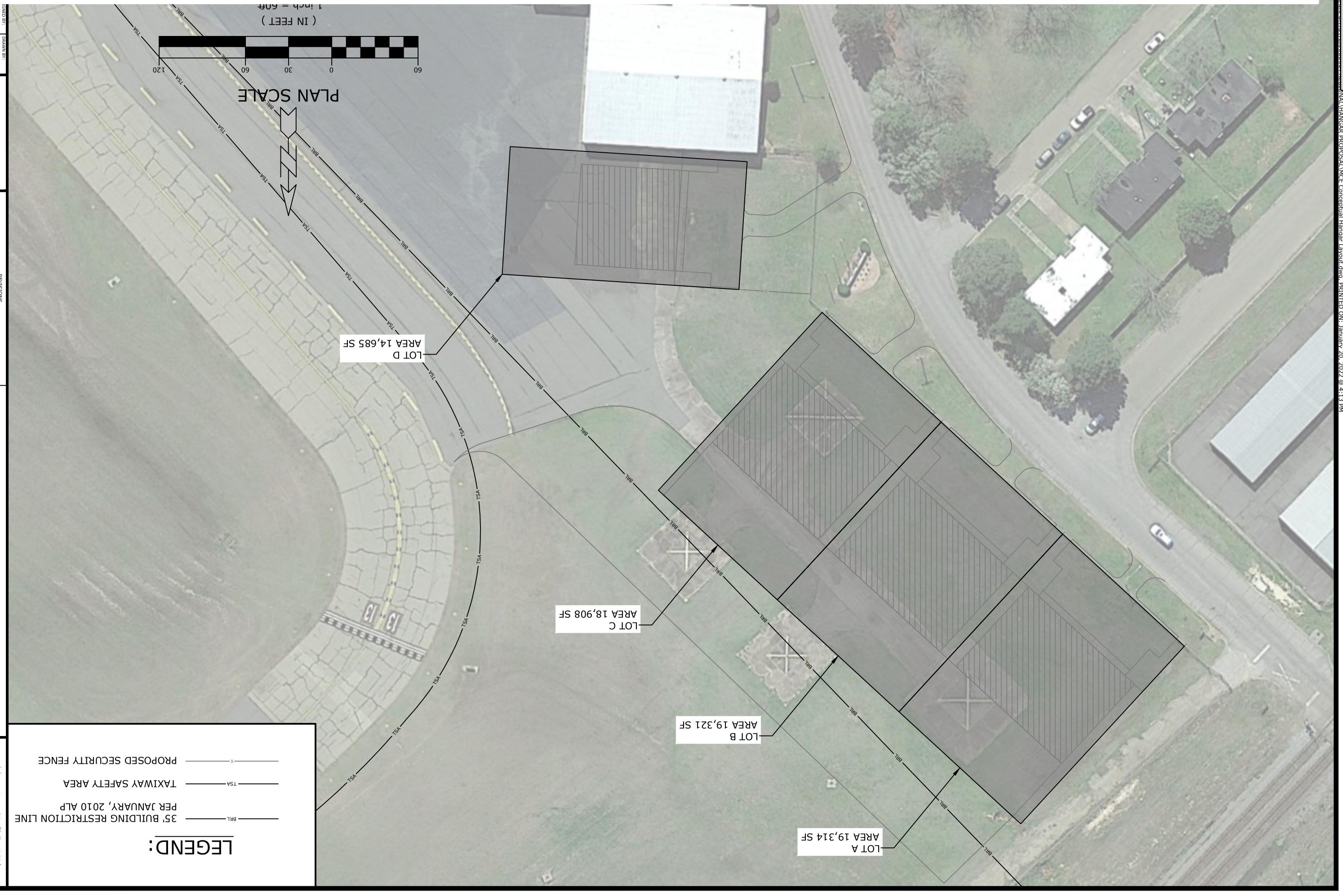
McCLELLAND CONSULTING ENGINEERS, INC.
7302 KANIS ROAD
LITTLE ROCK, ARKANSAS 72204
(501) 371-0272
HTTP://WWW.MCELYS.COM

©2022

...Proposal\MCE Conceptual Hangar Layout.dwg, PRINTED ON: January 13, 2022 @ 3:21 PM

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

EXHIBIT B
PREMISES LOTS



LEGEND:

BRL — 35' BUILDING RESTRICTION LINE PER JANUARY, 2010 ALP

TSA — TAXIWAY SAFETY AREA

X — PROPOSED SECURITY FENCE

McCLELLAND CONSULTING ENGINEERS, INC.
7302 KANIS ROAD
LITTLE ROCK, ARKANSAS 72204
(501) 371-0272
HTTP://WWW.MCEI.US.COM

©2022

LOT EXHIBIT

2022-014 EXH 'C'

REV	DATE	DESCRIPTION
		REVISIONS

TEXARKANA REGIONAL AIRPORT (TXK)
HANGAR PROPOSAL
TEXARKANA, ARKANSAS

DESIGNED BY: V
DRAWN BY: SJM
CHECKED BY:
DATE: JANUARY, 2022
REVISION:
SCALE: 1" = 60'
JOB NUMBER:

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

EXHIBIT C
RENTAL SUMMARY

Agreement:	Aeronautical Use Agreement of Lease for Texarkana Regional Airport (TXK)
Tenant:	Flight Solutions, LLC *Attn: Mr. David J. Potter II* 210 North State Line Avenue, Suite 507 Texarkana, Arkansas 71854
Premises:	Premises cumulatively is 72,228 SQ. Ft. of land off Airport Drive near Highway 67 located at Texarkana Regional Airport. Premises consists of approximately 19,900 SQ FT. of Hangar space.
Allowed Use(s):	Private Aircraft Storage, Parking, and Preventative Maintenance
Term of Lease:	Term will commence **March 1, 2022** and continue until 10 years after the Commencement Date (which will be no later than **March 1, 2032**); Lessee has three (3) options to extend the Term, with a maximum allowed extension of thirty (30) years, depending on permanent capital improvements made on or to the Premises.
Rent:	Ground Rent, beginning on the Commencement Date, of **$23,112.96 ($0.32 SFYR)** with monthly payments at **$1,926.08**. Ground rent is subject to CPI adjustments every year thereafter while the Agreement is in force.
Performance Guarantee:	$25,000.00 cash security deposit or letter of credit to be held by the Texarkana Regional Airport Authority until Agreement expires or is terminated.
Insurance Requirements:	**Commercial General Liability** Bodily Injury — $1,000,000 per occurrence & aggregate Property Damage — $1,000,000 per occurrence & aggregate **Aircraft and Passenger Liability** Bodily Injury — $1,000,000 per occurrence & aggregate Property Damage — $1,000,000 per occurrence & aggregate ****Environmental and Impairment Liability** General — $1,000,000 per claim & aggregate Maximum Deductible — $100,000 per claim ****Workers' Compensation and Employer's Liability** Employers' Liability — $100,000 each accident

NOTE: This page is intended as general summary only, for ease of review. In the event of any conflict between this page and the Agreement, the Agreement (being more precise) will prevail.

_____Lessee's Initials

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

EXHIBIT D
NONDISCRIMINATION REQUIREMENTS

(a) During the performance of this Agreement, Lessee for itself, its personal representatives, assigns and successors in interest agrees as follows:

1. **Compliance With Regulations.** Lessee shall comply with the Regulations relative to nondiscrimination in Federally Assisted Programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

2. **Nondiscrimination.** Lessee shall not discriminate on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Lessee shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitation for Subcontracts, Including Procurement of Materials and Equipment.** In all solicitation either by competitive bidding or negotiation made by Lessee for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Lessee of Lessor's obligation under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation.

4. **Information and Reports.** Lessee shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Lessor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish this information, Lessee shall so certify to Lessor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance.** In the event of Lessee's noncompliance with the nondiscrimination provisions of this Agreement, Lessor shall impose such Agreement sanctions as it or the FAA may determine to be appropriate, including, but not limited to: (1) withholding of payments under the Agreement until there is compliance, and/or (2) cancellation, termination, or suspension of the Agreement, in whole or in part. In the event of cancellation or termination of the Agreement (if such Agreement is a lease), Lessor shall have the right to re-enter the Premises as if said Agreement had never been made or issued. These provisions shall not be effective until the procedures of Title 49 CFR Part 21 are followed and completed, including exercise or expiration of appeal rights.

6. **Incorporation of Provisions.** Lessee shall include the provisions of paragraphs 1 through 5, above, in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. Lessee shall take

such action with respect to any subcontract or procurement as Lessor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event Lessee becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Lessee may request Lessor to enter into such litigation to protect the interests of Lessor and, in addition, Lessee may request the United States to enter into such litigation to protect the interests of the United States.

7. Lessee, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Agreement, for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulation may be amended.

8. Lessee, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(b) During the performance of this Agreement, Lessee, for itself, its assignees and successors in interest agrees as follows:

Lessee agrees to undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation be excluded from participation in any employment, contracting, or leasing activities covered in 14 CFR Part 152, Subpart E. Lessee agrees that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart. Lessee agrees that it will require its covered suborganizations to provide assurances to Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations as required by 14 CFR Part 152, Subpart E, to the same effect.

Lessee agrees to comply with any affirmative action plan or steps for equal employment opportunity required by 14 CFR Part 152, Subpart E, as part of the affirmative action program, and by any Federal, State, and Municipal agency or court, including those resulting from a conciliation agreement, a consent decree, court order or similar mechanism. Lessee agrees that State, or City affirmative action plans will be used in lieu of any affirmative action plan or steps required by 14 CFR Part 152, Subpart E, only when they fully meet the standards set forth in 14 CFR 152.409. Lessee agrees to obtain a similar assurance from its covered organizations, and to

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

cause them to require a similar assurance of their covered suborganizations, as required by 14 CFR Part 152, Subpart E.

If required by 14 CFR Part 152, Lessee shall prepare and keep on file for review by the FAA Office of Civil Rights an affirmative action plan developed in accordance with the standards in Part 152. Lessee shall similarly require each of its covered suborganizations (if required under Part 152) to prepare and to keep on file for review by the FAA Office of Civil Rights, an affirmative action plan developed in accordance with the standards in Part 152.

If Lessee is not subject to an affirmative action plan, regulatory goals and timetables, or other mechanism providing for short and long-range goals for equal employment opportunity under Part 152, then Lessee shall nevertheless make good faith efforts to recruit and hire minorities and women for its workforce as vacancies occur, by taking any affirmative action steps required by Part 152. Lessee shall similarly require such affirmative action steps of any of its covered suborganizations, as required under Part 152.

Lessee shall keep on file, for the period set forth in Part 152, reports (other than those submitted to the FAA), records, and affirmative action plans, if applicable, that will enable the FAA Office of Civil Rights to ascertain if there has been and is compliance with this subpart, and Contractor shall require its covered suborganizations to keep similar records as applicable.

Lessee shall, if required by Part 152, annually submit to Lessor the reports required by Section 152.415 and Lessee shall cause each of its covered suborganizations that are covered by Part 152 to annually submit the reports required by Section 152.415 to Lessee who shall, in turn, submit same to Lessor for transmittal to the FAA.

(c) Lessee, for itself, its assignees and successors in interest agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation be excluded from participating in any activity conducted with or benefiting from Federal assistance. This "Provision" obligates Lessee or its transferee, for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the Provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this Provision binds the contractors from the bid solicitation period through the completion of the Agreement.

Lessee shall not discriminate on the basis of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation in the performance of this Agreement. Failure by Lessee to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as Lessor deems appropriate.

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

EXHIBIT E
ENVIRONMENTAL DOCUMENTS

Company Name:

_____

Mailing Address:

_____
Street or Post Office Box

City: _____ State: _____ Zip Code: _____

Type of Agreement:

_____

Please describe the activities performed and services provided on leasehold:

_____

_____

_____

_____

- Will there be fueling: Yes __ No __
- Will there be maintenance: Yes __ No __
- Will there be plane washing: Yes __ No __

Lessee has the following documents, if applicable, which may be requested by Lessor for review: If not applicable, denote "NA"

(z) Best Management Plan dated _____.

(aa) Stormwater Pollution Prevention Plan dated _____.

(bb) Spill Prevention Control and Countermeasures Plan dated _____.

(cc) Hazardous Materials Plan dated _____.

(dd) Other applicable environmental plans:

_____

- Is Lessee required to file the SARA Title III Reporting? Yes __ No __
    - If Yes, was last filed on (date) _____.
- Is Lessee a generator of hazardous waste pursuant to 40 CFR 261?
    - Yes___ No ___. If Yes, the status is ___ conditionally exempt; ___ small; ___ large quantity Generator.

If required, reports were filed on (date) _____.

The following environmental licenses and/or permits (Federal, State, and Municipal) are issued to Lessee: (These licenses/permits include, but are not limited to, storage tanks, hazardous material, air, solid waste, hazardous waste, industrial wastewater pretreatment, and storm water.)

Permit Name/Type	License No.	Date Expires
1.		
2.		
3.		
4.		
5.		
6.		

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

EXHIBIT F
LESSEE'S OPTION FOR AIRCRAFT FUEL DISPENSER

GENERAL: Pursuant to **Section 8(b)**, Lessee shall have the option, if Lessee so desires, to initially construct and maintain two (2) Aircraft Fuel Dispensers ("fuel tanks"), on a Lot, provided Lessee complies with all sections of this **Exhibit F**:

E.1 METHOD - FUEL TANKS: Install and maintain, at Lessee's own expense, two (2) 8,000 gallon above-ground fuel tanks, one (1) for 100 Low-Lead and one (1) for Jet-A:

1. Lessee will have five (5) years from the Commencement Date of this Agreement to, at Lessee's own cost and expense, perform all design, obtain all governmental permits, complete all site work, and construct on a Lot the fuel tanks described in this **METHOD**.

2. The location and operation of the fuel tanks must conform to all applicable Federal, State, and Municipal laws, rules, and regulations, and Lessee must properly lease from Lessor and pay rent for adequate space for the fuel tanks at a location approved by Lessor. Following completion of construction of the fuel tanks, this Agreement may be amended to account for the additional space leased for the fuel tanks, as necessary.

The fuel tanks must be installed and operated in accordance with all applicable Federal, State, and Municipal laws, rules, and regulations, as well as **Section 15** of this Agreement and any other environmental laws. The permitted uses of the fuel tanks shall exclude the sale and provision of fuel to aircraft not owned or leased by Lessee, its successors or assigns.

E.2 MANUAL: Lessee shall develop a fuel storage and handling procedures manual which meets all requirements of Federal, State, and Municipal laws, rules, or regulations for the storage and handling of fuels. Lessee shall always provide employees training in fuel handling, fuel storage and fire safety, and, upon request, provide Lessor with documented evidence of such training.

E.3 OWNERSHIP/REMOVAL: Notwithstanding any provision of this Agreement giving Lessor title to improvements located on the Premises, Lessor shall not acquire title to any part of the fuel tanks at any time whatsoever. The fuel tanks (and all component parts thereof) must be completely removed from the Premises upon the expiration or other termination of this Agreement. Such removal shall be performed in accordance with all applicable laws, rules and regulations.

1. In the event Lessee shall fail to remove the fuel tanks from the Premises on or before the expiration or other termination of this Agreement, then, Lessee shall be considered to be holding over under **Section 3(f)** hereof and shall be liable for charges payable pursuant to such provision. In addition, in the event Lessee shall fail to remove the fuel tanks within sixty (60) calendar days following the expiration or other termination of this Agreement, then, in addition to all remedies available hereunder and at law or in equity, Lessor shall have the right to remove the fuel tanks and Lessee shall be liable for all expenses and charges (whether direct or indirect) incurred by Lessor in effectuating such removal (including any storage charges) that are in any way connected to the fuel tanks, including interest thereon at the maximum interest rate permissible under Arkansas State Law from the date incurred. In contracting for any such removal, Lessor shall be entitled to dispose of the fuel tanks in any way it sees fit, including without limitation, through demolition of such facility, through giving salvage rights to the contractor, through storage, or through public auction.

_____Lessee's Initials

2. Lessee shall provide Lessor with documentation that the fuel tanks have been removed in accordance with all applicable laws, rules, and regulations, including such back-up documentation as Lessor may reasonably request. The provisions of this **Section E.3** shall survive any termination or expiration of this Agreement.

E.4 FUEL FLOWAGE FEES/REPORT: Lessee shall comply with **Section 6** of this Agreement for any and all Fuel Flowage Fees and Reports.

E.5 COMPLIANCE/LIABILITY: In conformance with 14 CFR Part 139, all fueling operations must meet the threshold of compliance established in the Airport Certification Manual, including but not limited to compliance with, NFPA 407, NFPA 408, NFPA 10, NFPA 30, MIL-STD 1574 H, AS5877B, ATA 103 Rev 2019.1, ASTM D 2276-06, ASTM D 1655-20C, ASTM D 910-19, ASTM D 1298-12B, EI 1581, EI 1542, EI 1529, as same may be amended from time to time. In connection with the sale or dispensing of such products upon the Premises or otherwise, Lessor assumes no responsibility for acts of any supplier regarding delivery, quality of product, or maintenance of supplier-owned or Lessee-owned equipment.

E.6 STORAGE/ENVIRONMENTAL CONSIDERATIONS: Aviation fuels and lubricating oils shall be stored and dispensed by Lessee in accordance with all Federal, State, and Municipal laws, regulations, rules, and other requirements, as same may be amended, regarding the sale and storage of such fuels and oils, including without limitation any rules, regulations or minimum standards that are established by Lessor for operations of Airport tenants. Lessee shall submit to Lessor, for review and comment, Lessee's Spill Prevention Control and Countermeasure Plan, as may be requested from time to time.

E.7 INSPECTIONS/EXAMINATIONS: Lessee's fuel tanks are subject to inspections and examinations by the Airport's Aircraft Rescue & Firefighting department, or any of its agents and contractors, at any time, with or without notice to Lessee, and Lessee shall cooperate with respect to such inspections and examinations. If any follow-up actions are required to be taken by Lessee as a result of such inspections and examinations, including but not limited to clean-up and compliance matters, Lessee must undertake those efforts with reasonable dispatch and rectify any issues to the satisfaction of the Airport's Aircraft Rescue & Firefighting department, or any of its agents and contractors, as well as Lessor.

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

Attachment: 2022-014 EXH 'C' Flight Solutions LLC Agrmt of Lease North Lot_FINAL(020222) (3630 : 2022-014 RES Airport Lease with Flight

EXHIBIT G
STORED AIRCRAFT

Lessee hereby certifies that the Aircraft(s) hereon will be stored on the Premises at the Airport and that Lessee will notify Lessor of any change in the status of said Aircraft. Lessee acknowledges any aircraft not included hereon will not be approved by Lessor for storage on the Premises.

Dated this _____ day of _____, 20_____.

_____	_____
Lessee (Printed Name)	Aircraft Make/Model
_____	_____
Mailing Address	Registration Number
_____	_____
City/State	Insurance Agent
_____	_____
Phone Number	Insurance Agent Phone Number

Lessee Signature: _____

Lessor Printed Name: _____

Lessor Signature: _____

_____Lessee's Initials

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: 2022-014 Goals & Perspectives (3630 : 2022-014 RES Airport Lease with Flight Solutions)

RESOLUTION NO. 2022 - 014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING THE REQUEST OF THE TEXARKANA AIRPORT AUTHORITY FOR ENTERING INTO A GROUND LEASE WITH FLIGHT SOLUTIONS LLC; AUTHORIZING THE CITY MANAGER TO SIGN AND EXECUTE ANY DOCUMENTS NECESSARY FOR THE LEASE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Cities of Texarkana, Arkansas, and Texarkana, Texas, created the Texarkana Airport Authority by means of reciprocal ordinances codified in Chapter 6 – Aviation, Article II – Texarkana Airport Authority, of the Code of Ordinances of the City of Texarkana, Arkansas, and Chapter 4 – Airports, Article II – Airport Authority, of the Code of Ordinances of the City of Texarkana, Texas; and

WHEREAS, the Joint Board of the Texarkana Airport Authority, by resolution adopted January 27, 2022, and attached to this resolution as **Exhibit "A"**, has requested that the Cities authorize the Authority to execute a ground lease with Flight Solutions LLC; and

WHEREAS, a 40-year ground lease with the Authority requires a minimum capital investment of $2 million; and

WHEREAS, the proposal to develop hangars on airport property, attached to this resolution as **Exhibit "B"**, is planned to have an investment of $3,450,987; and

WHEREAS, a lease is being offered by the Airport Authority for up to 40 years starting at .32 SFYR for 72,228 SF, increasing airport revenue by $23,112.96 annually with CPI increases, attached to this resolution as **Exhibit "C"**; and

WHEREAS, no lease over 5 years can be entered into by the Authority until required written consent of the City Council of Texarkana, Texas, and the Board of Directors of Texarkana, Arkansas, per Section 4-25 of the municipal codes of the City of Texarkana, Texas, and Section 6-36 of the City of Texarkana, Arkansas, has been satisfied; and

WHEREAS, the City Council of the City of Texarkana, Texas, desires to provide authority and direction to the City Manager to accomplish the purposes set out in **Exhibit "A"** to this resolution.

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

SECTION 1: The City Council consents to the proposed ground lease for Flight Solutions LLC for a term up to 40 years as described in **Exhibits "A", "B", and "C"** to this resolution, incorporated herein by reference for all purposes; the City Council authorizes and directs the City Manager to execute the necessary contracts or other documents in form and substance acceptable to the City Manager and consistent with the consent of the City Council as set forth in this Section.

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

SECTION 2: 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 **14th day of February, 2022**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:17 p.m.

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

TEXARKANA AIRPORT AUTHORITY RESOLUTION No. 12722
BE IT RESOLVED by the TEXARKANA AIRPORT AUTHORITY TO ENTER INTO A GROUND LEASE AGREEMENT WITH FLIGHT SOLUTIONS LLC

WHEREAS, the Airport Authority is entrusted with the power of planning, developing, construction, enlargement, and improvement of the Texarkana Regional Airport; and

WHEREAS, the Texarkana Regional Airport Authority was formed under Arkansas Code § 14-361-101 to be jointly owned by the cities of Texarkana AR and Texarkana TX; and

WHEREAS, The city of Texarkana Arkansas Code § 6-31-1 indicates that except upon joint approval of the cities' governing bodies, no contractual obligation shall be entered by the authority for a term greater than five (5) years; and,

WHEREAS, The city of Texarkana Texas Code § 4-25-1 indicates that except upon joint approval of the cities' governing bodies, no contractual obligation shall be entered by the authority for a term greater than five (5) years; and,

WHEREAS, Flight Solutions LLC has provided a proposal to make a capital investment in excess of $2 Million; and,

WHEREAS, Flight Solutions LLC intends to build no less than 3 hangars; and,

WHEREAS, Flight Solutions LLC proposal meets airport minimum standards for intended use;

NOW, THEREFORE, BE IT RESOLVED BY THE TEXARKANA AIRPORT AUTHORITY THAT:

SECTION 1. Mr. Ferdinand Mehrlich, Airport Executive Director is authorized to sign up to a 40-year ground lease agreement with Flight Solutions LLC and Mr. Tyler Brown is authorized to witness said signing.

SECTION 2. This Resolution shall take effect immediately upon adoption by both the City of Texarkana Arkansas and the City of Texarkana Texas.

Adopted this 27th day of January, 2022

ATTEST

Ferdinand P Mehrlich III, Director

SIGNED

David Baumgardner, Chairman

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

FLIGHT SOLUTIONS, LLC

210 North State Line, Suite 507
Texarkana, Arkansas 71854

January 11, 2022

Paul Mehrlich, III C.M. ACE
Executive Director of Aviation
Texarkana Regional Airport
201 Airport Drive
Texarkana, Arkansas 71854

Mr. Mehrlich,

Please accept this letter as my land lease request by Flight Solution, LLC, or assigns. I am in receipt of your email dated October 6, 2021, outlining the application process. I have attached an aerial that shows the general location of the proposed project and multiple site plans for the addition of future hangars. It is my intention to work with you to develop an agreed upon site plan. To move forward with finalizing the site plans, we will need to order topo survey of the area.

I am also in receipt of the "DRAFT" lease agreement for the construction of a private hangar. I acknowledge the terms of the agreement and commit to abide by the terms of the Aeronautical Use Agreement of Lease.

Further, I am in receipt of and acknowledge the Recommendation of Minimum Standards for the Construction of Aircraft Hangars. I will abide by the Minimum Standards adopted by the Airport Authority in the construction of new hangars and the associated improvements. The plans will be developed with the use of professional architects and engineers. The plans will meet all local, state, and federal requirements. The plans will be submitted to the Airport Director for review and approval prior to submittal to the city for building permits. I will abide by not only to the letter of the standards, but in the spirit with which it was intended.

Executive Summary (Explaining the Purpose of Proposal)

The purpose of this proposal is to develop construction ready pad sites for hangar construction with the immediate construction of two to three hangars with a fueling area.

Organizational Description ("Who you are," potential employees for the development, management etc.)

Flight Solutions, LLC currently operates a hangar and fuel tank at the Texarkana Regional Airport and currently has a ground lease with the Airport. Flight Solutions, LLC, has recently expanded the size of our hangar following all the terms and conditions set forth by the Airport

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Authority. We are proud of the expansion project and look forward to working with the Airport to construct several new hangars on the field. I will be the management contact and responsible for the construction of the hangars. Employees after construction consist of the future tenant's pilots and my maintenance personnel.

Hangar Use Description (i.e. Private, Business, Commercial etc.)

The proposal is for the development of private hangars.

Number and Type of Aircraft and Equipment

The number and type of aircraft to be hangared are not known at this time. Working with MCE, the initial drawings and specifications used for the site plan development were to accommodate aircraft as large as a Praetor 500.

Provide Proof of Insurance Required by the DRAFT Lease Agreement

Flight Solutions currently maintains all insurance policies required by the ground lease for the existing hangar on Globe Avenue. We maintain building insurance, general liability, hangar's keepers, and insurance covering the operation of the fuel tank. The new hangars will be added to the existing policies upon completion. Flight Solutions will abide by the terms of the lease, including the insurance provisions.

Project Description

All plans and specifications will be submitted to the Airport Director for approval. No buildings or other material shall be ordered without the approval of the ground lease by the Board and the approval of the Airport Director of all plans and specifications. Preliminary Cost Estimates will be provided. Upon completion of the plans and specifications, updated cost figures will be provided. The Airport Director, at the sole expense of the Airport, is welcome to audit the final construction figures.

Construction Bond

A personal guarantee or construction bond will be provided as needed prior to the start of construction by Flight Solutions, LLC.

Capital Investment Breakdown

A complete Capital Investment Breakdown or construction take-off will be provided with the plans and specifications to the Airport Director upon completion of the plan set. Initial estimates of taxiways and ramp construction have already been provided by MCE.

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Projected Cost Estimate

The total projected cost of the completed project is projected to be $3,450,987.

In closing, I am requesting approval from the Board for the ground lease of three hangar pad sites with associated improvements plus a fueling area. The exact square footage of the proposed ground lease to be determined by survey after approval of a site plan. If the Board chooses to approve this development concept, I will proceed with ordering a topo survey. We need the topo survey to further advance the site plan development.

With kindest regards,

David J. Potter II
Manager
Flight Solutions, LLC

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

2022-014 EXH 'B'

FLIGHT SOLUTIONS, LLC
HANGAR PROJECT

Hanger and Landside Improvements	$2,487,261.00
Ramp (MCE Estimate)	$400,000.00
Fuel Tank, Pad, and Access Road	$250,000.00
Sub-Total Cost	$3,137,261.00
OHP	$313,726.10
Total Cost	$3,450,987.10

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

2022-014 EXH 'B'

Job Budget List

202005 - Three New Hangers

Original Contract: .00

Original Estimate: .00

Phase No / Cost Code	Description	Bid Amount	Est. Quantity	UM	Class	Est. Dollars	Est. Units
1	**General Conditions**						
1.120	Builders Risk	.00	.0000000	LS	7	2,500.00	.000
1.130	General Liability Insurance	.00	.0000000	LS	7	6,500.00	.000
1.160	Architectural Fees	.00	.0000000	LS	7	49,000.00	.000
1.170	Engineering Fees	.00	.0000000	LS	7	21,000.00	.000
1.175	Geotechnical	.00	.0000000	LS	7	15,000.00	.000
1.180	Building Permit	.00	.0000000	LS	7	6,500.00	.000
1.220	Plans	.00	.0000000	LS	7	750.00	.000
1.260	Superintendent	.00	.0000000	LS	1	72,000.00	.000
1.290	Superintendent Fuel Expense	.00	.0000000	LS	7	4,000.00	.000
1.330	Project Management	.00	.0000000	LS	1	4,000.00	.000
1.370	Field Office	.00	.0000000	LS	5	3,000.00	.000
1.390	Temporary Toilet	.00	.0000000	LS	5	1,800.00	.000
1.400	Temporary Utilities	.00	.0000000	LS	7	3,000.00	.000
1.430	Daily Clean Up	.00	.0000000	LS	1	5,750.00	.000
1.440	Dumpster Fees	.00	.0000000	LS	7	8,000.00	.000
1.450	Final Clean Up	.00	.0000000	LS	3	1,500.00	.000
1.500	Equipment Rental	.00	.0000000	LS	5	7,500.00	.000
	Phase Totals	0.00				211,800.00	
2	**Site Construction**						
2.130	Termite Treatment	.00	.0000000		3	5,250.00	.000
2.140	Concrete Paving	.00	.0000000	LS	3	478,270.00	.000
2.190	Parking Bumpers & Striping	.00	.0000000	LS	3	1,975.00	.000
2.200	Earthwork	.00	.0000000	LS	3	45,000.00	.000
2.210	Landscaping	.00	.0000000	LS	3	15,000.00	.000
2.260	Site Utilities	.00	.0000000	LS	7	10,500.00	.000
	Phase Totals	0.00				555,995.00	
3	**Concrete**						
3.100	Slab on Grade	.00	.0000000	LS	3	168,000.00	.000
	Phase Totals	0.00				168,000.00	
6	**Wood & Plastic**						
6.110	Framing	.00	.0000000	LS	1	24,000.00	.000
				LS	2	4,770.00	.000
6.115	Sheetrock	.00	.0000000	LS	2	2,100.00	.000
6.140	Decking	.00	.0000000	LS	2	1,800.00	.000
6.170	Cabinets	.00	.0000000	LS	3	6,300.00	.000
	Phase Totals	0.00				38,970.00	
7	**Thermal Moisture Protection**						
7.140	Siding	.00	.0000000	LS	2	2,700.00	.000
	Phase Totals	0.00				2,700.00	
8	**Doors & Windows**						
8.100	Hollow Metal Doors & Frames	.00	.0000000	LS	2	3,300.00	.000
8.120	Hardware	.00	.0000000	LS	2	1,950.00	.000

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Job Budget List

202005 - Three New Hangers

Original Contract: .00

Original Estimate: .00

Phase No / Cost Code	Description	Bid Amount	Est. Quantity	UM	Class	Est. Dollars	Est. Units
8	**Doors & Windows**						
8.150	Overhead Door	.00	.0000000	LS	1	67,200.00	.000
				LS	3	248,499.00	.000
8.800	Glass & Glazing	.00	.0000000	LS	3	1,800.00	.000
	Phase Totals	0.00				322,749.00	
9	**Finishes**						
9.150	Floor	.00	.0000000	LS	3	5,700.00	.000
9.200	Ceiling	.00	.0000000	LS	3	4,800.00	.000
9.220	Float, Texture & Paint	.00	.0000000	LS	3	7,800.00	.000
	Phase Totals	0.00				18,300.00	
10	**Specialties**						
10.400	Signage	.00	.0000000	LS	2	750.00	.000
10.520	Fire Extinguishers & Cabinets	.00	.0000000	LS	2	750.00	.000
	Phase Totals	0.00				1,500.00	
12	**Furnishings**						
12.100	Blinds	.00	.0000000	LS	3	600.00	.000
	Phase Totals	0.00				600.00	
13	**Special Construction**						
13.100	Preengineered Metal Building	.00	.0000000	LS	3	707,523.00	.000
13.120	Erection - Metal Building	.00	.0000000	LS	3	175,000.00	.000
13.130	Insulation - Metal Building	.00	.0000000	LS	3	54,150.00	.000
	Phase Totals	0.00				936,673.00	
15	**Mechanical**						
15.100	Plumbing	.00	.0000000	LS	3	22,500.00	.000
15.200	HVAC Systen	.00	.0000000	LS	3	14,400.00	.000
15.860	Fans	.00	.0000000	EA	2	26,460.00	.000
	Phase Totals	0.00				63,360.00	
16	**Electrical**						
16.160	Electrical	.00	.0000000	LS	3	76,614.00	.000
	Phase Totals	0.00				76,614.00	
18	**Misc. Allowances**						
18.002	Unallocated Costs	.00	.0000000	EA	7	30,000.00	.000
18.100	Contingency	.00	.0000000	EA	7	60,000.00	.000
	Phase Totals	0.00				90,000.00	
	Job Totals	0.00				90,000.00	
	Report Totals	.00				2,487,261.00	

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Recommendation of Minimum Standards for the Construction of Aircraft Hangars

The following is a list of items that the Department of Aeronautics recommends be included in the construction of aircraft hangars:

Hangars

1 Concrete floor with subgrade moisture barrier
2 Minimum concrete strength of 4000 psi
3 Metal Frame Which meets current State code requirements
4 Metal exterior siding 26 ga minimum
5 Interior insulation including ceiling and doors
6 Tracking for roller doors must be placed in concrete
7 Must be designed to prevent drainage infiltration
8 Termite/pest protection
9 Door opening must accommodate maximum aircraft size reasonably expected in 20 year plan.

All mechanical and electrical work should meet or exceed existing State codes. All hangars should also have a paved apron approach. Current State of Arkansas code requirements are as follows:

70 mph wind loading
Seismic requirements depending upon Zone I, II, or III
Deflection Loading:
Ceiling L/180
Dead + Live L/120
Lateral Drift L/120
Minimum collateral load + 3#/sq. ft.
Minimum Live Load 20#/sq. ft. except in southern most areas of the State.

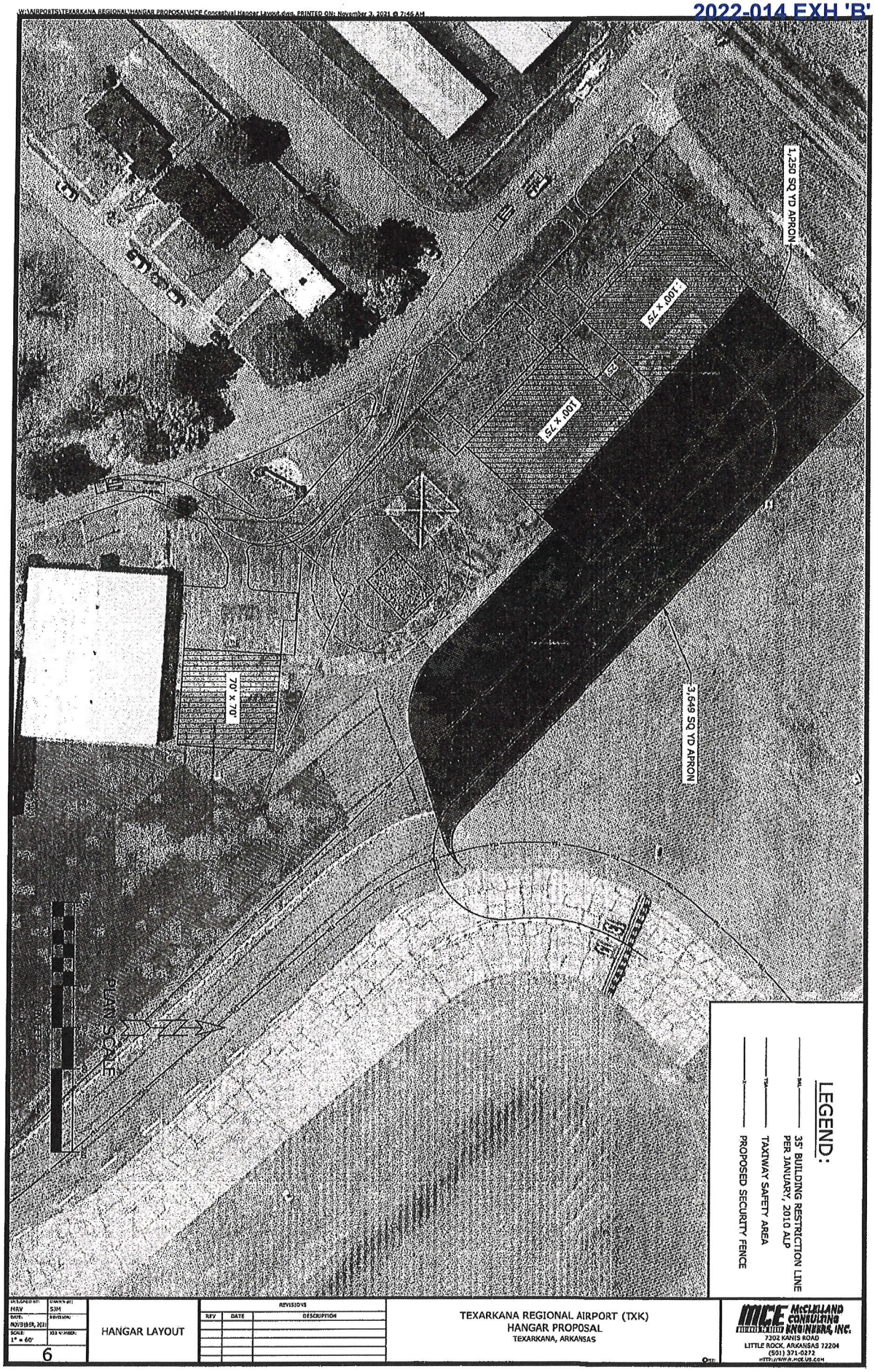
July 2011

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

2022-014 EXH 'B'

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

2022-014 EXH 'B'



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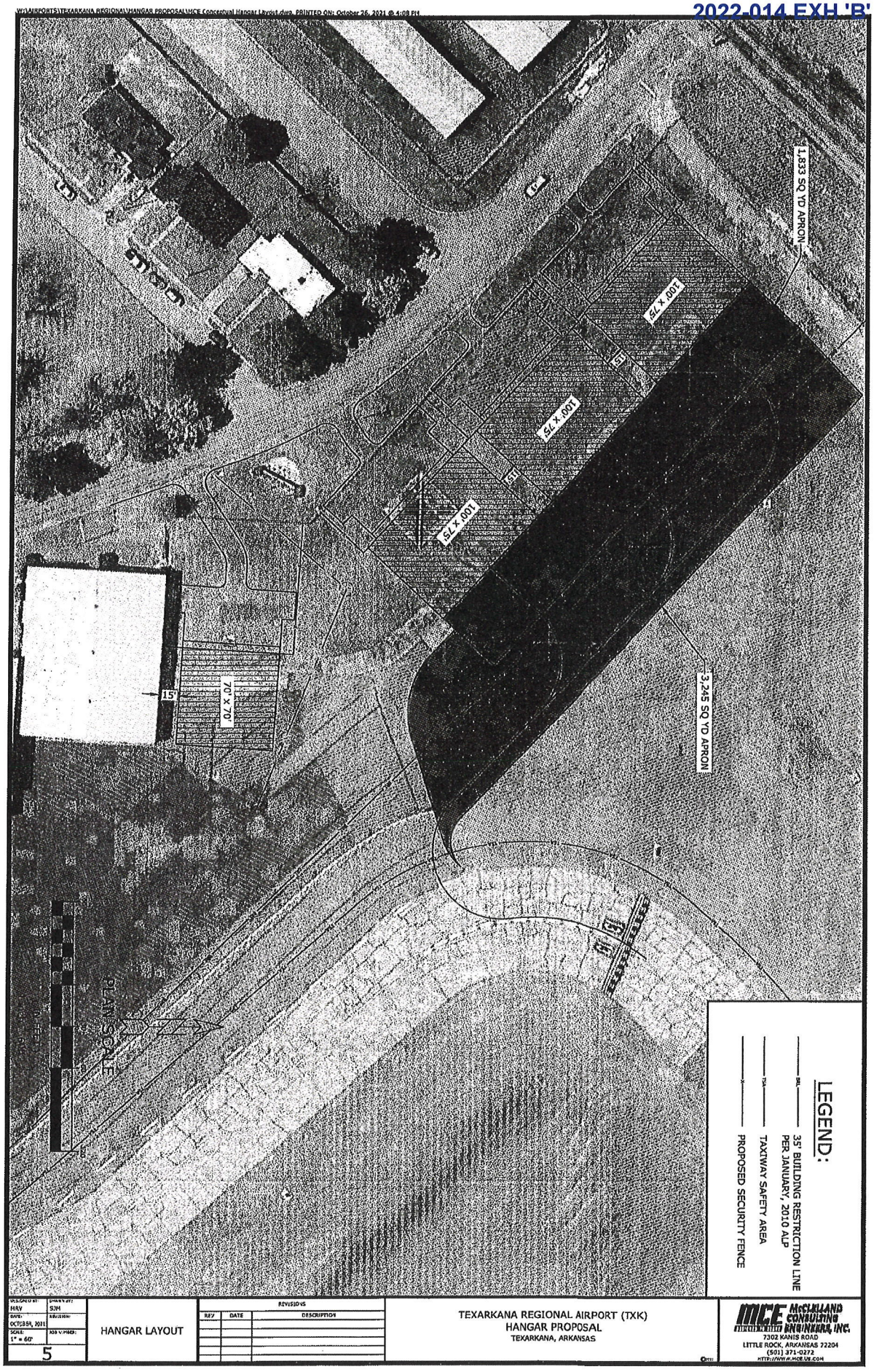

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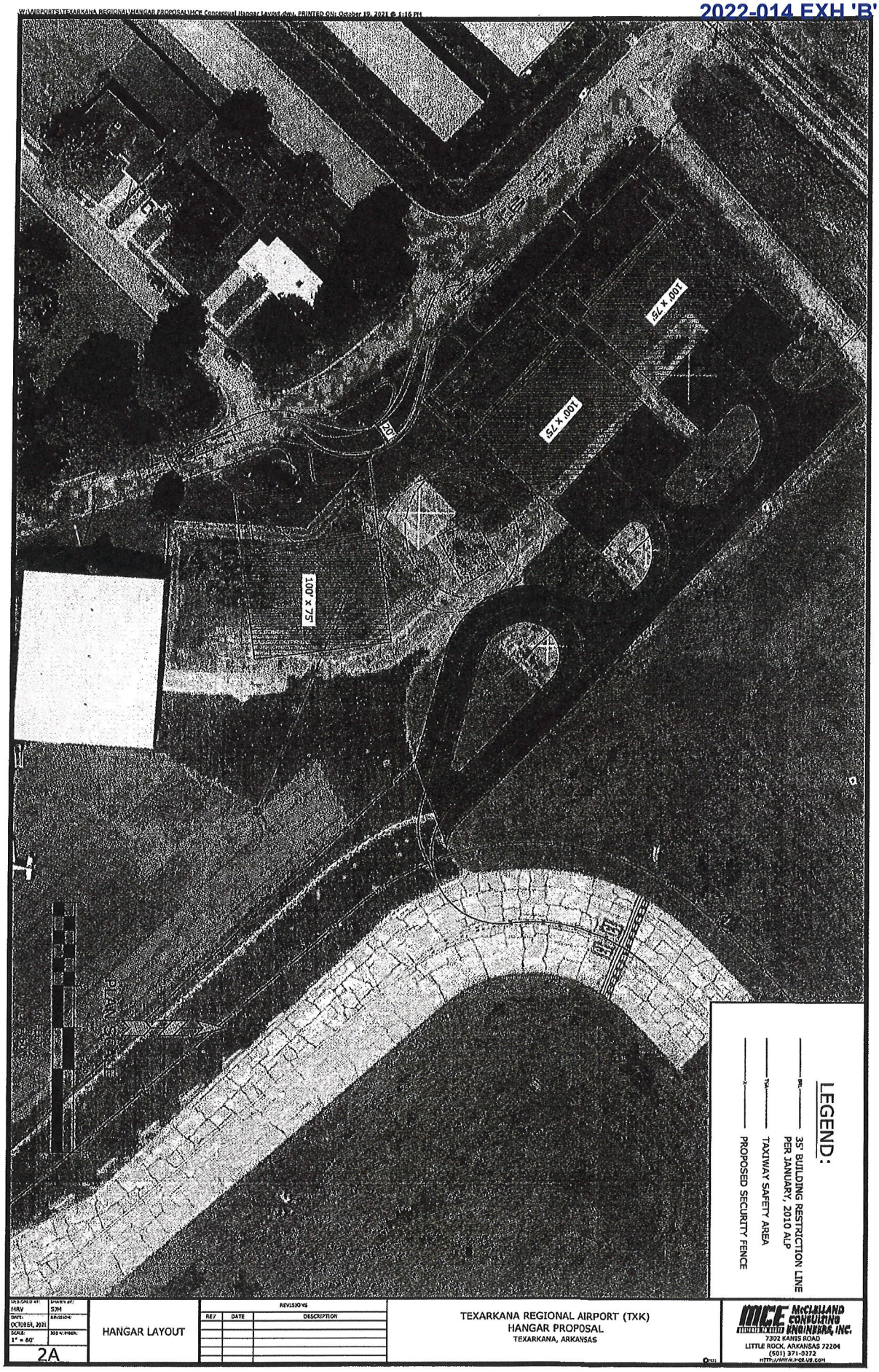

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

AERONAUTICAL USE AGREEMENT OF LEASE

BETWEEN

Name/Org.: **Flight Solutions, LLC** Street Address: **210 N State Line Ave, Ste 507** City/State/Zip Code: **Texarkana, AR, 71854** ("LESSEE")	**&**	**TEXARKANA REGIONAL AIRPORT AUTHORITY** 201 Airport Dr Texarkana, Arkansas 71854 ("LESSOR")

DATED: _____

TEXARKANA
REGIONAL AIRPORT

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

AGREEMENT OF LEASE

BETWEEN

TEXARKANA REGIONAL AIRPORT AUTHORITY

AND

FLIGHT SOLUTIONS, LLC

AGREEMENT OF LEASE
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Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

AGREEMENT OF LEASE

THIS AGREEMENT OF LEASE, made by and between the **TEXARKANA REGIONAL AIRPORT AUTHORITY** ("Lessor") and **FLIGHT SOLUTIONS, LLC**, a corporation organized under the laws of the State of **Arkansas**, having offices at **210 North State Line Avenue, Suite 507 Texarkana, AR 71854**, and authorized to do business in the State of Arkansas, as Lessee ("Lessee").

RECITALS:

WHEREAS, Lessor owns, operates, and maintains the Texarkana Regional Airport, ("Airport"); and,

WHEREAS, Lessee is a **private corporation**; and,

WHEREAS, Lessor and Lessee now desire to set forth the terms, covenants, and conditions for Lessee to lease premises at the Airport for Lessee's construction of multiple private aircraft hangars;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the Parties agree as follows:

SECTION 1. DEFINITIONS

The following terms set forth below, when used in this Agreement, shall be defined as follows:

(a) **Agreement** shall mean this Agreement of Lease, including any supplements, modifications, or amendments thereof.

(b) **Aircraft Fuel Dispenser** shall mean each and every fuel facility that is now or hereafter located at the Premises.

(c) **Airport** shall mean the Texarkana Regional Airport and all property located within its boundaries located in Texarkana, Arkansas and Texarkana, Texas.

(d) **Airport Terminal and Terminal** means the passenger terminal building at the Airport.

(e) **Assigned Area** shall mean the area or areas at the Airport designated by this Agreement described on **Exhibit A** and **Exhibit B** attached hereto and made part hereof subject to easements and rights-of-way of record, together with all buildings, structures, pavements, facilities, and other improvements now or hereafter constructed thereon, the equipment permanently affixed therein, such as electrical, plumbing, sprinkler, fire protection and fire alarm, heating, steam, sewage, drainage, refrigerating, tubes, conduits, equipment and fixtures and all paving, drains, culverts, ditches, and catch basins.

(f) **Commencement Date** shall mean **March 1, 2022**.

(g) **Lessor** shall mean the Texarkana Regional Airport Authority through and by its Executive Director.

(h) **Executive Director** shall mean the Executive Director of the Texarkana Regional Airport or their designee.

 _____Lessee's Initials

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

(i) **Lessor's Associates** shall mean Lessor's officers, airport board of directors, engineers, consultants, contractors, commissioners, employees, and agents.

(j) **FAA** shall mean the Federal Aviation Administration, or any successor agency.

(k) **Improvements** shall mean any and all buildings, pavements, fixtures, permanently affixed equipment, facilities (both above ground and below ground), and all other structures now or hereafter constructed on the Premises, and all additions, alterations, modifications, renovations, and replacements thereto.

(l) **Lease Year** shall mean the period beginning on the first day of **March**, ending on the last day of **February**, and each twelve-month period thereafter, until the termination of this Agreement

(m) **Lessee** shall mean **Flight Solutions, LLC**, its successors or assigns, as permitted herein.

(n) **Lessee's Associates** shall mean any of its sublessees, officers, employees, engineers, consultants, contractors, subcontractors, commissioners, invitees, guests, agents, or anyone acting by, through, or under Lessee's direction and/or control.

(o) **Premises** shall mean the areas specifically and fully described in the Exhibits to this Agreement of Lease, between **Flight Solutions, LLC**, and Lessor and also referred to as the "Premises".

(p) **Rent and Fees** shall mean the compensation paid to the Airport in order to conduct business or provide a service at the Airport.

(q) **Tenant** shall mean any individual, company, corporation, partnership or other entity who has an agreement, lease, permit, or license to conduct business on the Airport.

(r) **Termination Date** shall mean as set forth in **Section 3** of this Agreement.

(s) **TSA** shall mean the Transportation Security Administration, or any successor agency.

(t) **Term of this Agreement** or similar import shall mean the Term set forth in **Section 3** hereof, including the initial Term and any optional term(s), as applicable.

SECTION 2. LETTING

(a) Lessor hereby lets to Lessee and Lessee hereby leases from Lessor, the "Premises" as herein above defined in **Section 1** and shown on **Exhibit A** and **Exhibit B** at the Texarkana Regional Airport, subject to Lessee's strict adherence to the terms, covenants, and conditions of this Agreement of Lease ("Agreement"). The Premises must be used solely for the purposes as described in **Section 5** hereof and for no other purposes.

(b) The parties agree that **Exhibit A** and **Exhibit B** show only an approximate depiction of the boundaries of the Premises. Accordingly, Lessee shall promptly obtain, if not already in possession of, at its own expense, and provide Lessor a copy of, a precise boundary survey of the Premises, prepared by a certified professional surveyor. Upon approval by Lessor, the survey shall be deemed incorporated by reference into this Agreement and will be the controlling interpretation of the boundaries of the Premises.

_____Lessee's Initials

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

(c) Lessor reserves the right to further develop and improve the Airport, including but not limited to all landing areas and taxiways of the Airport, as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance.

(d) Except to the extent required for the performance of any of the obligations of Lessee hereunder, nothing contained in this Agreement shall grant to Lessee any rights whatsoever in the air space above the Premises. In that regard, Lessor reserves the right to take any action whatsoever that it considers necessary to protect the aerial approaches of the Airport against obstructions, including but not limited to, demolition or removal of structures upon the Premises, together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure at the Premises which, in the opinion of Lessor, would limit the usefulness of or interfere with the operations at the Airport, or constitute a hazard to aircraft.

(e) This Agreement, and all provisions hereof, is subject and subordinate to the terms, covenants, and conditions of the instruments and documents under which Lessor acquired the Airport from the United States of America, State of Arkansas, and City of Texarkana, Arkansas, and shall be given only such effect as will not conflict or be inconsistent with the terms, covenants, and conditions contained in such instruments and documents and any existing or subsequent amendments thereto. This Agreement and all provisions hereof, is subject and subordinate to any ordinances, rules or regulations which have been, or may hereafter be adopted by Lessor pertaining to the Airport. This Agreement, and all provisions hereof, is subject and subordinate to the provisions of any agreement heretofore or hereafter made between Lessor and the United States Government relative to the operation or maintenance of the Airport, or the execution of which has been required as a condition precedent to the transfer of Federal rights or property to Lessor for Airport purposes, or the execution of which has been required as a condition precedent to the expenditure of Federal funds for the improvement or development of the Airport, including without limitation the expenditure of Federal funds for the development of the Airport under the provisions of the Federal Aviation Act of 1958, as codified in the United States Code, Title 49, as it has been amended from time to time. In addition, this Agreement is subordinate and subject to the provisions of all resolutions heretofore and hereafter adopted by Lessor in connection with any revenue bonds issued by Lessor with respect to the operations of the Airport, or any improvements to the Airport or any of its facilities, and to the provisions of all documents executed in connection with any such bonds, including without limitation, any pledge, transfer, hypothecation or assignment made at any time by Lessor to secure any such bonds.

(f) Lessor reserves unto itself, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the Premises together with the right to cause in said airspace such noise and other intrusions as may be inherent in the operations of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for aircraft landing on, taking off from, or operating at the Airport.

(g) Lessee, Lessee's Associates, its successors and assigns, agrees to restrict the height of structures, objects of natural growth and other obstructions on the Premises to a height in order to comply with all provisions of this Agreement and all applicable Federal Aviation Regulations, including but not limited to 14 CFR Part 77.

(h) Lessee expressly agrees, for itself, Lessee's Associates, its successors and assigns, to prevent any use of the Premises which would interfere with or adversely affect the operation or maintenance of the Airport, or otherwise constitute a hazard to aircraft or others.

 _____Lessee's Initials

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(i) Lessor reserves the right to maintain such utility easements on the Premises as may now or in the future be determined to be necessary to serve the needs of the Airport, and Lessee agrees to take the Premises subject to said easement requirements. Such easements will be used for, but not limited to, the installation of water distribution, sewage collection, underground electrical, telephone and telecommunications conduits, above ground street lighting and power poles. However, it is understood and agreed that Lessor will restore any improvements which Lessee has made, if such improvements are materially damaged by any installation made by Lessor. Furthermore, Lessor shall take reasonable steps to ensure that any such installation be the least disruptive to Lessee's operations.

(j) **CONDITION AND USE OF THE PREMISES AND LEASEHOLD IMPROVEMENTS.** Lessor makes no representations or warranties whatsoever as to: (i) the condition of the Premises, or (ii) whether the Premises, or any part thereof, is in compliance with applicable Federal, State, and Municipal laws, ordinances, rules, or regulations, including without limitation, City ordinances, rules and regulations; or (iii) the permitted or available uses of the Premises under any applicable Federal, State, and Municipal laws, ordinances, rules, or regulations, including without limitation those of Lessor. Lessor makes no representations or warranties whatsoever as to the legality, permissibility, or availability of any use of the Premises that may be contemplated by Lessee. **Lessor makes no representations or warranties concerning habitability or fitness for any particular purpose.** Lessee specifically obligates itself to conduct its own due diligent investigation as to the Premises and the suitability thereof for Lessee's purposes. The Premises and all components thereof are hereby demised in "**AS IS CONDITION**" and "**WITH ALL FAULTS.**" Lessee represents, acknowledges, and agrees that it has had sufficient opportunity to inspect the Premises, and all components thereof, and hereby accepts the Premises, and all components thereof, in "**AS IS CONDITION**" and "**WITH ALL FAULTS.**" Lessee hereby **ASSUMES ALL RISK** of non-compliance of the Premises, or any part thereof, with any Federal, State, and Municipal laws, ordinances, rules, or regulations, including without limitation, any Lessor rules, or regulations. Upon receipt of notice of any non-compliance with any such laws, ordinances, rules or regulations, Lessee hereby agrees to make any and all repairs, alterations, and additions to the Premises and to take all corrective measures as may be necessary to bring the Premises into compliance with all laws, ordinances, rules and regulations. Lessee shall not be entitled to any adjustment of any rentals hereunder on account of the condition of the Premises or any failure of any of the component parts to be in working order or because of any necessity of Lessee to repair or take corrective actions with respect to any part thereof or because of the inability of obtaining or any delay in obtaining any required development approvals from any governmental body having jurisdiction, including but not limited to local agencies. Furthermore, Lessee hereby releases Lessor and Lessor's Associates of any and all claims and liabilities whatsoever on account of the condition of the Premises or any failure of any of the component parts to be in working order or because of any necessity of Lessee to repair or take corrective actions with respect to any part thereof, or the necessity for obtaining any development approvals from any governmental body, including without limitation local agencies. In the event of any conflict between these provisions and any other provisions of this Agreement, the provisions of this subparagraph (j) shall control. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that: (1) this subparagraph (j) is not intended to address or apply to the release of any "Materials" (as hereinafter defined in **Section 15**) at the Premises, and (2) with respect to any such Materials, the provisions of **Section 15** shall apply.

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SECTION 3. TERM

(a) The **Term** of this Agreement shall be for ten (10) years, beginning on the Commencement Date of **March 1, 2022**, and shall terminate on **March 1, 2032**. ("Termination Date"), unless sooner terminated as provided herein.

(b) Lessee shall, if not at the time in default under this Agreement, have the following extension option(s), as follows, on the same terms, covenants, and conditions as set forth herein and subject to adjustments in rental rates and fees, provided the option(s) are not in conflict with the needs of the Airport or with Lessor's planning strategy, as decided by Lessor:

[ ] One (1) ten (10) year extension option, provided Lessee has added or constructed permanent capital improvements on or to the Premises in the amount of not less than two hundred thousand dollars ($200,000), during the **Term** of this Agreement.

[ ] Up to two (2) ten (10) year extension options, provided Lessee has added or constructed permanent capital improvements on or to the Premises in the amount of not less than one million dollars ($1,000,000), during the **Term** of this Agreement.

[ ] Up to three (3) ten (10) year extension options, provided Lessee has added or constructed permanent capital improvements on or to the Premises in the amount of not less than two million dollars ($2,000,000), during the **Term** of this Agreement.

Lessee's option to extend may be exercised only if Lessee provides written notice to Lessor, no later than one (1) year before the expiration of the **Term**, of their intent to extend this Agreement and shall provide documentation that such capital improvements have in fact been made and are valued equal to or more than the amount required above. Notwithstanding any provision in this Agreement, all improvements and additions so made shall become the property of Lessor, without any action or cost to Lessor at the end of the lease **Term** or any extension thereof.

(c) Lessee covenants and agrees to yield and deliver peaceably and promptly to Lessor, possession of the Premises, on the date of cessation of the letting, whether such cessation be by termination, expiration or otherwise. Lessee shall surrender the Premises in the condition required under **Section 9**. All maintenance and repairs shall be completed prior to surrender. Lessee shall deliver to Lessor all keys to the Premises immediately upon surrender. Lessee shall at its expense take all actions required by Federal, State, and Municipal laws, ordinances, rules, or regulations to remove from the Premises any hazardous substances or other Materials, whether stored in drums, or found in vats, containers, distribution pipelines, or the like or discharged into the ground. All such substances shall be removed by Lessee in a manner that complies with all applicable Federal, State, and Municipal laws, rules and regulations and the provisions of **Section 15** shall be applicable.

(d) Lessor, through its authorized agents or employees, at all reasonable times, and after notice to Lessee when practical, shall have the right to enter the Premises to show the Premises to potential interested tenants during Lessee's regular business hours with at least twenty-four (24) hours advance notice, if Lessee is in default of this Agreement, or if Lessee has not exercised any remaining renewal option with less than one (1) year remaining on the term of the Agreement.

(e) No agreement of surrender or to accept a surrender of this Agreement shall be valid unless and until same shall have been reduced to writing and signed by the duly authorized representatives of Lessor and of Lessee. Except as expressly provided in this Agreement, neither the doing of nor any omission

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to do any act or thing by any of Lessor's Associates shall be deemed an acceptance of a surrender of letting under this Agreement.

(f) In the event Lessee remains in possession of the Premises after expiration or termination of this Agreement without any written renewal thereof, such holding over shall not be deemed as a renewal or extension of this Agreement, nor waive any default under this Agreement and Lessor may terminate such occupancy as a tenancy at-will in accordance with State law. During such holdover tenancy, Lessee shall remain bound by all terms, covenants, and conditions of this Agreement, and Lessee shall pay the following rent: ground rent at the highest rate then charged at the Airport and rent for the improvements at fair market value based on Lessor's survey of rent for similarly situated facilities at the Airport and at other airports (which Lessor shall determine in its sole discretion). Said holdover tenancy shall be subject to Lessor's termination and repossession of the Premises at any time. Lessee shall be liable to Lessor for all loss or damage on account of any holding over against Lessor's will after the expiration or termination of this Agreement, whether such loss or damage may be contemplated at this time or not. No receipt or acceptance of money by Lessor from Lessee after the expiration, termination or cancellation of this Agreement or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of Lessor to retake and resume possession of the Premises.

(g) This Agreement may be modified, altered or expanded with the written approval of all parties signatory to this document.

(h) Notwithstanding any contrary provision contained herein, Lessee shall have the period up until and including the date that is eighteen (18) months after the Commencement Date of this Agreement (the "Feasibility Period") to perform such studies, tests, and examinations of the Premises as Lessee may desire. In the event Lessee is not satisfied with the results of such studies, tests, and examinations or experiences complications with obtaining necessary governmental permits and approvals needed for construction, not including the cost thereof, Lessee may, at its option, terminate this Agreement, without penalty, by giving written notice to Lessor at any time prior to the expiration of the Feasibility Period. Lessor shall cooperate with Lessee with respect to such studies, tests, and examination.

(i) The expiration or termination of this Agreement shall not relieve Lessee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective termination date. Upon the expiration or termination of this Agreement, Lessee shall cease forthwith all operations upon the Premises, shall immediately vacate the Premises, and shall pay in full all fees and other amounts payable to Lessor as set forth in this Agreement, then due and owing.

SECTION 4. PREMISES AND PRIVILEGES

(a) Lessor hereby leases to Lessee and Lessee leases from Lessor the Premises located at the Airport consisting of approximately **72,228 SQ Ft.** of land, divided into four (4) individual Lots to accommodate multiple, separate aeronautical developments (hereinafter called "**Lot**," "**Lots**," "**Lot A**," "**Lot B**," "**Lot C**," or "**Lot D**"). The Premises is situated off **Airport Dr. in Texarkana, Arkansas 71854** near Highway 67, more particularly identified and shown on **Exhibit A** and **Exhibit B** attached hereto, together with any and all rights, privileges, easements, and appurtenances now or hereafter constructed or belonging on the Premises, subject, however, to all liens, easements, restrictions, and other encumbrances of record.

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(b) This Agreement will be amended to account for any reductions in leased square footage, upon the assignment of **Lot A**, **Lot B**, **Lot C**, or **Lot D** and sale of improvements thereon to another individual or organization.

(c) Lessee and Lessor have agreed for Lessor to obtain and utilize two 90/10 State Aeronautics Grants issued to it by the Arkansas Department of Aeronautics **(with a total amount of $300,000)** to design and construct a common-use taxiway that provides the Premises/Lots access to the airfield at the Airport. Lessee and Lessor recognize that Lessor has a financial obligation to cover any match's associated with obtaining such State Aeronautics Grants. Lessee and Lessor further recognize that the total grant amount may not cover the total cost of designing and constructing the common-use taxiway. As such, Lessee has agreed to provide Lessor a lump sum to cover any match's associated with obtaining the two State Aeronautics Grants as well as to account for 20% inflation of prices and any overage in design and construction costs. Lessor will deduct such lump sum, whatever the amount may be, from future rent payments from Lessee. Lessee acknowledges and understands that Lessor cannot guarantee a timeline for receiving the State Aeronautics Grants and recognizes that such funding is contingent upon its availability with the Arkansas Department of Aeronautics.

(d) Any subsequent modification of areas occupied by Lessee will be mutually determined by Lessee and Lessor and will be accomplished by executing revised exhibits accompanied by a written amendment as provided in this Agreement.

(e) Lessee shall provide vehicle parking for Lessee and Lessee's Associates, in accordance with the minimum standards adopted by the Airport and the City code of Texarkana, Arkansas, which parking shall be the responsibility of Lessee. Lessee, and Lessee's Associates, shall have ingress and egress to the Premises via appropriate public ways to be used in common with other tenants and users of the Airport, provided that Lessor may, from time to time, substitute other suitable means of ingress and egress, so long as an alternate adequate means of ingress and egress is available.

(f) Subject to the provisions of this Agreement, Lessee, its invitees, licensees, agents and guests shall have ingress and egress between the Premises and the runways at the Airport by means of taxiways existing or hereafter to be constructed by Lessor to be used in common with other tenants and users of the Airport, provided that Lessor may, from time to time, substitute other suitable means of ingress and egress, so long as an alternate adequate means of ingress and egress is available.

(g) Lessor may at any time temporarily or permanently close or consent to or request the closing of any street, roadway, taxiway, and any other area at the Airport presently or hereafter used as such, so long as an alternate adequate means of ingress and egress is made available to the Premises. Lessee hereby releases and discharges Lessor, or Lessor's Associates, successors and assigns, of and from any and all claims, demands or causes of action which Lessee may now or at any time hereafter have against any of the foregoing arising or alleged to arise out of the closing of any street, roadway, taxiway, or other area used as such, whether within or outside the Airport, provided that Lessor makes available to the Premises an adequate means of ingress and egress.

SECTION 5. USES OF THE PREMISES.

(a) Lessee covenants and agrees to use and occupy the Premises at all times **only** for the purposes of constructing multiple private aircraft hangars and any other improvements necessary for such operation, which together with the Premises itself, shall be limited to aeronautical purposes, including the fueling, only of Lessee owned or leased aircraft (in accordance with **Exhibit F**), parking, storing, cleaning, and preventative maintenance *(as explained in Federal Aviation Regulations Part 43*

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Appendix A(c), "Preventative maintenance" as amended and/or renumbered) of aircraft owned or leased by Lessee. Lessee shall comply with the minimum standards adopted by the Airport as they may be amended from time to time and all other all rules, regulations, and requirements set forth by any Federal, State, and Municipal government body having jurisdiction, including Lessor. Any other activities not specifically enumerated in this section regarding the use and occupancy of the Premises shall be subject to the prior written approval of Lessor.

(b) Lessee shall be **expressly prohibited** from providing the following services:

1. Terminal facilities for scheduled passenger airline operations which would normally be accommodated in the Airport Terminal.
2. Restaurant, coffee shop, lounge or cafeteria (except a cafeteria provided solely for the employees, guests, contractors, and vendors of Lessee).
3. Any charter and/or "for hire" service, including with Aircraft to be stored on the Premises.
4. Display of aircraft held by Lessee or others for sale (except in the case of an isolated sale of an aircraft owned by Lessee), or for any other purpose common to Fixed Base Operators or Commercial Operators.
5. Sale and provision of fuel to any aircraft other than Lessee owned or leased aircraft.
6. Any and all types of public parking, pay for parking, or any type of operation that competes with Lessor parking lots and garage.
7. Any and all types of automobile rental, maintenance, parking, or storage, or any type of operation that competes with Lessor authorized on-airport automobile rental businesses and/or activities.
8. Sale of alcoholic beverages.
9. Sale of non-aviation products, except company products in company store.
10. Air shows
11. Any use prohibited by law or not related to aviation.
12. Any commercial use
13. Lessee shall not park or store or allow the parking or storage of any vehicles whatsoever on the Premises that are not used in the operation permitted to be conducted on the Premises.

(c) Lessee has expressed to Lessor its intent to use the Premises to construct aircraft hangars on the Lots intended for **private use only**. Pursuant to **Section 4(b)**, if a potential assignee desires to use a Lot for a commercial use, they will be required to provide a complete proposal, subject to Lessor's written approval, that meets the Airport's minimum standards and rules and regulations prior to such assignment taking place.

(d) It is not the intent of this Agreement to grant Lessee the exclusive right to provide any or all of the services described in this section at any time during the term of this Agreement; provided, however, that Lessee shall have the exclusive right to provide such services on the Premises. Lessor reserves

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the right, at its sole discretion, to grant others certain rights and privileges at the Airport which are identical in part or in whole to those granted to Lessee. However, Lessor does covenant and agree that:

1. It shall enforce all minimum operating standards or requirements for all aeronautical and non-aeronautical endeavors and activities conducted at the Airport.

2. No other tenant performing the same services will be permitted to operate at the Airport under rates, terms, or conditions which are more favorable than those set forth in this Agreement.

3. It will not permit the conduct of any commercial endeavor or activity at the Airport except under an approved lease and operating agreement.

(e) Storage on the Premises shall be primarily for aeronautical purposes, including, but not limited to, the parking and storing of aircraft owned or leased by Lessee and other improvements necessary for the operation permitted to be conducted on the Premises. Lessee shall not store on the Premises any inoperable equipment, or materials likely to create an Airport hazard or appear to be discarded or unsightly to the public and other Airport users; shall not use areas outside of enclosed buildings for storage; and shall store trash in covered metal receptacles approved by Lessor.

(f) Lessee covenants and agrees that it will not do nor permit anything to be done upon or about the Premises that in any way interferes with the rights of tenants, owners, or occupants of adjoining property, or that conflicts with Federal, State, and Municipal laws, rules, or the regulations of any department, board, or bureau thereof, or that creates a nuisance, or that is dangerous to the life or safety of persons on or about the Premises. Should a conflict arise between Lessee and other tenants at the Airport regarding the scope of privileges, the Executive Director of Lessor or their designee will serve as the arbiter. Lessee has the right to appeal to Lessor and agrees to abide by its decision. Upon written notice, Lessor has the right to amend the Agreement to avoid violation of existing agreements or violation of Federal grant assurances concerning discrimination among other tenants and similar provisions.

SECTION 6. RENTALS, FEES, AND CHARGES

(a) Rentals for the Premises shall be:

- **Thirty-two cents ($0.32) per square foot per year for land.**

(b) The annual rental, subject to adjustment as hereinafter provided, shall be paid by Lessee in twelve (12) equal monthly installments, together with all applicable sales taxes thereon.

(c) The annual rental payable during the first (1st) Lease Year shall be **23,112.96 Dollars ($)**, plus applicable sales taxes. The monthly installment payment of rentals during the first Lease Year shall be **1,926.08 Dollars ($)** each month, plus applicable sales taxes, as set forth on **Exhibit C**, attached hereto and made a part hereof. **Exhibit C** shall be updated each time the rental required herein is adjusted**.** Rental shall be subject to annual CPI adjustments as provided for in **Section 6(h)**.

(d) Within thirty (30) days of the Commencement Date of this Agreement, Lessee shall deposit with Lessor an irrevocable letter of credit, in an amount equal to the estimate of twenty-five thousand dollars ($25,000.00), to serve as security for the full and faithful performance by Lessee of all terms, covenants, and conditions of this Agreement. Lessee's failure to supply a security deposit or letter of

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credit with Lessor will constitute a breach of this Agreement and will entitle Lessor to all remedies available under this Agreement or at law. Lessor will release and return the security deposit or letter of credit posted under this **Section 6** upon the termination or expiration of this Agreement, provided Lessee has fully and timely paid any rents (and applicable taxes and assessments) payable to date and is not then in default of any terms, covenants, and conditions of this Agreement. Lessor reserves the right to withhold some or all the deposit if Lessee abandons or damages the leasehold in a condition that requires Lessor to expend money or labor to repair.

(e) The "Rent Commencement Date," unless otherwise specified in this Agreement, shall be the same date as the Commencement Date, as defined in **Section 3(a)**. In the event the Commencement Date does not fall on the first (1st) day of a calendar month, rent during any partial month shall be prorated on the basis of a thirty (30) day month, and shall be due payable on or before the Commencement Date.

(f) During the term hereof, Lessee shall pay as additional rent, any expenses payable to Lessor or any other person which are required to be incurred by Lessee pursuant to the provisions of this Agreement.

(g) Lessee shall pay to Lessor a Flowage Fee for all aviation fuel dispensed by Lessee pursuant to the regulations and/or rates established by Lessor, at any time, in Lessor's sole discretion. By the 10th of each month, Lessee's fuel provider must provide Lessor with a written Fuel Flowage report (in a form satisfactory to Lessor) setting forth the amount of fuel delivered to Lessee, accompanied by payment of the Flowage Fees collected. The Fuel Flowage fee is set by Lessor at its sole discretion and shall apply to all tenants and operators at the Airport. Lessor reserves the right, at any time and at its sole option upon thirty (30) days prior written notice to Lessee, to increase or decrease the amount of Fuel Flowage fees to be paid by Lessee. Fuel Flowage Fees collected shall not be used as a set off or as part of the calculation of any other of Lessee's rent, rates, fees, or charges due to Lessor.

(h) **CONSUMER PRICE INDEX (CPI) ADJUSTMENT.** After the first year of this Agreement, and each **year** thereafter (Adjustment Date), the rental provided to be paid in **Section 6(a)** above is subject to CPI adjustment annually as follows. Commencing on **March 1, 2023**, said rentals shall be adjusted by Lessor based on the percentage increase in the CPI for the previous **year**. Said CPI is the Consumer Price Index (All Urban Consumers) as published by the U.S. Department of Labor, Bureau of Labor Statistics, or the generally accepted national replacement or successor index, as readjusted to the base month, and computed by comparison of the **current** index with the index of the preceding **year**. In no event shall the rental rate decrease due to a decrease in the CPI. Said rentals are due and payable monthly on or before the first day of each month during the term of this Agreement.

(i) It is understood and agreed that if a rental and/or other fees adjustment is required or made hereunder, the previous rental and/or other fees then being paid shall continue until Lessor provides notice of the adjusted rent amount and/or other fees. Any rental adjustment shall be retroactive to the Adjustment Date. The sum constituting the rental adjustment for the months of the period which have passed prior to the determination of the amount of the rental adjustment shall be due and payable within thirty (30) calendar days after such determination.

(j) Upon determining a rental and/or other fee adjustment, Lessor shall advise Lessee of the new monthly rental installment and/or other fees for such period, which shall be accompanied by evidence supporting the manner in which the new adjusted rent and/or other fees was determined, which evidence shall be in sufficient detail to enable Lessee to verify the calculations.

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(k) Rental for a portion of a month shall be pro-rated. Payments shall be made in lawful money of the United States, free from all claims, demands, set offs, or counterclaims of any kind against Lessor. Any payments not paid when due shall be subject to the maximum interest allowable under Arkansas State Law.

(l) If requested by Lessor, Lessee shall employ an independent Certified Public Accountant who shall furnish a written audit to Lessor within ninety (90) days of the last day of the preceding Lease Year. The Statement shall include the opinion that the rentals and fees paid by Lessee to Lessor during the preceding Lease Year pursuant to this Agreement were made in accordance with the terms of this Agreement.

(m) Should any examination, inspection, and audit of Lessee's books and records by Lessor disclose an underpayment by Lessee in excess of five percent (5%) of the total rentals or payments due, Lessee shall promptly reimburse Lessor for all costs incurred in the conduct of such examination, inspection, and audit in addition to remitting the amount of such underpayment plus the maximum interest rate allowable under Arkansas State Law. In the event that Lessor deems it necessary to utilize the services of legal counsel in connection with such examination, inspection, and/or audit, and such examination, inspection, or audit results in reimbursement to Lessor, Lessee shall reimburse Lessor for reasonable attorney's fees and litigation expenses in addition to any deficiencies due.

(n) All rentals payable by Lessee to Lessor hereunder is due and owing, in advance, **without notice or demand** and without deduction or offset, on or before the first day of each and every calendar month or annually in advance throughout the term of this Agreement. Any other payments due or reimbursable to Lessor by Lessee hereunder shall be paid when incurred or immediately upon receipt of Lessor's invoice therefore and shall be deemed delinquent if not paid within ten (10) days of the date due. Payments shall be made to the offices of the Texarkana Regional Airport Authority, **201 Airport Drive, Texarkana, AR 71854**, or at such other place as Lessor may hereafter notify Lessee and shall be made in legal tender of the United States.

(o) Without waiving any other right of action available to Lessor in the event of monetary default hereunder, in the event that Lessee is delinquent for a period of ten (10) days or more in payment of any rents or other sums due to Lessor pursuant to this Agreement, Lessee shall pay to Lessor interest thereon at the maximum allowable rate permitted by Arkansas State Law per annum from the date such rents or other sums were due and payable until paid. Such interest shall not accrue with respect to disputed charges being contested in good faith by Lessee.

(p) If, at any time, Lessee shall become entitled to an abatement of rental by the provisions of this Agreement or otherwise, the abatement of rental shall be made on an equitable basis taking into consideration the amount and character of the space, the use of which is denied to Lessee as compared with the entire Premises, and the period of time for which such use is denied to Lessee.

SECTION 7. UTILITIES AND TAXES

(a) Lessee agrees to extend to the Premises and pay the cost of all utilities, including, without limitation, electric power, water, gas, sewer, telephone, and garbage collection. Lessee shall have the right, at its sole expense, to construct, install and maintain all necessary tap lines and facilities and to connect the same to any electric power, water, gas and sewerage lines installed by Lessor at or near the boundary of the Premises, and to receive all said utilities and services on the Premises, provided, however, that the services for electric power, water, gas, sewerage, and garbage collection at the Premises are properly metered so that all charges associated therewith are billed directly to Lessee. Lessor and

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Lessor's Associates will not be held liable for loss of life, injury, or damage to any person or property or operation of Lessee and/or Lessee's Associates, caused by or resulting from any interruption of such utility services and shall indemnify Lessor and Lessor's Associates as to same.

(b) Lessee shall pay (or in good faith contest), on or before their respective due dates, to the appropriate collecting authority, all Federal, State, and Municipal taxes, special taxes, assessments, special assessments and fees which are now or may hereafter be levied or assessed upon the Premises, the improvements, the personal property, or any of Lessee's property used in connection therewith; and shall maintain in current status all Federal, State, and Municipal licenses and permits required for the operation conducted by Lessee. Lessee shall furnish to Lessor promptly upon request, proof of the payment of any tax, assessment, and other governmental or similar charge which is payable by Lessee as provided herein. In the event of any contest permitted hereby, Lessee shall fully indemnify and hold Lessor and Lessor's Associates harmless from all loss, cost, damage, and expense incurred or suffered as a result of any such contest.

SECTION 8. IMPROVEMENTS TO PREMISES

(a) Lessee will, at Lessee's own cost and expense, perform all design, obtain all permits, complete all site work, and construct on three (3) Lots of the Premises, the following minimum required improvements for each Lot:

1. One (1) aircraft hangar and facility incidental to the storage, parking, and preventative maintenance of aircraft, comprised of approximately **4,900 SQ. Ft. – 7,500 SQ. Ft.**

2. Adjoining aircraft ramp space, as defined by the Airport Minimum Standards;

3. Adequate parking, as defined by the Airport Minimum Standards and in accordance with the City code of Texarkana, Arkansas; and

4. All associated improvements required by the City code of Texarkana, Arkansas, or any government entity, including but not necessarily limited to, sidewalks, pedestrian ways, lighting, utility lines, fire protection, stormwater detention, retention, and control systems, fencing, berms, landscaping, and roads and driveways for ingress/egress, and circulation.

(b) Pursuant to **Exhibit F**, Lessee shall have the option to initially construct two (2) aircraft fuel dispensers **OR** a fourth aircraft hangar development (in accordance with **Section 8(a)** above) on the remaining fourth Lot. Should Lessee choose to initially construct the aircraft fuel dispensers, it shall reserve the right to replace such aircraft fuel dispensers with a fourth aircraft hangar development at a later date within the Term of this Agreement. Upon demolition/removal of the aircraft fuel dispensers in turn for a fourth aircraft hangar development, Lessee, its successors or assigns, acknowledge, and agree that no other aircraft fuel dispensers will be constructed on the Premises or any of its Lots for the remainder of this Agreement. Should Lessee choose not to pursue a fourth aircraft hangar development on the remaining fourth Lot, the aircraft fuel dispensers may remain in the original spot.

(c) Lessee, its successors or assigns, acknowledge that the aircraft fuel dispensers that may be initially constructed on the remaining fourth Lot is to be used to service **ONLY** aircraft owned or leased by Lessee, its successors or assigns that may lease a Lot on the Premises.

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(d) Lessee may, during the term of this Agreement, construct improvements on the Premises or may alter or modify any buildings or other improvements constructed, to facilitate the use of the Premises for the purposes set forth within.

(e) Prior to the commencement of construction or refurbishment of any improvements on the Premises, Lessee shall submit to Lessor for its written approval, a site plan and complete plans and specifications of the contemplated construction. The plans and specifications shall be certified by an architect or engineer licensed to practice in the State of Arkansas and shall consist of: (i) working drawings, (ii) technical specifications, (iii) bid documents, if applicable, (iv) schedule for accomplishing improvements, (v) schedule of finishes and graphics, (vi) list of furnishings, fixtures and equipment, (vii) certified estimate of the design, development and construction costs, and (viii) such other information as may be required by Lessor. All construction, improvements, signs, equipment, and landscaping must be made in accordance with the requirements set forth in this Agreement and must conform to the standard requirements of Lessor that are applicable to tenants of the Airport. All the plans and specifications shall be in such detail as may reasonably permit Lessor to make a determination as to whether the facilities will be consistent with the provisions of this Agreement and the standards of Lessor. The plans and specifications for the facilities that have received Lessor's written approval, and any amendments and changes thereto that have received Lessor's written approval, are hereinafter referred to collectively, as the "Approved Plans." No work may be performed on the Premises, except pursuant to Approved Plans.

(f) All plans and specifications, including without limitation, "as built" plans provided pursuant to subparagraph(s), below, shall not identify any conduit ducts for cable, telecommunications, electric service, and the like by any specific company name, and such plans shall identify the purpose of such conduits by generic reference only (e.g., "phone conduit," "telecommunications conduit," or "power conduit"). No material changes shall be made to any Approved Plans, without the prior written approval of Lessor, which approval shall not be unreasonably withheld or delayed. Any change that requires the issuance of a building permit or modifies an existing building permit shall be considered a material change.

(g) Any and all construction shall be performed in such a manner as to provide that the facilities shall:

1. Be structurally sound and safe for human occupancy, and free from any hazards;

2. Provide sufficient clearance for taxiways, runways, and aprons, and shall not intrude into any aeronautical surfaces or exceed any height limitations and shall not interfere with the operations of arriving and departing aircraft at the Airport;

3. Be designed for use for only those purposes permitted under **Section 5**, hereof;

4. Comply with the provisions of the deed under which Lessor acquired its title to the Airport from the United States of America, and the provisions of any grant agreements or other agreements between Lessor and the United States Government or the State of Arkansas that are applicable to the Premises;

5. Comply with the terms and provisions of this Agreement;

6. Lessor reserves the right to require that all development within the Airport is consistent with the overall Airport system architecture and the Airport Master Plan, as well as reasonable standards of safety and quality.

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Lessor may refuse to grant approval if, in its opinion, the proposed facilities and improvements as shown on such plans and specifications will fail to meet the criteria set forth above or in other provisions of this Agreement, or for any other reason whatsoever, in its sole discretion.

(h) It is understood and agreed that in the course of any construction or refurbishment of any improvements on the Premises undertaken by Lessee during the Term of this Agreement, Lessee shall be responsible for all costs associated with any removal, replacement, relocation and protection of all utilities, whether such utilities are located at the Premises or on adjacent property, including but not limited to water, wastewater disposal, sewer, telephone, electric, airfield lighting system, conduit ducts for cable, telecommunications and electric service, and Federal Aviation Administration navigational aid systems. All underground utilities conduits installed at the Premises, including without limitation cable, electric and telecommunications, shall be deemed leasehold improvements and ownership thereof shall be vested in Lessor upon installation. All such conduits shall be installed by Lessee at its expense, and shall be free of all liens, claims and encumbrances, including any claims of any utilities provider.

(i) All improvements, equipment and interior design and decor constructed or installed by Lessee, its agents, or contractors, including the plans and specifications relating to same, shall conform to all applicable Federal, State, and Municipal statutes, ordinances, advisory circulars, building codes, fire codes, laws, rules and regulations.

(j) The parties hereby acknowledge that all existing fixtures, structures, facilities, pavements, and other leasehold improvements are the sole property of Lessor. Any improvements, additions and alterations made to the Premises by Lessee (except trade fixtures not permanently affixed to the Premises and equipment not permanently affixed to the Premises, and any other personalty of Lessee) shall automatically become Lessor owned property, free and clear of all liens, claims and encumbrances, upon termination or expiration of the Agreement, for any reason, or upon the occurrence and continuance of a default hereunder and shall be surrendered with and remain on the Premises. Any addition, fixture or other improvement that is nailed, bolted, stapled, or otherwise affixed to the Premises and is not readily removable as a trade fixture or item of equipment, is a leasehold improvement. If any personalty, including furnishings, trade fixtures or equipment, are removed by Lessee or Lessee's Associates, Lessee shall restore any damage to the Premises. All utilities conduits installed at the Premises, by Lessee, including without limitation cable, electric and telecommunications, shall be deemed leasehold improvements and ownership thereof shall be vested in Lessor. All such conduits shall be installed by Lessee at its expense. All such conduits shall be free of all liens, claims and encumbrances, including without limitation, any claims of any utilities provider.

(k) Lessee will use diligent effort to pursue the minimum required improvements on the Premises, pursuant to **Section 8(a)**, obtain necessary governmental permits, and thereafter commence and continue bona fide construction of the intended development on the Premises no later than twenty-four (24) months from the Commencement Date of this Agreement. Lessee shall have twelve (12) months from when Lessee initiates construction of the minimum required improvements to obtain a Certificate of Occupancy or to construct or refurbish the minimum required improvements otherwise fully. Lessee and Lessor recognize that time is of the essence of this Agreement and that Lessee's failure to use diligent effort to pursue the intended development on the Premises, obtain necessary governmental permits, and thereafter commence and continue bona fide construction of the minimum required improvements on the Premises will constitute a material breach of this Agreement and entitle Lessor the right to any remedies or interest that are allowable under this Agreement or under law for Lessee's breach. If at any time Lessor believes that Lessee has failed to use diligent effort to pursue

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the intended development, as described above, Lessor, in its sole discretion, shall have the right to terminate the Agreement within sixty (60) days by giving written notice to Lessee. If Lessee has demonstrated an effort of diligently pursuing the development of the minimum required improvements but such development will not be completed within the twelve (12) month period allowed, Lessee may petition, in writing, Lessor for an extension of time to complete the development. An extension of time to complete the development is not automatic upon application but may be granted at the sole discretion of Lessor. If such extension is not granted, then Lessor shall have the right to terminate the Agreement, and all of Lessee's interest in the Premises shall revert to Lessor. Lessor makes no representations or warranties regarding the above contingencies, and Lessee undertakes such efforts solely at its own risk.

(l) Lessor shall receive copies of the issuance of a Certificate of Occupancy by the City of Texarkana Building Department which will be considered acceptance of the Premises for the minimum required improvements, pursuant to **Section 8(a)**.

(m) Within one hundred and twenty (120) calendar days after the Certificate of Occupancy Date with respect to any improvements, Lessee must provide to Lessor: (i) a certified Statement from the construction contractor(s) specifying the total construction cost and stating that the improvements are free and clear of all liens, claims or encumbrances by any material suppliers, subcontractors, or laborers; and (ii) a certified Statement from the architect or engineer stating the total architect's or engineer's fees and that the improvements have been constructed in accordance with the Approved Plans and in compliance with all applicable codes (City, building and fire), laws, rules, ordinances, and regulations. Lessee shall provide, upon request, such back-up documentation and releases of lien as may be required by Lessor.

(n) Lessee hereby represents, warrants, and covenants to Lessor that the Premises and all improvements now and hereafter constructed or placed thereon shall be at all times free and clear of all liens, claims and encumbrances. If any lien or notice of lien shall be filed against the Premises or any improvements, Lessee shall, within thirty (30) calendar days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, or order of a court of competent jurisdiction. The provisions hereof shall not apply to any leasehold mortgage to which Lessor has consented as provided in this Agreement, or any purchase money security interest in any movable trade fixtures installed at the Premises.

(o) Within ninety (90) calendar days after the Certificate of Occupancy Date with respect to any improvements, Lessee shall at its expense, provide Lessor with a complete set of "as built" plans and specifications on CDs or other electronic media containing electronic data in an AUTOCAD format that meets Lessor's graphic standards of the "as-constructed" or "record" plans for such improvements.

(p) In addition to Lessor's approval, Lessee shall obtain any required approval from all other agencies having jurisdiction over any improvements, including but not limited to departments, divisions or offices of the City of Texarkana, Arkansas, the State of Arkansas, and the Federal government.

(q) All improvements must be coordinated with the FAA, including the filing of required forms and the provision of any documentation the FAA may request.

(r) Lessee shall reimburse Lessor for any costs and expenses incurred, including surveying and attorney's fees (i) as a result of the fact that the improvements, alterations and additions do not comply with Federal, State, and Municipal laws, rules, or regulations, (ii) in defending against, settling, or

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satisfying any claim that Lessor is responsible for paying regarding improvements, alterations, and additions on the Premises, or (iii) in defending against, settling, or satisfying any mechanic's lien and/or other claims, asserted because of the non-payment for improvements, alterations, and additions on the Premises.

(s) All improvements hereafter made to the Premises shall be in conformity and consistent with all applicable provisions of the Americans with Disabilities Act of 1990, as same may be amended from time to time.

(t) Lessee shall not make any improvements, or additions, alterations, modifications, or replacements to any improvements at the Premises unless Lessee shall first have submitted to Lessor, for its written approval, complete plans and specifications for same in accordance with this **Section 8**. All improvements and additions, alterations, modifications, and replacements shall comply with all provisions of this Agreement, including without limitation, this **Section 8**. In the event any improvements and additions, alterations, modifications, and replacements are made without Lessor approval pursuant to this **Section 8**, then, upon notice in writing to do so, Lessee shall remove same or at the option of Lessor cause same to be changed to the satisfaction of Lessor. In the case of any failure on the part of Lessee to comply with such notice, Lessor may affect the removal or change and Lessee shall pay the cost thereof to Lessor.

(u) Lessee shall require that any contractor or contractors who performs work on the Premises herein, or otherwise, at the Premises provide a current and valid Construction Bond or Letter of Credit in a form acceptable to Lessor, in an amount not less than the full amount of the contract price for completing the construction on the Premises herein designated, as surety for the faithful performance of the contract by contractor, and for the payment of all persons performing labor and furnishing material in connection with the work. Said Construction Bond or Letter of Credit shall be executed by a surety company or bank of recognized standing authorized to do business in the State of Arkansas and having a resident agent in Miller County and having been in business with a record of successful continuous business for at least five (5) years. Each bond shall be in form and substance satisfactory to Lessor. Furthermore, such surety company must have at least an "A" minimum rating in the latest revision of Best's Insurance Report.

(v) Contractors must be licensed in the State of Arkansas. Lessee shall further require the contractor to procure Contractor's General Public Liability and Property Damage Insurance in an amount not less than one million dollars **($1,000,000), combined** single limit, and Worker's Compensation Insurance. Such Public Liability and Property Damage Insurance policies shall name Lessor, and Lessor's Associates as additional insured. Lessee shall, before the commencement of any work, furnish Lessor with evidence that the contractor or contractors are covered to the satisfaction of Lessor with insurance as outlined above. If at any time during the continuance of the contract a surety on the contractor's bond or bonds becomes irresponsible, Lessor shall have the right to require additional and sufficient sureties which the contractor shall furnish within ten (10) days after notice to do so.

(w) Lessee may, at its own expense, install and operate necessary and appropriate identification signs on the Premises for its purpose, subject to the approval of the Executive Director of Lessor as to the number, size, height, location, color and general type and design. Such approval shall be subject to revocation by Executive Director of Lessor at any time. Upon the occurrence and continuance of an event of default, Lessee shall remove said sign(s) if requested to do so by Lessor and Lessee shall repair all damage to the Premises caused by removal.

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(x) Lessee shall coordinate all construction and refurbishment of improvements and any other additions, alterations, modifications, or replacements to the Premises or improvements with the Airport, and shall minimize any disruption to Airport activities, tenants, and users. Lessor shall have the right, but not the duty, to direct that Lessee and/or Lessee's Associates cease activities or revise work plans to avoid disruption. Lessee and/or Lessee's Associates shall meet with Lessor, as requested by Lessor, as the work progresses and provide Lessor with information as may be required. Lessor may require Lessee to comply with other measures that are in Lessor's best interests in connection with any construction activities, such as coordination with Airport Operations/Maintenance, City of Texarkana, Arkansas Police, TSA, and local FAA Air Traffic Control.

(y) The building(s), and all other improvements made by Lessee which have assumed the nature of realty, will become property of Lessor upon termination or expiration of this Agreement, without compensation to Lessee, and free of all liens and claims. Lessee will have the right to remove any furnishings, trade fixtures, equipment, and improvements that have not assumed the nature of realty, provided the same is done prior to termination or expiration of this Agreement, Lessee is not in default of this Agreement, and Lessee repairs any damage caused by such removal. Any such property remaining after the termination or expiration of this Agreement will immediately become property of Lessor unless otherwise agreed to by Lessor in writing.

SECTION 9. MAINTENANCE AND REPAIRS

(a) Lessee agrees to provide at its own expense such maintenance, custodial, and cleaning services and supplies as may be necessary or required in the operation and maintenance of the Premises, improvements, and Personal Property.

(b) Lessee shall throughout the Term of the Agreement assume the entire responsibility and shall relieve Lessor from all responsibility for all repair and maintenance whatsoever on the Premises (which shall include, without limitation, all buildings and improvements thereon), whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. Maintenance and repairs shall be in quality and class comparable to the original work, to preserve the Premises in good order and condition.

(c) Lessor shall be responsible for maintenance of the common areas and systems associated with the Premises. Lessee covenants to properly use and not abuse the common areas and systems maintained by Lessor.

(d) Lessee shall be required to keep all buildings and other improvements in good, tenantable, useable condition throughout the Term of this Agreement, and without limiting the generality thereof, Lessee shall:

1. Paint the exterior and interior of the Premises as needed and Lessee shall repair and maintain all doors, windows, pavements, equipment, lighting fixtures, furnishings, fixtures, roof, exterior walls, and structural support system.

2. Always keep the Premises in a clean and orderly condition and appearance, including without limitation, upkeep and maintenance of all landscaping and upkeep and maintenance of all of Lessee's fixtures, equipment and personal property which are located in any part of the Premises which is open to or visible by the general public.

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3. Provide and maintain all obstruction lights and similar devices, fire protection and safety equipment and all other equipment of every kind and nature required by any law, rule, order, ordinance, resolution, or regulation of any applicable governmental authority.

4. Repair any damage to the pavement or other surface of the Premises caused by operations of Lessee, Lessee's Associates and any others entering upon or using the Premises at any time during the Term, including without limitation any oil, gasoline, grease, lubricants or other liquids and substances having a corrosive or detrimental effect thereon and report the incident of such spill pursuant to **Section 15**.

5. Take anti-erosion measures, including but not limited to, the planting and replanting of grasses with respect to all portions of the Premises not paved or built upon.

6. Be responsible for the maintenance and repair of all utilities including but not limited to, service lines for the supply of water, gas service lines, electrical power, telephone and telecommunications conduits and lines, sanitary sewers and storm sewers which are now, or which may be subsequently located upon the Premises leased to Lessee and which are used exclusively by Lessee.

7. Be responsible for the maintenance and repair of all perimeter fences and all gates before, during, and after construction of any improvements.

(e) Lessor reserves the right to approve any contractor retained for construction, maintenance and repair of the Premises.

(f) Lessor shall have the right to enter the Premises upon reasonable written notice and at reasonable times to inspect same for purposes of determining if Lessee is maintaining the Premises as required by this Agreement. In the event Lessee fails in any material respect to commence to maintain, clean, repair, replace, or rebuild within a reasonable period of time and/or after written notice from Lessor to do so; or fails in any material respect diligently to continue to complete the maintenance, repair, replacement, or rebuilding of all of the Premises required to be maintained, repaired, replaced, or rebuilt by Lessee under the terms of this Agreement, Lessor may, at its option, and in addition to any other remedies which may be available to it, maintain, repair, replace, or rebuild all or any part of the Premises included in said notice and the cost thereof shall be payable by Lessee to Lessor upon demand. Lessee shall have a period of thirty (30) calendar days to commence any required action hereunder, except for emergency and public safety items which shall be immediately undertaken by Lessee.

(g) Lessee shall remove from the Airport or otherwise dispose of in a manner approved by Lessor all garbage, debris and other waste material arising out of its occupancy of the Premises or out of its operations. Lessee shall keep and maintain the Premises in a neat and orderly manner and shall keep the grass cut and all improvements painted. Any garbage, debris or waste which may be temporarily stored in the open shall be kept in suitable garbage or waste receptacles, the same to be made of metal and equipped with tight fitting covers and to be of a design to safely and properly contain whatever may be placed therein. Lessee shall use extreme care when effecting removal of all such waste.

SECTION 10. LIABILITY, INDEMNITY, AND INSURANCE

THERE IS NO EXPECTATION OF ANY INDEMNIFICATION BEING PROVIDED TO LESSEE BY THE AIRPORT OR LESSOR.

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(a) Lessee shall protect, defend, indemnify, and hold Lessor and Lessor's Associates completely harmless from and against any and all debts, expenses, penalties, costs, and judgments arising by reason of the injury or death of any person or damage to any property or economic loss of any nature (including but not limited to those relating to or arising out of the violation of any Environmental Laws or any Federal, State, and Municipal health, or safety law, regulation, rule, or ordinance), including all reasonable costs of investigation and defense thereof (including but not limited to attorneys' and consultants' fees and court costs), arising out of or incidental to any acts or omissions or misrepresentations of Lessee, and/or Lessee's Associates related to (i) this Agreement, (ii) Lessee's use or occupancy of or operations on or in connection with the Premises, the improvements, or any portion thereof, (iii) any Environmental Laws, or (iv) Lessee's rights, obligations, responsibilities, or duties under this Agreement; except to the extent such injury, death, loss, or damage is caused by the gross negligence or willful misconduct of Lessor and /or Lessor's Associate's. This indemnity shall cover any problems in, on, under, or affecting the Premises or any areas surrounding the Premises which are a direct or indirect result of actions or omissions of Lessee and/or Lessee's Associate's. Lessor shall give Lessee reasonable notice of any such claims or actions. Lessee, in carrying out its obligations hereunder, may use counsel and consultants selected by it, but such counsel and consultants shall be reasonably acceptable to, and cooperative with, Lessor. The provisions of this **Section 10(a)** shall survive the expiration or earlier termination of this Agreement.

(b) Lessee shall, at a minimum, provide, pay for, and maintain in full force at all times during the Term of this Agreement (unless otherwise provided), the insurance coverages set forth in the paragraphs below, in accordance with the terms, covenants, and conditions required by this **Section 10**. Such policy or policies shall be without any deductible amount (except as may be expressly authorized herein) and shall be issued by a company(s) of recognized standing authorized to do business in the State of Arkansas and having a resident agent in the State of Arkansas and having been in business with a record of successful continuous business for at least five (5) years. Furthermore, such company(s) must have at least an "A" minimum rating in the latest revision of Best's Insurance Report. Lessee shall specifically protect Lessor by naming Lessor as additional insured under the Property Damage Insurance, and Commercial General Liability Policy and all environmental and impairment liability policies only.

(c) Lessee shall, during the Term of this Agreement, insure and keep insured to the extent of not less than one hundred percent (100%) of the insurable replacement value thereof, all buildings, improvements, structures, fixtures and equipment on the Premises against such hazards and risks as may now or in the future be included under the Standard Form of Fire and Extended Coverage insurance policy of the State of Arkansas and also against the following applicable hazards and risks:

1. Sprinkler leakage - by which is meant damage caused by water or any other substance discharged from any part of the fire protection equipment for Lessee's Premises or from adjoining premises; collapse or fall of tanks forming part of such fire protection equipment or the component parts or supports of such tanks.

2. Damage caused by such perils and hazards as may now or in the future be included under any Boiler and Machinery policy filed with and approved by the Insurance Commissioner of the State of Arkansas, or if there be no such policy so filed, then reasonable coverage against perils and hazards occasioned by the existence and operation of such boilers, provided that Lessee shall be required to maintain such insurance only with respect to such buildings and structures in which boilers are installed.

 _____Lessee's Initials

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(d) Such policies of insurance shall be limited to a deductible for windstorm of not more than two percent (2%) of the insurable replacement value of the improvements. In addition, the deductible for all other than windstorm perils shall be not more than One Hundred Thousand Dollars ($100,000.00), which amount Lessee shall self-insure. In the event of any damage to the Premises, if the cost of repair or replacement is less than the deductible amount, Lessee shall nevertheless be required to make such repair or replacement and to restore the Premises to the condition required by **Section 11**.

(e) All policies of such insurance and renewals thereof shall insure Lessor and Lessee as their interest may appear, and shall provide that the loss, if any, shall be adjusted with and payable to Lessor, except as otherwise provided in **Section 11** hereof.

(f) In the event the Premises or any part thereof shall be damaged by any casualty against which insurance is carried pursuant to this **Section 10**, and if such loss is to be adjusted with and payable to Lessor, Lessee shall promptly furnish to Lessor such information and data as may be necessary to enable Lessor to adjust the loss.

(g) **Commercial General Liability Insurance** shall be provided to protect against bodily injury and property damage liability in an aggregate amount of not less than One Million Dollars ($1,000,000.00) per occurrence, combined single limit, and One Million Dollars ($1,000,000.00) per aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include: Premise and/or Operations, Personal Injury, Independent Contractors, Broad Form Property Damage and Broad Form Contractual Coverage covering all liability arising out of the terms of this Agreement. Lessee is responsible for all deductibles in the event of a claim.

(h) **Aircraft and Passenger Liability Insurance** shall be provided to protect against bodily injury and property damage liability in an amount of not less than One Million Dollars ($1,000,000.00) per occurrence, combined single limit, of One Million Dollars ($1,000,000.00) per aggregate, with a limit of One Hundred Thousand Dollars ($100,000) each person. Coverage must be afforded on a form no more restrictive than the latest edition of the Aircraft and Passenger Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: Premise and/or Operations, Personal Injury, Independent Contractors, Broad Form Property Damage and Broad Form Contractual Coverage covering all liability arising out of the terms of this Agreement. Lessee is responsible for all deductibles in the event of a claim.

(i) **If applicable, Environmental and Impairment Liability Insurance** shall be provided in the minimum amount of One Million Dollars ($1,000,000.00) per claim, subject to a maximum deductible of One Hundred Thousand Dollars ($100,000.00) per claim. Such policy shall include a One Million Dollars ($1,000,000.00) annual policy aggregate and name Lessor as additional insured. Lessee is responsible for all deductibles in the event of a claim.

(j) "**Environmental and Impairment Liability Insurance**" is defined as a specialized insurance policy that covers liability and cleanup costs associated with discharge of "Materials" (as defined in **Section 15**). It provides broader coverage than the general liability policy by covering gradual as well as sudden and accidental releases.

(k) **If applicable, Workers' Compensation and Employer's Liability Insurance** shall be provided to apply for all employees in compliance with the "Workers' Compensation Law" of the State of

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Arkansas and all applicable Federal laws. In addition, the policy(ies) must include Employers' Liability with a limit of One Hundred Thousand Dollars ($100,000) each accident.

(l) Lessee shall furnish to Lessor, Certificates of Insurance evidencing the insurance coverages specified by this **Section 10** prior to the commencement of this Agreement.

(m) Coverage is not to cease and is to remain in full force (subject to cancellation notice) throughout the Term of this Agreement and until all performance required hereunder is completed. All policies must be endorsed to provide Lessor with at least thirty (30) calendar days' prior written notice of expiration, cancellation and/or restriction. If any of the insurance coverages will expire prior to the expiration or termination of this Agreement, copies of renewal certificates shall be furnished at least thirty (30) calendar days prior to the date of their expiration. Any insurance coverage that is written on a "claims made" basis must remain in force for two (2) years after the expiration or termination of this Agreement. Comprehensive General and Commercial General Liability Insurance shall be written on an "occurrence" basis and shall not be written on a "claims made" basis.

(n) The aforesaid minimum limits of insurance shall be reviewed from time to time by Lessor and may be adjusted if Lessor determines that such adjustments protect Lessor's interest. When such policies or certificates have been delivered by Lessee to Lessor as aforesaid and at any time or times thereafter, Lessor may notify Lessee, in writing, that the insurance represented thereby does not conform to the provisions of this **Section 10** either because of the amount or because of the insurance company or for any other reason, and Lessee shall have fifteen (15) calendar days in which to cure any such defect.

(o) **Subrogation.** Notwithstanding anything to the contrary herein, Lessee waives any right of recovery against Lessor for any loss or damage to the extent the same is required to be covered by Lessee's insurance hereunder. Lessee shall obtain from its insurers a waiver of any subrogation the insurer may have against Lessor in connection with any loss or damage covered by Lessee's insurance.

(p) The certificate holder address shall read "Texarkana Regional Airport Authority, 201 Airport Drive, Texarkana, Arkansas 71854," as may be amended or changed.

(q) Compliance with the foregoing requirements shall not relieve Lessee of its liability and obligations under any other provision of this Agreement.

(r) If, at any time, Lessee shall fail to obtain the insurance as required herein, Lessee will be deemed in default and, at its sole option, Lessor may terminate this Agreement upon thirty (30) days written notice.

(s) Lessor shall not be liable to Lessee for any injury or damage to Lessee or Lessee's property from any cause except if caused by Lessor's or Lessor's Associates' negligence. Lessee waives all claims against Lessor for damage to persons or property arising from any reason.

SECTION 11. DAMAGE TO OR DESTRUCTION OF PREMISES

(a) **Removal of Debris.** If the Premises or any part thereof shall be damaged by fire, the elements, or other casualty, Lessee shall promptly remove all debris resulting from such damage from the Premises, and Lessee shall promptly take such actions and cause such repairs to be made to the Premises as will place the Premises in a neat and orderly condition and as are necessary for the safety of persons entering upon the Premises. To the extent, if any, that such measures are covered by any insurance obtained by Lessee, the proceeds thereof shall be made available to Lessee for such

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purpose. If Lessee shall fail to promptly comply with the provisions hereof, then Lessor may take such measures as it deems necessary to render the Premises in a neat, orderly, and safe condition, and Lessee shall be responsible for any costs expended by Lessor in connection therewith and the proceeds of any insurance covering the Premises shall be adjusted with and paid to Lessor.

(b) **Minor Damage.** If the Premises, or any part thereof shall be damaged by fire, the elements, or other casualty but not rendered untenable or unusable, then there shall be no abatement of rent and the Premises shall be repaired with due diligence in accordance with the plans and specifications for the Premises as they existed prior to such damage, or in accordance with new plans approved by Lessor pursuant to **Section 8**, hereof, by and at the expense of Lessee and, if such damage is covered by insurance, the proceeds thereof shall be made available to Lessee for that purpose.

(c) **Major Damage to or Destruction of the Premises.** If the Premises or any part thereof shall be destroyed or so damaged by fire, the elements or other casualty as to render the Premises untenable or unusable, then:

1. Lessee shall have an option to make the necessary repairs or replacements for the restoration thereof in accordance with the plans and specifications as the same existed prior to such damage or destruction, provided that Lessee within forty-five (45) calendar days after the occurrence of such damage or destruction notifies Lessor in writing that it elects to exercise its option to make the necessary repairs or replacements. If Lessee elects to make such repairs or replacements it shall do so with reasonable dispatch and, if such destruction or damage was covered by insurance, the proceeds thereof shall be adjusted with and paid to Lessee.

2. If Lessee fails to notify Lessor in writing of its intention to make the necessary repairs or replacements within the forty-five (45) day period provided in subparagraph (1), above, or if within said forty-five (45) day period Lessee notifies Lessor in writing that it does not elect to make such repairs or replacements, then Lessor may at its election make such repairs and replacements, provided that Lessor notifies Lessee of its election to do so within thirty (30) calendar days following the expiration of said forty-five (45) day period. If Lessor elects to make such repairs or replacements, it shall do so with reasonable dispatch, and Lessee shall be responsible for any costs expended by Lessor in connection therewith and the proceeds of any insurance covering the Premises shall be adjusted with and paid to Lessor.

3. In the event that restoration is made pursuant to either subparagraph (1) or (2), above, the rent shall abate from the date of the damage or destruction until the Premises have been placed in a usable condition. Such abatement shall be made pursuant to **Section 6(p)** hereof. All restoration work shall be made pursuant to plans and specifications that have received the prior approval of Lessor and all such work shall comply with the terms and provisions of this Agreement, including without limitation, **Section 8** hereof.

4. In the event that neither of the two parties elects to make such repairs and replacements, then this Agreement shall terminate upon the earlier of: (i) the expiration of seventy-five (75) calendar days from the occurrence of such destruction or damage or (ii) the date established by written notice by Lessor to Lessee; and in any such event, the proceeds of insurance applicable to the damage or destruction (other than the proceeds applicable to Lessor's costs of debris removal and removal of damaged improvements) shall be distributed between Lessee and Lessor as their interest may appear. The interest of Lessee shall not exceed the unamortized value of the improvements existing on the Premises as of the date immediately preceding the date of the casualty (excepting any Lessor-owned improvements for which rent has been paid

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by Lessee, if any, which shall be excluded from the calculation) then depreciated over the Term of the Agreement. In such event, the payment of rentals shall terminate as of the date of the damage or destruction.

SECTION 12. TERMINATION OF AGREEMENT- ASSIGNMENT AND TRANSFER

(a) This Agreement shall terminate at the end of the full term hereof, and any extensions thereto, as set forth in **Section 3** of this Agreement, and Lessee shall have no further right or interest herein.

(b) Lessor may terminate this Agreement by giving Lessee thirty (30) days advance written notice, to be served as hereinafter provided, upon the happening of any one of the following events:

1. The filing by Lessee of a voluntary petition for bankruptcy.
2. The institution of proceedings in bankruptcy against Lessee and adjudication of Lessee as a bankrupt pursuant to said proceedings.
3. The taking by a court of competent jurisdiction of Lessee and its assets pursuant to proceedings brought under the provision of any Federal reorganization act.
4. The appointment of a receiver of Lessee's assets.
5. The divestiture of Lessee's estate herein by operation of law.
6. The abandonment by Lessee of its conduct of operation upon the Premises.
7. The conduct of any operation or performance of any acts not specifically authorized herein.
8. Default in the performance of any of the terms, covenants and conditions required herein (except rental payment) to be kept and performed by Lessee and such default continues for a period of thirty (30) days from the date of written notice from Lessor to cure said default; provided however that: (i) if, in the judgement of Lessor, the nature of the default is such that it cannot be cured in a period of thirty (30) days from the date of said default; (ii) Lessee commences good faith efforts to cure such default immediately upon receipt of such notice; (iii) such efforts are diligently prosecuted to completion to Lessor's satisfaction, then it shall be deemed that no default shall have occurred under the provisions of this subparagraph 8.

In any of the aforesaid events, termination shall be effective upon the date specified in Lessor's written notice to Lessee, and, upon said date, Lessee shall be deemed to have no further rights hereunder and Lessor may take immediate possession of the Premises and remove Lessee's effects, by forcible eviction, if necessary, without being deemed guilty of trespassing.

(c) If Lessee fails to pay the whole or any part of the rent, charges or fees due hereunder for a period of thirty (30) days after such payments become due, and continues to fail to pay said amounts in full within ten (10) days from Lessor's transmittal to Lessee of a written Past Due Statement therefore, Lessor may, at its option, immediately cancel this Agreement, by written notice thereof, and may enter upon the Premises (or any part thereof) and repossess the same from Lessee and this Agreement shall be considered terminated, whether or not such entry is actually made.

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(d) Lessee may terminate this Agreement at any time that Lessee is not in default of its payments to Lessor hereunder, by giving Lessor sixty (60) calendar days advance written notice to be served as hereafter provided, upon or after the happening of any one of the following events:

1. Issuance by any court of competent jurisdiction of an injunction in anyway preventing or restraining the use of the Airport or any part thereof for airport purposes, and the remaining in force of such injunction for a period of at least ninety (90) days.

2. The default by Lessor in the performance of any covenant or agreement herein required to be performed by Lessor and the failure of Lessor to remedy such default for a period of sixty (60) calendar days after receipt from Lessee of written notice to remedy same; provided, however, that no notice of termination, as provided herein, shall be of any force or effect if Lessor shall have remedied the default prior to receipt of Lessee's notice of termination.

3. The lawful assumption by the United States Government or any authorized agency thereof of the operation, control or use of the Airport and facilities, or any substantial part or parts thereof, in such a manner as to substantially restrict Lessee, for a period of at least sixty (60) days, from operating thereon.

(e) Upon expiration or any sooner termination or cancellation of this Agreement, Lessor may require Lessee to remove any improvements erected, installed or constructed by Lessee except for buildings and other substantial improvements to the Premises. Such removal, if required of Lessee, shall be at Lessee's expense. Notice of such removal will be given to Lessee prior to termination of this Agreement and completion of the removal will be within a reasonable time period determined by Lessor. Notwithstanding the foregoing, upon expiration or any sooner termination or cancellation of this Agreement, title to all structures, improvements, facilities or alterations erected, installed or constructed by Lessee which are not required by Lessor to be removed shall automatically vest in Lessor without any further act on the part of either party. If this Agreement is canceled by Lessee pursuant to **Section 12(d)** hereof, or if this Agreement is otherwise canceled by Lessor before expiration of the term pursuant to other provisions of this Agreement and without cause against Lessee, Lessor shall be required to provide a suitable Airport lease site and reimbursement for replacement improvements constructed on the Premises by Lessee in accordance with the provisions of this Agreement.

(f) Lessee is granted the right, upon any termination of this Agreement, to remove its Trade Fixtures (as defined below); provided, however, in the event that the Premises are damaged by reason of, or in the course of, the removal of Lessee's Trade Fixtures, Lessee, at its cost, shall promptly repair any and all such damage and restore the Premises to the same condition as prior to installation or to a condition approved by Lessor. The failure to remove its Trade Fixtures shall not constitute a holdover, but all such property not removed within ten (10) days after any termination of this Agreement shall be deemed abandoned and thereupon shall become the property of Lessor. “Trade Fixtures” as herein defined, shall include, but are not limited to, personal property, signs used to identify Lessee's operation in and about the Premises, and all machinery and equipment installed in or placed on or about the Premises and used in connection with Lessee's operation.

(g) Lessee shall not, in any manner, assign, transfer, mortgage, pledge, encumber or otherwise convey an interest in this Agreement, nor sublet the Premises or any part thereof, without the prior written consent of Lessor and unless the assignee or sub-lessee is qualified by Lessor to do business at the Airport pursuant to such nondiscriminatory standards as may be established by Lessor, including without limitation that such proposed assignee or sub-lessee have and be able to demonstrate

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substantial and profitable experience in the same or directly related operation as Lessee and have and be able to demonstrate on the proposed date of such assignment or sublease a net worth equal to or greater than that of Lessee on the date hereof. Lessee shall submit a written request for consent by Lessor at least sixty (60) calendar days prior to the commencement of the proposed assignment or sublease (unless waived by Lessor), including a detailed statement of the assignee's or sub-lessee's proposed activity with a copy of the proposed assignment or sublease. Lessor may deny consent if Lessor determines the assignment or sublease is not in its best interest; if Lessee has been declared in default of any of the terms, covenants, and conditions of this Agreement; if the proposed assignment or sublease is not permitted under this Agreement; or for other valid reasons. Subject to Lessor's written consent as aforesaid, Lessee shall have the right to assign or sublease the Premises only for the same purpose permitted under this Agreement, any such assignment or sublease shall be subject to the same conditions, obligations and terms as set forth herein, and Lessee shall be responsible for the observance by its assignor or sub-lessee of the terms and covenants contained in this Agreement.

SECTION 13. GOVERNMENTAL CONDITIONS

(a) Lessor covenants that it will operate and maintain the Airport as a public airport consistent with and pursuant to the Sponsor's Assurances given by Lessor to the United States Government under the Airport and Airway Improvement Act of 1982, as the same may be amended from time to time.

(b) Lessor reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance.

(c) Lessor reserves the right but shall not be obligated to Lessee to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport together with the right to direct and control all activities of Lessee in this regard.

(d) Lessor reserves unto itself, its successors, and assigns, for the use and benefit of the public, the right of flight for the passage of aircraft in the airspace above the surface of the Premises. This right of flight shall include the right to cause in said airspace such noise as may be inherent in the operation of any aircraft now known or hereafter used for navigation or flight through the said airspace for landing at, taking off from or operating on the Airport.

(e) It is understood and agreed that nothing contained in this Agreement shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308a of the **Federal Aviation Act of 1958 (49 U.S.C. 1349a),** as the same may be amended from time to time.

(f) This Agreement shall be subject and subordinate to the provisions of all laws and regulations and of any existing or future agreement between Lessor and the United States of America, or any agency thereof, relative to the operation or maintenance of the Airport. Lessor shall, to the extent permitted by law, use its best efforts to cause any such agreements to include provisions protecting and preserving the rights of Lessee in and to the Premises, and to compensation from the United States of America for taking thereof, interference therewith, and damage thereto, caused by such agreement or by actions of Lessor or the United States of America pursuant thereto.

(g) During the time of war or national emergency, Lessor shall have the right to lease the landing area or any part thereof to the United States Government for military use and, if such lease is executed, the applicable provisions of this Agreement, insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended.

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(h) Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree to the following, as a covenant running with the land:

1. Subordination of Agreement - This Agreement and all provisions set forth herein are and shall be subject and subordinate to the terms, covenants, and conditions of any instruments and documents under which Lessor acquired the land or improvements thereto, of which the Premises are a part, and shall be given only such effect as will not conflict with or be inconsistent with such terms, covenants, and conditions. It is further understood and agreed by Lessee that this Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between Lessor and the United States of America, or any of its agencies, relative to the development, operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport.

2. Compliance with Title 49 - In the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, as said regulations may be amended (49 CFR Part 21).

3. Compliance with Title VI of Civil Rights Act of 1964 - No person, on the grounds of race, color, creed, sex, age, national origin or handicap, shall be excluded from participation, denied the benefits of or be otherwise subjected to discrimination in the use of said facilities. In the construction of any improvements on, over or under the land and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of or otherwise be subject to discrimination on the grounds of race, color, creed, sex, age, national origin or handicap; Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21.

4. Breach of Nondiscrimination Covenants - In the event of breach of any of the above nondiscrimination covenants described in Paragraphs 2 and 3 above, Lessor shall have the right to terminate this Agreement and to re-enter and repossess said land and the facilities thereon and hold the same as if this Agreement had never been made or issued; provided, however that Lessee allegedly in breach shall have the right to contest said alleged breach under applicable FAA procedures, and any sanctions under or termination of this Agreement shall be withheld pending completion of such procedures.

5. Nondiscriminatory Pricing - Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof, and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit of service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar type of price reductions to volume purchasers. Noncompliance with this paragraph and failure to substantially remedy such noncompliance within a reasonable period of time shall constitute a material breach hereof; and, in the event of such noncompliance, Lessor shall have the right to

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terminate this Agreement without liability therefor or, at the election of Lessor or the United States Government, either or both shall have the right to judicially enforce this paragraph.

6. Inclusion of Provisions in Lessee's Agreements - Lessee agrees that it shall insert the provisions of Paragraphs 2 through 5 of this **Section 13**, inclusive, in any agreement by which Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises. Upon request by Lessor, Lessee shall provide all agreements by which Lessee grants a right or privilege to any person, firm or corporation to render accommodations and/or services to the public on the Premises available for the review of Lessor to allow Lessor to ascertain compliance with such requirements prescribed by this **Section 13(h)6**.

7. Disadvantaged Business Enterprise Program - Lessee shall, as applicable to its operation, abide and be bound by 49 CFR Part 23, Participation by Disadvantaged Business Enterprise in Department of Transportation Programs.

8. Affirmative Action Plan - Lessee shall, as applicable to its operation, abide by and be bound by 14 CFR Part 152, Subpart E, as may be amended from time to time, to ensure that no person shall, on the grounds of race, creed, color, national origin or sex, be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures, as applicable to its operation, that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by said Subpart. Lessee assures that it will require, as applicable to its operation, that its covered sub-organizations provide assurances to Lessee and Lessor that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

(i) This Agreement is subject to any applicable review by the FAA or any Federal agency having regulatory jurisdiction, to determine satisfactory compliance with Federal law, as applicable to Lessee's operation, and said Agreement shall be in full force and effect and binding upon both parties pending such review and approval by the FAA or other Federal regulatory agency, as applicable; provided, however, that upon such review, all parties hereto agree to modify any of the terms hereof which may be determined to be in violation of or contrary to existing laws, regulations, assurances or other requirements.

(j) It is anticipated that changes will come from regulatory agencies having jurisdiction over the Airport or Lessor in the form of regulatory changes. It is Lessee's responsibility to obtain all Notices of Proposed Rule Making directly from such agencies. Where possible, Lessor may provide notice of proposed changes, but nothing contained herein shall render this provision unenforceable by virtue of Lessee not receiving notice of proposed changes.

(k) In the event a United States governmental agency shall demand and take over the entire facilities of the Airport, or that portion of the Airport containing the Premises, for public purposes, then and in that event Lessor shall be released and fully discharged from any and all liability hereunder and this Agreement shall thereupon terminate.

(l) Lessee certifies, to the best of its knowledge and belief, that:

1. No Federally appropriated funds have been paid or will be paid by or on behalf of Lessee, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a

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member, officer or employee of Congress, or an employee or member of Congress in connection with the award of any Federal contract, in making any Federal grant or Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member, officer or employee of Congress, or an employee or member of Congress in connection with any contract, grant, loan or cooperative agreement relating to this Agreement, Lessee shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

3. Lessee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

(m) Lessee, by execution of this Agreement, certifies that it:

1. It is not owned or controlled by one or more citizens or nationals of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);

2. It has not knowingly entered into any contract or subcontract for this project with a contractor that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list; and

3. It has not procured any product or subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to any party hereunder that is unable to certify to the above. If Lessee knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use of the project, the FAA may direct, through Lessor, cancellation of such contract at no cost to the Government.

Further, Lessee agrees that it will incorporate this provision, as it pertains to the Premises, for certification without modification in each contract and in all lower tier subcontracts. Lessee may rely upon the certification of a prospective subcontractor unless it has knowledge that the certification is erroneous. Lessee shall provide immediate written notice to Lessor if it learns that a prospective contractor's certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The subcontractor agrees to provide immediate written notice to Lessee, if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that Lessee or any subcontractor knowingly rendered an erroneous certification, the FAA may direct, through Lessor, cancellation of the contract or subcontract for default at no cost to the Government.

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Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a Lessee is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

SECTION 14. AIRPORT SECURITY PROGRAM

(a) Lessee agrees to observe all security requirements and other requirements implemented by Federal Aviation Regulations applicable to Lessee, including without limitation, all regulations of the United States Department of Transportation, the Federal Aviation Administration and the Transportation Security Administration, and Lessee agrees to comply with Lessor's Airport Security Program (including without limitation the access to the Air Operations Area ("AOA"), and any amendments thereto, and to comply with such other rules and regulations as may be reasonably prescribed by Lessor and to take such steps as may be necessary or directed by Lessor to insure that Lessee's Associates observe these requirements. If required by Lessor, Lessee shall conduct background checks of its employees in accordance with applicable Federal Regulations. If as a result of the acts or omissions of Lessee and/or Lessee's Associates, Lessor incurs any fines and/or penalties imposed by any governmental agency, including without limitation, the United States Department of Transportation, the Federal Aviation Administration or the Transportation Security Administration, or any expense in enforcing any Federal regulations, including without limitation, airport security regulations, or the rules or regulations of Lessor, and/or any expense in enforcing Lessor's Airport Security Program, then Lessee agrees to pay and/or reimburse to Lessor all such costs and expenses, including all costs of administrative proceedings, court costs, and attorneys' fees and all costs incurred by Lessor in enforcing this provision. Lessee further agrees to promptly rectify any security deficiency or other deficiency as may be determined as such by Lessor or the United States Department of Transportation, Federal Aviation Administration, the Transportation Security Administration, or any other Federal agency with jurisdiction. In the event Lessee fails to promptly remedy any such deficiency, Lessor may do so at the sole cost and expense of Lessee. Lessor reserves the right to take whatever action is necessary to rectify any security deficiency or other deficiency.

1. **Access to Security Identification Display Areas and Access Credentials.** Lessee shall be responsible for requesting Lessor to issue a security identification badge ("access credentials") to Lessee and all of Lessee's Associates who are authorized access to the Security Identification Display Areas ("SIDA") on the Airport. In addition, Lessee shall be responsible for the immediate reporting of all lost or stolen access credentials and the immediate return of the access credentials of Lessee's Associates transferred from the Airport, or terminated from the employ of Lessee, or upon termination of this Agreement. Before access credentials are issued to Lessee and any Associate of Lessee, Lessee and any Associate of Lessee shall comply with the requirements of applicable Federal regulations with regard to fingerprinting for criminal history record checks and security threat assessments and shall require that Lessee and each Associate of Lessee complete SIDA or security awareness training programs conducted by Lessor. Lessee shall pay or cause to be paid to Lessor such charges as may be established from time to time for lost or stolen access credentials and those not returned to Lessor in accordance with these provisions. Lessor shall have the right to require Lessee to conduct background investigations and to furnish certain data on Lessee's Associates before the issuance of access credentials, which data may include the fingerprinting of employee applicants for such credentials. Lessee agrees that Airport access

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credentials are the property of Lessor and may be suspended or revoked by Lessor in its sole discretion at any time, for failure to obey the rules and regulations set forth by the FAA, TSA and Lessor's rules and regulations. Lessee must be the signatory holder for all access credentials issued to Lessee and all of Lessee's Associates in connection with this Agreement. Lessee must sign for and dispense all access credentials to Lessee's Associates and will assume full responsibility for all lost or stolen access credentials and the immediate return of the access credentials to Lessor for any reason.

2. **Security Fence.** Lessee agrees to construct, relocate, replace, or maintain, at its own expense, and in accordance with any FAA and TSA standards, security fencing between the Premises and the Airport and any other fencing damaged or removed by Lessee in locations to be determined by Lessor. At all times before, during and after construction, Lessee must maintain fencing and other Airport security measures, in accordance with FAA and TSA standards, as determined by Lessor so as not to jeopardize Airport safety or security. Lessee must always maintain a secure fencing perimeter, protecting the Airport Operations Area, all times before, during and after construction, to the satisfaction of Lessor, FAA, and TSA.

3. **Operation of Vehicles on the AOA.** If the Premises has access to the AOA, then before Lessee shall permit any employee to operate a motor vehicle of any kind or type on the AOA (and unless escorted by a Lessor approved escort), Lessee shall ensure that all such vehicle operators possess current, valid, and appropriate driver's licenses. Lessee agrees that Lessee's AOA vehicle access may be suspended or revoked by Lessor in its sole discretion at any time, for failure to observe all security requirements and other requirements of the Federal Aviation Regulations applicable to Lessee, including without limitation, all regulations of the United States Department of Transportation, the FAA and the TSA. Lessee will be issued a vehicle hangtag for vehicular access to the Premises, which may be revoked at any time at the sole and absolute discretion of Lessor. Issuance of hangtags is at the sole and absolute discretion of the Airport Operations Manager, including the number or amount issued. Lessee must always display their vehicle hangtag plainly visible from the exterior of the vehicle while in or around the Premises. Failure of Lessee to properly display their vehicle hangtag may result in suspension and revocation of their vehicle hangtag. Only vehicles that have received a vehicle hangtag from Lessor will be allowed in or around the Premises.

4. **Consent to Search/Inspection.** Lessee agrees that its vehicles, cargo, goods and other personal property are subject to being inspected and searched when attempting to enter or leave and while on the AOA. Lessee acknowledges and understands that the foregoing requirements are for the protection of users of the Airport and are intended to reduce incidents of cargo tampering, aircraft sabotage, thefts and other unlawful activities at the Airport. For this reason, Lessee agrees that persons not executing such consent-to-search/inspection form shall not be employed by Lessee at the Airport in any position requiring access to the AOA or allowed entry to the AOA by Lessee or any of Lessee's Associates.

5. **Escorting Requirements.** Unless necessary for Lessee's use, occupancy, or operations at the Premises or the Airport, Lessee and/or any of Lessee's Associates shall not allow an individual without access credentials into the SIDA area of the Airport, including those that have access credentials but do not have them properly displayed. If, however, Lessee and/or Lessee's Associates with access credentials require the need to escort an individual without access credentials into the SIDA area of the Airport for Lessee's use, occupancy, or operations at the Premises or the Airport, they must have escort privileges and must always remain with that individual while inside the SIDA area. Lessee and/or Lessee's Associates, having escort

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privileges, must always provide the initial ingress and egress of the SIDA area of the Airport for an individual without access credentials that they are escorting. Failure to comply with these requirements may subject Lessee to penalties and/or fines assessed by the TSA and termination of this Agreement.

(b) The provisions hereof shall survive the expiration or any other termination of this Agreement.

SECTION 15. ENVIRONMENTAL COMPLIANCE; ENVIRONMENTAL CONTAINMENT AND REMOVAL

(a) Lessee acknowledges and agrees that Lessor makes no representations or warranties whatsoever as to whether any pollutant, or hydrocarbon contamination, hazardous materials, or other contaminants or regulated materials (collectively, "Materials") exist on or in the Premises or the improvements in violation of any Federal, State, and Municipal law, rule or regulation or in violation of any order or directive of any Federal, State, and Municipal court or entity with jurisdiction of such matter. It shall be the responsibility of Lessee to make sufficient inspection of the Premises and the improvements to satisfy itself as to the presence or absence of any such Materials.

(b) Lessee shall provide Lessor, if requested at any time, with a list of all hazardous, bio-hazardous, or other Materials stored, used, generated, or disposed of on the Premises. Lessee shall complete the form attached hereto as **Exhibit E** with respect to matters pertaining to the Premises and shall deliver same to Lessor contemporaneously with its execution of this Agreement. Lessee represents that the matters disclosed on such form will be accurate and complete as of the date of execution of this Agreement. At the request of Lessor (not more than once a year) Lessee shall provide an accurate and complete update with respect to the Premises as to the matters set forth on **Exhibit E**.

(c) Lessee agrees to comply with all existing and future Federal, State, and Municipal environmental laws, ordinances and regulations, and the requirements of any Development Order covering the Airport, issued to Lessor, pursuant to Arkansas Statutes, including without limitation those addressing the following:

1. Proper use, storage, treatment, and disposal of Materials, including contracting with a licensed hazardous waste transporter and/or treatment and disposal facility to assure proper transport and disposal of hazardous waste and other regulated Materials.

2. Proper use, disposal, and treatment of storm water runoff, including the construction and installation of adequate pre-treatment devices or mechanisms on the Premises, if applicable. Lessee shall have in place, and make available to Lessor for review, all required environmental licenses and documents including, but not limited to, site specific Stormwater Pollution Prevention Plan and Spill Prevention, Control, and Countermeasure Plan.

3. Adequate inspection, licensing, insurance, and registration of existing and future storage tanks, storage systems, and ancillary facilities to meet all Federal, State, and Municipal standards, including the installation and operation of adequate monitoring devices and leak detection systems.

4. Adequate facilities on the Premises for management and, as necessary, pretreatment of industrial waste, industrial wastewater, and regulated Materials and the proper disposal thereof.

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5. Compliance with reporting requirements of Title III of the Superfund Amendment, as applicable and as such laws may be amended from time to time.

(d) The release of any Materials at the Premises caused by Lessee, and/or Lessee's Associates, or by any invitee or trespasser on the Premises, or the release of any Materials on any other Airport property caused by Lessee, and/or Lessee's Associates, that is in an amount that is in violation of any Federal, State, and Municipal law, rule or regulation or in violation of an order or directive of any Federal, State, and Municipal court or governmental authority, whether committed prior to or subsequent to the date of execution of this Agreement, shall be, at Lessee's expense, and upon demand of Lessor or any of its agencies or any Federal, State, and Municipal regulatory agency, immediately contained or removed to meet the requirements of applicable environmental laws, rules and regulations. If Lessee does not take action immediately to have such Materials contained, removed and abated, Lessor or any of its agencies may upon reasonable notice to Lessee (which notice shall be written unless an emergency condition exists) undertake the removal of the Materials; however, any such action by Lessor or any of its agencies shall not relieve Lessee of its obligations under this or any other provision of this Agreement or as imposed by law. No action taken by either Lessee or Lessor to contain or remove Materials, or to abate a release, whether such action is taken voluntarily or not, shall be construed as an admission of liability as to the source of or the person who caused the pollution or its release. As used in this Agreement, "Lessee's operations" and "Lessee's actions" and words of similar import, shall include all actions and inaction by Lessee, and/or Lessee's Associates.

(e) Lessee shall provide Lessor with notice of releases of Materials occurring at any area used by Lessee or occasioned due to Lessee's operations at the Airport, which notices shall be provided in accordance with the requirements of Lessor's policies and procedures manual. Lessee shall maintain a log of all such notices and shall also maintain all records required by Federal, State, and Municipal laws, rules and regulations and also such records as are reasonably necessary to adequately assess environmental compliance in accordance with applicable laws, rules and regulations. Upon request by Lessor, Lessee shall make all documentation required by this subparagraph available for the review of Lessor representatives.

(f) As required by law, Lessee shall provide the Federal, State, and Municipal regulatory agencies with notice of spills, releases, leaks or discharges (collectively, "release") of Materials on the Premises or on the Airport property which exceeds an amount required to be reported to any Federal, State, and Municipal regulatory agency under applicable environmental laws, rules and regulations, which notice shall be in accordance with applicable environmental laws, rules and regulations. Lessee shall further provide Lessor with written notice within one (1) business day following commencement of same, of the curative measures, remediation efforts and/or monitoring activities to be effected on the Premises. Lessee shall have an updated contingency plan in effect relating to such releases which provide minimum standards and procedures for storage of regulated Materials and other Materials, prevention and containment of spills and releases, and transfer and disposal of regulated Materials and other Materials. The contingency plan shall describe design features, response actions and procedures to be followed in case of releases or other accidents involving hazardous Materials, bio-hazardous Materials or petroleum products or other Materials. Lessee agrees to permit entry at all reasonable times, of inspectors of Lessor and of other regulatory authorities with jurisdiction.

(g) Lessor, upon reasonable written notice to Lessee, shall have the right to inspect all documents relating to the environmental condition of the Premises, including without limitation, any release of Materials at the Premises, or any curative, remediation, or monitoring efforts, and any documents required to be maintained under applicable environmental laws, rules and regulations or any development order issued to Lessor pertaining to the Airport, pursuant to Arkansas Statutes, including, but not limited to,

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manifests evidencing proper transportation and disposal of Materials, environmental site assessments, and sampling and test results. If requested at any time by Lessor, Lessee shall provide Lessor with copies of any such documents. Lessee agrees to allow inspection of the Premises by appropriate Federal, State, and Municipal agency personnel in accordance with applicable environmental laws, rules and regulations and as required by any development order issued to Lessor pertaining to the Airport, pursuant to Arkansas Statutes.

(h) If Lessor arranges for the removal of any Materials on the Premises that were caused by Lessee, and/or Lessee's Associates, all costs of such removal incurred by Lessor shall be paid by Lessee to Lessor within ten (10) calendar days of Lessor's written demand, with interest at the maximum rate permissible under Arkansas State Law thereafter accruing.

(i) Lessee shall not be liable for the release of any Materials caused by anyone other than Lessee, and/or Lessee's Associates. Nothing herein shall relieve Lessee of its general duty to cooperate with Lessor in ascertaining the source and containing, removing, and abating any Materials. Lessor shall cooperate with Lessee with respect to Lessee's obligations pursuant to these provisions, including making public records available to Lessee in accordance with Arkansas law; provided, however, nothing herein shall be deemed to relieve Lessee of its obligations hereunder or to create any affirmative duty of Lessor to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action in accordance with Lessor codes, ordinances, rules and regulations, Federal laws and regulations, State, and Municipal laws and regulations, development orders and grant agreements. Lessor and its employees, contractors, and agents, upon reasonable written notice to Lessee, and the Federal, State, and Municipal agencies, and their employees, contractors, and agents, at times in accordance with applicable laws, rules, and regulations, shall have the right to enter the Premises for the purposes of the foregoing activities and conducting such environmental assessments (testing or sampling), inspections and audits as it deems appropriate.

(j) Lessee hereby agrees that upon any assignment of this Agreement, and at any time during the Term of this Agreement, and at any time during the year following any termination of this Agreement, Lessor shall have the right to require Lessee to conduct a facility inspection of the Premises, at Lessee's expense. If documentation warrants, Lessor shall have the right to require Lessee to conduct a further assessment of the Premises at Lessee's expense which may include, but shall not be limited to, soil and water samples.

(k) If any assessment or inspection indicates that further actions should be conducted, then Lessor shall have the right to have such further actions conducted at Lessee's expense. Nothing herein shall be construed to limit Lessor's right of entry onto the Premises pursuant to other provisions of this section or of this Agreement, or pursuant to its regulatory powers. Lessee shall have the right to split any soil or water samples obtained by Lessor. Lessee shall reimburse to Lessor the cost of such assessments and inspections as are chargeable to Lessee pursuant hereto, within ten (10) calendar days following written demand therefor, with maximum interest rate permissible under Arkansas State Law thereafter accruing.

(l) In the event Lessor shall arrange for the removal of Materials on the Premises that are not the responsibility of Lessee to correct, and if any such clean-up activities by Lessor shall prevent Lessee from using the Premises for the purposes intended, the rent shall be abated in accordance with **Section 6(p),** hereof, from the date that the use of the Premises for its intended purposes is precluded and until the Premises again becomes available for Lessee's use. Lessor shall use reasonable efforts to

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not disrupt Lessee's operation, however, in no event shall Lessee be entitled to any amount on account of lost profits, lost rentals or other damages as a result of Lessor's clean-up activities.

(m) The provisions of this section shall survive the expiration or other termination of this Agreement.

SECTION 16. NOTICES

Except as herein otherwise expressly provided, all notices required to be given to Lessor and/or Lessee hereunder shall be in writing and shall be sent by overnight courier, express mail or certified mail, return receipt requested, addressed to:

FOR LESSEE
Flight Solutions, LLC
Attn: Mr. David J. Potter II
210 North State Line, Suite 507
Texarkana, AR 71854

FOR LESSOR
Texarkana Regional Airport
Attn: Executive Director
201 Airport Drive
Texarkana, AR 71854

WITH A COPY TO:
Airport Real Estate Manager
201 Airport Drive
Texarkana, AR 71854

Notices as provided in this **Section 16** shall be deemed received five (5) business days after placed in the mail. The parties, or either of them, may designate in writing from time to time any changes in address or addresses of substitute or supplementary persons in connection with said notices.

SECTION 17. CONDEMNATION

(a) If the entire Premises are taken for any public or quasi-public use under any government law, ordinance, or regulation, or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, this Agreement will terminate on the date the title to the Premises vests in taking condemning Lessor. Rent will be prorated to the date of termination.

(b) If a portion of the Premises (or all reasonable access to the adjacent roadways from the then-existing or comparable curb cut locations) shall be taken for any public or quasi-public use under any government law, ordinance, or regulation, or by right of eminent domain, or should be sold to the condemning authority under threat of condemnation, by right of eminent domain, Lessee shall have the option to terminate this Agreement by providing an advance written notice to Lessor, no later than ninety (90) days after entry of the order of condemning, specifying the date on which the Agreement will terminate, which date shall be the last day of any calendar month that falls within the period for giving Lessee's notice of its election to terminate. Rent will be prorated to the date of termination.

(c) If Lessee does not elect to exercise this option, then: (i) Lessee will be entitled to participate in the award of the taking; (ii) Lessee shall restore and reconstruct the improvements thereon, provided such

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restoration and reconstruction shall make the same reasonably tenantable and suitable for the uses for which the Premises are leased; and (iii) this Agreement shall continue in full force and effect except that the rent payable hereunder shall be equitably adjusted.

(d) If this Agreement is terminated by reason of a condemning, any compensation awarded for such taking of the Premises will be equitably apportioned between Lessor and Lessee to reflect the respective values of the encumbered fee and the leasehold interest. The termination of this Agreement shall not reflect the rights of the respective parties to such awards.

SECTION 18. GENERAL PROVISIONS

(a) It is understood and agreed that the rights and remedies of Lessor and Lessee specified in this Agreement are not intended to be and shall not be exclusive of one another or exclusive of any common law right of either of the parties hereto.

(b) Lessor and Lessee shall each be entitled to specific performance and injunctive or other appropriate equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. The specific remedies provided for in this Agreement are cumulative and are not exclusive of any other remedy. The failure of either party to insist in any one or more cases upon strict performance shall not be construed as a waiver or relinquishment for the future. No acceptance of rent with knowledge of any default shall be deemed a waiver of such default.

(c) No Trustee, officer, employee or other agent or associate of Lessor or Lessee shall be charged personally or held contractually liable by or to the other party under the provisions of or in connection with this Agreement or because of any breach thereof or because of its or their execution or attempted execution.

(d) Lessee has appointed a local manager, currently, United States Corporation Company as an agent for service of process in Arkansas. Due to any failure on the part of said agent or the inability of said agent to perform, Lessee does designate the Secretary of State, State of Arkansas, its agent for the purpose of service of process in any court action between it and Lessor arising out of or based upon this Agreement, and the service shall be made as provided by the laws of the State of Arkansas for service upon a nonresident. It is further expressly agreed, covenanted, and stipulated that if for any reason service of such process is not possible, and as an alternative method of service of process, Lessee may be personally served with such process out of the State of Arkansas by the registered mailing of such complaint and process to Lessee at the address set forth herein. Any such service out of this State shall constitute valid service upon Lessee as of the date of mailing.

(e) This Agreement and all the provisions hereof shall be subject to whatever right the United States Government now has, or in the future may have or acquire, affecting the control, operation, regulation and taking over of the Airport or the exclusive or nonexclusive use of the Airport by the United States Government during time of war or national emergency.

(f) In the event suit or action is instituted to enforce any of the terms, covenants or conditions of this Agreement or litigation concerning the rights and duties of the parties to this Agreement, or to recover any amounts due hereunder, the losing party shall pay to the prevailing party, in addition to the costs and disbursements allowed by statute, such sum as the court may adjudge reasonable as attorney's fees in such suit or action, in both trial court and appellate court.

_____Lessee's Initials

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(g) Except as herein otherwise expressly provided, whenever the approval of Lessor or its Executive Director, or of Lessee, is required herein, no approval shall be unreasonably requested or withheld.

(h) In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either Lessor or Lessee in its respective rights and obligations contained in the valid covenants, conditions and provisions of this Agreement.

(i) Except as specifically set out in this Agreement, the terms and provisions of this Agreement shall in no way affect or impair the terms, obligations, or conditions of any other agreement between Lessee and Lessor.

(j) Neither party to this Agreement shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strike, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, act of superior governmental authority, weather conditions, riots, rebellion or sabotage, or any other circumstances for which it is not responsible, or which is not within its control.

(k) This Agreement shall be deemed to have been made in and be construed in accordance with the laws of the State of Arkansas.

(l) No amendment to this Agreement shall be effective except those agreed to in writing and signed by both of the parties to this Agreement.

(m) The headings of the Sections of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

(n) It is hereby understood and agreed that Lessor in no way purports to be a bailee and is, therefore, not responsible in any way for any damage to the property of others, including, but not limited to, the property of Lessee, Lessee's Associates.

(o) Lessee agrees to pay, in addition to the monthly rent provided herein, all applicable sums as may be required by law for payment of leasehold or other tenant tax as required, imposed, assessed, or imputed by the state of Arkansas or other tax entity, as such laws now exist or are hereafter amended. Lessee shall present proof of local property taxes paid upon demand from Lessor.

(p) No waiver of default by either party of any of the terms, covenants, and conditions hereto to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by the other party.

(q) Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship between the parties hereto. The parties shall understand and agree that neither the method of computation of rent, nor any other provision contained here, nor any acts of the parties hereto creates a relationship other than the relationship of Lessor and Lessee.

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(r) The Executive Director shall be designated as the official representative of Lessor in all matters pertaining to this Agreement and shall have the right and authority to act on behalf of Lessor with respect to all action required of Lessor in this Agreement.

(s) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto, where permitted hereunder.

(t) No act or event, whether foreseen or unforeseen, shall operate to excuse Lessee from prompt payment of Rent or any other amounts required to be paid under this Agreement. If Lessor or Lessee in connection with obligations other than payment obligations, is delayed or hindered in any performance under this Agreement by a Force Majeure event, such performance shall be excused to the extent so delayed or hindered during the time when such Force Majeure event is in effect, and such performance shall promptly occur or resume thereafter at the expense of the party so delayed or hindered. A Force Majeure event is an act or event whether foreseen or unforeseen, that prevents a Party in whole or in part from performing as provided for in this Agreement, that is beyond the reasonable control of and not the fault of such Party, and that such Party has been unable to avoid or overcome by exercising due diligence, and may include, but is not limited to acts of nature, war, riots, strikes, accidents, fire and changes in the law. Lessee hereby releases Lessor and Lessor's Associates from any and all liability, whether in contract or tort, including strict liability and negligence, for any loss, damage or injury of any nature whatsoever sustained by Lessee or Lessee's Associates during the Term, including but not limited to, loss, damage or injury to the personal property of Lessee or Lessee's Associates that may be located or stored in the Premises due to a Force Majeure event.

(u) This Agreement consists of: **Sections 1-18**, together with **Exhibits A** through **G**, attached hereto, constitute the entire agreement of the parties on the subject matter hereof and supersedes all prior agreements between the parties in connection with the Premises. This Agreement may not be changed, modified, discharged, or extended except by written instrument duly executed by the duly authorized representatives of Lessor and Lessee. Lessee agrees that no representations or warranties shall be binding upon Lessor unless expressed in writing in this Agreement or by valid amendment.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

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 _____Lessee's Initials

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: TEXARKANA REGIONAL AIRPORT AUTHORITY, signing by and through the Executive Director, authorized to execute same by Lessor action on the _____day of _____, 2022, and FLIGHT SOLUTIONS, LLC, a private corporation, signing by and through its Manager, duly authorized to execute same.

AGREEMENT OF LEASE BETWEEN TEXARKANA REGIONAL AIRPORT AUTHORITY

AND

FLIGHT SOLUTIONS, LLC
(LESSEE)

Representative

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Attest

Signature: _____

Printed Name: _____

TEXARKANA REGIONAL AIRPORT AUTHORITY

Executive Director of Aviation
Texarkana Regional Airport Authority

Signature: _____Printed Name: _____

Date: _____

Chair or Vice Chair
Texarkana Regional Airport Authority

Signature: _____Printed Name: _____

Date: _____

APPROVED AS TO FORM

Authority Attorney
Barber Law Firm PLLC

Signature: _____Printed Name: _____

Date: _____

_____Lessee's Initials

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EXHIBIT A
PREMISES

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EXHIBIT B
PREMISES LOTS

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EXHIBIT C
RENTAL SUMMARY

Agreement:	Aeronautical Use Agreement of Lease for Texarkana Regional Airport (TXK)
Tenant:	Flight Solutions, LLC *Attn: Mr. David J. Potter II* 210 North State Line Avenue, Suite 507 Texarkana, Arkansas 71854
Premises:	Premises cumulatively is 72,228 SQ. Ft. of land off Airport Drive near Highway 67 located at Texarkana Regional Airport. Premises consists of approximately 19,900 SQ FT. of Hangar space.
Allowed Use(s):	Private Aircraft Storage, Parking, and Preventative Maintenance
Term of Lease:	Term will commence **March 1, 2022** and continue until 10 years after the Commencement Date (which will be no later than **March 1, 2032**); Lessee has three (3) options to extend the Term, with a maximum allowed extension of thirty (30) years, depending on permanent capital improvements made on or to the Premises.
Rent:	Ground Rent, beginning on the Commencement Date, of **$23,112.96 ($0.32 SFYR)** with monthly payments at **$1,926.08**. Ground rent is subject to CPI adjustments every year thereafter while the Agreement is in force.
Performance Guarantee:	$25,000.00 cash security deposit or letter of credit to be held by the Texarkana Regional Airport Authority until Agreement expires or is terminated.
Insurance Requirements:	**Commercial General Liability** Bodily Injury — $1,000,000 per occurrence & aggregate Property Damage — $1,000,000 per occurrence & aggregate **Aircraft and Passenger Liability** Bodily Injury — $1,000,000 per occurrence & aggregate Property Damage — $1,000,000 per occurrence & aggregate ****Environmental and Impairment Liability** General — $1,000,000 per claim & aggregate Maximum Deductible — $100,000 per claim ****Workers' Compensation and Employer's Liability** Employers' Liability — $100,000 each accident

NOTE: This page is intended as general summary only, for ease of review. In the event of any conflict between this page and the Agreement, the Agreement (being more precise) will prevail.

_____Lessee's Initials

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EXHIBIT D
NONDISCRIMINATION REQUIREMENTS

(a) During the performance of this Agreement, Lessee for itself, its personal representatives, assigns and successors in interest agrees as follows:

1. **Compliance With Regulations.** Lessee shall comply with the Regulations relative to nondiscrimination in Federally Assisted Programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

2. **Nondiscrimination.** Lessee shall not discriminate on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Lessee shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. **Solicitation for Subcontracts, Including Procurement of Materials and Equipment.** In all solicitation either by competitive bidding or negotiation made by Lessee for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Lessee of Lessor's obligation under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation.

4. **Information and Reports.** Lessee shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Lessor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish this information, Lessee shall so certify to Lessor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance.** In the event of Lessee's noncompliance with the nondiscrimination provisions of this Agreement, Lessor shall impose such Agreement sanctions as it or the FAA may determine to be appropriate, including, but not limited to: (1) withholding of payments under the Agreement until there is compliance, and/or (2) cancellation, termination, or suspension of the Agreement, in whole or in part. In the event of cancellation or termination of the Agreement (if such Agreement is a lease), Lessor shall have the right to re-enter the Premises as if said Agreement had never been made or issued. These provisions shall not be effective until the procedures of Title 49 CFR Part 21 are followed and completed, including exercise or expiration of appeal rights.

6. **Incorporation of Provisions.** Lessee shall include the provisions of paragraphs 1 through 5, above, in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. Lessee shall take

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such action with respect to any subcontract or procurement as Lessor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event Lessee becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Lessee may request Lessor to enter into such litigation to protect the interests of Lessor and, in addition, Lessee may request the United States to enter into such litigation to protect the interests of the United States.

7. Lessee, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Agreement, for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulation may be amended.

8. Lessee, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(b) During the performance of this Agreement, Lessee, for itself, its assignees and successors in interest agrees as follows:

Lessee agrees to undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation be excluded from participation in any employment, contracting, or leasing activities covered in 14 CFR Part 152, Subpart E. Lessee agrees that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart. Lessee agrees that it will require its covered suborganizations to provide assurances to Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations as required by 14 CFR Part 152, Subpart E, to the same effect.

Lessee agrees to comply with any affirmative action plan or steps for equal employment opportunity required by 14 CFR Part 152, Subpart E, as part of the affirmative action program, and by any Federal, State, and Municipal agency or court, including those resulting from a conciliation agreement, a consent decree, court order or similar mechanism. Lessee agrees that State, or City affirmative action plans will be used in lieu of any affirmative action plan or steps required by 14 CFR Part 152, Subpart E, only when they fully meet the standards set forth in 14 CFR 152.409. Lessee agrees to obtain a similar assurance from its covered organizations, and to

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cause them to require a similar assurance of their covered suborganizations, as required by 14 CFR Part 152, Subpart E.

If required by 14 CFR Part 152, Lessee shall prepare and keep on file for review by the FAA Office of Civil Rights an affirmative action plan developed in accordance with the standards in Part 152. Lessee shall similarly require each of its covered suborganizations (if required under Part 152) to prepare and to keep on file for review by the FAA Office of Civil Rights, an affirmative action plan developed in accordance with the standards in Part 152.

If Lessee is not subject to an affirmative action plan, regulatory goals and timetables, or other mechanism providing for short and long-range goals for equal employment opportunity under Part 152, then Lessee shall nevertheless make good faith efforts to recruit and hire minorities and women for its workforce as vacancies occur, by taking any affirmative action steps required by Part 152. Lessee shall similarly require such affirmative action steps of any of its covered suborganizations, as required under Part 152.

Lessee shall keep on file, for the period set forth in Part 152, reports (other than those submitted to the FAA), records, and affirmative action plans, if applicable, that will enable the FAA Office of Civil Rights to ascertain if there has been and is compliance with this subpart, and Contractor shall require its covered suborganizations to keep similar records as applicable.

Lessee shall, if required by Part 152, annually submit to Lessor the reports required by Section 152.415 and Lessee shall cause each of its covered suborganizations that are covered by Part 152 to annually submit the reports required by Section 152.415 to Lessee who shall, in turn, submit same to Lessor for transmittal to the FAA.

(c) Lessee, for itself, its assignees and successors in interest agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation be excluded from participating in any activity conducted with or benefiting from Federal assistance. This "Provision" obligates Lessee or its transferee, for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, the Provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this Provision binds the contractors from the bid solicitation period through the completion of the Agreement.

Lessee shall not discriminate on the basis of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation in the performance of this Agreement. Failure by Lessee to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as Lessor deems appropriate.

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EXHIBIT E
ENVIRONMENTAL DOCUMENTS

Company Name:

_____

Mailing Address:

_____
Street or Post Office Box

City: _____ State: _____ Zip Code: _____

Type of Agreement:

_____

Please describe the activities performed and services provided on leasehold:

_____

_____

_____

_____

- Will there be fueling: Yes __ No __
- Will there be maintenance: Yes __ No __
- Will there be plane washing: Yes __ No __

Lessee has the following documents, if applicable, which may be requested by Lessor for review: If not applicable, denote "NA"

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(z) Best Management Plan dated _____.

(aa) Stormwater Pollution Prevention Plan dated _____.

(bb) Spill Prevention Control and Countermeasures Plan dated

_____.

(cc) Hazardous Materials Plan dated _____.

(dd) Other applicable environmental plans:

_____

- Is Lessee required to file the SARA Title III Reporting? Yes __ No __
    - If Yes, was last filed on (date) _____.
- Is Lessee a generator of hazardous waste pursuant to 40 CFR 261?
    - Yes___ No ___. If Yes, the status is ___ conditionally exempt; ___ small; ___ large quantity Generator.

If required, reports were filed on (date) _____.

The following environmental licenses and/or permits (Federal, State, and Municipal) are issued to Lessee: (These licenses/permits include, but are not limited to, storage tanks, hazardous material, air, solid waste, hazardous waste, industrial wastewater pretreatment, and storm water.)

Permit Name/Type	License No.	Date Expires
1.		
2.		
3.		
4.		
5.		
6.		

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EXHIBIT F
LESSEE'S OPTION FOR AIRCRAFT FUEL DISPENSER

GENERAL: Pursuant to **Section 8(b)**, Lessee shall have the option, if Lessee so desires, to initially construct and maintain two (2) Aircraft Fuel Dispensers ("fuel tanks"), on a Lot, provided Lessee complies with all sections of this **Exhibit F**:

E.1 METHOD - FUEL TANKS: Install and maintain, at Lessee's own expense, two (2) 8,000 gallon above-ground fuel tanks, one (1) for 100 Low-Lead and one (1) for Jet-A:

1. Lessee will have five (5) years from the Commencement Date of this Agreement to, at Lessee's own cost and expense, perform all design, obtain all governmental permits, complete all site work, and construct on a Lot the fuel tanks described in this **METHOD**.

2. The location and operation of the fuel tanks must conform to all applicable Federal, State, and Municipal laws, rules, and regulations, and Lessee must properly lease from Lessor and pay rent for adequate space for the fuel tanks at a location approved by Lessor. Following completion of construction of the fuel tanks, this Agreement may be amended to account for the additional space leased for the fuel tanks, as necessary.

The fuel tanks must be installed and operated in accordance with all applicable Federal, State, and Municipal laws, rules, and regulations, as well as **Section 15** of this Agreement and any other environmental laws. The permitted uses of the fuel tanks shall exclude the sale and provision of fuel to aircraft not owned or leased by Lessee, its successors or assigns.

E.2 MANUAL: Lessee shall develop a fuel storage and handling procedures manual which meets all requirements of Federal, State, and Municipal laws, rules, or regulations for the storage and handling of fuels. Lessee shall always provide employees training in fuel handling, fuel storage and fire safety, and, upon request, provide Lessor with documented evidence of such training.

E.3 OWNERSHIP/REMOVAL: Notwithstanding any provision of this Agreement giving Lessor title to improvements located on the Premises, Lessor shall not acquire title to any part of the fuel tanks at any time whatsoever. The fuel tanks (and all component parts thereof) must be completely removed from the Premises upon the expiration or other termination of this Agreement. Such removal shall be performed in accordance with all applicable laws, rules and regulations.

1. In the event Lessee shall fail to remove the fuel tanks from the Premises on or before the expiration or other termination of this Agreement, then, Lessee shall be considered to be holding over under **Section 3(f)** hereof and shall be liable for charges payable pursuant to such provision. In addition, in the event Lessee shall fail to remove the fuel tanks within sixty (60) calendar days following the expiration or other termination of this Agreement, then, in addition to all remedies available hereunder and at law or in equity, Lessor shall have the right to remove the fuel tanks and Lessee shall be liable for all expenses and charges (whether direct or indirect) incurred by Lessor in effectuating such removal (including any storage charges) that are in any way connected to the fuel tanks, including interest thereon at the maximum interest rate permissible under Arkansas State Law from the date incurred. In contracting for any such removal, Lessor shall be entitled to dispose of the fuel tanks in any way it sees fit, including without limitation, through demolition of such facility, through giving salvage rights to the contractor, through storage, or through public auction.

_____Lessee's Initials

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

2. Lessee shall provide Lessor with documentation that the fuel tanks have been removed in accordance with all applicable laws, rules, and regulations, including such back-up documentation as Lessor may reasonably request. The provisions of this **Section E.3** shall survive any termination or expiration of this Agreement.

E.4 FUEL FLOWAGE FEES/REPORT: Lessee shall comply with **Section 6** of this Agreement for any and all Fuel Flowage Fees and Reports.

E.5 COMPLIANCE/LIABILITY: In conformance with 14 CFR Part 139, all fueling operations must meet the threshold of compliance established in the Airport Certification Manual, including but not limited to compliance with, NFPA 407, NFPA 408, NFPA 10, NFPA 30, MIL-STD 1574 H, AS5877B, ATA 103 Rev 2019.1, ASTM D 2276-06, ASTM D 1655-20C, ASTM D 910-19, ASTM D 1298-12B, EI 1581, EI 1542, EI 1529, as same may be amended from time to time. In connection with the sale or dispensing of such products upon the Premises or otherwise, Lessor assumes no responsibility for acts of any supplier regarding delivery, quality of product, or maintenance of supplier-owned or Lessee-owned equipment.

E.6 STORAGE/ENVIRONMENTAL CONSIDERATIONS: Aviation fuels and lubricating oils shall be stored and dispensed by Lessee in accordance with all Federal, State, and Municipal laws, regulations, rules, and other requirements, as same may be amended, regarding the sale and storage of such fuels and oils, including without limitation any rules, regulations or minimum standards that are established by Lessor for operations of Airport tenants. Lessee shall submit to Lessor, for review and comment, Lessee's Spill Prevention Control and Countermeasure Plan, as may be requested from time to time.

E.7 INSPECTIONS/EXAMINATIONS: Lessee's fuel tanks are subject to inspections and examinations by the Airport's Aircraft Rescue & Firefighting department, or any of its agents and contractors, at any time, with or without notice to Lessee, and Lessee shall cooperate with respect to such inspections and examinations. If any follow-up actions are required to be taken by Lessee as a result of such inspections and examinations, including but not limited to clean-up and compliance matters, Lessee must undertake those efforts with reasonable dispatch and rectify any issues to the satisfaction of the Airport's Aircraft Rescue & Firefighting department, or any of its agents and contractors, as well as Lessor.

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

EXHIBIT G
STORED AIRCRAFT

Lessee hereby certifies that the Aircraft(s) hereon will be stored on the Premises at the Airport and that Lessee will notify Lessor of any change in the status of said Aircraft. Lessee acknowledges any aircraft not included hereon will not be approved by Lessor for storage on the Premises.

Dated this _____ day of _____, 20_____.

_____	_____
Lessee (Printed Name)	Aircraft Make/Model
_____	_____
Mailing Address	Registration Number
_____	_____
City/State	Insurance Agent
_____	_____
Phone Number	Insurance Agent Phone Number

Lessee Signature: _____

Lessor Printed Name: _____

Lessor Signature: _____

_____Lessee's Initials

Attachment: 2022-014 RES Airport Lease w Flight Solutions signed (3630 : 2022-014 RES Airport Lease with Flight Solutions)

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/11/2022 9:25 AM

Lead Department: Information Technology **Action Officer:** Brandon Uselton, IT Manager

Subject: Resolution No. 2022-015 authorizing the City Manager to accept an Enterprise Agreement proposal from SHI Government Solutions of Austin, Texas, for Microsoft Licenses for the City of Texarkana, Texas utilizing Texas State DIR pricing with funds budgeted in City Technology Fund (Fund 115).

Briefing: 2/14/2022 **Public Hearing:** **Council Vote:** 2/14/2022

Item Schedule

Schedule 3: No briefing required (one week)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

A 3-year agreement renewal between the City of Texarkana Texas and SHI Government Solutions for the purchase of Microsoft Enterprise Licensing at the State DIR price totaling $218,297.04 over a three-year period with three payments of $72,765.68. Utilizing an Enterprise agreement to purchase the necessary Microsoft licensure will ensure consistency of Microsoft products across the City.

Potential Options:

None

Fiscal Implications:

Funds are budgeted in the City Technology Fund (Fund 115).

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. 2022-015 RES TEX Microsoft Enterprise Agreement (DOCX)
b. 2022-015 EXH 'A' Product Selection Form-1154731.003_PSF (PDF)
c. 2022-015 EXH 'B' SHI Quote-21164862 (PDF)
d. 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (DOCX)
e. 2022-015 ATTH 02 Previous EnrollmentAgreement Form (DOCX)
f. 2022-015 ATTH 03 Signature Form (DOCX)
g. 2022-015 ATTH 04 Amendment-M97 (NEW) (PDF)
h. 2022-015 ATTH 05 Discount Transparency Disclosure Form-1154731.003_DTDF (PDF)
i. 2022-015 Goals & Perspectives (DOCX)
j. 2022-015 RES Microsoft Enterprise Agrmt signed (PDF)

Staff Coordination

Information Technology	Brandon Uselton	Department Head Review	Completed	02/09/2022 11:46 AM
Water Utilities	Gary Smith	Review	Completed	02/09/2022 3:03 PM
Finance Department	Kristin Peeples	Finance Review	Completed	02/11/2022 9:30 AM
City Manager	Vicky Coopwood	City Manager Review	Completed	02/11/2022 10:02 AM
City Council	Jennifer Evans	Meeting	Completed	02/14/2022 6:00 PM

Meeting History

RESOLUTION NO. 2022-015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AUTHORIZING THE CITY MANAGER TO ACCEPT AN ENTERPRISE AGREEMENT PROPOSAL FROM SHI GOVERNMENT SOLUTIONS OF AUSTIN, TEXAS, FOR MICROSOFT LICENSES UTILIZING TEXAS STATE DIR PRICING WITH FUNDS BUDGETED IN THE CITY TECHNOLOGY FUND (FUND 115) AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE A FINAL ENTERPRISE AGREEMENT AT A TOTAL COST OVER A THREE-YEAR PERIOD NOT TO EXCEED $218,297.04; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the IT Division of TWU budgets and requests software licenses for the computer systems of Texarkana, Texas; and

WHEREAS, utilizing an Enterprise Agreement to purchase these licenses will allow for software consistency across departments; and

WHEREAS, the execution of this Enterprise Agreement will continue the maintenance on existing Microsoft licenses; and

WHEREAS, SHI Government Solutions of Austin, Texas, is an authorized Texas DIR vendor (Contract DIR-TSO-4092) for Microsoft Volume Licensing Programs; and

WHEREAS, the type and number of licenses to be acquired through this purchase agreement is shown on the attached document marked as **Exhibit "A";** and

WHEREAS, the City of Texarkana, Texas, has received a proposed Microsoft Enterprise Agreement quote from SHI Government Solutions of Austin, Texas, for Microsoft licensing, a copy of which is attached hereto as **Exhibit "B";** and

WHEREAS, the proposed agreement from SHI Government Solutions of Austin, Texas, for the Enterprise Agreement is for a proposed term of three (3) years and will be paid in annual payments of an amount not to exceed $72,765.68 per year for a total cost not to exceed $218,297.04 in a three-year term; and

WHEREAS, the funds are appropriated in the City's Technology Fund (Fund 115).

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

SECTION 1: The City Manager be and is hereby authorized to execute an Enterprise Agreement with SHI Government Solutions of Austin, Texas, for software licensing, over a three (3) year period, that will be at an amount not to exceed $72,765.68 per year for a total cost not to exceed $218,297.04 .

Attachment: 2022-015 RES TEX Microsoft Enterprise Agreement (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

SECTION 2: 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 **14th day of February, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY	BOB BRUGGEMAN, MAYOR

Attachment: 2022-015 RES TEX Microsoft Enterprise Agreement (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Enterprise Enrollment Product Selection Form

Microsoft | Volume Licensing

Proposal ID: 1154731.003

Enrollment Number:

Language: English (United States)

Enrolled Affiliate's Enterprise Products and Enterprise Online Services summary for the initial order:

Profile	Qualified Devices	Qualified Users	Device / User Ratio	Enterprise Product Platform	CAL Licensing Model
Enterprise	211	260	0.8	Yes	User Licenses
Field Worker	92	92	1.0	No	User Licenses
Total	303	352			

Products	Enterprise Quantity	Field Worker Quantity
Office 365 Plans		
Office 365 Plan E1 USL	-	92
Office 365 Plan E3 USL	160	-
O365 GCC E3	100	-
Client Access License (CAL)		
Core CAL		
Bridge for Office 365	60	-
Core CAL Bridge for Office 365 From SA	200	92
Windows Desktop		
Windows Enterprise OS Upgrade	211	-

Enrolled Affiliate's Product Quantities:

Price Group	1	2	3	4
Enterprise Products	Office Professional Plus + M365 Apps for Enterprise + Office 365 (Plans E3 and E5) + Microsoft 365 Enterprise	Client Access License + Office 365 (Plans E1, E3 and E5) + Microsoft 365 Enterprise	Client Access License + Windows Intune + EMS USL + Microsoft 365 Enterprise	Win E3 + Win E5 + Win VDA + Microsoft 365 Enterprise
Quantity	260	352	0	211

Enrolled Affiliate's Price Level:

Product Offering / Pool	Price Level
Enterprise Products and Enterprise Online Services USLs: Unless otherwise indicated in associated contract documents, Price level set using the highest quantity from Groups 1 through 4.	D

Attachment: 2022-015 EXH 'A' Product Selection Form-1154731.003_PSF (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Enterprise Enrollment Product Selection Form

Microsoft | Volume Licensing

Additional Product Application Pool: Unless otherwise indicated in associated contract documents, Price level set using quantity from Group 1.	D
Additional Product Server Pool: Unless otherwise indicated in associated contract documents, Price level set using the highest quantity from Group 2 or 3.	D
Additional Product Systems Pool: Unless otherwise indicated in associated contract documents, Price level set using quantity from Group 4.	D

NOTES

Unless otherwise indicated in the associated contract documents, the price level for each Product offering / pool is set as described above, based upon the quantity to price level mapping below:

Quantity of Licenses and Software Assurance	Price Level
2,399 and below	A
2,400 to 5,999	B
6,000 to 14,999	C
15,000 and above	D

Note 1: Enterprise Online Services may not be available in all locations. Please see the Product List for a list of locations where these may be purchased.

Note 2: Unless otherwise indicated in associated Agreement documents, the CAL selection must be the same across the Enterprise for each Profile.

Note 3: Enrolled Affiliate acknowledges that in order to use a third party to reimage the Windows Operating System Upgrade,Enrolled Affiliate must certify that it has acquired qualifying operating system licenses. The requirement applies to Windows Enterprise OS Upgrade.See Product Terms for details.

Note 4: If Enrolled Affiliate does not order an Enterprise Product or Enterprise Online Service associated with an applicable Product pool, the price level for Additional Products in the same pool will be price level "A" throughout the term of the Enrollment. Refer to the Qualifying Government Entity Addendum pricing provision for more details on price leveling.

Note 5: Bridge CAL, Office 365 Plan E3 Add Ons, EMS Add Ons, Windows Ent SA Per User Add Ons, and Enterprise Cloud Suite Add On quantities are not included for Price Leveling, as License quantities are determined by the corresponding Enterprise Online Service(s).

Attachment: 2022-015 EXH 'A' Product Selection Form-1154731.003_PSF (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Pricing Proposal
Quotation #: 21164862
Created On: 10/21/2021
Valid Until: 1/31/2022

City of Texarkana

Brandon Uselton
TX
United States
Phone:
Fax:
Email: brandonu@txkusa.org

Senior Inside Account Manager

Jeff Rosen
3828 Pecana Trail
Austin, TX 78749
Phone: 800-870-6079 ext 8686150
Fax: (512)732-0232
Email: Jeff_Rosen@shi.com

All Prices are in US Dollar (USD)

	Product	Qty	Your Price	Total
1	CoreCALBridgeO365 ALNG SubsVL MVL Pltfrm PerUsr Microsoft - Part#: AAA-12415 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	60	$18.84	$1,130.40
2	CoreCALBridgeO365FromSA ALNG SubsVL MVL PerUsr Microsoft - Part#: AAA-12416 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	92	$16.68	$1,534.56
3	CoreCALBridgeO365FromSA ALNG SubsVL MVL Pltfrm PerUsr Microsoft - Part#: AAA-12417 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	200	$15.72	$3,144.00
4	O365GCCE1FromSA ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: 7R6-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	92	$64.80	$5,961.60
5	O365GCCE3 ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: AAA-11894 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	100	$216.12	$21,612.00
6	O365GCCE3fromSA ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: AAA-11924 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	160	$183.72	$29,395.20

Attachment: 2022-015 EXH 'B' SHI Quote-21164862 (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

2022-015 EXH 'B'

7	VisioPlan2GCC ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: P3U-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	1	$138.48	
8	WINENTperDVC ALNG SA MVL Pltfrm Microsoft - Part#: KV3-00353 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	211	$45.84	$9,672.24
9	WinSvrSTDCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 9EM-00270 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	8	$19.65	$157.20
			Shipping	$20.00
			Total	$72,765.68

Additional Comments

Thank you for choosing SHI-GS! The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address, Quote Number, and applicable Contract Number when submitting a Purchase Order. SHI Government Solutions, Inc. is 100% Minority Owned, Woman Owned Business. TAX ID# 22-3695478; DUNS# 14-724-3096

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.

Attachment: 2022-015 EXH 'B' SHI Quote-21164862 (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Enterprise Enrollment State and Local

Enterprise Enrollment number *(Microsoft to complete)*	77004157
Previous Enrollment number *(Reseller to complete)*	71662609

Framework ID *(if applicable)*	

This Enrollment must be attached to a signature form to be valid.

This Microsoft Enterprise Enrollment is entered into between the entities as identified in the signature form as of the effective date. Enrolled Affiliate represents and warrants it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified on the program signature form.

This Enrollment consists of: (1) these terms and conditions, (2) the terms of the Enterprise Agreement identified on the signature form, (3) the Product Selection Form, (4) the Product Terms, (5) the Online Services Terms, (6) any Supplemental Contact Information Form, Previous Agreement/Enrollment form, and other forms that may be required, and (7) any order submitted under this Enrollment. This Enrollment may only be entered into under a 2011 or later Enterprise Agreement. By entering into this Enrollment, Enrolled Affiliate agrees to be bound by the terms and conditions of the Enterprise Agreement.

All terms used but not defined are located at http://www.microsoft.com/licensing/contracts. In the event of any conflict the terms of this Agreement control.

Effective date. If Enrolled Affiliate is renewing Software Assurance or Subscription Licenses from one or more previous Enrollments or agreements, then the effective date will be the day after the first prior Enrollment or agreement expires or terminates. If this Enrollment is renewed, the effective date of the renewal term will be the day after the Expiration Date of the initial term. Otherwise, the effective date will be the date this Enrollment is accepted by Microsoft. Any reference to "anniversary date" refers to the anniversary of the effective date of the applicable initial or renewal term for each year this Enrollment is in effect.

Term. The initial term of this Enrollment will expire on the last day of the month, 36 full calendar months from the effective date of the initial term. The renewal term will expire 36 full calendar months after the effective date of the renewal term.

Terms and Conditions

1. Definitions.

Terms used but not defined in this Enrollment will have the definition in the Enterprise Agreement. The following definitions are used in this Enrollment:

"Additional Product" means any Product identified as such in the Product Terms and chosen by Enrolled Affiliate under this Enrollment.

"Community" means the community consisting of one or more of the following: (1) a Government, (2) an Enrolled Affiliate using eligible Government Community Cloud Services to provide solutions to a Government or a qualified member of the Community, or (3) a Customer with Customer Data that is subject to Government regulations for which Customer determines and Microsoft agrees that the use of

Attachment: 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

“Qualified Device” means any device that is used by or for the benefit of Enrolled Affiliate’s Enterprise and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Pro locally (in a physical or virtual operating system environment), or (2) a device used to access a virtual desktop infrastructure (“VDI”). Qualified Devices do not include any device that is: (1) designated as a server and not used as a personal computer, (2) an Industry Device, or (3) not a Managed Device. At its option, the Enrolled Affiliate may designate any device excluded above (e.g., Industry Device) that is used by or for the benefit of the Enrolled Affiliate’s Enterprise as a Qualified Device for all or a subset of Enterprise Products or Online Services the Enrolled Affiliate has selected.

“Qualified User” means a person (e.g., employee, consultant, contingent staff) who: (1) is a user of a Qualified Device, or (2) accesses any server software requiring an Enterprise Product Client Access License or any Enterprise Online Service. It does not include a person who accesses server software or an Online Service solely under a License identified in the Qualified User exemptions in the Product Terms.

“Reseller” means an entity authorized by Microsoft to resell Licenses under this program and engaged by an Enrolled Affiliate to provide pre- and post-transaction assistance related to this agreement;

Attachment: 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Physically Submitted

more restrictive use rights than the version that is current at the start of the applicable initial or renewal term of the Enrollment, those more restrictive use rights will not apply to Enrolled Affiliate's use of that Product during that term.

d. Country of usage. Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.

e. Resellers. Enrolled Affiliate must choose and maintain a Reseller authorized in the United States. Enrolled Affiliate will acquire its Licenses through its chosen Reseller. Orders must be submitted to the Reseller who will transmit the order to Microsoft. The Reseller and Enrolled Affiliate determine pricing and payment terms as between them, and Microsoft will invoice the Reseller based on those terms. Throughout this Agreement the term "price" refers to reference price. Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.

f. Adding Products.

(i) Adding new Products not previously ordered. New Enterprise Products or Enterprise Online Services may be added at any time by contacting a Microsoft Account Manager or

Attachment: 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

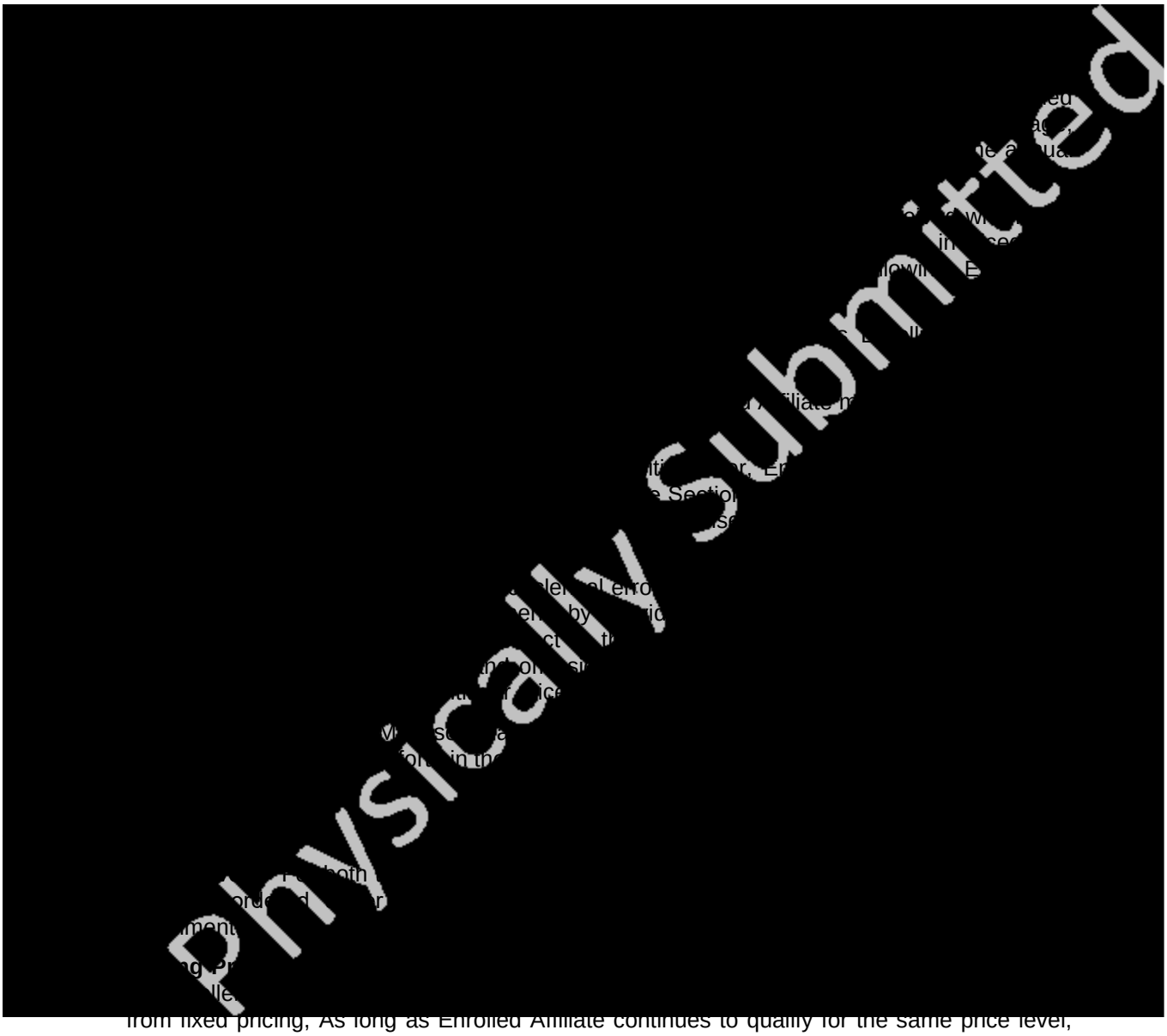
2) For Enterprise Online Services that are not a part of an Enterprise-wide purchase, Licenses can be reduced as long as the initial order minimum requirements are maintained.

3) For Additional Products available as Subscription Licenses, Enrolled Affiliate may reduce the Licenses. If the License count is reduced to zero, then Enrolled Affiliate's use of the applicable Subscription License will be cancelled.

Invoices will be adjusted to reflect any reductions in Subscription Licenses at the true-up order Enrollment anniversary date and effective as of such date.

(v) Update statement. An update statement must be submitted instead of a true-up order if, since the initial order or last true-up order, Enrolled Affiliate's Enterprise: (1) has not changed the number of Qualified Devices and Qualified Users licensed with Enterprise Products or Enterprise Online Services; and (2) has not increased its usage of Additional Products. This update statement must be signed by Enrolled Affiliate's authorized representative.

Attachment: 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)



from fixed pricing, As long as Enrolled Affiliate continues to qualify for the same price level, Microsoft's prices for Resellers for each Product or Service ordered will be fixed throughout the applicable initial or renewal Enrollment term. Microsoft's prices to Resellers are reestablished at the beginning of the renewal term.

4. Payment terms.

For the initial or renewal order, Microsoft will invoice Enrolled Affiliate's Reseller in three equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and remaining installments will be invoiced on each subsequent Enrollment anniversary date. Subsequent orders are invoiced upon acceptance of the order and Enrolled Affiliate may elect to pay annually or upfront for Online Services and upfront for all other Licenses.

Attachment: 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

certification to verify compliance.

d. Termination for cause. Any termination for cause of this Enrollment will be subject to the "Termination for cause" section of the Agreement. In addition, it shall be a breach of this Enrollment if Enrolled Affiliate or any Affiliate in the Enterprise that uses Government Community Cloud Services fails to meet and maintain the conditions of membership in the definition of Community.

e. Early termination. Any early termination of this Enrollment will be subject to the "Early Termination" Section of the Enterprise Agreement.

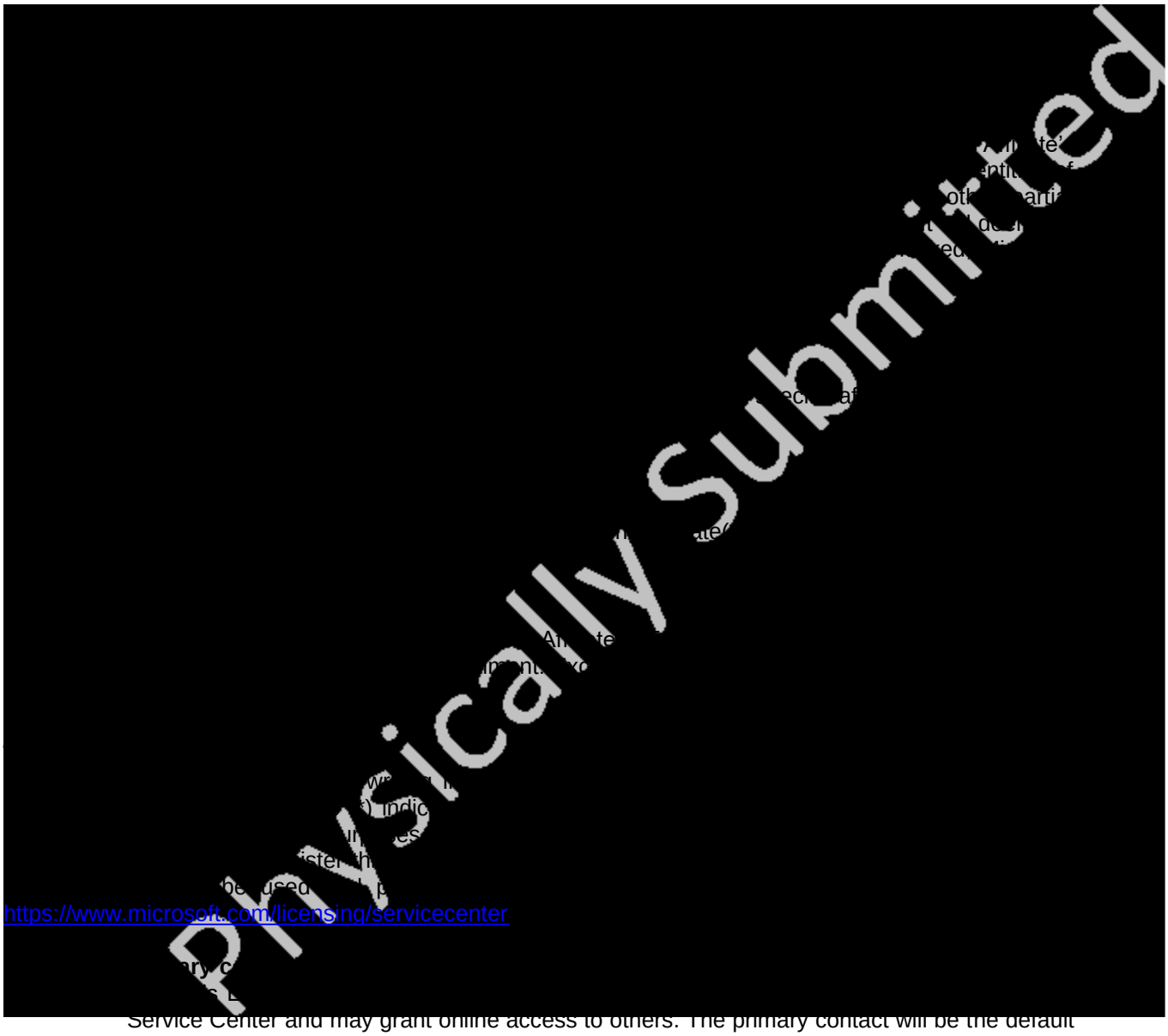
For Subscription Licenses, in the event of a breach by Microsoft, or if Microsoft terminates an Online Service for regulatory reasons, Microsoft will issue Reseller a credit for any amount paid in advance for the period after termination.

6. Government Community Cloud.

a. Community requirements. If Enrolled Affiliate purchases Government Community Cloud

Attachment: 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Attachment: 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)



https://www.microsoft.com/licensing/servicecenter

Service Center and may grant online access to others. The primary contact will be the default contact for all purposes unless separate contacts are identified for specific purposes

Name of entity (must be legal entity name)* City of Texarkana TX
Contact name* First Brandon **Last** Uselton
Contact email address* brandonu@txkusa.org
Street address* 220 Texas Boulevard
City* Texarkana
State* TX
Postal code* 75501-5625-
(Please provide the zip + 4, e.g. xxxxx-xxxx)
Country* United States
Phone* 903-798-3815
Tax ID
** indicates required fields*

b. **Notices contact and Online Administrator.** This contact (1) receives the contractual notices, (2) is the Online Administrator for the Volume Licensing Service Center and may

Attachment: 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Postal code* 08873-4145
Country* United States
Contact name* Victoria Stepka
Phone* 888-764-8888
Contact email address* MSTeam@SHI.com
** indicates required fields*

By signing below, the Reseller identified above confirms that all information provided in this Enrollment is correct.

Signature* _____

Printed name*
Printed title*
Date*

** indicates required fields*

Attachment: 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Attachment: 2022-015 ATTH 01 Enterprise Enrollment (Indirect) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Previous Enrollment(s)/Agreement(s) Form

Entity Name: City of Texarkana TX
Contract that this form is attached to: State Local Government

For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

Please provide a description of the previous Enrollment(s), Agreement(s), Purchasing Account(s), and/or Affiliate Registration(s) being renewed or consolidated into the new contract identified above.

a. Entity may select below any previous contract(s) from which to transfer MSDN subscribers to this new contract. Entity shall ensure that each MSDN subscriber transferred is either properly licensed under the new contract or is removed.

b. Entity may select below only one previous contract from which to transfer the Software Assurance (SA) Benefit contact details, i.e., benefits contact (*not* the SA manager) and the program codes, to this new contract.

c. An Open License cannot be used to transfer either the SA Benefit details or MSDN subscribers.

d. The date of the earliest expiring Enrollment/Agreement that contains SA or Online Services will be the effective date of the new contract (or SA coverage period for Select Plus).

e. Please insert the number of the earliest expiring Enrollment/Agreement with SA or Online Services in the appropriate fields of the new contract.

Enrollment/Agreement/ Purchasing Account/Affiliate Registration Description	Enrollment/Agreement/ Purchasing Account/Affiliate Registration Public Customer Number	Transfer SA Benefit Contact	Transfer MSDN Subscribers
Standard Enrollment	71662609	X	X

Attachment: 2022-015 ATTH 02 Previous EnrollmentAgreement Form (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Program Signature Form

MBA/MBSA number		5-0000008087513
Agreement number	01E73535	

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
Enterprise Enrollment (Indirect)	X20-10635
Enterprise Amendment	M97 (NEW)
Product Selection Form	1154731.003_PSF
Discount Transparency Disclosure Form	1154731.003_DTDF

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* City of Texarkana TX
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*
Tax ID

** indicates required field*

Attachment: 2022-015 ATTH 03 Signature Form (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Microsoft Affiliate
Microsoft Corporation
Signature _____ **Printed First and Last Name** **Printed Title** **Signature Date** (date Microsoft Affiliate countersigns)
Agreement Effective Date (may be different than Microsoft's signature date)

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

** indicates required field*

Outsourcer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

** indicates required field*

If Customer requires additional contacts or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
Dept. 551, Volume Licensing
6880 Sierra Center Parkway
Reno, Nevada 89511
USA

Attachment: 2022-015 ATTH 03 Signature Form (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Microsoft Volume Licensing

Amendment to Contract Documents

Enrollment Number | 5-0000008087513

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Enrollment (Indirect)
Invoice for Quoted Price
Amendment ID M97

The price quoted to Enrolled Affiliate's Reseller is a fixed price based on an estimated order submission date. Microsoft will invoice Enrolled Affiliate's Reseller based on this fixed price quote. If this order is submitted later than the estimated order submission date, Enrolled Affiliate's Reseller will be charged for net new Monthly Subscriptions (including Online Services) for the period during which these services were not provided. Pricing to Enrolled Affiliate is agreed between Enrolled Affiliate and Enrolled Affiliate's Reseller.

SKU Number	SKU Description	Existing Quantity	Incremental quantities
AAA-11924	O365GCCE3fromSA ShrdSvr ALNG SubsVL MVL PerUsr	160	
AAA-12417	CCAL Bridge O365 FSA Sub Platform Per User	200	
AAA-12415	CCAL Bridge O365 Sub Platform Per User	60	
AAA-11894	O365GCCE3 ShrdSvr ALNG SubsVL MVL PerUsr	100	
7R6-00001	O365GCCE1FromSA ShrdSvr ALNG SubsVL MVL PerUsr	92	
AAA-12416	CCAL Bridge O365 FSA Sub Per User	92	
P3U-00001	VisioPlan2GCC ShrdSvr ALNG SubsVL MVL PerUsr	1	

Attachment: 2022-015 ATTH 04 Amendment-M97 (NEW) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

(M97)EnrAmend(Ind)(InvoiceforQuotedPrice)(WW)(ENG)(Oct2020)(IU).docx		M97	B

Attachment: 2022-015 ATTH 04 Amendment-M97 (NEW) (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Microsoft | Volume Licensing

Discount Transparency Disclosure Form

Date:	1/10/2022
Program:	Enterprise 6
Enrollment Number:	Renewal
Quote Number:	1154731.003
Partner Name:	SHI International Corp.
Reseller Address:	290 Davidson Ave Somerset, NJ, United States, 08873-4145

Discount Details

For this enrollment, Microsoft provided the Customer's Partner an additional discount off of the Partner's Net Price. The Partner is required, by Microsoft, to pass on the additional discount to the Customer by reducing the Microsoft Product resale price by an amount equal to or greater then the discount.

Listed in the table below is the maximum price the partner may charge for the Microsoft Products to be ordered under this enrollment. The Maximum Resale Price (MRP) is calculated by subtracting the additional discount provided to the Partner, from the total estimated resale price for the Microsoft Products.

The requirement to pass through the additional discount, does not mean that Microsoft is setting the Customer's actual price. Partners remain free to set the price charged for Microsoft Products at any point equal to or below MRP. The Customer's actual price will be established by a separate agreement between Customer and its Partner.

Ordered Products

Currency	Maximum Resale Price
US Dollar	263,394

Note: The Maximum Resale Price listed in the table above only pertains to the Microsoft Products to be ordered under this Enrollment. The content of this form has no impact on the Customer's price for Non-Microsoft products and services.

In this form, the following definitions apply:
"Customer" means the entity that may enter or has entered into a Contract with the Partner.
"Contract" means a binding agreement between the Partner and Affiliate, under which Customer orders Products from Partner.
"Microsoft" means (1) the entity that has entered into an agreement with Partner under which Partner may place orders for Microsoft Products for use by the Customer and (2) the affiliates of such entity, as appropriate.
"Maximum Resale Price" means the sum of the Estimated Retail Price for all Microsoft Products ordered under the Customer Contract minus the aggregated discount off of the Partner's Net Price provided by Microsoft listed in the currency in which the Partner or Partner's reseller transacts with Microsoft.
"Product" means all Microsoft Products identified in the Product Terms, such as all Software, Online Services, and other web-based services, including pre-release or beta version. Microsoft product availability may vary by region.

Partner:	SHI International Corp.
Customer:	City of Texarkana TX
Signature of Customer's authorized representative:	
Printed name:	
Printed title:	
Date:	

Attachment: 2022-015 ATTH 05 Discount Transparency Disclosure Form-1154731.003_DTDF (3637 : 2022-015 RES TEX Microsoft Enterprise

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:	No Additional

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: 2022-015 Goals & Perspectives (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

RESOLUTION NO. 2022-015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AUTHORIZING THE CITY MANAGER TO ACCEPT AN ENTERPRISE AGREEMENT PROPOSAL FROM SHI GOVERNMENT SOLUTIONS OF AUSTIN, TEXAS, FOR MICROSOFT LICENSES UTILIZING TEXAS STATE DIR PRICING WITH FUNDS BUDGETED IN THE CITY TECHNOLOGY FUND (FUND 115) AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE A FINAL ENTERPRISE AGREEMENT AT A TOTAL COST OVER A THREE-YEAR PERIOD NOT TO EXCEED $218,297.04; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the IT Division of TWU budgets and requests software licenses for the computer systems of Texarkana, Texas; and

WHEREAS, utilizing an Enterprise Agreement to purchase these licenses will allow for software consistency across departments; and

WHEREAS, the execution of this Enterprise Agreement will continue the maintenance on existing Microsoft licenses; and

WHEREAS, SHI Government Solutions of Austin, Texas, is an authorized Texas DIR vendor (Contract DIR-TSO-4092) for Microsoft Volume Licensing Programs; and

WHEREAS, the type and number of licenses to be acquired through this purchase agreement is shown on the attached document marked as **Exhibit "A";** and

WHEREAS, the City of Texarkana, Texas, has received a proposed Microsoft Enterprise Agreement quote from SHI Government Solutions of Austin, Texas, for Microsoft licensing, a copy of which is attached hereto as **Exhibit "B";** and

WHEREAS, the proposed agreement from SHI Government Solutions of Austin, Texas, for the Enterprise Agreement is for a proposed term of three (3) years and will be paid in annual payments of an amount not to exceed $72,765.68 per year for a total cost not to exceed $218,297.04 in a three-year term; and

WHEREAS, the funds are appropriated in the City's Technology Fund (Fund 115).

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

SECTION 1: The City Manager be and is hereby authorized to execute an Enterprise Agreement with SHI Government Solutions of Austin, Texas, for software licensing, over a three (3) year period, that will be at an amount not to exceed $72,765.68 per year for a total cost not to exceed $218,297.04 .

Attachment: 2022-015 RES Microsoft Enterprise Agrmt signed (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

SECTION 2: 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 **14th day of February, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:14p.m.

Attachment: 2022-015 RES Microsoft Enterprise Agrmt signed (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Enterprise Enrollment Product Selection Form

Microsoft | Volume Licensing

Proposal ID

1154731.003

Enrollment Number

Language: English (United States)

Enrolled Affiliate's Enterprise Products and Enterprise Online Services summary for the initial order:

Profile	Qualified Devices	Qualified Users	Device / User Ratio	Enterprise Product Platform	CAL Licensing Model
Enterprise	211	260	0.8	Yes	User Licenses
Field Worker	92	92	1.0	No	User Licenses
Total	303	352			

Products	Enterprise Quantity	Field Worker Quantity
Office 365 Plans		
Office 365 Plan E1 USL	-	92
Office 365 Plan E3 USL	160	-
O365 GCC E3	100	-
Client Access License (CAL)		
Core CAL		
Bridge for Office 365	60	-
Core CAL Bridge for Office 365 From SA	200	92
Windows Desktop		
Windows Enterprise OS Upgrade	211	-

Enrolled Affiliate's Product Quantities:

Price Group	1	2	3	4
Enterprise Products	Office Professional Plus + M365 Apps for Enterprise + Office 365 (Plans E3 and E5) + Microsoft 365 Enterprise	Client Access License + Office 365 (Plans E1, E3 and E5) + Microsoft 365 Enterprise	Client Access License + Windows Intune + EMS USL + Microsoft 365 Enterprise	Win E3 + Win E5 + Win VDA + Microsoft 365 Enterprise
Quantity	260	352	0	211

Enrolled Affiliate's Price Level:

Product Offering / Pool	Price Level
Enterprise Products and Enterprise Online Services USLs: Unless otherwise indicated in associated contract documents, Price level set using the highest quantity from Groups 1 through 4.	D

Attachment: 2022-015 RES Microsoft Enterprise Agrmt signed (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

Additional Product Application Pool: Unless otherwise indicated in associated contract documents, Price level set using quantity from Group 1.	D
Additional Product Server Pool: Unless otherwise indicated in associated contract documents, Price level set using the highest quantity from Group 2 or 3.	D
Additional Product Systems Pool: Unless otherwise indicated in associated contract documents, Price level set using quantity from Group 4.	D

NOTES

Unless otherwise indicated in the associated contract documents, the price level for each Product offering / pool is set as described above, based upon the quantity to price level mapping below:

Quantity of Licenses and Software Assurance	Price Level
2,399 and below	A
2,400 to 5,999	B
6,000 to 14,999	C
15,000 and above	D

Note 1: Enterprise Online Services may not be available in all locations. Please see the Product List for a list of locations where these may be purchased.

Note 2: Unless otherwise indicated in associated Agreement documents, the CAL selection must be the same across the Enterprise for each Profile.

Note 3: Enrolled Affiliate acknowledges that in order to use a third party to reimage the Windows Operating System Upgrade,Enrolled Affiliate must certify that it has acquired qualifying operating system licenses. The requirement applies to Windows Enterprise OS Upgrade.See Product Terms for details.

Note 4: If Enrolled Affiliate does not order an Enterprise Product or Enterprise Online Service associated with an applicable Product pool, the price level for Additional Products in the same pool will be price level "A" throughout the term of the Enrollment. Refer to the Qualifying Government Entity Addendum pricing provision for more details on price leveling.

Note 5: Bridge CAL, Office 365 Plan E3 Add Ons, EMS Add Ons, Windows Ent SA Per User Add Ons, and Enterprise Cloud Suite Add On quantities are not included for Price Leveling, as License quantities are determined by the corresponding Enterprise Online Service(s).

Attachment: 2022-015 RES Microsoft Enterprise Agrmt signed (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

2022-015 EXH 'B'

Pricing Proposal
Quotation #: 21164862
Created On: 10/21/2021
Valid Until: 1/31/2022

City of Texarkana

Brandon Uselton
TX
United States
Phone:
Fax:
Email: brandonu@txkusa.org

Senior Inside Account Manager

Jeff Rosen
3828 Pecana Trail
Austin, TX 78749
Phone: 800-870-6079 ext 8686150
Fax: (512)732-0232
Email: Jeff_Rosen@shi.com

All Prices are in US Dollar (USD)

	Product	Qty	Your Price	Total
1	CoreCALBridgeO365 ALNG SubsVL MVL Pltfrm PerUsr Microsoft - Part#: AAA-12415 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	60	$18.84	$1,130.40
2	CoreCALBridgeO365FromSA ALNG SubsVL MVL PerUsr Microsoft - Part#: AAA-12416 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	92	$16.68	$1,534.56
3	CoreCALBridgeO365FromSA ALNG SubsVL MVL Pltfrm PerUsr Microsoft - Part#: AAA-12417 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	200	$15.72	$3,144.00
4	O365GCCE1FromSA ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: 7R6-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	92	$64.80	$5,961.60
5	O365GCCE3 ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: AAA-11894 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	100	$216.12	$21,612.00
6	O365GCCE3fromSA ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: AAA-11924 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	160	$183.72	$29,395.20

Attachment: 2022-015 RES Microsoft Enterprise Agrmt signed (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

2022-015 EXH 'B'

7	VisioPlan2GCC ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: P3U-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	1	$138.48	$138.48
8	WINENTperDVC ALNG SA MVL Pltfrm Microsoft - Part#: KV3-00353 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	211	$45.84	$9,672.24
9	WinSvrSTDCore ALNG SA MVL 2Lic CoreLic Microsoft - Part#: 9EM-00270 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 1/1/2022 – 12/31/2022	8	$19.65	$157.20
			Shipping	$20.00
			Total	$72,765.68

Additional Comments

Thank you for choosing SHI-GS! The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address, Quote Number, and applicable Contract Number when submitting a Purchase Order. SHI Government Solutions, Inc. is 100% Minority Owned, Woman Owned Business. TAX ID# 22-3695478; DUNS# 14-724-3096

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.

Attachment: 2022-015 RES Microsoft Enterprise Agrmt signed (3637 : 2022-015 RES TEX Microsoft Enterprise Agreement)

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/7/2022 10:02 AM

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

Subject: Resolution No. 2022-016 acknowledging receipt of the Police Department's 2021 Racial Profiling Report as statutorily required.

Briefing: 2/14/2022 **Public Hearing:** **Council Vote:** 2/14/2022

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:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

a. 2022-016 RES 2021 Racial Profiling Report (DOCX)
b. 2022-016 ATTH 01 Final Report (PDF)
c. 2022-016 Goals & Perspectives (DOCX)
d. 2022-016 RES Racial Profiling Rpt. signed (PDF)

Staff Coordination

Police	Kevin Schutte	Department Head Review	Completed	02/09/2022 10:38 AM
Police	Kevin Schutte	Supervisor Review	Completed	02/09/2022 10:38 AM
City Manager	David Orr	City Manager Review	Completed	02/10/2022 11:05 AM
City Council	Jennifer Evans	Meeting	Completed	02/14/2022 6:00 PM

Meeting History

RESOLUTION NO. 2022 – 016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ACKNOWLEDGING RECEIPT OF THE 2021 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 by March each year.

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, acknowledges receipt of the 2021 Police Department Racial Profiling Report titled as **ATTH 01**.

SECTION 2: 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 **14th day of February, 2022.**

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2022-016 RES 2021 Racial Profiling Report (3638 : 2022-016 RES 2021 Racial Profiling Report)

TEXARKANA, TEXAS POLICE DEPARTMENT

2021

RACIAL PROFILING ANALYSIS

PREPARED BY:

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

Attachment: 2022-016 ATTH 01 Final Report (3638 : 2022-016 RES 2021 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: 2022-016 ATTH 01 Final Report (3638 : 2022-016 RES 2021 Racial Profiling Report)

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

Attachment: 2022-016 ATTH 01 Final Report (3638 : 2022-016 RES 2021 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 2021. 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 2021. 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

Attachment: 2022-016 ATTH 01 Final Report (3638 : 2022-016 RES 2021 Racial Profiling Report)

by Texarkana, Texas Police Department reveals that racial profiling training and certification is current for all officers in 2021. 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 2021 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

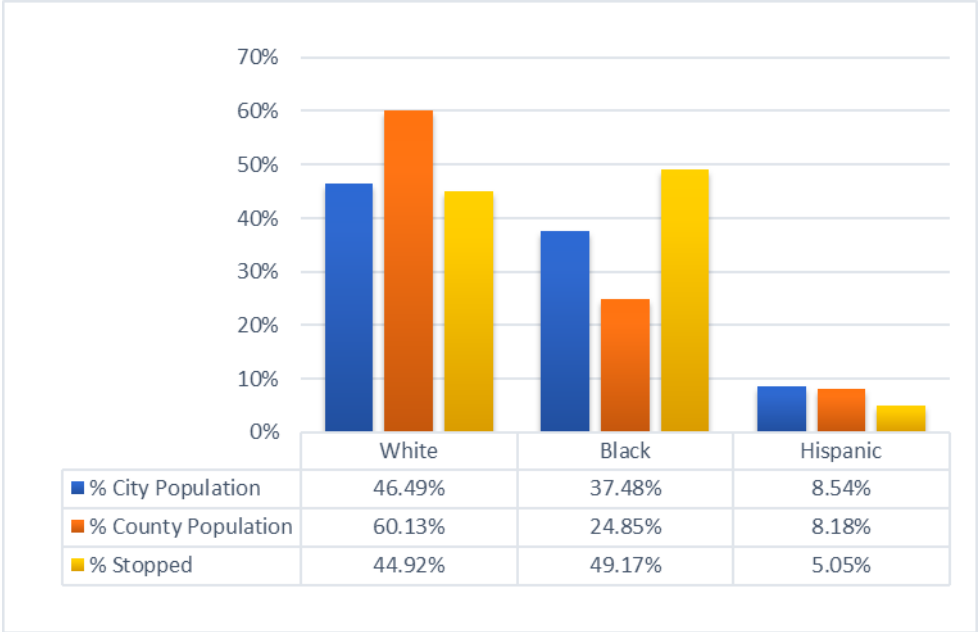
Comparative Analysis #1:

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)

Attachment: 2022-016 ATTH 01 Final Report (3638 : 2022-016 RES 2021 Racial Profiling Report)

The first chart depicts the percentages of people stopped by race/ethnicity among the total 7,739 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2021.[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	44.92%	49.17%	5.05%

White drivers constituted 44.92 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 49.17 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 5.05 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 lower than the percentage of Whites found in the city and county populations. 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 (7,739), information contained in the first chart excludes information pertaining to 43 stops of motorists of Asian/Pacific Islander descent and 24 stops of citizens 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 the most recent 2019 American Community Survey estimates, as the 2020 Decennial Census Redistricting Data (DEC) does not include population counts by gender.

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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 7,739 motor vehicle stops in 2021, the officer knew the race/ethnicity of the motorist prior to the stop in 16.16% of the stops (1,251/7,739). 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 2021. 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 7,739 motor vehicle stops in 2021 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 22 percent of stops resulted in a verbal warning (1,702/7,739), roughly 39 percent of stops resulted in a written warning, and roughly 35 percent resulted in a citation. These actions accounted for roughly 96 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 20 percent of stops involving White motorists (684/3,476). Black motorists received a verbal warning in roughly 23 percent of stops involving Black motorists. Hispanic motorists received a verbal warning in roughly 30 percent of stops involving Hispanic motorists.

Specific to **written warnings**, White motorists received a written warning in roughly 44 percent of stops involving White motorists (1,544/3,476), Black motorists received a written warning in roughly 35 percent of stops of Black motorists, and Hispanic motorists received a written warning in roughly 28 percent of stops of Hispanic motorists.

White motorists received a **citation** in roughly 34 percent of stops involving White motorists (1,175/3,476), Black motorists received a citation in roughly 36 percent of stops of Black motorists, and Hispanic motorists received a citation in roughly 40 percent of stops of Hispanic motorists.

As illustrated in Table 1, of the 7,739 total stops, 295 **arrests** [written warning and arrest (49), citation and arrest (73) and sole arrests (173)] were made in 2021, and this accounts for 3.8 percent of all stops. White motorists were arrested in roughly 2 percent of stops involving White motorists (73/3,476), Black motorists were arrested in roughly 6 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** (58.6%; 173/295) or an **outstanding warrant** (37.3%; 110/295) as illustrated in Table 1.

Finally, as presented in Table 1, **physical force resulting in bodily injury** occurred in 5 stops in 2021. Of the 7,739 motor vehicle stops in 2021, 5 resulted in physical force resulting in bodily injury. In one stop a suspect was injured, in two stops an officer was injured, and in two stops both the officer and suspect were 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	3,476	3,805	391	43	24	7,739
Gender						
Female	1,626	1,638	123	17	8	3,412
Male	1,850	2,167	268	26	16	4,327
Reason for Stop						
Violation of Law	448	505	40	5	3	1,001
Preexisting Knowledge	33	44	5	1	0	83
Moving Traffic Violation	2,382	2,314	266	27	15	5,004
Vehicle Traffic Violation	613	942	80	10	6	1,651
Result of Stop						
Verbal Warning	684	884	119	11	4	1,702
Written Warning	1,544	1,330	111	14	13	3,012
Citation	1,175	1,376	155	17	7	2,730
Written Warning and Arrest	11	38	0	0	0	49
Citation and Arrest	18	55	0	0	0	73
Arrest	44	122	6	1	0	173
Arrest Based On						
Violation of Penal Code	47	123	3	0	0	173
Violation of Traffic Law	3	6	1	0	0	10
Violation of City Ordinance	2	0	0	0	0	2
Outstanding Warrant	21	86	2	1	0	110
Physical Force Resulting in Bodily Injury Used?						
No	3,474	3,802	391	43	24	7,734
Yes	2	3	0	0	0	5

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 2021, a total of 785 **searches** of motorists were conducted, or roughly 10 percent of all stops resulted in a search (785/7,739). Among searches within each racial/ethnic group, White motorists were searched in roughly 7 percent of all stops of White motorists (242/3,476), Black motorists were searched in roughly 13 percent of all stops of Black motorists, and Hispanic motorists were searched in roughly 6 percent of all stops of Hispanic motorists.

As illustrated in Table 2, the most common reason for a search was consent (44.7%; 351/785), which are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (7,739), discretionary consent searches occurred in 4.54 percent of stops (351 total consent searches). Among **consent searches** within each racial/ethnic group, White motorists were searched based on consent in roughly 58 percent of all searches of White motorists (140/242), Black motorists were searched based on consent in roughly 37 percent of all searches of Black motorists, and Hispanic motorists were searched based on consent in 72 percent of all searches of Hispanic motorists (18 consent searches out of a total 25 searches of Hispanic motorists).

The second most common reason for searches (see Table 2) was searches based on probable cause (40.4%; 317/785). 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 (78/242), Black motorists were searched based on probable cause in roughly 45 percent of all searches of Black motorists, and Hispanic motorists were searched based on probable cause in 20 percent of all searches of Hispanic motorists (5 probable cause searches out of a total 25 searches of Hispanic motorists).

Of the searches that occurred in 2021, and as shown in Table 2, **contraband was discovered** in 346 or roughly 44 percent of all searches (346/785 total searches). Overwhelmingly, the contraband discovered in searches was drugs; 86.4% of the contraband discovered (299/346 contraband discoveries). Finally, as illustrated in Table 2, when contraband was discovered, motorists were arrested roughly 47% of the time (161/346 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	242	512	25	6	0	785
No	3,234	3,293	366	37	24	6,954
Reason for Search						
Consent	140	189	18	4	0	351
Contraband in Plain View	5	19	1	0	0	25
Probable Cause	78	232	5	2	0	317
Inventory	14	43	0	0	0	57
Incident to Arrest	5	29	1	0	0	35
Was Contraband Discovered						
Yes	98	241	7	0	0	346
No	144	271	18	6	0	439
Description of Contraband						
Drugs	79	215	5	0	0	299
Weapons	3	12	0	0	0	15
Currency	1	1	0	0	0	2
Alcohol	9	5	2	0	0	16
Stolen Property	0	0	0	0	0	0
Other	6	8	0	0	0	14
Did Discovery of Contraband Result in Arrest?						
Yes	39	119	3	0	0	161
No	59	122	4	0	0	185

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 2021, 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 2021, 7,793 motor vehicle stops were made by the Texarkana Police Department. Of these stops, 3,412 or roughly 44 percent were female drivers (3,412/7,739), and roughly 56 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 2021, 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 2021 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 2021. Furthermore, as previously discussed, of the 7,739 motor vehicle stops in 2021, the officer knew the race/ethnicity of the motorist prior to the stop in 16.16% of the stops (1,251/7,739).

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Table 3: Additional Information

Additional Information	Total
Was Race/Ethnicity Known Prior to Stop	
Yes	1,251
No	6,488
Approximate Location of Stop	
City Street	6,023
US Highway	910
County Road	43
State Highway	636
Private Property/Other	127
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 2021, 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

Attachment: 2022-016 ATTH 01 Final Report (3638 : 2022-016 RES 2021 Racial Profiling Report)

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* **January 1, 2017**	*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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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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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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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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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: 2022-016 Goals & Perspectives (3638 : 2022-016 RES 2021 Racial Profiling Report)

RESOLUTION NO. 2022 – 016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ACKNOWLEDGING RECEIPT OF THE 2021 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 by March each year.

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, acknowledges receipt of the 2021 Police Department Racial Profiling Report titled as **ATTH 01**.

SECTION 2: 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 **14th day of February, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:14p.m.

Attachment: 2022-016 RES Racial Profiling Rpt. signed (3638 : 2022-016 RES 2021 Racial Profiling Report)

TEXARKANA, TEXAS POLICE DEPARTMENT

2021

RACIAL PROFILING ANALYSIS

PREPARED BY:

Eric J. Fritsch, Ph.D.
Chad R. Trulson, Ph.D.
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 2021. 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 2021. 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 2021. 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 2021 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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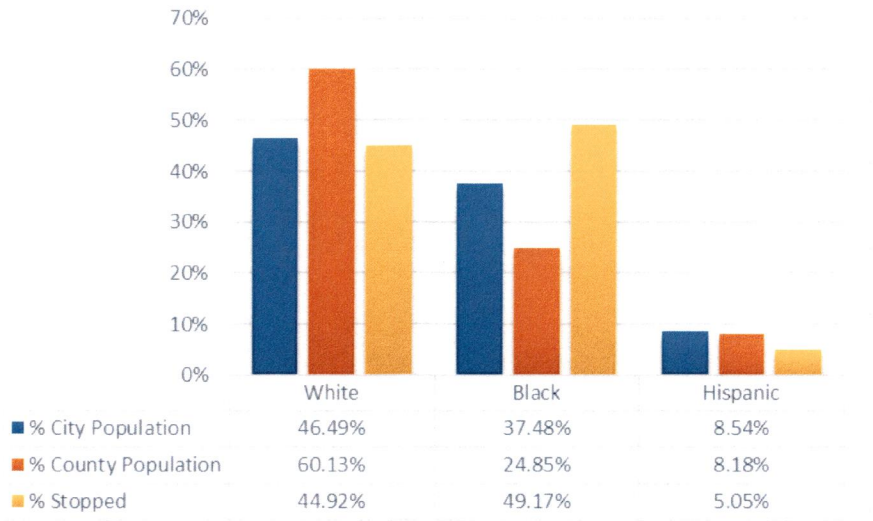
The first chart depicts the percentages of people stopped by race/ethnicity among the total 7,739 motor vehicle stops in which a ticket, citation, or warning was issued, including arrests made, in 2021.[1]

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



White drivers constituted 44.92 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 49.17 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 5.05 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 lower than the percentage of Whites found in the city and county populations. 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 (7,739), information contained in the first chart excludes information pertaining to 43 stops of motorists of Asian/Pacific Islander descent and 24 stops of citizens 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 the most recent 2019 American Community Survey estimates, as the 2020 Decennial Census Redistricting Data (DEC) does not include population counts by gender.

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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 7,739 motor vehicle stops in 2021, the officer knew the race/ethnicity of the motorist prior to the stop in 16.16% of the stops (1,251/7,739). 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 2021. 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 7,739 motor vehicle stops in 2021 in which a ticket, citation, or warning was issued. The table also shows arrests made as a result of those stops. Roughly 22 percent of stops resulted in a verbal warning (1,702/7,739), roughly 39 percent of stops resulted in a written warning, and roughly 35 percent resulted in a citation. These actions accounted for roughly 96 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 20 percent of stops involving White motorists (684/3,476). Black motorists received a verbal warning in roughly 23 percent of stops involving Black motorists. Hispanic motorists received a verbal warning in roughly 30 percent of stops involving Hispanic motorists.

Specific to **written warnings**, White motorists received a written warning in roughly 44 percent of stops involving White motorists (1,544/3,476), Black motorists received a written warning in roughly 35 percent of stops of Black motorists, and Hispanic motorists received a written warning in roughly 28 percent of stops of Hispanic motorists.

White motorists received a **citation** in roughly 34 percent of stops involving White motorists (1,175/3,476), Black motorists received a citation in roughly 36 percent of stops of Black motorists, and Hispanic motorists received a citation in roughly 40 percent of stops of Hispanic motorists.

As illustrated in Table 1, of the 7,739 total stops, 295 **arrests** [written warning and arrest (49), citation and arrest (73) and sole arrests (173)] were made in 2021, and this accounts for 3.8 percent of all stops. White motorists were arrested in roughly 2 percent of stops involving White motorists (73/3,476), Black motorists were arrested in roughly 6 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** (58.6%; 173/295) or an **outstanding warrant** (37.3%; 110/295) as illustrated in Table 1.

Finally, as presented in Table 1, **physical force resulting in bodily injury** occurred in 5 stops in 2021. Of the 7,739 motor vehicle stops in 2021, 5 resulted in physical force resulting in bodily injury. In one stop a suspect was injured, in two stops an officer was injured, and in two stops both the officer and suspect were 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	3,476	3,805	391	43	24	7,739
Gender						
Female	1,626	1,638	123	17	8	3,412
Male	1,850	2,167	268	26	16	4,327
Reason for Stop						
Violation of Law	448	505	40	5	3	1,001
Preexisting Knowledge	33	44	5	1	0	83
Moving Traffic Violation	2,382	2,314	266	27	15	5,004
Vehicle Traffic Violation	613	942	80	10	6	1,651
Result of Stop						
Verbal Warning	684	884	119	11	4	1,702
Written Warning	1,544	1,330	111	14	13	3,012
Citation	1,175	1,376	155	17	7	2,730
Written Warning and Arrest	11	38	0	0	0	49
Citation and Arrest	18	55	0	0	0	73
Arrest	44	122	6	1	0	173
Arrest Based On						
Violation of Penal Code	47	123	3	0	0	173
Violation of Traffic Law	3	6	1	0	0	10
Violation of City Ordinance	2	0	0	0	0	2
Outstanding Warrant	21	86	2	1	0	110
Physical Force Resulting in Bodily Injury Used?						
No	3,474	3,802	391	43	24	7,734
Yes	2	3	0	0	0	5

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 2021, a total of 785 **searches** of motorists were conducted, or roughly 10 percent of all stops resulted in a search (785/7,739). Among searches within each racial/ethnic group, White motorists were searched in roughly 7 percent of all stops of White motorists (242/3,476), Black motorists were searched in roughly 13 percent of all stops of Black motorists, and Hispanic motorists were searched in roughly 6 percent of all stops of Hispanic motorists.

As illustrated in Table 2, the most common reason for a search was consent (44.7%; 351/785), which are regarded as discretionary as opposed to non-discretionary searches. Relative to the total number of stops (7,739), discretionary consent searches occurred in 4.54 percent of stops (351 total consent searches). Among **consent searches** within each racial/ethnic group, White motorists were searched based on consent in roughly 58 percent of all searches of White motorists (140/242), Black motorists were searched based on consent in roughly 37 percent of all searches of Black motorists, and Hispanic motorists were searched based on consent in 72 percent of all searches of Hispanic motorists (18 consent searches out of a total 25 searches of Hispanic motorists).

The second most common reason for searches (see Table 2) was searches based on probable cause (40.4%; 317/785). 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 (78/242), Black motorists were searched based on probable cause in roughly 45 percent of all searches of Black motorists, and Hispanic motorists were searched based on probable cause in 20 percent of all searches of Hispanic motorists (5 probable cause searches out of a total 25 searches of Hispanic motorists).

Of the searches that occurred in 2021, and as shown in Table 2, **contraband was discovered** in 346 or roughly 44 percent of all searches (346/785 total searches). Overwhelmingly, the contraband discovered in searches was drugs; 86.4% of the contraband discovered (299/346 contraband discoveries). Finally, as illustrated in Table 2, when contraband was discovered, motorists were arrested roughly 47% of the time (161/346 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	242	512	25	6	0	785
No	3,234	3,293	366	37	24	6,954
Reason for Search						
Consent	140	189	18	4	0	351
Contraband in Plain View	5	19	1	0	0	25
Probable Cause	78	232	5	2	0	317
Inventory	14	43	0	0	0	57
Incident to Arrest	5	29	1	0	0	35
Was Contraband Discovered						
Yes	98	241	7	0	0	346
No	144	271	18	6	0	439
Description of Contraband						
Drugs	79	215	5	0	0	299
Weapons	3	12	0	0	0	15
Currency	1	1	0	0	0	2
Alcohol	9	5	2	0	0	16
Stolen Property	0	0	0	0	0	0
Other	6	8	0	0	0	14
Did Discovery of Contraband Result in Arrest?						
Yes	39	119	3	0	0	161
No	59	122	4	0	0	185

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 2021, 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 2021, 7,793 motor vehicle stops were made by the Texarkana Police Department. Of these stops, 3,412 or roughly 44 percent were female drivers (3,412/7,739), and roughly 56 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 2021, 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 2021 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 2021. Furthermore, as previously discussed, of the 7,739 motor vehicle stops in 2021, the officer knew the race/ethnicity of the motorist prior to the stop in 16.16% of the stops (1,251/7,739).

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Table 3: Additional Information

Additional Information	Total
Was Race/Ethnicity Known Prior to Stop	
Yes	1,251
No	6,488
Approximate Location of Stop	
City Street	6,023
US Highway	910
County Road	43
State Highway	636
Private Property/Other	127
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 2021, 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.

Attachment: 2022-016 RES Racial Profiling Rpt. signed (3638 : 2022-016 RES 2021 Racial Profiling Report)

Appendix B

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

Attachment: 2022-016 RES Racial Profiling Rpt. signed (3638 : 2022-016 RES 2021 Racial Profiling Report)

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* **January 1, 2017**	*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.

Attachment: 2022-016 RES Racial Profiling Rpt. signed (3638 : 2022-016 RES 2021 Racial Profiling Report)

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.

Attachment: 2022-016 RES Racial Profiling Rpt. signed (3638 : 2022-016 RES 2021 Racial Profiling Report)

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

Attachment: 2022-016 RES Racial Profiling Rpt. signed (3638 : 2022-016 RES 2021 Racial Profiling Report)

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;

Attachment: 2022-016 RES Racial Profiling Rpt. signed (3638 : 2022-016 RES 2021 Racial Profiling Report)

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.

Attachment: 2022-016 RES Racial Profiling Rpt. signed (3638 : 2022-016 RES 2021 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: 2022-016 RES Racial Profiling Rpt. signed (3638 : 2022-016 RES 2021 Racial Profiling Report)

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/8/2022 4:45 PM

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

Subject: Ordinance No. 2022-003 of public convenience and necessity, approving the assignment and transfer of a public utility franchise to Summit Utilities Arkansas, Inc., assignee of CenterPoint Energy Resources Corp., for the continued provision of and to maintain and operate a natural gas utility business system in the City. [City Charter requires this ordinance to be read at three regular meetings of the City Council.]

Briefing: 2/14/2022 **Public Hearing:** 1/24/2022 **Council Vote:** 2/14/2022

Item Schedule

Updates/History of Briefing:

The fully executed Assignment and Assumption of Franchises document has been provided to the city since the first reading of this ordinance.

Executive Summary and Background Information:

Article XV of the City Charter governs Council authority with respect to public utility franchises. (Please refer to the attached 2-page Charter excerpt.) Pursuant to Article XV, Section 1 of the City Charter, in Ordinance No. 335-84, the City Council awarded a non-exclusive franchise privilege to Arkansas Louisiana Gas Company for the construction, maintenance and operation of a natural gas supply company, pursuant to of the City of Texarkana, Texas. The "franchise ordinance" has been amended over the years, primarily to increase franchise fee payments, currently set at four percent (4%) of the gross revenues received by the natural gas company by Ordinance No. 241-05.

The City Council's most recent action on setting natural gas rates took place on August 28, 2017, by Ordinance No. 2017-083. The City Council approved rate schedules and service charges proposed for residential and commercial gas service by Centerpoint; those rates, or tariffs, can be viewed at the Railroad Commission web site under the Centerpoint Energy Arkla listing -- http://www.old.rrc.texas.gov/data/gasservices/gastariffs/gftr0048b_6269.pdf -- and at Centerpoint's web site -- **https://www.centerpointenergy.com/en-us/corp/pages/rates-and-tariffs-for-incorporated-texarkana-service-area.aspx**.

In June 2021, Centerpoint Energy Resources Corp. and Summit Utilities Arkansas, Inc., filed with the Arkansas Public Service Commission a Joint Application for approval of a proposed transaction whereby CERC would sell, and SUA, as the ultimate owner and operator, would acquire certain of CERC's public utility natural gas assets, comprised of an operating unit or system, which provide service to customers in Arkansas, as well as certain areas located in Bowie County, Texas, including Texarkana, Texas. On December 6, 2021, the Arkansas Public Service Commission, found, ordered, and directed, among other things, that Summit has the experience and expertise to operate a public utility in compliance with Arkansas laws and regulations and provide quality customer service to Centerpoint's Arkansas customers, and granted a Certificate of Public Convenience and Necessity

pursuant to Arkansas law for Summit to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with Centerpoint. [Link to the Arkansas order: http://www.apscservices.info/pdf/21/21-060-U_142_1.pdf. Similar administrative proceedings and orders were issued by Oklahoma regulators: https://imaging.occ.ok.gov/AP/Orders/occ30436073.pdf.] Summit then filed with the Arkansas Public Service Commission, in compliance with the commission's order, a revised tariff or rate structure; and pertinent to the City of Texarkana, Texas, the revised Arkansas tariff eliminated or terminated two riders, the Trial Billing Determinant Adjustment Tariff (BDA) and Formula Rate Plan Rider (FRP), which had been directly referenced and incorporated into the City's tariff approved by the City Council in 2017.

The City of Texarkana, Texas, maintains original jurisdiction over the natural gas utility, with the Texas Railroad Commission having jurisdiction over unincorporated areas and municipalities that have ceded jurisdiction to the commission. The City's franchise ordinance provides that the gas company "may not sell or transfer its franchise or rights to another … nor … transfer any rights under this franchise to another without approval by the City's [sic] Council." In compliance with the franchise ordinance, Summit intends to submit to the City Secretary prior to the final reading of this ordinance a duly executed instrument consistent with the requirements of the franchise ordinance, documenting Summit's purchase of Centerpoint's natural gas utility business and assets serving customers within the Texarkana, Texas, service territory and acquisition of substantially all of the utility operating assets of Centerpoint located in the Texarkana, Texas, service territory, and reciting acceptance of the terms of applicable law and the City's non-exclusive public utility franchise privilege.

Summit proposes no increase in the City's rates, but rather a continuation of the same tariff approved by the City Council in Ordinance No. 2017-083 except for deleting the defunct BDA and FRP riders given the elimination or termination of said riders from the Arkansas tariff structure. The proposed reauthorization of the 2017 tariff, with the exceptions noted, will be presented to the City Council for action in a separate ordinance after the City Council considers and acts upon the proposed franchise assignment and transfer to Summit.

Potential Options:

Approve the assignment and transfer of the public utility natural gas franchise to Summit, as assignee of Centerpoint, for the continued provision of and to maintain and operate a natural gas utility business system in the City.

NOTE: Pursuant to Charter requirements, this proposed ordinance must be read at three regular meetings of the City Council. In the meetings for the first and second readings, a vote will be taken solely to approve the respective readings. The City Manager and City Attorney have separately requested the presence of Summit representatives at the second reading and public hearing (set for the January 24 regular meeting) to make a presentation to the Council and address any questions of Councilmembers. After the third and final reading, a vote to consider approval of the assignment and transfer will be in order.

Fiscal Implications:

No change to the franchise fee. Publication costs pursuant to Charter requirements are to be paid for by Summit.

Staff Recommendation:

Approve each reading of the ordinance and, on the third and final reading, approve the assignment and transfer of the public utility natural gas franchise to Summit for the continued provision of and to maintain and operate a natural gas utility business system in the City.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

Excerpt: Article XV of the City Charter

Ord. No. 335-84 – the natural gas franchise ordinance

Ord. No. 241-05 – "four percent" franchise fee ordinance amendment

Attachments

a. 2022-003 ORD Summit - Centerpoint franchise transfer v2 (DOCX)
b. 2022-003 ATTH 01 Art XV Charter (PDF)
c. 2022-003 ATTH 02 Ord. 335-84 Texarkana (PDF)
d. 2022-003 ATTH 03 Ord. 241-05 Texarkana (PDF)
e. 2022-003 ATTH 04 Assignment of TXK Franchises - Fully Executed (PDF)
f. 2022-003 Goals & Perspectives (DOCX)
g. 2022-003 (1R) ORD CenterPoint franchise transfer signed (PDF)
h. 2022-003 (2R) ORD CenterPoint franchise tanserfer signed (PDF)

Staff Coordination

City Manager	David Orr	Department Head Review	Completed	01/07/2022 9:42 AM
City Manager	David Orr	City Manager Review	Completed	01/07/2022 9:45 AM
City Council	Jennifer Evans	Meeting	Completed	01/10/2022 6:00 PM

Meeting History

01/10/22	City Council	FIRST READING - MOVED FORWARD	Next: 01/24/22
01/24/22	City Council	SECOND READING - MOVED FORWARD	Next: 02/14/22

Attachment: 2022-003 ORD Summit - Centerpoint franchise transfer v2 (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

PUBLISH

ORDINANCE NO. 2022-003

AN ORDINANCE OF PUBLIC CONVENIENCE AND NECESSITY OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING THE ASSIGNMENT AND TRANSFER OF A PUBLIC UTILITY FRANCHISE TO SUMMIT UTILITIES ARKANSAS, INC., ASSIGNEE OF CENTERPOINT ENERGY RESOURCES CORP., D/B/A CENTERPOINT ENERGY ARKANSAS GAS, FOR THE CONTINUED PROVISION OF AND TO MAINTAIN AND OPERATE A NATURAL GAS UTILITY BUSINESS SYSTEM IN THE CITY OF TEXARKANA, TEXAS; PROVIDING FOR PUBLICATION; PROVIDING FOR A REPEALER CLAUSE AND A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 335-84 duly enacted on the Third and Final Reading on December 17, 1984, awarded a non-exclusive franchise privilege to Arkansas Louisiana Gas Company, its successors and assigns, for the construction, maintenance and operation of a natural gas supply company, pursuant to Article XV, Section 1 of the City Charter of the City of Texarkana, Texas; and

WHEREAS, Section 19 of Ordinance No. 335-84 provides that the gas company "may not sell or transfer its franchise or rights to another … nor … transfer any rights under this franchise to another without approval by the City's [sic] Council. Such franchise approval will not be granted until the … assignee … has filed in the office of the City Secretary of the City of Texarkana, Texas, an instrument, duly executed, reciting the fact of such … assignment … and accepting the terms of applicable law and this franchise."; and

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 188-87 duly enacted on the Third and Final Reading on September 14, 1987, amended Section 11 of Ordinance No. 335-84 to increase the payment made by the gas company to the City from two percent (2%) of the gross revenues received by the company to three percent (3%) of the gross revenues so received; and

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 241-05 duly enacted on the Third and Final Reading on October 10, 2005, amended Section 11 of Ordinance No. 335-84 to increase the payment made by the gas company to the City from three percent (3%) of the gross revenues received by the company to four percent (4%) of the gross revenues so received; and

WHEREAS, on August 28, 2017, by Ordinance No. 2017-083, the City Council approved rate schedules and service charges proposed for residential and commercial gas service by CenterPoint Energy Resources Corp. (CERC), to be effective as of September 1, 2017, and ordered CERC to file with the City Clerk tariff sheets containing residential and commercial rate schedules identical to those rate schedules included with said ordinance; and

WHEREAS, on June 11, 2021, CERC and Summit Utilities Arkansas, Inc. (SUA) filed with the Arkansas Public Service Commission a Joint Application for approval of a proposed transaction whereby CERC would sell, and SUA, as the ultimate owner and operator, would acquire certain of CERC's public utility natural gas assets, comprised of an operating unit or system, which provide service to customers in Arkansas, as well as certain areas located in Bowie County, Texas, including Texarkana, Texas; and

WHEREAS, on December 6, 2021, the Arkansas Public Service Commission, Docket No. 21-060-U, Order No. 11, found, ordered, and directed, among other things, that SUA has the experience and expertise to operate a public utility in compliance with Arkansas laws and regulations and provide quality customer

Attachment: 2022-003 ORD Summit - Centerpoint franchise transfer v2 (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

PUBLISH

service to CERC's Arkansas customers, granted a Certificate of Public Convenience and Necessity pursuant to Arkansas law to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with CERC, and cancelled the Certificate of Public Convenience and Necessity of CERC to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with SUA; and

WHEREAS, on December 13, 2021, SUA filed with the Arkansas Public Service Commission, in compliance with Docket No. 21-060-U, Order No. 11, a revised tariff consistent with the Order; and pertinent to the City of Texarkana, Texas, the revised Arkansas tariff eliminated or terminated two riders, the Trial Billing Determinant Adjustment Tariff (BDA) and Formula Rate Plan Rider (FRP), which had been directly referenced and incorporated into the City's tariff approved by the City Council by Ordinance No. 2017-083; and

WHEREAS, SUA, as Assignee of CERC, intends to submit to the City Secretary prior to the final reading of this ordinance a duly executed instrument consistent with the requirements of Section 19 of Ordinance No. 335-84, documenting SUA's purchase of CERC's natural gas utility business and assets serving customers within the Texarkana, Texas, service territory and acquisition of substantially all of the utility operating assets of CERC located in the Texarkana, Texas, service territory, and reciting acceptance of the terms of applicable law and the City's non-exclusive public utility franchise privilege; and

WHEREAS, SUA proposes no increase in the City's rates, but rather a continuation of the same tariff approved by the City Council in Ordinance No. 2017-083 except for deleting the defunct BDA and FRP riders given the elimination or termination of said riders from the Arkansas tariff structure (the City Council shall consider and act upon SUA's proposal after the final reading and approval of this ordinance); and

WHEREAS, by this Ordinance, the City Council approves the assignment and transfer to SUA of the City's non-exclusive franchise privilege for the continued provision of and to maintain and operate a natural gas utility business system in the City of Texarkana, Texas.

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

SECTION 1. Pursuant to Article XV of the City Charter of the City of Texarkana, Texas, the City Council approves the assignment and transfer of the City's non-exclusive franchise privilege as set forth in Ordinance No. 335-84 as amended, to Summit Utilities Arkansas, Inc., for the continued provision of and to maintain and operate a natural gas utility business system in the City of Texarkana, Texas; and the duration of said franchise now held by Summit Utilities Arkansas, Inc., shall be for the period beginning with the effective date hereof and ending twenty-five (25) years thereafter.

SECTION 2. A copy of the acceptance of said franchise, in the form attached as Exhibit "A" to this Ordinance, shall, upon execution by Summit Utilities Arkansas, Inc., and the filing of said executed copy with the City Secretary of the City of Texarkana, Texas, be substituted for the placeholder form and thereafter shall be considered a part of this Ordinance and incorporated herein by reference for all purposes.

SECTION 3: 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 4: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict; provided, however, that nothing in this Ordinance shall be construed to waive, abandon, or repeal any rights or benefits inuring to the City of Texarkana, Texas, under the terms of Ordinance No. 335-84 or any amendments thereto.

PUBLISH

SECTION 5: Pursuant to Article XV of the City Charter of the City of Texarkana, Texas, this Ordinance amending a public utility franchise shall be read at three regular meetings of the Council and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within ten (10) days following the first reading of this Ordinance, the full text hereof shall be published one time in the Texarkana Gazette, and the expense of such publication shall be borne by Summit Utilities Arkansas, Inc. Additionally, the caption of this Ordinance shall be published for three (3) consecutive days in the Texarkana Gazette within ten (10) days of the final passage of this Ordinance on third reading, and the expense of those publications shall also be borne by Summit Utilities Arkansas, Inc.

SECTION 6: This Ordinance shall be in full force and effect from and after its passage, approval, adoption, and publication, subject, however, to the filing of the acceptance of the Ordinance as provided in Section 2, above.

FIRST READING APPROVED in Regular Council Session on this the **10th day of January, 2022.**

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

SECOND READING APPROVED in Regular Council Session on this the **24th day of January, 2022.**

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

THIRD READING APPROVED, PASSED, AND FINALLY ACTED UPON in Regular Council Session on this the **14th day of February, 2022.**

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2022-003 ORD Summit - Centerpoint franchise transfer v2 (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

PUBLISH

Exhibit A

Acceptance of Summit Utilities Arkansas, Inc.

WHEREAS, the City Council of the City of Texarkana, Texas, on the 14th day of February, 2022, enacted an Ordinance entitled:

ORDINANCE NO. 2022-003

AN ORDINANCE OF PUBLIC CONVENIENCE AND NECESSITY OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING THE ASSIGNMENT AND TRANSFER OF A PUBLIC UTILITY FRANCHISE TO SUMMIT UTILITIES ARKANSAS, INC., ASSIGNEE OF CENTERPOINT ENERGY RESOURCES CORP., D/B/A CENTERPOINT ENERGY ARKANSAS GAS, ITS SUCCESSORS AND ASSIGNS, FOR THE CONTINUED PROVISION AND TO MAINTAIN AND OPERATE A NATURAL GAS UTILITY BUSINESS SYSTEM IN THE CITY OF TEXARKANA, TEXAS; PROVIDING FOR PUBLICATION; PROVIDING FOR A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, said Ordinance was duly authenticated by the signatures of the Mayor and the City Secretary, and was properly caused to be published by the City Secretary.

NOW, THEREFORE, by and through its undersigned authorized officer, SUMMIT UTILITIES ARKANSAS, INC., hereby files this its written acceptance with the City Secretary of the City of Texarkana, Texas, accepting Ordinance No. 2022-003 and the provisions therein for an assignment and transfer of the public utility franchise originally set forth in Ordinance No. 335-84, as amended by Ordinance No. 188-87, as amended by Ordinance No. 241-05, and any subsequent amendments thereto, and as governed by Article XV of the City Charter of the City of Texarkana, Texas, all incorporated herein by reference for all purposes; and under the public utility franchise now assigned and granted for the time period stated in Ordinance No. 2022-003, SUMMIT UTILITIES ARKANSAS, INC., agrees to abide by the terms of said franchise and pay to the City of Texarkana, Texas, the amount established therein for the continued use and occupancy of the streets, alleys, highways, easements, parks, and other public places within the City.

Summit Utilities Arkansas, Inc.

Attest:

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Filed in the office of the City Secretary of the City of Texarkana, Texas, on this the _____ day of _____, 2022.

_____
Jennifer Evans, TRMC
City Secretary

Attachment: 2022-003 ORD Summit - Centerpoint franchise transfer v2 (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

ARTICLE XV. FRANCHISES AND PUBLIC UTILITIES[1]

Sec. 1. Power to grant or amend franchise; maximum term of franchise.

The Council shall have the power by ordinance to grant, renew, and extend all franchises of all public utilities of every character operating within the City, and, with consent of the franchise holder, to amend the same. Provided, however, that no franchise shall be granted for a term of more than twenty-five (25) years.

Sec. 2. Ordinance granting franchise.

Every ordinance granting, renewing, extending, or amending a public utility franchise shall be read at three (3) regular meetings of the Council, and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within ten (10) days following the first reading of the ordinance, the full text thereof shall be published one time in the official newspaper of the City, and the expense of such publication shall be borne by the prospective franchise holder.

Sec. 3. Transfer of franchise.

No public utility franchise shall be transferred by the holder thereof except with the approval of the Council expressed by ordinance.

Sec. 4. Forfeiture of franchise and regulation of holder thereof.

Every grant, renewal, extension, or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the Council:

(1) To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of such failure, and shall be exercised only after hearing and after such reasonable time has expired.

(2) To impose reasonable regulations to insure safe, efficient and continuous service to the public.

(3) To require such expansion, extension, enlargement and improvements of plants and facilities as are necessary to provide adequate service to the public.

(4) To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length and terminals of all facilities of such franchise holder in, over and under the streets, alleys, and other public property of the City; and to regulate and control the location, relocation, and removal of such facilities.

(5) To collect from every public utility operating in the City such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping, and sprinkling the streets, alleys, bridges, culverts, viaducts, and other public places of the City as represents the increased cost of such operations resulting from the occupancy of such public places by such public utility, and such proportion of the costs of such operations as results from the damage to or disturbance of such public places caused by such public utility; or to compel such public utility to perform, at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.

Attachment: 2022-003 ATTH 01 Art XV Charter (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

(6) To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgement of the Council such use shall be in the public interest, provided that in such event a reasonable rental shall be paid such owner of facilities for such use. Provided further, that inability of such public utilities to agree upon rentals for such facilities shall not be an excuse for failure to comply with such requirement by the Council.

(7) a. To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful in rendering its service to the public and the expenses, receipts and profits of all kinds of such franchise holder.

b. To examine and audit at any time during business hours the accounts and other records of any franchise holder.

c. To require reports on the operations of the utility, which shall be in such form and contain such information as the Council shall prescribe.

Sec. 5. Regulation of rates.

The Council shall have full power, to the extent and in the manner authorized by state and federal law, after notice and hearing to regulate by ordinance the rates, charges, and fares of every public utility franchise holder operating in the City and of any other person, firm or corporation exercising any public privilege in the City.

Every such utility or person, firm or corporation who shall request an increase in rates, charges or fares, shall have, at the hearing of the Council called to consider such request, the burden of establishing by clear, competent and convincing evidence, the value of its investments properly allocable to service in the City, and the amount and character of its expenses and revenues connected with the rendering of such service. Such hearing of the Council shall be held not later than thirty (30) days from the date of the filing of a written request for an increase in rates, charges, or fares. If, upon such hearing, the Council is not satisfied with the sufficiency of the evidence so furnished, it shall be entitled to call upon such utility, person, firm, or corporation, for the furnishing of additional evidence at a subsequent date, to which said hearing may be adjourned, which adjourned hearing shall be held not later than thirty (30) days from the date of such original hearing. Upon calling for the furnishing of such additional evidence at such adjourned hearing the Council shall have the right to select and employ, then and later, rate consultants, auditors, and attorneys to conduct investigations, present evidence, advise the Council, and conduct litigation on such requested increase in rates, charges or fares; and said utility, person, firm, or corporation shall reimburse the City for its reasonable and necessary expenses so incurred. Such rate consultants, auditors and attorneys shall be qualified, competent, and of good standing in their professions. The Council shall within one hundred eighty (180) days after the date of said adjourned hearing determine and fix by ordinance the rates, charges, or fares to be charged by the applicant filing such request for an increase in rates, charges, or fares. No such utility, person, firm or corporation shall institute any legal action to contest any rates, charges or fares until the rates, charges or fares have been fixed by the Council in accordance with the procedures herein contained, provided however, the failure of the Council to make determination of rates, charges of [or] fares by ordinance within the one hundred eighty (180) day period herein specified shall be deemed a denial of the application for increase theretofore filed. Any time or times prescribed herein may be extended by resolution of the Council and written agreement of the applicant. Upon failure of the Council to hold any hearings or make determination of rates, charges, or fares by ordinance within the times or extended times as herein provided, the request for increase shall be deemed denied, and no further action shall be prerequisite to institution of legal action by the applicant to contest such rates, charges, or fares as theretofore fixed by the Council.

(Ord. No. 136-2000, § 25, 5-11-2000)

Attachment: 2022-003 ATTH 01 Art XV Charter (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

ORDINANCE NO. 335-84

AN ORDINANCE AUTHORIZING AND GRANTING THE ARKANSAS LOUISIANA GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS SYSTEM IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS; INCLUDING THE RIGHT TO CONSTRUCT, MAINTAIN, OPERATE, REPAIR, REMOVE AND REPLACE NATURAL GAS TRANSMISSION AND DISTRIBUTION LINES, OVER, UNDER AND THROUGH ANY OF THE PUBLIC STREETS, ALLEYS, AVENUES, SIDEWALKS, PARKS, PUBLIC GROUNDS AND OTHER PUBLIC PLACES OF SAID CITY OF TEXARKANA, BOWIE COUNTY, TEXAS, FOR SAID PURPOSES; PROVIDING FOR CONSIDERATION FOR THE FRANCHISE; PROVIDING FOR REGULATION BY THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS, GOVERNING THE CONDUCT, OPERATION, SERVICE AND RATES OF SAID ARKANSAS LOUISIANA GAS COMPANY; PROVIDING FOR THE DURATION AND TERMINATION OF THE FRANCHISE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATION OF THE TERMS OF THIS ORDINANCE; PROVIDING FOR PUBLICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Arkansas Louisiana Gas Company, a corporation, hereinafter referred to as the transmission and distribution "Company", is now and has been engaged in the natural gas business in the State of Texas and in furtherance thereof has constructed or maintained certain items of its plant facilities in the City of Texarkana, Bowie County, Texas, hereinafter referred to as the "City" for many years, pursuant to such rights as have been granted to it by and under the laws of the State of Texas and subject to the exercise of such reasonable rights and regulations under the police power as have been lawfully granted by and under said laws to said City; and

WHEREAS, Section 2.01 of Article 1446e of the Civil Statutes of the State of Texas (Gas Utility Regulatory Act) provides in part that the governing body of each municipality shall have exclusive original jurisdiction over all gas utility rates, operations and services provided by any gas utility within its City limits; and

WHEREAS, Article XV of the Charter of the City of Texarkana, Texas provides that the City Council of the said City shall have the power by Ordinance to grant, renew and extend all franchises of all public utilities of every character operating within the said City for a term not to exceed twenty-five (25) years; and

WHEREAS, the Arkansas Louisiana Gas Company was granted a franchise to provide natural gas and services to the City of Texarkana, Texas by the City Council of said City by Ordinance 18-58 approved and passed on the 25th day of March, 1958, the term of said granted franchise to expire on the 25th day of March, 1983;

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6.7.c

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

SECTION 1.

That, for the purposes of this Ordinance, the following terms and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Company" is the Arkansas Louisiana Gas Company, a corporate division of ARKLA, Inc., and its successors and assigns.

(2) "City" is the City of Texarkana, Bowie County, Texas.

(3) "City Council" or "Council" is the present City Council and its successors, elected as provided by the Charter of the City of Texarkana, Bowie County, Texas and other relevant statutes, or the incumbent or incumbents of any office or offices, hereafter created by law or by Charter, performing the same or similar functions as said City Council.

SECTION 2.

The said Company, its successors and assigns are hereby granted a franchise with full right, power and authority to acquire, install, operate, maintain, repair, and remove natural gas transmission and distribution lines and all other necessary apparatus and appliances within the present corporate limits of Texarkana, Texas and within said limits as the same from time to time may be extended, for the purpose of transmitting and distributing to said City and its inhabitants natural gas energy for heat, power, and miscellaneous other uses and for said purpose the said Company is granted the right and privilege to enter upon and use the public streets, avenues, bridges, highways, underpasses, alleys, parks, and other public grounds of said City to install, maintain, operate, repair or to remove such natural gas transmission and distribution lines, apparatus, appliances, connections and attachments as may be necessary and proper, subject to the terms hereinafter provided and further subject to applicable statutes and regulation. Authority is granted to the Company to lay underground natural gas transmission and distribution lines in the rights-of-way of streets, alleys and highways, and to break up the surface therefor, and to make proper excavations, and lay conduits under the streets and sidewalks, subject to the regulations, limitations and conditions herein prescribed. This franchise is to be in full force and effect for the period beginning with the effective date hereof and ending twenty-five (25) years thereafter.

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SECTION 3.

a. That said natural gas transmission and distribution lines and other apparatus and appliances shall be installed and placed under the direction of the City Manager or his duly authorized agent and in such places and in such manner as will be consistent with safety and the least interference with other public uses of said streets, alleys, highways and public grounds of the City; provided, that said streets shall not be unnecessarily obstructed and shall within a reasonable length of time be placed in as good condition and repair as before said installation at the expense of the Company and the Company shall hold the City harmless from any liability arising from any negligence, act or omission of said the Company in the construction, maintenance and operation of said natural gas transmission and distribution system. Should the Company fail to clear obstructions or to make necessary repairs of conditions caused by the Company, the City may clear obstructions and make repairs, or cause them to be cleared or made, and the Company shall reimburse the City for the reasonable costs of same.

b. The City, upon 30-days written notice to the Company specifying new locations for facilities along the public rights-of-way, shall have the right to require the re-location of all lines, mains, pipes, meters and other appliances for the distribution of natural gas at the expense of the Company to conform to the changing of grade, improving, resurfacing, widening, straightening, reconstructing, or altering the course and width in the layout of streets or alleys or public ways, or to make room for the laying or changing of water, sanitary sewer, storm sewer or other utility lines owned by the City, where such Company facilities are located within public rights-of-way or easements owned by the City. Such relocation shall be at the expense of the Company, regardless of the source of funding for such alterations and changes, whether federal, state, or local. If, however, a particular funding source agreement permits expenditure of funds for public utility relocation, and if the total project funds available under the agreement for the overall project are sufficient, in the sole judgment of the City, to reimburse the Company for such relocations, as well as to complete the City project, then the City may allocate funds to the Company as reimbursement for relocations in an amount not to exceed any limitation or restriction set forth in the funding source agreement.

c. The City expressly reserves the right of exclusive dominion, control and jurisdiction of the use and occupancy of the public streets, alleys, public easements and highways in the City of Texarkana, Texas, and it is

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mutually agreed that all expense attached to and incurred in the transmission and distribution of natural gas shall be borne by the Company, except as herein provided.

SECTION 4.

The City shall have the right to require the Company to extend its natural gas transmission and distribution lines reasonable distances within legally authorized areas as authorized by this franchise for the distribution of natural gas to any person, firm or corporation residing or doing business within such distance along or from any public street, alley, highway, or other public place in which the Company facilities are located and who apply to the Company for such service, and the Company shall construct all natural gas transmission and distribution lines and set the meter at its own expense and cost at a suitable location on the premises of the applicant. Thereafter, yard line shall be inspected and maintained as perscribed in any applicable rules and regulations of the Company, City, State or Federal agency. All other initial costs of installation of service as outlined in the Company's rules and regulations shall be borne by the applicant. The Company, however, shall not be required to make any extension beyond and further than a reasonable distance from any public street, alley, highway, or other public place, unless in the opinion of the Company a reasonable and compensatory return or income on such additional expense incurred in making such further and distant extension will be forthcoming. Applicants may appeal Company decisions in such extension matters to the City Council. The Company shall file with the City for approval a gas main connection and extension policy consistent with this section, if no prior approval has been granted.

SECTION 5.

The Company shall make reasonable efforts to prevent interruptions of service, and shall, when interruptions occur, re-establish service in the shortest possible time. The Company shall make reasonable provisions to meet emergencies resulting from failure of service; provided that nothing in this section shall operate to modify or expand the Company's liability, if any, to third parties from interruptions or failure of service caused by force majeure or other causes beyond the reasonable control of the Company.

SECTION 6.

In all cases where gas is sold on meter basis, the billing meter shall be furnished to the consumer without charge, but said meter or meters shall remain the property of the Company.

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If an approved policy has not been previously filed, the Company shall file with the City for approval its policies regarding examination and testing of meters and other instruments. Such policies must be consistent with the regulations of the Railroad Commission of the State of Texas, and other applicable statutes and with the provisions of the Substantive Rules of the Railroad Commission and the City pertaining to meters.

SECTION 7.

RATES AND CHARGES

a. Proceedings before the City Council related to fixing of rates and charges shall be governed by the valid provisions of the City's Charter and by the Texas Gas Utility Regulatory Act (Article 1446e, Texas Civil Statutes), as amended, as applicable to the City.

b. The Company shall be permitted to charge rates for service in the City of Texarkana, Texas, as set forth on a rate schedule duly approved by passage of an Ordinance by the City Council after proceedings as prescribed by law. Said rates shall remain in effect until changed or readjusted in accordance with law and the City's regulatory powers, or the order, judgment and decrees of any superior regulatory body or court of competent jurisdiction.

SECTION 8.

The Company shall have the right to require each applicant for gas service to establish credit with the Company in accordance with procedures, rules and policies to be filed by the Company with the City and approved by the City Council. Said rules shall not be inconsistent with the Substantive Rules on this subject issued by the City and the Railroad Commission of the State of Texas.

SECTION 9.

The Company, its officers and employees, shall have the full rights and power to require of every consumer a contractual right of ingress and egress upon and from any and all consumers' properties for the purpose of installing, moving, changing and reading meters; and for the purpose of testing, examining and inspecting connections, at reasonable times if, as and when the Company chooses, in a manner not inconsistent with existing local, state, or federal laws or constitutional protections.

SECTION 10.

The Company shall have the right to refuse to supply gas service to any person, firm or corporation and to discontinue gas service to any firm, person or corporation in accordance with City, state and federal law or regula-

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tions and approved rules and regulations of the Company not inconsistent with such laws or regulations on file with the City governing the service applied for.

SECTION 11.

The Company, its successors and assigns, so long as it or they shall continue the use and occupancy of the streets, alleys, highways, easements, parks and other public places within the City under this franchise granted by City, and so long as it or they shall continue to serve City with natural gas in consideration of the rights and privileges herein granted, shall pay quarterly to City two percent (2%) of the gross revenues received by Company, its successors or assigns, during the immediately preceding calendar quarter from sales of natural gas within the corporate limits of the City of Texarkana, Texas. Said quarterly payments of two percent (2%) shall be payable quarterly during the term of this franchise on the first day of February, the first day of May, the first day of August and the first day of November of each year for the three-months periods ending respectively December 31, March 31, June 30 and September 30, respectively. This compensation shall be made by the Company and accepted by City as full payment for the privilege of using and occupying the streets, alleys, highways, easements and other public rights-of-way within the City and in lieu of other charges connected with that use and occupation, such as rentals, supervision and inspection, and in lieu of license and inspection fees, street or alley rentals, or any other license fees or street rentals of whatsoever kind and character which City may impose or hereafter be authorized and empowered by law to collect, excepting only the usual general or special ad valorem taxes which the City is authorized to levy and impose upon real and personal property and further excepting the right of the City to reimbursement from the Company for its reasonable and necessary consultant, auditor, and attorney fees as provided for in Article XV of the City's Charter and Section 3.03 of the Gas Utility Regulatory Act, as amended. Notwithstanding the above or any other provision of this franchise agreement, in the event that the Texas Civil Statutes are amended to provide that the aggregate amount which a city may charge a public utility for the use of its streets, alleys, and public ways may exceed the equivalent of two per cent (2%) of the gross receipts of such utility within such municipality, the City may, upon sixty (60) days written notice to Company, increase the amount of compensation provided for in this agreement to an amount not to exceed that which may be established by the said Texas Statutes, as amended, and in accordance with applicable regulatory provisions of the City of Texarkana and the Railroad Commission of the State of Texas.

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SECTION 12.

a. The Company shall file a quarterly report with the City reflecting gross receipts subject to the above stipulated franchise fee. Such report shall present gross receipts for calendar quarters ending December, 31, March 31, June 30 and September 30, and shall be due on the same date as is the franchise fee for each quarter as hereinbefore noted.

b. Penalty: Notwithstanding any other provision of this franchise agreement, there shall be assessed as a penalty an additional fee of ten percent (10%) of the amount due for quarterly or annual payments not received by the City on or before the applicable due date. Fees and penalties delinquent for more than thirty (30) days shall accrue interest at the rate of ten percent (10%) per annum.

SECTION 13.

This franchise is not intended to be and shall not be an exclusive franchise to the Company, but the same shall be a non-exclusive franchise only, subject to the City's rights to grant similar franchises to other gas transmission and distribution companies or corporations or firms, and subject to the right and privilege of the City to establish, operate and maintain a municipally owned natural gas transmission and distribution system.

In the event of the extension of the present city limits of the City of Texarkana, Texas, however the same may be brought about, all of the rights, duties, liabilities, obligations and covenants herein set forth likewise shall apply to such extensions of territory, if under the provision of applicable Texas Civil Statutes the Company is entitled to provide service in the extended territory.

SECTION 14.

The Company agrees that in the exercise of all the rights, powers and privileges incidental thereto, granted in this franchise, that it will:

a. Comply with all valid Ordinances of the City of Texarkana, Texas now in effect or hereafter enacted, relative to installation of natural gas transmission and distribution lines in, over or under the public properties of said City and in doing such work will indemnify and hold harmless the City from any and all liability which may arise by reason of any act done or omitted to be done by the Company, its successors and/or assigns.

b. That the Company agrees to and will be governed by all of the valid provisions of the Charter and Ordinances of the City of Texarkana, Texas, and by the laws of the State of Texas and the United States having to do with utilities and/or utility franchises and/or utility regulation.

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SECTION 15.

In addition to the other obligations hereunder, the Company expressly agrees, in consideration of the grant of this franchise, that in no event shall the Company have the right to charge a higher rate for natural gas and natural gas service within the City of Texarkana, Texas than is charged for the same and similar services in the City of Texarkana, Arkansas, so long as the governing body of the City retains exclusive original jurisdiction over the rates and operations of gas utilities within the City. It is understood that the purpose of this provision is to prevent discrimination in rates for services of the Company between the City of Texarkana, Texas and the City of Texarkana, Arkansas, which cities, although divided by a State border: are contiguous; share a jointly-owned water system, sewer system, and airport; operate a joint library service; the same telephone company; and by the grantee herein, the same gas company. In imposing this condition, the City is not waiving nor attempting to waive any part of its regulatory powers, nor does the Company, its successors or assigns, waive any rights which it may have to invoke the authority of the City Council of the City of Texarkana, Texas, the Railroad Commission of the State of Texas, or a Court or other regulating body having appellate jurisdiction in the matter, to secure and implement an order authorizing the charging of higher rates in Texarkana, Texas than are actually at the time being charged in Texarkana, Arkansas. If a higher rate is being charged in Texarkana, Arkansas under a temporary restraining order or bond, then the Company or its successors or assigns, shall not have the right to consider that such temporary rate is being charged in Texarkana, Arkansas but shall charge in Texarkana, Texas a rate not higher than the one which would then be in effect in Texarkana, Arkansas, but for such temporary order. Any lower rates granted to the City of Texarkana, Arkansas shall inure to the benefit of the City of Texarkana, Texas.

Nothing in this Section shall be construed to limit, inhibit, or otherwise affect the appellate jurisdiction of the Railroad Commission of the State of Texas, or any other regulatory or judicial body having such appellate jurisdiction, over rates, operations, and services of the Company within the City or any right of the Company to invoke such appellate jurisdiction over any order, decision or ordinance of the City of Texarkana, Texas, regarding the Company's rates, operations, or services within the City or the right to implement any resulting Commission order.

SECTION 16.

Company rules, regulations, and policies. The Company shall promulgate and file such rules, regulations, practices, terms, conditions and stan-

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dards governing the conduct of its business and affecting rates and natural gas service as shall be reasonably necessary to enable the Company to exercise its rights and to perform its obligations under this franchise, and to assure to the extent possible an uninterrupted service to each and all its customers, and same shall continue in force until amended by the Company or changed by the City or superior regulatory or judicial authority. Provided, however, that same shall not be in conflict with the provisions of this franchise or of the City Charter or Ordinances of the City or of the laws of the State of Texas or the United States.

SECTION 17.

Re-filing Required. Notwithstanding any other provision of this franchise, all rules, regulations, practices, terms, conditions and standards of the Company which affect rates or natural gas service and which were in force under prior franchises granted by the City, and which the Company desires to keep in force, shall be refiled with the City within 30 days of the effective date of this franchise, and same shall thereafter continue in force until amended by the Company or until changed by the City or superior regulatory authority or court of competent jurisdiction. Any of same existing prior to the effective date of this franchise and not so refiled shall be considered null and void as of the above-specified refiling deadline.

SECTION 18.

Conditions on Street Occupancy.

a. Use. All transmission and distribution structures, mains and equipment installed by the Company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways, places, and easements.

b. Disturbance of Surfaces. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Company shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway or surface of any street, alley or other right-of-way disturbed, in as good condition as before their work was commenced, to the satisfaction of the City pursuant to Section 3(a) of this Ordinance.

c. Placement of fixtures. The Company shall not place mains or other fixtures where the same will interfere with any electric lines, telephone wire or conduit, water hydrant, sewer, storm sewer, or water main, or appurtenances thereto, and all such mains or other fixtures shall be placed at or as

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close to the outer limit of the right-of-way line as is practical, and those placed in alleys shall be placed as close to the line of the lot abutting on said alley as practical, and then in such manner as not to interfere with the usual travel on said street, alleys and public ways.

d. Prior Approval Required. The Company, in the construction of its system, shall not take up nor excavate any pavement or street, alley or other public place at any time without first securing permission and approval of same and the method to be used from the City Manager of said City or from his designated representative; and providing further that in every case where possible, Company shall, in the construction of its system, bore beneath paved streets, curbs, and sidewalks instead of cutting them; and where any cutting or excavation of streets, alleys or public ways shall be necessary, the Company shall repair and replace same under supervision, direction and according to plans and specifications of the City Manager of the City of Texarkana, Texas or his designated representative; and that should the Company fail or refuse, as above required, to restore and replace such pavements, sidewalks, and excavations within sixty (60) days from the cutting and producing of such excavations, then the same may be replaced and restored by the City of Texarkana, Texas, at the expense of said Company, and including reasonable attorney's fees and court costs that the City may incur in securing a judgment for breach of the terms of this Section.

SECTION 19.

Approval of Transfer. The Company may not sell or transfer its franchise or rights to another, by sale of stock or otherwise, except as provided by law, nor may the Company transfer any rights under this franchise to another without approval by the City's Council. Such franchise approval will not be granted until the vendee, assignee or lessee has filed in the office of the City Secretary of the City of Texarkana, Texas, an instrument, duly executed, reciting the fact of such sale, assignment or lease and accepting the terms of applicable law and this franchise.

SECTION 20.

Right of Acquisition by the City. At the expiration of the term for which this franchise is granted, the City, at its election, shall have the right of acquisition, to the extent permitted under the relevant state and federal law, of those Company facilities located within the City limits of Texarkana, Texas. The Company agrees that the City shall be deemed to be a successor to the company with regard to those facilities located within the City, if such acquisition right is exercised by the City. The Company shall make it a con-

Attachment: 2022-003 ATTH 02 Ord. 335-84 Texarkana (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

2022-003 ATTH 02 6.7.c

dition of each contract for natural gas sales or service entered into by it with reference to operations under this franchise that the contract shall bind and benefit the successors and assigns of the Company.

SECTION 21.

Promulgation and Adoption of Substantive Rules by the City. In the further exercise of its police powers granted to it as an incorporated home rule City under the laws of the State of Texas, and in order to implement the terms of the franchise granted herein, the City may publish and adopt substantive rules which shall be binding upon the Company and the City, pursuant to and consistent with the provisions of the Gas Utility Regulatory Act and of the substantive rules of the Railroad Commission of the State of Texas.

SECTION 22.

Nothing in this Ordinance shall be construed to repeal, restrict, limit, modify or amend in any manner the right, power and authority of the City under the Charter of the City of Texarkana, Texas, the Constitution and laws of the State of Texas and of the United States to regulate the rates, charges, operations and services provided by the Company within the territorial limits of the City.

SECTION 23.

The City may at any time declare a conditional forfeiture of this grant for a continuing violation by the Company of any of the substantial terms hereof. In such event, the City shall give written notice, specifying all grounds on which forfeiture is claimed, by registered mail, addressed and delivered to the Company, to the attention of its president. The Company shall have sixty (60) days after receipt of such notice within which to discontinue said alleged violation, or to file suit in a court of competent jurisdiction for an adjudication or declaration of the rights of the parties with respect to the forfeiture of the franchise. No forfeitures shall be effective until and unless (1) the Company shall have continued such violation or violations for more than sixty (60) days after receipt of such written notice from the City without filing such suit; or (2) Company, shall have continued such violation or violations for more than sixty (60) days (or such longer period as the court in its discretion shall allow) after the entry or affirmance in a court of last resort of a final judgment finding and establishing the existence of such violations or violations, and that such violation or violations are sufficiently substantial to warrant forfeiture, and decreeing forfeiture as a consequence thereof. The Company shall not in any event be deemed to be in default of performance of any provisions of this grant, nor shall any forfeiture be invoked for violation or violations for failure to perform any provision hereunder when due to shortages

Attachment: 2022-003 ATTH 02 Ord. 335-84 Texarkana (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

2022-003 ATTH 02 6.7.c

of material, supplies and equipment beyond the control of the Company, or to fires, strikes, riots, storms, floods, war or other casualties, or to governmental regulations, limitations or restrictions as to the use of availability of materials, supplies or equipment or as to the use of the service, or to unforeseen or unusual demands for service, or for any other cause not reasonably or practicably within the control of the Company.

SECTION 24.

The Company shall maintain on file proper maps and plats showing the location of all natural gas lines and other facilities used for the transmission and distribution of natural gas within the corporate limits of the City. Such maps and plats shall be made available for inspection by the City at all reasonable times.

SECTION 25.

Penalty.

Any person, firm or corporation who or which knowingly fails to perform a duty imposed on it by this Ordinance or fails, neglects, or refuses to obey a final order, rule, regulation, direction or requirement of the City Council acting in its capacity as the regulatory authority over the franchise herein granted shall be guilty of a misdemeanor punishable by a fine of not more than Two Hundred Dollars ($200.00) for each offense. Each day during which such violation continues shall be considered a separate offense.

SECTION 26.

All Ordinances or parts of Ordinances in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 27.

If any section, sentence, clause or paragraph of this Ordinance is for any reason held to be illegal, ultra vires, or unconstitutional, such invalidity shall not affect the validity of the remaining portion of this Ordinance.

SECTION 28.

The Company shall have sixty (60) days from and after the passage and approval of this Ordinance to file its written acceptance thereof with the City Secretary of the City of Texarkana, Texas, and upon such acceptance being so filed, this Ordinance shall take effect and be in full force ten days from and after the date of its passage and approval on third reading as noted herein below.

Attachment: 2022-003 ATTH 02 Ord. 335-84 Texarkana (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

SECTION 29.

This Ordinance is in lieu of and substitution for Ordinance 18-58 granting a franchise to the Company on March 25, 1958 and any other Ordinance granting, amending or amplyfying a franchise heretofore adopted by the governing body of the City of Texarkana, Texas, with respect to Arkansas Louisiana Gas Company.

SECTION 30.

Nothing in this franchise should be construed as being contrary to the Gas Utility Regulatory Act, Article 1446e, Texas Civil Statutes. Additionally, this franchise should not be construed as either affecting in any manner the rights, duties and obligations of either party under Article 1446e except as authorized by the said statute or as affecting any right that the Company may have to appeal any action or order of the City Council of the City of Texarkana, Texas, to the Railroad Commission of Texas and to implement the result of such appeal.

SECTION 31

In accordance with Article XV of the Charter of the City of Texarkana, Texas, this Ordinance granting a public utility franchise shall be read at three regular meetings of the Council and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within ten (10) days following the first reading of this Ordinance, the full text hereof shall be published one time in the Texarkana Gazette, and the expense of such publication shall be borne by the Company.

Additionally, the caption of this Ordinance shall be published for three consecutive days in the Texarkana Gazette within ten days of the final passage of this Ordinance on third reading, and the expense of those publications shall also be borne by the Company.

Approved on first reading in Regular Council Session on the 12th day of November, 1984.

DURWOOD SWANGER, Mayor

ATTEST:

CHRISTIE HARDIN, City Secretary 8:25 P.M.

Attachment: 2022-003 ATTH 02 Ord. 335-84 Texarkana (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

Approved on second reading in Regular Council Session on the 26th day of December, 1984.

DURWOOD SWANGER, Mayor Pro Tem

ATTEST:

CHRISTIE HARDIN, City Secretary 8:56 P.m.

Approved on third reading, passed and finally acted upon on the 17th day of December, 1984, which date is thirty (30) days or more after the date of first reading noted hereinabove.

DURWOOD SWANGER, Mayor

ATTEST:

CHRISTIE HARDIN, City Secretary 9:12 P.m.

APPROVED AS TO FORM:

JAMES R. GALLMAN, City Attorney

Accepted this 23rd day of January, 1985.

ARKANSAS LOUISIANA GAS COMPANY

BY:

ITS:

(SEAL)

Attachment: 2022-003 ATTH 02 Ord. 335-84 Texarkana (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

ORDINANCE NO. 241-05

AN ORDINANCE OF PUBLIC CONVENIENCE AND NECESSITY OF THE CITY OF TEXARKANA, TEXAS, AMENDING ORDINANCE NO. 335-84, AS AMENDED BY ORDINANCE NO. 188-87, GRANTING A FRANCHISE TO ARKANSAS LOUISIANA GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS SYSTEM IN THE CITY OF TEXARKANA, TEXAS BY REVISING SECTION 11 PROVIDING FOR CONSIDERATION FOR THE FRANCHISE; CONTAINING A SEVERABILITY CLAUSE; CONTAINING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Texarkana, Texas, by Ordinance 335-84 duly enacted on the Third and Final Reading on the 17th day of December, 1984, awarded a non-exclusive franchise privilege to Arkansas Louisiana Gas Company, its successors and assigns, (the "Company"), for the construction, maintenance and operation of a natural gas supply company; and

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 188-87 duly enacted on the Third and Final Reading on the 14th day of September, 1987, amended Section 11 of Ordinance No. 335-84 to increase the payment made by the Company to the City from two percent (2%) of the gross revenues received by the Company to three percent (3%) of the gross revenues so received; and

WHEREAS, the City has determined that the best interest of the City of Texarkana, Texas, would be served by further amending Section 11 of Said Ordinance to increase the payment currently made by the Company to the City from three percent (3%) of the gross revenues received by the Company to four percent (4%) of the gross revenues so received;

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

SECTION 1: That Section 11 of Ordinance No. 335-84, as amended by Ordinance No. 188-87, is hereby amended to read as follows:

> "Section 11. The Company, its successors and assigns, so long as it or they shall continue the use and occupancy of the streets, alleys, highways, easements, parks and other public places within the City under this franchise granted by City, and so long s it or they shall continue to serve City with natural gas in consideration of the rights and privileges herein granted, shall pay quarterly to City during the continuance of this agreement a sum of money equal to four percent (4%) of the gross revenues received by

Attachment: 2022-003 ATTH 03 Ord. 241-05 Texarkana (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

Company, its successors assigns, during the immediately preceding calendar quarter from sales of natural gas within the corporate limits of the City of Texarkana, Texas. Said quarterly payments of four percent (4%) shall be payable quarterly during the term of this franchise on the first day of February, the first day of May, the first day of August and the first day of November of each year for the three-month periods ending respectively December 31, March 31, June 30 and September 20, respectively. This compensation shall be made by Company and accepted by City as full payment for the privilege of using and occupying the streets, alleys, highways, easements, and other public rights-of-way within the City and in lieu of other charges connected with that use and occupation, such as rentals, supervision and inspection, and in lieu of license and inspection fees, street or alley rentals, or any other license fees or street rentals of whatsoever kind and character which City may impose or hereafter be authorized and empowered by law to collect, excepting only the usual general or special ad valorem taxes which the City is authorized to levy and impose upon real and personal property and further excepting the right of the City to reimbursement from the Company for its reasonable and necessary consultant, auditor, and attorney fees as provided for in Article XV of the City's Charter and Section 3.03 of the Gas Utility Regulatory Act, as amended. Notwithstanding the above or any other provision of this franchise agreement, in the event that the Texas Civil Statutes are amended to provide that the aggregate amount which a city may charge a public utility for the use of its streets, alleys, and public ways may exceed the equivalent of two percent (2%) of the gross receipts of such utility within such municipality, the City may, upon sixty (60) days written notice to Company, increase the amount of compensation provided for in this agreement to an amount not to exceed that which may be established by the said Texas Statutes, as amended, and in accordance with applicable regulatory provisions of the City of Texarkana and the Railroad Commission of the State of Texas."

SECTION 2: That a copy of the acceptance of said amendment shall, upon execution by the Company and filing with the City Secretary of the City of Texarkana, Texas, be attached hereto as Exhibit "A" and thereafter considered a part hereof.

SECTION 3: 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 4: That all Ordinances or parts of Ordinances in conflict herewith are specifically repealed to the extent of such conflict.

Attachment: 2022-003 ATTH 03 Ord. 241-05 Texarkana (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

SECTION 5: In accordance with Article XV of the Charter of the City of Texarkana, Texas, this Ordinance amending a public utility franchise shall be read at three regular meetings of the Council and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within ten (10) days following the first reading of this Ordinance, the full text hereof shall be published one time in the Texarkana Gazette, and the expense of such publication hall be borne by the Company. Additionally, the caption of this Ordinance shall be published for three (3) consecutive days in the Texarkana Gazette within ten (10) days of the final passage of this Ordinance on third reading, and the expense of those publications shall also be borne by the Company.

SECTION 6: That this Ordinance shall be in full force and effect from and after its passage, approval, adoption, and publication, subject, however, to the filing of the acceptance of the Ordinance as provided hereinabove, and thereafter, notwithstanding the provisions setting out the schedule of quarterly payments in amended Section 11 as set out under Ordinance Section 1 hereinabove, to begin on April 1, 2006, for the calendar quarter for which payment shall be due on August 1, 2006.

FIRST READING APPROVED in Regular Council Session on this the 12th day of September, 2005.

JAMES W. BRAMLETT, MAYOR

ATTEST:

GERI HADDOCK, CITY SECRETARY 8:02 p.m.

SECOND READING APPROVED in Regular Council Session on this the 26th day of September, 2005.

JAMES W. BRAMLETT, MAYOR

ATTEST:

GERI HADDOCK, CITY SECRETARY 7:33 p.m.

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Amend start date 10/10/05

Attachment: 2022-003 ATTH 03 Ord. 241-05 Texarkana (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

THIRD READING APPROVED, PASSED, AND FINALLY ACTED UPON on this the 10th day of October, 2005, which date is thirty (30) days or more after the date of First Reading noted hereinabove.

JAMES W. BRAMLETT, MAYOR

ATTEST:

GERI HADDOCK, CITY SECRETARY 8:45 p.m.

APPROVED AS TO FORM:

THOMAS H. ARNOLD, CITY ATTORNEY

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Amend start date 10/10/05

Attachment: 2022-003 ATTH 03 Ord. 241-05 Texarkana (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

ACCEPTANCE

WHEREAS, the City Council of the City of Texarkana, Texas, did on the 10th day of October, 2005, enact an Ordinance entitled:

ORDINANCE NO. 241-05

AN ORDINANCE OF PUBLIC CONVENIENCE AND NECESSITY OF THE CITY OF TEXARKANA, TEXAS, AMENDING ORDINANCE NO. 335-84, AS AMENDED BY ORDINANCE NO. 188-87, GRANTING A FRANCHISE TO ARKANSAS LOUISIANA GAS COMPANY, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, MAINTAIN AND OPERATE A NATURAL GAS SYSTEM IN THE CITY OF TEXARKANA, TEXAS, BY REVISING SECTION 11 PROVIDING FOR CONSIDERATION FOR THE FRANCHISE; CONTAINING A SEVERABILITY CLAUSE; CONTAINING A REPEALER CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, said Ordinance was passed and finally acted upon on the 10th day of October, 2005, was duly authenticated by the signatures of the Mayor and the City Secretary, and was properly caused to be published by the City Secretary.

NOW, THEREFORE, by and through its undersigned authorized officer, CenterPoint Energy Resources Corp., successor to Arkansas Louisiana Gas Company, a corporate division of ARKLA, Inc., ("Company") hereby accepts said Ordinance providing for an amendment to Section 11 of Ordinance No. 335-84, as amended by Ordinance No. 188-87, providing for payment by the Company to the City of the amount established therein for the continued use and occupancy of the streets, alleys, highways, easements, parks, and other public places with the City under the franchise granted to the Company and files this its written acceptance with the City Secretary of the City of Texarkana, Texas.

CenterPoint Energy Resources Corp.,
Successor to Arkansas Louisiana Gas Company, a Corporate division of ARKLA, Inc.

BY: Wayne R. Reed

TITLE: Regional Vice President

ATTEST:

Kay L. Henderson
Assistant Secretary

ACCEPTANCE filed in the office of the City Secretary of Texarkana, Texas, this _____day of _____, A.D. 2005.

GERI HADDOCK, City Secretary

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Amend start date 10/10/05

Attachment: 2022-003 ATTH 03 Ord. 241-05 Texarkana (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

Attachment: 2022-003 ATTH 04 Assignment of TXK Franchises - Fully Executed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

ASSIGNMENT AND ASSUMPTION OF FRANCHISES

THIS ASSIGNMENT AND ASSUMPTION OF FRANCHISES (this "**Assignment**") dated as of this 10th day of January, 2022, is by and between **CENTERPOINT ENERGY RESOURCES CORP.**, a Delaware corporation d/b/a **CENTERPOINT ENERGY ARKANSAS GAS** ("**Assignor**") and **SUMMIT UTILITIES ARKANSAS, INC.**, a Colorado corporation ("**Assignee**").

RECITALS

WHEREAS, Assignor and Southern Col Midco, LLC, a Delaware limited liability company ("SC MidCo"), are parties to that certain Asset Purchase Agreement, dated as of April 29, 2021 (together with the exhibits and schedules thereto, the "**Purchase Agreement**");

WHEREAS, pursuant to and in accordance with the Purchase Agreement, SC MidCo has designated Assignee as the purchaser of Assignor's natural gas utility business and assets serving customers within the Texarkana, TX service territory at or prior to the closing, and Assignee will acquire substantially all of the utility operating assets of Assignor located in the Texarkana, TX service territory so that Assignee may provide continued utility service to customers formerly served by Assignor;

WHEREAS, pursuant to and in accordance with the Purchase Agreement, Assignor desires to grant, convey, assign, and transfer to Assignee, and Assignee desires to acquire and assume from Assignor, all of Assignor's right, title and benefits as of the date hereof in and to those certain franchises and granted to Assignor, or Assignor's predecessors in interest, as listed on **EXHIBIT A**, which is attached hereto and incorporated herein (each individually, a "**Franchise**" and collectively, the "**Franchises**"); and

WHEREAS, Assignor and Assignee desire to execute this Assignment for the purpose of accomplishing the transfer of the Franchises to Assignee for purposes on continued utility service in each respective franchised territory in connection with the purchase and sale of other utility assets.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby agreed and acknowledged, and subject to the terms of the Purchase Agreement, Assignor does hereby grant, convey, assign, and transfer to Assignee and its successors and assigns, all of the rights, title, and benefits in, to, under, or with respect to the Franchises granting the right to enter upon the public ways to install, operate and maintain a distribution system along, across, over and under the public ways for the privilege of transporting, distributing and selling natural gas to consumers and the public generally within the corporate limits of the respective municipalities granting each Franchise, together with any and all accessories and appurtenances, rights, privileges and advantages thereunto belonging or in any way appertaining.

Assignee for itself, its successors and assigns, expressly assumes, and agrees to faithfully discharge, all obligations and responsibilities of Assignor under the terms of the Franchises hereby assigned. Assignee further agrees to accept the terms of applicable law and the Franchises.

This Assignment shall be effective as of January 10, 2022.

This Assignment may be executed in several counterparts, each of which shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.

Attachment: 2022-003 ATTH 04 Assignment of TXK Franchises - Fully Executed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be signed in their respective corporate names by their duly authorized officers.

ASSIGNOR:

CENTERPOINT ENERGY RESOURCES CORP., a Delaware corporation d/b/a CenterPoint Energy Arkansas Gas

By: _____

Name: Darin Carroll

Title: Vice President Operations Support

ASSIGNEE:

SUMMIT UTILITIES ARKANSAS, INC., a Colorado corporation

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment to be signed in their respective corporate names by their duly authorized officers.

ASSIGNOR:

CENTERPOINT ENERGY RESOURCES CORP., a Delaware corporation, d/b/a Centerpoint Energy Arkansas Gas

By:_____

Name:_____

Title:_____

ASSIGNEE:

SUMMIT UTILITIES ARKANSAS, INC., a Colorado corporation

By: Steven E. Birchfield

Name: Steven E. Birchfield

Title: Executive Vice President & CFO

Attachment: 2022-003 ATTH 04 Assignment of TXK Franchises - Fully Executed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

Attachment: 2022-003 ATTH 04 Assignment of TXK Franchises - Fully Executed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

EXHIBIT A

FRANCHISES

1. That certain franchise granted by Ordinance No. 9-88 of the Town of Nash, Bowie County, Texas, in favor of Arkansas Louisiana Gas Company, a division of Arkla, Inc., approved on September 13, 1988, granting the right to enter upon the public ways to install, operate and maintain a distribution system along, across, over and under the public ways for the privilege of transporting, distributing and selling gas to consumers and the public generally within the corporate limits of Nash, Texas.

2. That certain franchise granted by Ordinance No. 103 of the Town of Redwater, Bowie County, Texas, in favor of Arkansas Louisiana Gas Company, a division of Arkla, Inc., approved on December 5, 1988, granting the right to enter upon the public ways to install, operate and maintain a distribution system along, across, over and under the public ways for the privilege of transporting, distributing and selling gas to consumers and the public generally within the corporate limits of Redwater, Texas.

3. That certain franchise granted by Ordinance No. 335-84 of the City of Texarkana, Bowie County, Texas, in favor of Arkansas Louisiana Gas Company, a division of Arkla, Inc., approved on November 12, 1984, as amended by Ordinance No. 188-87 approved on September 14, 1987, and Ordinance No. 241-05 approved on October 10, 2005, granting the right to enter upon the public ways to install, operate and maintain a distribution system along, across, over and under the public ways for the privilege of transporting, distributing and selling gas to consumers and the public generally within the corporate limits of Texarkana, Texas.

4. That certain rental Ordinance of the City of Wake Village, Bowie County, Texas, approved on January 14, 1947, granting the right to enter upon the public ways to install, operate and maintain a distribution system along, across, over and under the public ways for the privilege of transporting, distributing and selling gas to consumers and the public generally within the corporate limits of Wake Village, Texas.

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: 2022-003 Goals & Perspectives (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

Attachment: 2022-003 (1R) ORD CenterPoint franchise transfer signed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

ORDINANCE NO. 2022-003

AN ORDINANCE OF PUBLIC CONVENIENCE AND NECESSITY OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING THE ASSIGNMENT AND TRANSFER OF A PUBLIC UTILITY FRANCHISE TO SUMMIT UTILITIES ARKANSAS, INC., ASSIGNEE OF CENTERPOINT ENERGY RESOURCES CORP., D/B/A CENTERPOINT ENERGY ARKANSAS GAS, FOR THE CONTINUED PROVISION OF AND TO MAINTAIN AND OPERATE A NATURAL GAS UTILITY BUSINESS SYSTEM IN THE CITY OF TEXARKANA, TEXAS; PROVIDING FOR PUBLICATION; PROVIDING FOR A REPEALER CLAUSE AND A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 335-84 duly enacted on the Third and Final Reading on December 17, 1984, awarded a non-exclusive franchise privilege to Arkansas Louisiana Gas Company, its successors and assigns, for the construction, maintenance and operation of a natural gas supply company, pursuant to Article XV, Section 1 of the City Charter of the City of Texarkana, Texas; and

WHEREAS, Section 19 of Ordinance No. 335-84 provides that the gas company "may not sell or transfer its franchise or rights to another … nor … transfer any rights under this franchise to another without approval by the City's [sic] Council. Such franchise approval will not be granted until the … assignee … has filed in the office of the City Secretary of the City of Texarkana, Texas, an instrument, duly executed, reciting the fact of such … assignment … and accepting the terms of applicable law and this franchise."; and

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 188-87 duly enacted on the Third and Final Reading on September 14, 1987, amended Section 11 of Ordinance No. 335-84 to increase the payment made by the gas company to the City from two percent (2%) of the gross revenues received by the company to three percent (3%) of the gross revenues so received; and

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 241-05 duly enacted on the Third and Final Reading on October 10, 2005, amended Section 11 of Ordinance No. 335-84 to increase the payment made by the gas company to the City from three percent (3%) of the gross revenues received by the company to four percent (4%) of the gross revenues so received; and

WHEREAS, on August 28, 2017, by Ordinance No. 2017-083, the City Council approved rate schedules and service charges proposed for residential and commercial gas service by CenterPoint Energy Resources Corp. (CERC), to be effective as of September 1, 2017, and ordered CERC to file with the City Clerk tariff sheets containing residential and commercial rate schedules identical to those rate schedules included with said ordinance; and

WHEREAS, on June 11, 2021, CERC and Summit Utilities Arkansas, Inc. (SUA) filed with the Arkansas Public Service Commission a Joint Application for approval of a proposed transaction whereby CERC would sell, and SUA, as the ultimate owner and operator, would acquire certain of CERC's public utility natural gas assets, comprised of an operating unit or system, which provide service to customers in Arkansas, as well as certain areas located in Bowie County, Texas, including Texarkana, Texas; and

WHEREAS, on December 6, 2021, the Arkansas Public Service Commission, Docket No. 21-060-U, Order No. 11, found, ordered, and directed, among other things, that SUA has the experience and expertise to operate a public utility in compliance with Arkansas laws and regulations and provide quality customer

service to CERC's Arkansas customers, granted a Certificate of Public Convenience and Necessity pursuant to Arkansas law to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with CERC, and cancelled the Certificate of Public Convenience and Necessity of CERC to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with SUA; and

WHEREAS, on December 13, 2021, SUA filed with the Arkansas Public Service Commission, in compliance with Docket No. 21-060-U, Order No. 11, a revised tariff consistent with the Order; and pertinent to the City of Texarkana, Texas, the revised Arkansas tariff eliminated or terminated two riders, the Trial Billing Determinant Adjustment Tariff (BDA) and Formula Rate Plan Rider (FRP), which had been directly referenced and incorporated into the City's tariff approved by the City Council by Ordinance No. 2017-083; and

WHEREAS, SUA, as Assignee of CERC, intends to submit to the City Secretary prior to the final reading of this ordinance a duly executed instrument consistent with the requirements of Section 19 of Ordinance No. 335-84, documenting SUA's purchase of CERC's natural gas utility business and assets serving customers within the Texarkana, Texas, service territory and acquisition of substantially all of the utility operating assets of CERC located in the Texarkana, Texas, service territory, and reciting acceptance of the terms of applicable law and the City's non-exclusive public utility franchise privilege; and

WHEREAS, SUA proposes no increase in the City's rates, but rather a continuation of the same tariff approved by the City Council in Ordinance No. 2017-083 except for deleting the defunct BDA and FRP riders given the elimination or termination of said riders from the Arkansas tariff structure (the City Council shall consider and act upon SUA's proposal after the final reading and approval of this ordinance); and

WHEREAS, by this Ordinance, the City Council approves the assignment and transfer to SUA of the City's non-exclusive franchise privilege for the continued provision of and to maintain and operate a natural gas utility business system in the City of Texarkana, Texas.

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

SECTION 1. Pursuant to Article XV of the City Charter of the City of Texarkana, Texas, the City Council approves the assignment and transfer of the City's non-exclusive franchise privilege as set forth in Ordinance No. 335-84 as amended, to Summit Utilities Arkansas, Inc., for the continued provision of and to maintain and operate a natural gas utility business system in the City of Texarkana, Texas; and the duration of said franchise now held by Summit Utilities Arkansas, Inc., shall be for the period beginning with the effective date hereof and ending twenty-five (25) years thereafter.

SECTION 2. A copy of the acceptance of said franchise, in the form attached as Exhibit "A" to this Ordinance, shall, upon execution by Summit Utilities Arkansas, Inc., and the filing of said executed copy with the City Secretary of the City of Texarkana, Texas, be substituted for the placeholder form and thereafter shall be considered a part of this Ordinance and incorporated herein by reference for all purposes.

SECTION 3: 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 4: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict; provided, however, that nothing in this Ordinance shall be construed to waive, abandon, or repeal any rights or benefits inuring to the City of Texarkana, Texas, under the terms of Ordinance No. 335-84 or any amendments thereto.

Attachment: 2022-003 (1R) ORD CenterPoint franchise transfer signed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

SECTION 5: Pursuant to Article XV of the City Charter of the City of Texarkana, Texas, this Ordinance amending a public utility franchise shall be read at three regular meetings of the Council and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within ten (10) days following the first reading of this Ordinance, the full text hereof shall be published one time in the Texarkana Gazette, and the expense of such publication shall be borne by Summit Utilities Arkansas, Inc. Additionally, the caption of this Ordinance shall be published for three (3) consecutive days in the Texarkana Gazette within ten (10) days of the final passage of this Ordinance on third reading, and the expense of those publications shall also be borne by Summit Utilities Arkansas, Inc.

SECTION 6: This Ordinance shall be in full force and effect from and after its passage, approval, adoption, and publication, subject, however, to the filing of the acceptance of the Ordinance as provided in Section 2, above.

FIRST READING APPROVED in Regular Council Session on this the **10th day of January, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

6:21 p.m.

SECOND READING APPROVED in Regular Council Session on this the **24th day of January, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

THIRD READING APPROVED, PASSED, AND FINALLY ACTED UPON in Regular Council Session on this the **14th day of February, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2022-003 (1R) ORD CenterPoint franchise transfer signed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit Utilities)

Exhibit A

Acceptance of Summit Utilities Arkansas, Inc.

WHEREAS, the City Council of the City of Texarkana, Texas, on the 14th day of February, 2022, enacted an Ordinance entitled:

ORDINANCE NO. 2022-003

AN ORDINANCE OF PUBLIC CONVENIENCE AND NECESSITY OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING THE ASSIGNMENT AND TRANSFER OF A PUBLIC UTILITY FRANCHISE TO SUMMIT UTILITIES ARKANSAS, INC., ASSIGNEE OF CENTERPOINT ENERGY RESOURCES CORP., D/B/A CENTERPOINT ENERGY ARKANSAS GAS, ITS SUCCESSORS AND ASSIGNS, FOR THE CONTINUED PROVISION AND TO MAINTAIN AND OPERATE A NATURAL GAS UTILITY BUSINESS SYSTEM IN THE CITY OF TEXARKANA, TEXAS; PROVIDING FOR PUBLICATION; PROVIDING FOR A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, said Ordinance was duly authenticated by the signatures of the Mayor and the City Secretary, and was properly caused to be published by the City Secretary.

NOW, THEREFORE, by and through its undersigned authorized officer, SUMMIT UTILITIES ARKANSAS, INC., hereby files this its written acceptance with the City Secretary of the City of Texarkana, Texas, accepting Ordinance No. 2022-003 and the provisions therein for an assignment and transfer of the public utility franchise originally set forth in Ordinance No. 335-84, as amended by Ordinance No. 188-87, as amended by Ordinance No. 241-05, and any subsequent amendments thereto, and as governed by Article XV of the City Charter of the City of Texarkana, Texas, all incorporated herein by reference for all purposes; and under the public utility franchise now assigned and granted for the time period stated in Ordinance No. 2022-003, SUMMIT UTILITIES ARKANSAS, INC., agrees to abide by the terms of said franchise and pay to the City of Texarkana, Texas, the amount established therein for the continued use and occupancy of the streets, alleys, highways, easements, parks, and other public places within the City.

Summit Utilities Arkansas, Inc.

Attest:

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Filed in the office of the City Secretary of the City of Texarkana, Texas, on this the _____ day of _____, 2022.

_____
Jennifer Evans, TRMC
City Secretary

Attachment: 2022-003 (1R) ORD CenterPoint franchise transfer signed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

Attachment: 2022-003 (2R) ORD CenterPoint franchise tanserfer signed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

ORDINANCE NO. 2022-003

AN ORDINANCE OF PUBLIC CONVENIENCE AND NECESSITY OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING THE ASSIGNMENT AND TRANSFER OF A PUBLIC UTILITY FRANCHISE TO SUMMIT UTILITIES ARKANSAS, INC., ASSIGNEE OF CENTERPOINT ENERGY RESOURCES CORP., D/B/A CENTERPOINT ENERGY ARKANSAS GAS, FOR THE CONTINUED PROVISION OF AND TO MAINTAIN AND OPERATE A NATURAL GAS UTILITY BUSINESS SYSTEM IN THE CITY OF TEXARKANA, TEXAS; PROVIDING FOR PUBLICATION; PROVIDING FOR A REPEALER CLAUSE AND A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 335-84 duly enacted on the Third and Final Reading on December 17, 1984, awarded a non-exclusive franchise privilege to Arkansas Louisiana Gas Company, its successors and assigns, for the construction, maintenance and operation of a natural gas supply company, pursuant to Article XV, Section 1 of the City Charter of the City of Texarkana, Texas; and

WHEREAS, Section 19 of Ordinance No. 335-84 provides that the gas company "may not sell or transfer its franchise or rights to another … nor … transfer any rights under this franchise to another without approval by the City's [sic] Council. Such franchise approval will not be granted until the … assignee … has filed in the office of the City Secretary of the City of Texarkana, Texas, an instrument, duly executed, reciting the fact of such … assignment … and accepting the terms of applicable law and this franchise."; and

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 188-87 duly enacted on the Third and Final Reading on September 14, 1987, amended Section 11 of Ordinance No. 335-84 to increase the payment made by the gas company to the City from two percent (2%) of the gross revenues received by the company to three percent (3%) of the gross revenues so received; and

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 241-05 duly enacted on the Third and Final Reading on October 10, 2005, amended Section 11 of Ordinance No. 335-84 to increase the payment made by the gas company to the City from three percent (3%) of the gross revenues received by the company to four percent (4%) of the gross revenues so received; and

WHEREAS, on August 28, 2017, by Ordinance No. 2017-083, the City Council approved rate schedules and service charges proposed for residential and commercial gas service by CenterPoint Energy Resources Corp. (CERC), to be effective as of September 1, 2017, and ordered CERC to file with the City Clerk tariff sheets containing residential and commercial rate schedules identical to those rate schedules included with said ordinance; and

WHEREAS, on June 11, 2021, CERC and Summit Utilities Arkansas, Inc. (SUA) filed with the Arkansas Public Service Commission a Joint Application for approval of a proposed transaction whereby CERC would sell, and SUA, as the ultimate owner and operator, would acquire certain of CERC's public utility natural gas assets, comprised of an operating unit or system, which provide service to customers in Arkansas, as well as certain areas located in Bowie County, Texas, including Texarkana, Texas; and

WHEREAS, on December 6, 2021, the Arkansas Public Service Commission, Docket No. 21-060-U, Order No. 11, found, ordered, and directed, among other things, that SUA has the experience and expertise to operate a public utility in compliance with Arkansas laws and regulations and provide quality customer

service to CERC's Arkansas customers, granted a Certificate of Public Convenience and Necessity pursuant to Arkansas law to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with CERC, and cancelled the Certificate of Public Convenience and Necessity of CERC to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with SUA; and

WHEREAS, on December 13, 2021, SUA filed with the Arkansas Public Service Commission, in compliance with Docket No. 21-060-U, Order No. 11, a revised tariff consistent with the Order; and pertinent to the City of Texarkana, Texas, the revised Arkansas tariff eliminated or terminated two riders, the Trial Billing Determinant Adjustment Tariff (BDA) and Formula Rate Plan Rider (FRP), which had been directly referenced and incorporated into the City's tariff approved by the City Council by Ordinance No. 2017-083; and

WHEREAS, SUA, as Assignee of CERC, intends to submit to the City Secretary prior to the final reading of this ordinance a duly executed instrument consistent with the requirements of Section 19 of Ordinance No. 335-84, documenting SUA's purchase of CERC's natural gas utility business and assets serving customers within the Texarkana, Texas, service territory and acquisition of substantially all of the utility operating assets of CERC located in the Texarkana, Texas, service territory, and reciting acceptance of the terms of applicable law and the City's non-exclusive public utility franchise privilege; and

WHEREAS, SUA proposes no increase in the City's rates, but rather a continuation of the same tariff approved by the City Council in Ordinance No. 2017-083 except for deleting the defunct BDA and FRP riders given the elimination or termination of said riders from the Arkansas tariff structure (the City Council shall consider and act upon SUA's proposal after the final reading and approval of this ordinance); and

WHEREAS, by this Ordinance, the City Council approves the assignment and transfer to SUA of the City's non-exclusive franchise privilege for the continued provision of and to maintain and operate a natural gas utility business system in the City of Texarkana, Texas.

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

SECTION 1. Pursuant to Article XV of the City Charter of the City of Texarkana, Texas, the City Council approves the assignment and transfer of the City's non-exclusive franchise privilege as set forth in Ordinance No. 335-84 as amended, to Summit Utilities Arkansas, Inc., for the continued provision of and to maintain and operate a natural gas utility business system in the City of Texarkana, Texas; and the duration of said franchise now held by Summit Utilities Arkansas, Inc., shall be for the period beginning with the effective date hereof and ending twenty-five (25) years thereafter.

SECTION 2. A copy of the acceptance of said franchise, in the form attached as Exhibit "A" to this Ordinance, shall, upon execution by Summit Utilities Arkansas, Inc., and the filing of said executed copy with the City Secretary of the City of Texarkana, Texas, be substituted for the placeholder form and thereafter shall be considered a part of this Ordinance and incorporated herein by reference for all purposes.

SECTION 3: 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 4: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict; provided, however, that nothing in this Ordinance shall be construed to waive, abandon, or repeal any rights or benefits inuring to the City of Texarkana, Texas, under the terms of Ordinance No. 335-84 or any amendments thereto.

Attachment: 2022-003 (2R) ORD CenterPoint franchise tanserfer signed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

SECTION 5: Pursuant to Article XV of the City Charter of the City of Texarkana, Texas, this Ordinance amending a public utility franchise shall be read at three regular meetings of the Council and shall not be finally acted upon until thirty (30) days after the first reading thereof. Within ten (10) days following the first reading of this Ordinance, the full text hereof shall be published one time in the Texarkana Gazette, and the expense of such publication shall be borne by Summit Utilities Arkansas, Inc. Additionally, the caption of this Ordinance shall be published for three (3) consecutive days in the Texarkana Gazette within ten (10) days of the final passage of this Ordinance on third reading, and the expense of those publications shall also be borne by Summit Utilities Arkansas, Inc.

SECTION 6: This Ordinance shall be in full force and effect from and after its passage, approval, adoption, and publication, subject, however, to the filing of the acceptance of the Ordinance as provided in Section 2, above.

FIRST READING APPROVED in Regular Council Session on this the **10th day of January, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:21 p.m.

SECOND READING APPROVED in Regular Council Session on this the **24th day of January, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:51 p.m.

THIRD READING APPROVED, PASSED, AND FINALLY ACTED UPON in Regular Council Session on this the **14th day of February, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Attachment: 2022-003 (2R) ORD CenterPoint franchise tanserfer signed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

Exhibit A

Acceptance of Summit Utilities Arkansas, Inc.

WHEREAS, the City Council of the City of Texarkana, Texas, on the 14th day of February, 2022, enacted an Ordinance entitled:

ORDINANCE NO. 2022-003

AN ORDINANCE OF PUBLIC CONVENIENCE AND NECESSITY OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING THE ASSIGNMENT AND TRANSFER OF A PUBLIC UTILITY FRANCHISE TO SUMMIT UTILITIES ARKANSAS, INC., ASSIGNEE OF CENTERPOINT ENERGY RESOURCES CORP., D/B/A CENTERPOINT ENERGY ARKANSAS GAS, ITS SUCCESSORS AND ASSIGNS, FOR THE CONTINUED PROVISION AND TO MAINTAIN AND OPERATE A NATURAL GAS UTILITY BUSINESS SYSTEM IN THE CITY OF TEXARKANA, TEXAS; PROVIDING FOR PUBLICATION; PROVIDING FOR A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, said Ordinance was duly authenticated by the signatures of the Mayor and the City Secretary, and was properly caused to be published by the City Secretary.

NOW, THEREFORE, by and through its undersigned authorized officer, SUMMIT UTILITIES ARKANSAS, INC., hereby files this its written acceptance with the City Secretary of the City of Texarkana, Texas, accepting Ordinance No. 2022-003 and the provisions therein for an assignment and transfer of the public utility franchise originally set forth in Ordinance No. 335-84, as amended by Ordinance No. 188-87, as amended by Ordinance No. 241-05, and any subsequent amendments thereto, and as governed by Article XV of the City Charter of the City of Texarkana, Texas, all incorporated herein by reference for all purposes; and under the public utility franchise now assigned and granted for the time period stated in Ordinance No. 2022-003, SUMMIT UTILITIES ARKANSAS, INC., agrees to abide by the terms of said franchise and pay to the City of Texarkana, Texas, the amount established therein for the continued use and occupancy of the streets, alleys, highways, easements, parks, and other public places within the City.

Summit Utilities Arkansas, Inc.

Attest:

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Filed in the office of the City Secretary of the City of Texarkana, Texas, on this the _____ day of _____, 2022.

_____
Jennifer Evans, TRMC
City Secretary

Attachment: 2022-003 (2R) ORD CenterPoint franchise tanserfer signed (3619 : 2022-003 ORD CenterPoint franchise transfer to Summit

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/8/2022 2:29 PM

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

Subject: Ordinance No. 2022-004 amending Ordinance No. 2017-083, substituting Summit Utilities Arkansas, Inc., as the natural gas provider and franchise holder for the City, reauthorizing identical residential and commercial rate schedules previously authorized with exceptions, and ordering the rates to be charged by Summit for natural gas and natural gas service to the City's residential and commercial customers.

Briefing: 2/14/2022 **Public Hearing:** 1/24/2022 **Council Vote:** 2/14/2022

Item Schedule

Updates/History of Briefing:

Cumulative updates to the proposed ordinance form following the first briefing:

- Page 2 adds a "whereas" recital with the history of the City's Natural Gas Franchise Ordinances;
- Section 4 adds the retroactive effective date of January 10, 2022, which was the date of the CERC/Summit closing;
- Section 7 adds a superseding clause, providing that Ord. No. 2022-003 and the City's Natural Gas Franchise Ordinances supersede or control over this ordinance in the event of any conflict;
- Section 7 adds an interpretative sentence that the Council, having been made aware of the Arkansas three-year customer credit rider, does not by this ordinance find or affirm that the absence or lack of a credit in the reauthorized 2017 rate schedule complies with Ordinance No. 335-84.

Executive Summary and Background Information:

On August 28, 2017, by Ordinance No. 2017-083, the City Council approved rate schedules and service charges proposed for residential and commercial gas service by CenterPoint and ordered Centerpoint to file with the City tariff sheets containing residential and commercial rate schedules identical to those rate schedules included with said ordinance. The tariff sheets included two riders existing in the Arkansas rate structure: the Trial Billing Determinant Adjustment Tariff (BDA); and the Formula Rate Plan Rider (FRP). The current rate schedules and service charges for residential and commercial gas service can be viewed at the Railroad Commission web site under the Centerpoint Energy Arkla listing -- http://www.old.rrc.texas.gov/data/gasservices/gastariffs/gftr0048b_6269.pdf -- and at Centerpoint's web site -- **https://www.centerpointenergy.com/en-us/corp/pages/rates-and-tariffs-for-incorporated-texarkana-service-area.aspx**.

As detailed in the briefing materials for Ordnance No. 2022-003, Summit Utilities Arkansas, Inc., is acquiring Centerpoint's public utility natural gas assets, including those assets which provide service to certain areas located in Bowie County, Texas, including Texarkana, Texas, and has secured regulatory

approval from both the States of Arkansas and Oklahoma. Pertinent to the City of Texarkana, Texas, the revised Arkansas tariff eliminated or terminated the BDA and FRP riders which had been directly referenced and incorporated into the City's 2017 tariff.

Summit proposes no increase in the City's rates, but rather a continuation of the same tariff approved by the City Council in Ordinance No. 2017-083 except for deleting the defunct BDA and FRP riders given the elimination of said riders from the Arkansas tariff structure. The City Council found and determined, in the 201 tariff ordinance, that the rate schedules and service charges proposed for residential and commercial gas service were just, proper, reasonable, and lawful rates for such natural gas service, and that finding and determination has not changed notwithstanding the elimination of the defunct BDA and FRP riders given the elimination or termination of said riders from the Arkansas tariff structure. The packet materials include a redline detail of the 2017 tariff with the proposal changes of substituting Summit as the natural gas provider and eliminating the defunct BDA and FRP riders.

Potential Options:

Substitute Summit as the natural gas provider and franchise holder for the City of Texarkana, Texas, for the City's tariff, and reauthorize the residential and commercial rate schedules authorized in Ordinance No. 2017-083, with the exception of the BDA and FRP riders which are now defunct given the elimination or termination of said riders from the Arkansas tariff structure.

NOTE: Unlike the franchise assignment ordinance, the tariff ordinance will not require three separate readings but will be presented in tandem with the franchise assignment. The City Manager and City Attorney have separately requested the presence of Summit representatives at the January 24 regular meeting to make a presentation to the Council and to address any questions of Councilmembers. After the third and final reading and vote to consider approval of the franchise assignment ordinance (set for the February 14 regular meeting), the tariff ordinance will then be submitted to the Council for action. At such time, the "blank" in Section 4 of the proposed ordinance will contain the appropriate effective date for the tariff as reauthorized.

Fiscal Implications:

No increase in natural gas rates; no change to the Council-approved 2017 tariff except for the deletion of the defunct BDA and FRP riders which were eliminated from the Arkansas tariff.

Staff Recommendation:

Approve the ordinance as presented, reauthorizing the residential and commercial rate schedules authorized in Ordinance No. 2017-083 with the exception of the defunct BDA and FRP riders, substituting Summit in the tariff in place of Centerpoint as the natural gas provider and franchise holder for the City of Texarkana, Texas, and ordering Summit to issue and file with the City Secretary new tariff sheets in the form attached to the ordinance as Exhibit "A".

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments:

Exhibit "A" to Ordinance: "clean" copy of 2017 tariff as revised to reflect
Redline of revisions to 2017 tariff
2017 tariff ordinance -- Ord. 2017-083 with Exhibit "A"

Attachments

a. 2022-004 ORD Summit - readopt tariff REVISED for FEB 14 (DOCX)
b. 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (PDF)
c. 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (PDF)
d. 2022-004 ATTH 02 2017 Tariff & EXH 'A' (PDF)
e. 2022-004 Goals & Perspectives (DOCX)
f. 2022-004 ORD Reauthorizing Summit to charge for natural gas signed (PDF)

Staff Coordination

City Manager	David Orr	Department Head Review	Completed	01/07/2022 9:42 AM
City Manager	David Orr	City Manager Review	Completed	01/07/2022 9:42 AM
City Council	Jennifer Evans	Meeting	Completed	01/10/2022 6:00 PM

Meeting History

01/10/22	City Council	MOVED FORWARD	Next: 01/24/22
01/24/22	City Council	MOVED FORWARD	Next: 02/14/22

Attachment: 2022-004 ORD Summit - readopt tariff REVISED for FEB 14 (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas

ORDINANCE NO. 2022-004

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING ORDINANCE NO. 2017-083, SUBSTITUTING SUMMIT UTILITIES ARKANSAS, INC., ASSIGNEE OF CENTERPOINT ENERGY RESOURCES CORP., AS THE NATURAL GAS PROVIDER AND FRANCHISE HOLDER FOR THE CITY OF TEXARKANA, TEXAS; REAUTHORIZING IDENTICAL RESIDENTIAL AND COMMERCIAL RATE SCHEDULES AUTHORIZED IN ORDINANCE NO. 2017-083 WITH EXCEPTIONS; ORDERING THE RATES TO BE CHARGED BY SUMMIT UTILITIES ARKANSAS, INC., FOR NATURAL GAS AND NATURAL GAS SERVICE TO RESIDENTIAL AND COMMERCIAL CUSTOMERS WITHIN THE CITY OF TEXARKANA, TEXAS; PROVIDING FOR REPEALER, SUPERSEDING, AND SEVERABILITY CLAUSES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on August 28, 2017, by Ordinance No. 2017-083, the City Council approved rate schedules and service charges proposed for residential and commercial gas service by CenterPoint Energy Resources Corp., d/b/a Centerpoint Energy Arkansas Gas (CERC), and ordered CERC to file with the City Clerk tariff sheets containing residential and commercial rate schedules identical to those rate schedules included with said ordinance; and

WHEREAS, on June 11, 2021, CERC and Summit Utilities Arkansas, Inc. (SUA) filed with the Arkansas Public Service Commission a Joint Application for approval of a proposed transaction whereby CERC would sell, and SUA, as the ultimate owner and operator, would acquire certain of CERC's public utility natural gas assets, comprised of an operating unit or system, which provide service to customers in Arkansas, as well as certain areas located in Bowie County, Texas, including Texarkana, Texas; and

WHEREAS, on December 6, 2021, the Arkansas Public Service Commission, Docket No. 21-060-U, Order No. 11, found, ordered, and directed, among other things, that SUA has the experience and expertise to operate a public utility in compliance with Arkansas laws and regulations and provide quality customer service to CERC's Arkansas customers, granted a Certificate of Public Convenience and Necessity pursuant to Arkansas law to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with CERC, and cancelled the Certificate of Public Convenience and Necessity of CERC to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with SUA; and

WHEREAS, on December 13, 2021, SUA filed with the Arkansas Public Service Commission, in compliance with Docket No. 21-060-U, Order No. 11, a revised tariff consistent with the Order; and pertinent to the City of Texarkana, Texas, the revised Arkansas tariff eliminated or terminated two riders, the Trial Billing Determinant Adjustment Tariff (BDA) and Formula Rate Plan Rider (FRP), which had been directly referenced and incorporated in the City's tariff approved by the City Council by Ordinance No. 2017-083; and

Attachment: 2022-004 ORD Summit - readopt tariff REVISED for FEB 14 (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas

WHEREAS, on January 18, 2022, SUA provided the City of Texarkana, Texas, with an "Assignment and Assumption of Franchises" effective January 10, 2022, executed by CERC as Assignor and SUA as Assignee, with CERC assigning and transferring to SUA all of CERC's right, title, and benefits as of the effective date to the natural gas franchise granted by Ordinance No. 335-84 of the City Council approved on November 12, 1984, as amended by Ordinance No. 188-87 approved on September 14, 1987, and Ordinance No. 241-05 approved on October 10, 2005 (collectively, "the City's Natural Gas Franchise Ordinances"), granting the right to enter upon the public ways to install, operate and maintain a distribution system along, across, over and under the public ways for the privilege of transporting, distributing and selling gas to consumers and the public generally within the corporate limits of the City of Texarkana, Texas; and

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 2022-003, duly enacted on the Third and Final Reading on February 14, 2022, approved the assignment and transfer to SUA, as Assignee of CERC, of the City's Natural Gas Franchise Ordinances (that is, the non-exclusive franchise privilege to SUA) for natural gas and natural gas service to residential and commercial customers within the City of Texarkana, Texas; and

WHEREAS, SUA proposes no increase in the City's rates, but rather a continuation of the same tariff approved by the City Council in Ordinance No. 2017-083 except for deleting the defunct BDA and FRP riders given the elimination of said riders from the Arkansas tariff structure; and

WHEREAS, the City Council found and determined, in Ordinance No. 2017-083, that the rate schedules and service charges proposed for residential and commercial gas service were just, proper, reasonable, and lawful rates for such natural gas service, and that finding and determination has not changed notwithstanding the elimination of the defunct BDA and FRP riders given the elimination or termination of said riders from the Arkansas tariff structure; and

WHEREAS, by this Ordinance, the City Council amends Ordinance No. 2017-083 to substitute SUA in place of CERC as the natural gas provider and, except for deletion of the BDA and FRP riders, reauthorizes the residential and commercial rate schedules identical to those rate schedules authorized in Ordinance No. 2017-083.

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

SECTION 1. Upon SUA filing with the City Secretary a fully-executed written acceptance of Ordinance No. 2022-003 as set out in Exhibit "A" to that ordinance (that is, accepting the assignment and transfer of the City's public utility franchise and agreeing to abide by the terms of the City's Natural Gas Franchise Ordinances), Ordinance No. 2017-083 is amended as follows:

a. SUA is substituted in place of CERC as the natural gas provider and franchise holder for the City of Texarkana, Texas;

b. The residential and commercial rate schedules authorized in Ordinance No. 2017-083 are reauthorized, with the exception of the BDA and FRP riders which are now defunct given the elimination or termination of said riders from the Arkansas tariff structure; and

Attachment: 2022-004 ORD Summit - readopt tariff REVISED for FEB 14 (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas

c. SUA is hereby ordered to issue and file with the City Secretary of the City of Texarkana, Texas, tariff sheets in the form that SUA has proposed and submitted to the City, attached hereto as Exhibit "A", substituting SUA in place of CERC, deleting the BDA and FRP riders, containing the applicable effective date, and containing in all other respects residential and commercial rate schedules identical to those rate schedules authorized in Ordinance No. 2017-083.

SECTION 2. The rates and rate schedules ordered in Section 1 of this Ordinance and as set out in Exhibit "A" to be filed with the City are hereby adopted, established, and authorized as proper, reasonable, and lawful rates for such natural gas service; and such rates and rate schedules are to be observed by SUA, its successors and assigns, until changed as provided by the Gas Utility Regulatory Act, Texas Utility Code Chapter 101, *et seq.*

SECTION 3. This Order, determining the level of rates to be charged and applied by SUA, shall be served upon SUA by United States Mail.

SECTION 4. The tariff sheets approved by this Ordinance shall become effective retroactive with bills rendered on or after January 10, 2022.

SECTION 5. Although the form of the Exhibit "A" tariff that SUA has proposed and submitted to the City references other Texas municipalities in the footer of each page, nothing in this Ordinance should be construed as the City Council exercising any jurisdiction or authority on behalf of said municipalities in approving tariffs, rates, or rate schedules for those municipalities; no such jurisdiction nor authority has been extended to the City, and such should not be inferred.

SECTION 6. All applications and motions to intervene in this matter, if any, however designated, are hereby denied.

SECTION 7. Except as otherwise provided below, all ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict; provided, however, that nothing in this ordinance shall be construed to repeal, modify, or interpret (i) Ordinance No. 2017-083 except as amended by Section 1 of this ordinance, and (ii) Ordinance No. 2022-003 or the City's Natural Gas Franchise Ordinances, which shall also supersede and control over this ordinance in the event any part of this ordinance shall be declared to be in conflict or noncompliant with either Ordinance No. 2022-003 or the City's Natural Gas Franchise Ordinances. Notwithstanding any other section of this ordinance, the City Council, having been made aware of SUA's tariff and rate structure for the State of Arkansas which includes a new three-year customer credit rider, does not by this ordinance find or affirm that the absence or lack of a commensurate credit inuring to the benefit of the City of Texarkana, Texas, in the rates and rate schedules as set out in Exhibit "A" complies with Ordinance No. 335-84.

SECTION 8. If any portion of the rates or service charges established herein shall be declared invalid for any reason, the invalidity hereof shall in no manner affect the validity and enforcement of the remainder of such rates for service charges.

SECTION 9: 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 **14th day of February, 2022.**

ATTEST:

Jennifer Evans, City Secretary	Bob Bruggeman, Mayor

Attachment: 2022-004 ORD Summit - readopt tariff REVISED for FEB 14 (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-1.1/3

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Residential

PART I – Rate Schedule No. 1

Title: RESIDENTIAL FIRM SALES SERVICE (RS-1) Effective: (to be determined)

1. RESIDENTIAL FIRM SALES SERVICE (RS-1)

1.1. AVAILABILITY

1.1.1. This rate is available to any consumer where gas is delivered to an individually metered, single, private dwelling and its appurtenances, the major use of which is for household appliances, and for the personal comfort and convenience of those persons residing therein. This rate schedule is not available for any dwelling used principally for commercial purposes. Natural gas supplied hereunder is for the individual use of the customer at the point of delivery and shall not be resold or shared with others. Standby service is not available under this rate schedule.

1.2. RATES

1.2.1. Each customer receiving service under this rate schedule shall be charged the sum of (a), (b), and (c) as follows:

(a) Monthly Customer Charge -- $10.75. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

(b) Distribution Rate:

First 15 Ccf at $0.45335 per Ccf
Over 15 Ccf at $0.36576 per Ccf

(c) Gas Supply Rate - The Gas Supply Rate will be calculated and adjusted periodically as defined in the Company's Gas Supply Rate Rider.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-1.2/3

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Residential

PART I – Rate Schedule No. 1

Title: RESIDENTIAL FIRM SALES SERVICE (RS-1) Effective: (to be determined)

(d) WNA Rider will be applicable only to volumes in excess of 15 Ccf per month.

1.3. MINIMUM CHARGE

1.3.1. Monthly Customer Charge -- $10.75. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

1.4. RIDERS

1.4.1. In addition to the Gas Supply Rate Rider, the following riders are applicable to service under this rate schedule:

Rider Name	Description	Identification on Customer Bills
TA	Municipal Tax Adjustment	Municipal Franchise Adj
WNA	Weather Normalization Adjustment	Weather Normalization Adj
EECR	Energy Efficiency Cost Recovery Rider	EE Cost Rate

1.4.2. Service will be rendered under this rate schedule until service is discontinued to customer or the schedule is superseded.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-1.3/3

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Residential

PART I – Rate Schedule No. 1

Title: RESIDENTIAL FIRM SALES SERVICE (RS-1) Effective: (to be determined)

1.5. RULES AND REGULATIONS GOVERNING UTILITY SERVICE

1.5.1. The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-2.1/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: (to be determined)

2. SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

2.1. AVAILABILITY

2.1.1. This rate schedule is available at points of adequate capacity and suitable pressure on the Company's existing facilities. This rate schedule is available to any consumer engaging in business, professional, institutional or other non-residential activity supplied at an individually metered point of delivery for all uses of gas. Natural gas supplied hereunder is for the individual use of the customer at the point of delivery and shall not be resold or shared with others. Standby service is not available under this rate schedule.

2.1.2. Gas consumption under this rate schedule is limited to 365,000 Ccf in any 12 consecutive month period. If at any time, it is anticipated, based on Company's estimate, that the customer will consume in excess of 365,000 Ccf per year in the succeeding 12 consecutive month period, the customer shall become subject to the applicable large commercial firm service rate schedule.

2.1.3. Company has historically allowed the volume usage of meters at business facilities under common ownership and subject to this rate schedule to be aggregated for the sole purpose of establishing eligibility for transportation as referenced in Part 3.1.3. of Rate Schedule LCS-1. Customers historically qualifying for transportation under this aggregation provision shall remain subject to the rates and charges under this rate schedule in addition to any additional specific rates, charges, or adjustment riders peculiar to the Transportation Supply Option ("TSO") set out in Rate Schedule LCS-1, such as, but not limited to, administrative fees. Customers aggregating volume shall be subject to all provisions and policies governing TSO option customers as specified in LCS-1, except as provided for herein. Although no aggregation will be allowed for eligibility, the ability to aggregate for eligibility purposes at existing and new locations shall remain

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-2.2/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: (to be determined)

unchanged for transportation customers eligible under such aggregation provision prior to September 21, 2002. Future aggregation for the purpose of qualification, except as otherwise referenced herein, is prohibited. Each individual account of historically qualified customers shall be treated as a separate account and shall be subject to the same rates and charges under the originating SCS-1 or LCS-1 rate schedule, and are additionally subject to any specific rates, charges or riders specific to the TSO.

For the purpose of establishing eligibility for the "TSO" defined in the LCS rate schedule, customers experiencing or anticipating an average daily demand of 10 MMBtu per day during the preceding or succeeding twelve months will be eligible for the TSO. Customers qualifying for transportation who choose the TSO shall be subject to rates and charges under the SCS-1 rate schedule, and are additionally subject to any additional specific rates, charges or riders specific to the TSO.

2.1.4. Customers converting from transportation service to sales service will be required to contract for such sales services between the months of February through April preceding the expiration of the primary or any succeeding term of the Customer's existing contract. Customers seeking to contract for sales service during the required time frame will be allowed to convert to sales service provided that the Company is able to secure firm upstream transportation capacity and other upstream pipeline services sufficient to meet the Customer's needs. Any such conversion will be effective upon the expiration of the term of the Customer's existing contract, unless the Company and the Customer agree otherwise.

2.1.5. Seasonal Transportation. Customer facilities experiencing more than 80% of annual load during the flow months April through October, and who experience or anticipate an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding April through October, are eligible to transport on a seasonal

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-2.3/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: (to be determined)

basis. Customers meeting the aforementioned criteria, may elect the TSO option and choose a subsequent return to the System Supply Option ("SSO") only once during the calendar year. Customers electing the TSO on a seasonal basis, pursuant to notice given prior to May 31st or thirty days prior to commencement of service, whichever is earlier, may receive transportation service for a continuous period of at least 30 days between April 1 and October 31. Customers electing the TSO option on a seasonal basis are subject to the TSO contract administration fee. Additionally, each participating location shall pay a $300 set-up fee upon initial election and upon any subsequent return to transportation service.

2.2. RATES

2.2.1. Each customer receiving service under this rate schedule shall be charged the sum of (a), (b), and (c) as follows:

(a) Monthly Customer Charge - $14.67. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

(b) Distribution Rate for customers electing the SSO option:

First 1,500 Ccf at	$0.17133
1,501 – 15,000 Ccf at	$0.12959
Over 15,000 Ccf at	$0.05555

Distribution Rate for customers electing the TSO option:

First 150 MMBtu at	$1.68620
151 – 1,500 MMBtu at	$1.27534
Over 1,500 MMBtu at	$0.54673

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-2.4/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: (to be determined)

(c) Gas Supply Rate - The Gas Supply Rate will be calculated and adjusted periodically as defined in the Company's Gas Supply Rate Rider.

(d) WNA Rider will be applicable only to volumes in excess of 78 Ccf.

2.2.2. Rates for customers historically qualifying for service under the Part 2.1.3. aggregation provision and customers qualifying for transportation under this rate schedule will be subject to thermal adjustment. Delivered volumes will be adjusted by the appropriate thermal content factor obtained from the nearest available chromatograph or sampling location (Ccf / 10) x thermal content factor = MMBtu).

2.3. MINIMUM CHARGE

2.3.1. Monthly Customer Charge -- $14.67. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

2.4. TELEMETERING

2.4.1.

Telemetering is required for customers electing and qualifying for transportation service. Company shall install telemetry equipment of standard make and manufacture to determine hourly and daily flow at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-2.5/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: (to be determined)

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

( ) Option 4: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.

In the event customer has in place working telemetering facilities and equipment; and the customer receives system supply service; and Company determines it necessary to keep the telemeter(s) operational, Company will arrange and pay for the associated telecommunications cost while the customer receives sales service under this rate schedule.

2.4.2. If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunications lines. Should customer fail to maintain or repair telecommunications lines required to communicate with telemetry equipment, Company shall have the right to

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-2.6/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: (to be determined)

bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.

If customer chooses wireless telemetry, then customer shall pay Company $10 per month per meter for wireless telemetry service for the entire period such meter(s) is(are) served under this or any other transportation rate schedule.

2.5. RIDERS

2.5.1. In addition to the Gas Supply Rate Rider, the following riders are applicable to service under this rate schedule:

Rider Name	Description	Identification on Customer Bills
TA	Municipal Tax Adjustment	Municipal Franchise Adj
WNA	Weather Normalization Adjustment	Weather Normalization Adj
EECR	Energy Efficiency Cost Recovery Rider	EE Cost Rate

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-2.7/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: TBD

2.5.2. Service will be rendered under this rate schedule until service is discontinued to customer, the customer qualifies for service under the large commercial firm service rate schedule, or the schedule is superseded.

2.6. RULES AND REGULATIONS GOVERNING UTILITY SERVICE

2.6.1. The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.1/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

3. LARGE COMMERCIAL FIRM SERVICE (LCS-1)

3.1. AVAILABILITY

3.1.1. This rate schedule is available at points of adequate capacity and suitable pressure on the Company's existing facilities. This rate schedule is available to any customer at a particular facility owned or operated by customer who enters into a large volume commercial service agreement ("Agreement") with Company, in the form appended to this rate schedule on reasonable terms and conditions acceptable to the Company, for delivery of gas at the facility, provided such facility has experienced, or anticipates, an average daily demand of more than 100 MMBtu per day during the preceding or succeeding twelve (12) months, respectively.

For the purpose of establishing eligibility for the Transportation Supply Option ("TSO") defined in this rate schedule, customers experiencing or anticipating an average daily demand of 10 MMBtu per day during the preceding or succeeding twelve months will be eligible for the TSO. Customers choosing the TSO will remain under their originating SCS or LCS rate schedules, and are additionally subject to any specific rates, charges or riders specific to the TSO.

3.1.2. Company has historically allowed the volume usage of meters at facilities under common ownership and subject to other commercial rate schedules to be aggregated for the sole purpose of establishing eligibility for transportation. Although no aggregation will be allowed for eligibility, the ability to aggregate for eligibility purposes at existing and new locations shall remain unchanged for transportation customers eligible under such aggregation provision prior to September 21, 2002. Future aggregation for the purpose of qualification, except as otherwise referenced herein, is prohibited. Each individual account of historically qualified customers shall be treated as a separate account and shall be subject to the same rates and charges under the originating SCS or LCS rate schedule, and are

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.2/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

additionally subject to any specific rates, charges or riders specific to the TSO.

3.1.3. Customers under this rate schedule may choose between two sources of supply, as follows:

(a) System Supply Option ("SSO") - under which customer will be delivered natural gas supply designated as general system supply of Company.

(b) Transportation Supply Option ("TSO") - under which customer will be delivered natural gas supply received for customer's account at points of receipt on Company's distribution facilities.

3.1.4. The customer's election between the two supply options under this rate schedule shall be set forth in the requisite Agreement which will specify the term (duration) of this customer election. Under no circumstances shall the Company be obligated to (a) deliver natural gas volumes to a customer under this rate schedule from a supply source other than the one reflected in customer's election embodied in the Agreement or (b) enter into an agreement with a term of less than one year. LCS customers failing to execute the requisite agreement setting forth the supply option election, shall default to the System Supply Option, and shall remain until such time that an agreement setting forth the alternative supply option is executed.

3.1.5. If customer has human needs requirements, or other requirements necessary for the preservation of life, health or physical property, the Company will require customer to certify and document such requirements in writing prior to the start of service. The Customer shall update the Company in writing when its human needs requirements change.

3.1.6. Additionally, if customer has human needs requirements under the TSO, the Company will require customer to certify and document to Company that it:

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.3/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

(a) has made firm pipeline capacity and gas supply arrangements sufficient to ensure non-interruptible deliveries to satisfy its level of human needs requirements. This documentation will include written acknowledgement from the upstream pipeline that firm, primary delivery point capacity is under contract for the appropriate location that will service customer, and that such capacity is under contract for the entire November through March time period; or,

(b) has one or more alternative energy back-up systems in place to provide for continuous energy to satisfy the total human needs requirements that otherwise would be met by natural gas. In such instance, there will be no requirement to meet this firm pipeline capacity and gas supply provision.

3.1.7. Customers converting from sales service to transportation service shall bear the supply-related cost/credit shifts or additional costs/credits, if any, directly resulting from that conversion, including existing pipeline commitments, existing gas supply costs, and additional administrative costs. The Company shall maintain adequate records to demonstrate such costs and to substantiate that this result has been achieved, and shall make such information available to the converting customer upon request. Upon request, Company shall provide a good faith estimate of such costs/credits based upon representations made by the customer as to usage, demand, timing, and other factors.

3.1.8 Customers converting from transportation service to sales service will be required to contract for such sales service between the months of February through April preceding the expiration of the primary or any succeeding term of the Customer's existing contract. Customers seeking to contract for sales service during the required time frame will be allowed to convert to sales service provided that the Company is able to secure firm upstream transportation capacity and other upstream pipeline services sufficient to

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.4/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

meet the Customer's needs. Any such conversion will be effective upon the expiration of the term of the Customer's existing contract, unless the Company and the Customer agree otherwise.

3.1.9. Seasonal Transportation. Customer facilities experiencing more than 80% of annual load during the flow months April through October, and who has experienced or anticipates an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding April through October, are eligible to transport on a seasonal basis. Customers meeting the aforementioned criteria, may elect the TSO option and choose a subsequent return to the SSO option only once during the calendar year. Customers electing the TSO option on a seasonal basis, pursuant to notice given prior to May 31st or thirty days prior to commencement of service, whichever is earlier, may receive transportation service for a continuous period of at least 30 days between April 1 and October 31. Customers electing the TSO option on a seasonal basis are subject to the TSO contract administration fee. Additionally, each participating location shall pay a $300 set-up fee upon initial election and upon any subsequent return to transportation service.

3.2. MAXIMUM QUANTITIES

3.2.1. Company and customer shall agree upon a Maximum Daily Winter Quantity ("MDWQ") applicable to the period from November through March which will be reflected in the Agreement, and shall establish the maximum MMBtu Quantity that the Company will be obligated to deliver on a firm basis on any given day to customer's point of delivery until such maximum quantity is revised pursuant to Part 3.2.4.

3.2.2. Average Daily Volume shall be calculated by dividing the annual volume by 365.

3.2.3. Under no circumstances is Company required to agree to an MDWQ, Average Daily Volume or other quantity-related obligation under this rate

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.5/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

schedule that it finds inconsistent with actual expected operating outcomes or load requirements based on observed historical operating data, the level and nature of currently installed natural gas facilities, equipment and appliances, or other relevant, reasonable and appropriate information or data. When entering into a new Agreement, an existing customer will not be required to agree to an MDWQ, Average Daily Volume or other quantity-related obligation under this rate schedule that is less than the quantities in effect during the previous Agreement, provided, however, that the quantities sought by the customer were actually experienced during the two-year period preceding the new Agreement.

3.2.4. Unless agreed otherwise, should customer deliveries exceed the Initial MDWQ during the period from November through March, then delivery demand set on that day shall reestablish the MDWQ and shall hereinafter be referred to as the Replacement MDWQ. Should annual deliveries exceed previously established levels, for the prior 12-month period, then the Initial Average Daily Volume will be reestablished for the annual period, and shall be known as the Replacement Average Daily Volume. The Replacement MDWQ or Average Daily Volume, respectively, become effective on the first day of the month after which the excess occurred for all meters read on and after that date, and continue for the remaining term of the contract or until such time that a Replacement MDWQ or Average Daily Volume is established. The Replacement MDWQ or Average Daily Volume shall not, however, exceed the quantity that is capable of being received or delivered on a firm basis. In the event that the Replacement MDWQ or Average Daily Volume would otherwise exceed the quantity that is capable of being received or delivered on a firm basis, then the Replacement MDWQ or Average Daily Volume shall be the maximum level that can be received or delivered on a firm basis.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.6/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

3.2.5. Company shall not be obligated to receive or deliver more than the Maximum Hourly Quantity ("MHQ"). If customer takes gas in excess of the specified MHQ at the point of delivery without the approval of Company, and such excess flow causes physical harm to the Company, its other customers or its facilities, then customer shall reimburse Company for the actual cost of damages or harm or repairs to its facilities, plus overhead expenses, within 15 days after the date of Company's invoice to customer for such damages.

3.3. CAPACITY DEMAND

3.3.1. Each individually metered point of delivery under this rate schedule shall have a capacity demand ("CD"), equal to the higher of:

(a) The Initial MDWQ specified in customer's Agreement with Company, subject to the maximum quantities provision herein, or the Replacement MDWQ as established pursuant to the provisions of Part 3.2.4.

(b) The Initial Average Daily Volume specified in customer's Agreement with Company, or the Replacement Average Daily Volume as established pursuant to the provisions of Part 3.2.4.

3.3.2. This CD shall be the billing determinant for both distribution demand charges and Fixed Storage Charges, Fixed Gas Supply Charges and Fixed Transportation Charges (GSR Demand) under the Gas Supply Rate Rider. The Initial MDWQ or Initial Average Daily Volume, the higher of which is also known as the Initial CD, shall remain in place until such time as a Replacement MDWQ or Replacement Average Daily Volume, the higher of which is also known as the Replacement CD, is established pursuant to the provisions of Part 3.2.4. During the course of the contract term, the CD established as billing determinant shall be the higher of the Initial CD under the contract or any Replacement CD established during the previous 12-month period. Unless agreed upon otherwise, if during the course of a

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.7/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

multi-year contract, any Replacement CD established pursuant to Part 3.2.4. does not re-occur during any prior 12-month period, then effective the first day of the following month the Replacement CD will be established as the higher of the Initial CD or highest daily volume during the MDWQ period that falls within the previous twelve months. In no instance shall the Replacement CD be based upon usage occurring before the effective date of the customer's Agreement.

3.4. RATES

3.4.1. Each customer receiving service under this rate schedule, other than small commercial firm sales service customers historically qualifying under the Part 3.1.2. aggregation provision, shall be charged the sum of (a), (b), (c) and (d) as follows:

(a) Distribution Customer Charge - $290.00 per month. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

(b) Distribution Demand Charge per MMBtu of CD per month:

(i) $8.01586per MMBtu of CD up to 400 MMBtu of CD

plus, if applicable

(ii) $1.23854 per MMBtu of CD over 400 MMBtu of CD.

(c) Gas Supply Rate Rider :

(i) SSO - The Gas Supply Rate will be calculated and adjusted periodically as defined in the Company's Gas Supply Rate Rider.

(ii) TSO - The customer will provide the appropriate LUFG-in-Kind as described in the Company's Gas Supply Rate Rider. Volumes provided as LUFG-in-Kind will not be considered

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.8/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

in the calculation of Capacity Demand and shall not be subject to Distribution Charges.

3.4.2. Monthly charges applicable to customers under the TSO described in Part 3.1.3. of this rate schedule, including small commercial firm sales service customers historically qualifying under the Part 3.1.2. aggregation provision of this rate schedule or qualifying for transportation under the SCS rate schedule, are as follows:

(a) Contract Administration Fees:

TSO - $332.61 per month.

3.5. MINIMUM CHARGE

The sum of (a), (b), and (c) if applicable:

(a) Distribution Customer Charge - $290.00 per month. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

(b) Distribution Demand Charge - per MMBtu of CD per month:

(i) $8.01586 per MMBtu of CD up to 400 MMBtu of CD

plus, if applicable

(ii) $1.23854 per MMBtu of CD over 400 MMBtu of CD

(c) Contract Administration Fee – TSO - $332.61 per month.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.9/37

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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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3.6. TELEMETERING EQUIPMENT

3.6.1. Telemetering is required for all customers who receive service pursuant to this rate schedule, including customers qualifying under Part 3.1.2. of the aggregation provision of this rate schedule. If Company does not have telemetry at customer's point of delivery, upon execution of the Agreement, Company shall install telemetry equipment of standard make and manufacture to determine hourly and daily flow of gas at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

( ) Option 4: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.10/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

require pressure instrumentation. The customer will not be subject to meter reading fees.

3.6.2. If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunications lines. Should customer fail to maintain or repair telecommunications lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.

If customer chooses wireless telemetry, then customer shall pay Company $10 per month per meter for wireless telemetry service for the entire period such meter(s) is(are) served under this or any other transportation rate schedule.

3.7. RIDERS

3.7.1 In addition to the Gas Supply Rate Rider, the following riders are applicable to service under this rate schedule:

Rider Name	Description	Identification on Customer Bills
TA	Municipal Tax Adjustment	Municipal Franchise Adj
EECR	Energy Efficiency Cost Recovery Rider	EE Cost Rate

3.7.2. Service will be rendered under this rate schedule until service is discontinued to customer, the customer qualifies for service under the small commercial firm sales service rate schedule, or the schedule is superseded.

3.8. RULES AND REGULATIONS GOVERNING UTILITY SERVICE

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.11/37

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Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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3.8.1. The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

3.9. BILLING AND PAYMENT

3.9.1. Customer's bills will be based on capacity demand and the quantity of MMBtu's delivered to customer at the delivery point. Such bills shall be rendered promptly after the close of each billing period and shall be paid within fourteen (14) days after the date the bill is mailed or made available electronically. Company shall have the right to bill customer each month hereunder on the basis of nominated quantities or estimated quantities, provided that adjustments shall be made to such quantities in subsequent months' billings based on actual quantities delivered. Amounts past due hereunder shall bear interest from the due date until paid at the maximum lawful rate. The Company shall not discontinue service to customer for violation of its rates and policies nor for non-payment of bills, without first having diligently tried to induce the customer to comply with its rates and policies, or to pay amounts due the Company. Company may suspend service to customer after written notice shall have been given to the customer by the Company in the manner provided for in the Commission's Rules. Company may require as a condition of recommencement or continuation of service the maximum refundable deposit or bond allowed by the Commission to secure payment of bills. Interest at such rates as are required by the Commission shall be paid on any such deposit amount.

3.10. DEFINITIONS

3.10.1. The following terms when used herein shall be construed to have the following meaning, except where the context of their use clearly indicates another meaning:

3.10.2. The term "Large Volume Commercial Customer Agreement" (Agreement) shall mean a written and fully executed agreement between Company and

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TEXARKANA, TEXAS SERVICE AREA

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Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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customer which provides for service under the applicable supply option of this rate schedule.

3.10.3. The term "customer" shall mean the party so identified in the Agreement, or its designee.

3.10.4. The term "day" or "daily" shall mean a period of twenty-four (24) consecutive hours, beginning and ending as near as practicable to 9:00 a.m., Central Standard Time, at the point at which delivery of gas is made.

3.10.5. The term “month,” “Service Month,” or “monthly” shall mean the period beginning at or as near as practicable to 9:00 a.m., Central Standard Time, on the first day of the calendar month and ending as near as practicable to 9:00 a.m. on the first day of the next succeeding calendar month.

3.10.6. The term "year" or "service year" shall mean a period of three hundred sixty-five (365) consecutive days beginning on the date specified in the Agreement for the commencement of the term of service or any anniversary thereof; provided, however, that any year which contains a date of February 29, shall consist of three hundred sixty-six (366) consecutive days.

3.10.7. The term "cubic foot" shall mean the volume of gas which occupies one (1) cubic foot when said gas is at a temperature of sixty degrees (60 degrees) Fahrenheit, and at a pressure of 14.73 pounds per square inch absolute.

3.10.8. The term "Mcf" shall mean one thousand (1,000) cubic feet of gas.

3.10.9. The term "Btu" shall mean British Thermal Unit.

3.10.10. The term "MMBtu" shall mean one million (1,000,000) Btu's.

3.10.11. The term "gas supply" as it relates to purchased gas costs shall mean the charge for the product known as natural gas, and does not include any

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Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

charges associated with delivery of the product by Company or any supplier pipeline of the Company.

3.10.12. The term "balancing" shall mean the service provided by Company when quantities of gas received by Company at the Point(s) of Receipt differ at any time from the quantities of gas delivered by Company at the Point(s) of Delivery under the Agreement.

3.10.13. 3.10.13.The term "Point(s) of Receipt" shall mean the point or points specified in the Agreement where Company agrees to receive gas for transportation for the account of customer.

3.10.14.The term "Point(s) of Delivery" shall mean the point or points specified in the Agreement where Company agrees to deliver gas transported for the account of customer.

3.10.15.The term "imbalance" shall mean the difference in the MMBtu's of natural gas which customer takes at the Point(s) of Delivery and the MMBtu's which customer provides for transportation at the Point(s) of Receipt.

3.10.16.The term “Average Daily Volume” shall be calculated by dividing the annual volume by 365.

3.10.17.The term “Maximum Hourly Quantity” or “MHQ” shall mean the maximum MMBtu Company is obligated to deliver or receive for customer’s account in any single hour. Company shall not be obligated to agree to a maximum hourly quantity greater than 1/15 of, MDWQ or Average Daily Volume.

3.10.18.The term “Initial CD” shall mean the higher of the Average Daily Volume or the Maximum Daily Winter Quantity “MDWQ.” The Initial CD shall be negotiated by the Company and the customer.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.14/37

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Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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3.10.19. The term "Initial Maximum Daily Winter Quantity" shall mean the Maximum Daily Winter Quantity "MDWQ" reflected on the initial Exhibit A to the Large Volume Commercial Customer Agreement.

3.10.20. The term "Replacement CD" shall mean a daily volume higher than the Initial CD, that is substituted and used as a CD pursuant to Part 3.3.2.

3.10.21. The term "Replacement Maximum Daily Winter Quantity" shall mean the Maximum Daily Winter Quantity "MDWQ" reflected on the revised Exhibit A to the Large Volume Commercial Customer Agreement.

3.10.22. The term "*Inside FERC* Enable-East First-of-the-Month Index," or "Enable Index," shall mean the price published in Platt's *Inside FERC*'s *Gas Market Report* under the heading "Prices of Spot Gas Delivered to Pipelines" for "Enable Gas Transmission, LLC." "East" under the subheading "Index" for the applicable Month of gas delivery. For any month in which Platt's *Inside FERC Gas Market Report* fails to report an Enable Index, Company shall substitute the price published in Platt's *Inside FERC Gas Market Report* under the heading "Market Center Spot Gas Prices" for "Henry Hub" under the subheading "Index" for the applicable Month of gas delivery (the "Henry Hub Index"), adjusted to reflect a historical variance between the Enable Index and the Henry Hub Index. The variance shall be the average of the difference between the Henry Hub Index and the Enable Index for the two most recent months in which both indices were published by Platt's *Inside FERC's Gas Market Report*. "

3.11. GOVERNMENTAL REGULATIONS

3.11.1. Service hereunder shall be subject to all relevant present and future local, state and federal laws and all rules, regulations and orders of regulatory authorities having jurisdiction over any of the parties, as applicable, and the obligations of all parties hereunder are subject to obtaining whatever regulatory approvals and authorizations are necessary for the lawful

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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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implementation of the Agreement, on continuing conditions satisfactory to the party affected. Customer shall cooperate with the Company by providing promptly all information and in making whatever reports or filings are necessary in regard to service rendered under this rate schedule. Neither party shall be held in default for failure to perform hereunder if such failure is due to good faith compliance with the requirements of any such laws, orders, rules and regulations. Should any governmental body having jurisdiction impose on the Company or the services provided hereunder or otherwise require service hereunder on terms and conditions that are unacceptable to Company, in its sole discretion, then Company may terminate service hereunder at any time thereafter upon notice to customer. Customer shall also reimburse Company, or cause Company to be reimbursed, for any fees, taxes (other than income and property taxes) or other charges levied or paid by Company to any governmental authorities in connection with or attributable to the services provided hereunder.

3.12. MEASUREMENT

3.12.1. Except as may be otherwise provided elsewhere herein or required by law, the measurement and testing of gas received and delivered hereunder shall be done by Company, or its designee, as measuring party in accordance with the following:

3.12.2. The gas received by Company hereunder shall be measured as follows:

3.12.2.A. The unit of volume shall be 1,000 cubic feet of gas (Mcf) at a temperature base of 60 degrees Fahrenheit and at a pressure base of 14.73 pounds per square inch absolute. Whenever the actual conditions of pressure and temperature of the particular gas stream being measured differ from the above standard, conversion of the volume from such actual conditions to the above standard conditions shall be made in accordance with the Ideal Gas Laws corrected for super-compressibility in

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TEXARKANA, TEXAS SERVICE AREA

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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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accordance with the method customarily used by the measuring party.

3.12.2.B. Measurements of gas shall always be in accordance with requirements of law, and if the procedures, bases, or standards herein contemplated to be used in the determination of gas volumes are changed by law or regulatory action, the applicable rates shall be appropriately modified and adjusted to the extent necessary to the end that calculations to determine sums of money due hereunder after the change will reach the same end result in dollars and cents as would have been reached in the absence of such change.

3.12.2.C. The temperature of the gas at each point of receipt shall be (i) determined by a recording thermometer, (ii) determined by taking the average of the daily readings of an indicating thermometer, or (iii) assumed by mutual agreement to be 60 degrees Fahrenheit, provided that, if a recording thermometer is not being used, customer shall have the right, by reimbursing the cost of the equipment and its installation, to require the use of a recording thermometer. The Btu content of the gas per cubic foot shall be determined on a dry basis in accordance with good engineering practice in a manner reasonably calculated to result in a fair and accurate determination.

3.12.2.D. The specific gravity of the gas shall be determined in accordance with good engineering practice as often as found necessary in operation.

3.12.2.E. Standard type measuring and testing equipment necessary to measure and determine quantities hereunder shall be installed, operated and maintained in a workmanlike manner. Readings, calibrations, tests, repairs and adjustments of said equipment,

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Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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and changing of charts, shall be done only by employees or agents of measuring party and in accordance with good engineering practice as often as found necessary in operation. Orifice meters, if used, shall be installed and operated, and volumes computed, in accordance with the latest version of the American Gas Association Gas Measurement Committee Report and Appendices thereto, and such amendments thereof as measuring party may place in use on its system for transactions of this type. Customer shall have access to the measuring and testing equipment at reasonable times, and shall have the right to have a representative present at tests, calibrations and adjustments thereof. Upon request by customer for a special test of any meter or auxiliary equipment, the accuracy of same shall be verified promptly, provided that the cost of such special test shall be borne by customer unless the percentage of inaccuracy is found to be more than two percent (2%), then previous readings shall be corrected to zero error for the period of time during which the equipment was known to be inaccurate, or if not known then to the shorter of six (6) months or the last date that the meter was tested; if said total inaccuracy is not more than two percent (2%), then previous reading shall be considered correct but the equipment shall be adjusted to read correctly. Measuring party shall not be required to verify the accuracy of such equipment more than once in any 90-day period, unless customer has a specific and verifiable reason to believe that the equipment is inaccurate by more than 2%.

3.12.2.F. If any meter or auxiliary equipment is out of service or out for repair for a period of time so that the quantity of gas delivered cannot be ascertained or computed from the reading thereof, then the quantity delivered during such period shall be estimated

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Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

upon the basis of the best data available, using the first of the following methods which is feasible: (i) by correcting the error if the percentage of error is ascertainable by calibration, test, or mathematical calculations; (ii) by using the registration of any check equipment installed and accurately registering, or (iii) by estimating the volume on the basis of deliveries during preceding periods under similar conditions when the equipment was registering accurately.

3.12.2.G. Upon request, measurement charts and records shall be submitted to customer for examination, the same to be returned within twenty (20) days. The measurement charts and records for a given accounting month shall be conclusively presumed correct if no written objection thereto is served on Company within the 12-month period following the given accounting month. All test data, meter charts and similar records shall be preserved for a period of at least one (1) year.

3.12.2.H. The formal measurement and testing of gas hereunder shall only be by the equipment operated by measuring party, but customer may install, operate and maintain, at customer's own cost, risk and expense and in the same manner as is required for the primary equipment hereunder, check measuring and testing equipment of standard type, provided that the same does not interfere with the operation of the primary equipment. Company shall have the same rights with respect to check equipment as customer has with respect to the primary equipment.

3.12.2.I. If Company causes any or all of the foregoing measurements and testing procedures to be done by a third-party designee, then in such event:

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Original Sheet No. 1-3.19/37

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3.12.2.I(1) Customer's rights hereunder with respect to the third-party's equipment and procedures will be subject to reasonable arrangements by Company with such third party; and

3.12.2.I(2) If the third party's usual and customary procedures differ in particular respects from the detailed procedures set out above, then the third-party's procedures, and measured quantities resulting therefrom shall be acceptable and used hereunder so long as they are consistent with good engineering practice in the industry.

3.12.2.J. The gas delivered by Company to customer after transportation shall be measured in the same manner as are volumes sold by Company to customers of similar size as customer under Company's sales rate schedules.

3.12.2.K. Volume measured in Mcf will be subject to thermal adjustment and billed in MMBtu as measured on a dry basis. Delivered volumes will be adjusted by the appropriate thermal content factor obtained from the nearest available chromatograph or sampling location. The formula for conversion from Mcf to MMBtu is as follows: Mcf x thermal content factor = MMBtu.

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TEXARKANA, TEXAS SERVICE AREA

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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

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3.13. FORCE MAJEURE

3.13.1. Neither customer nor Company shall be liable to the other for failure to perform their respective obligations under the Agreement (other than to make any and all payments thereunder) due to acts or conditions beyond the reasonable control of the parties affected. The obligations of the affected party to perform shall be suspended so long as and to the extent that performance is prevented by the occurrence of such acts or conditions. Such acts or conditions shall be deemed to include, but not be limited to, fire, labor disputes, acts of God, the elements, wars, epidemics, riots, civil disturbances, explosions, breakdown of equipment, test and repairs of pipeline facilities, freezing of wells or pipelines, requirements of local, state or federal authorities, failure of any intermediate transporters relied upon by Company to transport the gas for any reason, failure of appropriate regulatory approvals or lack of sufficient capacity, the inability of Company to obtain or maintain such regulatory authorizations as may be necessary for the lawful performance of the service contemplated hereby on continuing conditions satisfactory to Company, the curtailment of service by Company in accordance with Company's curtailment plan as effective from time to time, failure of gas supply and any other cause, similar or dissimilar, not within the reasonable control of the party claiming relief. The party affected shall notify the other promptly and shall remedy the cause of suspension with reasonable diligence, retaining to such party unqualified discretion in settling labor disputes.

3.14. OPERATING INFORMATION AND FORECASTS

3.14.1. Customer, upon request, shall furnish or cause to be furnished to Company from time to time such reasonable data as in Company's judgment is necessary for the proper analysis of the daily and annual gas load requirements of customer for this service. Customer at all times shall keep Company informed of anticipated significant changes in the size and character of such load requirements.

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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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3.15. USE

3.15.1. All gas delivered to customer under the Agreement shall be for customer's own use and shall not be resold.

3.16. NON-SYSTEM SUPPLY: TERMS AND CONDITIONS

3.16.1. Customer transactions operating under the SSO described in Part 3.1.3. of this rate schedule shall be governed by Company's other generally applicable rates and policies. The operating terms and conditions of service provided hereinafter, in addition to the Company's other generally applicable rates and policies not consistent therewith, shall apply to customer transactions under the TSO of this rate schedule.

3.17. NOTICES

3.17.1. Notices, requests, demands, statements, or bills provided for under this rate schedule and the Agreement (other than those related to nomination, scheduling and other operational issues having immediate operational consequence and requiring shorter notice that either Company or customer may desire to give the other, as provided for under Part 3.32.1.) shall be in writing and if delivered shall be considered as duly delivered when mailed by registered or certified mail to the post office address of Company or customer as indicated in the Agreement, or at such other address as either shall designate by formal written notice to the other. Routine, non-operational communications, including monthly statements and payments if received, shall be considered as duly delivered when mailed by either registered, certified or ordinary mail or when provided electronically.

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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

3.18. RECEIPT OF GAS FOR TRANSPORT

3.18.1. The customer must tender the gas for transportation hereunder at a mutually agreeable point or points as specified in the Agreement at whatever pressure is necessary to effect deliveries of the gas against the fluctuating working pressures maintained in Company's system at that point from time to time. Company will not be obligated to accept any gas into such system for transportation that does not meet the quality specifications required to be met by Company's suppliers when delivering gas to Company for sales to Company's customers.

3.18.2. Company will be responsible for installing and operating the necessary tap and measurement facilities at each point of receipt to receive and measure the gas delivered for transportation hereunder. If Company agrees to provide new or additional facilities to perform the services requested by customer, upon Company's request, customer shall reimburse Company, or cause Company to be reimbursed, for all costs of construction, installation and/or acquisition of such facilities.

3.19. DELIVERY OF GAS BY COMPANY AFTER TRANSPORTATION

3.19.1. Except as may be otherwise specified elsewhere herein, the gas shall be tendered for delivery after transportation at the working pressures maintained from time to time by the delivering party at the designated point of delivery as specified in the Agreement from time to time. It is recognized that the gas delivered to customer after transportation will not be the same gas that Company received for transportation, but that the gas delivered after transportation will meet the quality specifications applicable to gas that Company sells on its system from its general system supply. Company will use its best efforts consistent with the prudent operation of its system to deliver gas meeting such specifications but shall not be liable in damages for failure to do so. If the gas tendered by Company fails at any time to conform to any of said specifications, then customer shall notify Company

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Kind of Service: Natural Gas Class of Service: Large Commercial

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of such deficiency and thereupon may, at customer's option, refuse to accept delivery pending correction by Company.

3.19.2. The point where responsibility for the gas shall pass to customer after transportation shall be at the outlet of the delivery facilities at the designated point of delivery. Customer shall provide reasonable access to the premises at the point of delivery for any purpose connected with this service.

3.19.3. Company shall install, operate and maintain whatever facilities are necessary to deliver the gas at the point or points of delivery hereunder and shall indemnify customer and hold it harmless from and against any and all claims, actions, suits, damages, liabilities, penalties, costs and expenses arising out of use, possession or presence of the gas before it passes the point of delivery. If Company agrees to provide new or additional facilities to perform services requested by customer, upon Company's request, customer shall reimburse Company, or cause Company to be reimbursed, for all costs of construction, installation and/or acquisition of such facilities.

3.19.4. Customer shall install, operate and maintain at its own expense whatever facilities are necessary to safely receive and utilize the gas at and beyond the point of delivery hereunder, and shall indemnify Company and hold it harmless from and against any and all claims, actions, suits, damages, liabilities, penalties, costs and expenses arising out of the use, possession, or presence of the gas at and after it passes the point of delivery.

3.19.5. If the services of one or more other transporters are necessary for Company to provide the service herein contemplated, Company's obligations hereunder shall be subject to the availability of such services by others on continuing terms and conditions acceptable to Company, and in such event, customer agrees that Company may act as agent for customer in arranging for such services, including execution of the necessary agreements therefore and administering same, and arranging and confirming capacity release transactions necessary to facilitate the transaction, provided that, unless

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.24/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

otherwise provided elsewhere, any costs and/or charges or penalties associated with such services by a third party to the point of delivery hereunder shall be borne by customer.

3.20. SCHEDULING AND NOMINATIONS

3.20.1. Nominations for gas flow shall be submitted by customer to Company no later than 10:00 a.m. Central Standard Time the day prior to gas flow; provided however, if a change in the nomination level is desired on a weekend or Company holiday, then nominations shall be submitted by customer to Company no later than 10:00 a.m. Central Standard Time the last business day immediately prior to such weekend or holiday. Nominations shall be submitted via the Company's internet based nomination system. Company and customer may agree on other means of submitting nominations from time to time. Nomination quantities shall be expressed in MMBtu. Company shall not be required to confirm a nomination that is: (A) inconsistent with the recently observed deliveries and projected deliveries for the Service Month; or (B) higher than the MDWQ or MDSQ in the applicable season; or (C) not confirmed by the upstream pipeline. For these purposes, the projected deliveries for the Service Month shall be equal to the arithmetic average of the number of observed deliveries within the Service Month to date multiplied by the number of days in the Service Month. Once a nomination is made and confirmed by the Company, that nomination will remain in effect through the end of the month or until changed by the customer. Company shall confirm nominated volume to Pipeline.

3.20.2. Company will require customer to comply with the scheduling and nominating procedures as set forth in customer's upstream pipeline supplier's transportation tariffs as on file with and approved by the Federal Energy Regulatory Commission. Customer shall be liable for and shall compensate Company for any costs imposed upon Company as a result of customer's scheduling and nomination deviations or non-compliance.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.25/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

3.21. BALANCING

3.21.1. General Intent: These balancing provisions are in recognition of the fact that Company's upstream transportation, storage and no-notice service capacity is reserved for the exclusive use by Company for transactions related to its system supply.

3.21.1.A. SSO transactions are allocated costs associated with the Company's upstream transportation, storage and no-notice service capacity. Therefore, SSO transactions have defined relative rights to those upstream services.

3.21.1.B. TSO transactions are not allocated any costs associated with the Company's upstream transportation, storage and no-notice services or associated capacity. Therefore, TSO transactions carry no explicit or implicit right to make use of the Company's upstream services or associated capacity.

3.21.2. [Reserved.]

3.21.3. [Reserved.]

3.21.4. Company shall make available electronically daily imbalance information which shall notify customer of any imbalance under an Agreement in the current Service Month, based on the best information then available to Company, including, but not limited to data such as nominations, allocations, electronic measurement data, and meter observations. The provision of such information shall not relieve customer of its obligations under this tariff to avoid, correct or eliminate actual imbalances.

3.21.5. Customers shall make a good faith effort to: (i) conform their takes each day at delivery points with their deliveries to Company at receipt points on the same day and thereby minimize imbalances; and (ii) to correct any such imbalances as soon as practical. Company shall monitor the accumulation of daily imbalances by customer and shall have the right to

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.26/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

take corrective action pursuant to this tariff, as required, to eliminate customer encroachment upon upstream transportation, storage, or no-notice service capacity held by Company for general system supply.

3.21.5.A. A Critical Period Event may be called for operational purposes relating to a physical event causing or threatening a system failure and/or existence of an Operational Flow Order ("OFO") on the upstream pipeline. Additionally, the Company's declaration of a Critical Period Event will be location-specific, when possible, and the Company is not required to apply the Critical Period Event where corrective action would not be curative of the critical situation. A Critical Period Event declared for economic purposes shall be applicable only to customers with an annual average customer delivery of 100 MMBtu or less. Critical Period Events declared for economic purposes may be declared only on days when the *Gas Daily* price differs by more than $.50 per MMBtu from the *Inside FERC* Enable-East First-of-the-Month Index. The Company shall notify affected customers verbally of the critical situation and customers shall have a minimum of twenty-four (24) hours to bring receipts and deliveries into balance, or other longer time periods as deemed applicable by the Company. If, after the specified notice period indicated in Company's notice to customer of critical situation, customer has not balanced receipts and deliveries, Company shall have the right to balance deliveries and receipts. Company shall not be obligated to redeliver a greater volume of gas to the point of delivery than it received at the point of receipt for customer's account, as indicated by the upstream delivering pipeline, until such time as Company determines that the critical situation no longer exists. An imbalance that occurs during such critical situation, after the

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.27/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

expiration of the notice period, may not be carried forward for clearing during the month, but instead may, at the Company's option, be cashed out based on the "Critical Period Price."

(i) The Critical Period Price shall be the applicable regional posting for the upstream pipeline expressed in ($/MMBtu) for the day of delivery as found in the publication *Gas Daily* under the heading "Daily Price Survey" and under the subheading "Midpoint." If *Gas Daily* fails to publish this information for the upstream pipeline for the day of delivery, then the Critical Period Price shall be based upon the same information published by *Gas Daily* in regard to Henry Hub for the day of delivery, adjusted to reflect the variance between the most recently published monthly indices for the applicable upstream pipeline and Henry Hub.

(ii) If, on any day during a critical situation, after the expiration of the notice period, customer delivers to Company volumes of gas that are greater than customer's gas requirements at the point of delivery then Company can purchase such over-delivered volumes at the point of delivery from customer at the following rates per MMBtu. The first 6% of over-delivered volumes will be cashed out at the Critical Period Price. Amounts greater than 6% will be cashed out at a rate equal to 50% of the Critical Period Price.

(iii) If, on any day during a critical situation, after the expiration of the notice period, customer delivers to

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.28/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

Company volumes of gas that are less than customer's gas requirements at the point of delivery, then Company may require customer to purchase such deficiency at the point of delivery from Company at the following rates per MMBtu. The first 6% of under-delivered volumes will be cashed out at the Critical Period Price. Amounts greater than 6% will be cashed out at a rate equal to 150% of the Critical Period Price for the day in which the deficiency occurred.

(iv) Any Critical Period imbalance incurred of 10 MMBtu or less shall not be subject to Critical Period cash-out pricing. Such imbalances will be deferred until the end of the month, and will be cashed out in accordance with the terms of Part 3.21.8.

(v) Company shall make a reasonable effort to provide 24 hours' notice of the issuance of a CPE. Upon issuance of notice of a CPE, Company will allow shipper to submit revised nominations to the extent permitted by the upstream pipeline declaring an OFO, in an attempt to minimize imbalance activity on the Company's system. During any CPE, Company shall remain obligated to deliver all natural gas supplies that it receives on behalf of each individual shipper.

3.21.5.B. For any multi-day period measured from the beginning of the first day of the Month where a cumulative imbalance is equal to or greater than 6% of the projected deliveries for the Service Month, Company may at its option, eliminate, through an intra-month cash-out action, all or part of said cumulative imbalance.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.29/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

For these purposes, the projected deliveries for the Service Month shall be equal to the arithmetic average of the number of observed deliveries within the Service Month to date multiplied by the number days in the Service Month. The "cash-out" price applicable to such intra-month cash-out transactions for cash out quantities that are 3% or less of deliveries shall be equal to 75% of the Critical Period Price for cash-out purchases by Company from customer and 125% of Critical Period Price for cash-out purchases required of customer from Company. The "cash-out" price applicable to such intra-month cash-out transactions for cash out quantities that are in excess of 3% of deliveries shall be equal to 50% of the Critical Period Price for cash-out purchases by Company from customer and 150% of Critical Period Price for cash-out purchases required of customer from Company. The Company shall give a two-day warning before penalties are imposed.

3.21.6. Company shall not be obligated under any circumstances: (i) to deliver more gas to customer during any given day or month than it shall have received for the account of customer during said period; or (ii) to receive or deliver during any given Day a total quantity of gas in excess of the MDWQ.

3.21.7. Customer will be responsible for its allocable share of any incremental costs associated with Company's upstream transportation, storage, or no-notice services attributable to nomination and scheduling activities of customer, including but not limited to incremental overrun charges, commodity charges, daily demand charges, and penalties. The responsibility provided for herein shall not relieve customer of its obligations under this rate schedule or the tariffs of Company's upstream service providers to avoid, correct or eliminate nomination or scheduling errors.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.30/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

3.21.8. At the end of each Service Month, remaining customer Imbalances to the extent the receipts do not equal deliveries under customer's Agreement shall be cashed out. To the extent customer owes natural gas volumes to Company (deliveries exceeded receipts) customer will purchase said volumes at the applicable cash-out price described below. To the extent Company owes natural gas volumes to customer (receipts exceeded deliveries), Company will purchase said volumes at the applicable cash-out price described below.

	Overage	Underage
Imbalance Level	The Company Pays Customer	Customer Pays the Company
From 0% to 5%	100%	100%
From 5% to 10%	80%	120%
From 10% to 15%	70%	130%
From 15% to 20%	60%	140%
Greater than 20%	50%	150%

Overages in all tiers will be priced, using the applicable percentage, at the lesser of: *Inside FERC* Enable-East First-of-the-Month Index or the Company's Commodity Cost component. Underages in all tiers will be priced, using the applicable percentage, at the greater of: *Inside FERC* Enable-East First-of-the-Month Index or the Company's Commodity Cost component under the Gas Supply Rate Rider.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.31/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

3.21.9. The imbalances incurred due to customers' reliance on imbalance data that differ materially from subsequently corrected data will be assumed to fall into the 0% to 5% range for the determination of the applicable cash-out price.

3.22. PREDETERMINED ALLOCATION

3.22.1. Should customer elect service under this rate schedule under more than one of the two supply options, such that gas delivered by Company at any single delivery point will involve supply under more than one of the two options, Company and customer shall enter into a Predetermined Allocation Agreement ("PDA") in the form appended to this rate schedule. This PDA will establish the allocation of deliveries, which can be relied upon by either party in the conduct and performance under the Agreement. The method of allocation can be: (i) ranked (order through the meter); (ii) pro rata; (iii) fixed percentage; (iv) swing; or (v) any other method to which both Company and customer agree. Each PDA shall be effective for at least one Service Month and shall remain in effect until superseded by a new PDA.

3.23. POOLING SERVICE

3.23.1 The Company shall make Pooling Service available to any party (hereinafter referred to as Pool Manager) that requests Pooling Service from Company when:

(a) Company has received, reviewed and accepted a credit application from Pool Manager, and Pool Manager has been deemed creditworthy.

(b) Company and Pool Manager have executed a Pooling Service Agreement in the form acceptable to Company.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.32/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

(c) Pool Manager has submitted formal documentation of agency for customers subject to aggregation under this service.

(d) Pool Manager complies with all applicable provisions of this rate schedule.

Pooling service shall be available subject to capacity constraints and operational conditions. Company reserves the right to require the Pool Manager to deliver supply adequate to meet the requirements of the customers served by the Pool Manager.

3.23.2. Pooling shall consist of the aggregation of the Receipt Point(s) available to customers subject to the Pooling Service Agreement and deliveries made at Delivery Point(s) delivered subject to the Pooling Service Agreement. The Pool Manager, having documented agency authority, shall submit nominations and allocation information for all customers subject to the Pooling Service Agreement, to Company, in accordance with Part 3.20.

Company shall not have any liability to a Pool Manager or customer as a result of Company's reliance on the performance of Pool Manager.

3.23.3. Pooling Managers shall make Pooling Service available for all customers for which Pooling Manager provides supply services on the Company's system.

3.23.4. Imbalances in a Pool will be calculated by determining the difference between total aggregated receipts into the Pool and the total deliveries allocated out of the Pool to end users. Imbalance tolerances outlined in Part 3.21.5.A., 3.21.5.B. and 3.21.8. shall apply to the aggregated imbalance total, unless and until Pooling rights are interrupted for a specified period.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.33/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

3.23.5. Imbalances incurred subject to Parts 3.21.5.A., 3.21.5.B. and 3.21.8. will be billed as specified in the Pooling Service Agreement. In the event that the Pool Manager fails to pay invoices, customer will remain liable for payment of all charges, as acknowledged in the Pooling Service Agreement.

Should Pool Manager fail to pay invoices calculated at the aggregated level, upon default to the individual customer invoice, the invoice shall be recalculated at the individual customer level, without benefit of the aggregated tolerance.

3.23.6. Pooling Service Agreements and Agency Agreements, and changes thereto, shall become effective on the first day of the month provided that the Company receives such Agreements, or changes thereto, at least five (5) business days before the first day of the month.

3.24. WARRANTY OF TITLE

3.24.1. Customer shall have title to and shall warrant its title to all gas delivered to Company under the TSO of this rate schedule, and such gas shall be delivered to Company free and clear of all liens, claims and encumbrances. Customer shall indemnify Company against all suits, actions, debts, accounts and damages arising out of any adverse claims to, against or in respect of such gas. Customer shall also indemnify Company and hold it harmless from and against any and all claims, actions, suits, costs, liabilities and expenses caused by or arising out of possession or presence of such gas before it is delivered into Company's facilities. Customers entering into Agreements as specified in Part 3.1.1. shall have the right to deliver volume for redelivery, available exclusively for customers' own use. Such delivery rights shall not be resold to or shared with third parties.

3.25. ASSIGNMENT

3.25.1. Customer shall not assign the Agreement in whole or in part, nor shall customer agree to provide services to others by use of any capacity

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.34/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

contracted for under the Agreement, without Company's prior written consent. In addition to all other rights and remedies, Company may terminate the Agreement immediately if it is assigned by customer or if customer subcontracts its transportation capacity to others without such prior consent, whether the assignment be voluntary or by operation of law or otherwise. Subject to the above, the respective rights and obligations of the parties under the Agreement shall extend to and be binding upon their heirs, successors, assigns and legal representatives.

3.26. TRANSPORTATION REGULATIONS

3.26.1. With regard to all aspects of the transportation service, it is recognized that Company operates a local distribution system, and, accordingly, all provisions hereof having to do with transportation of gas and the charge therefore, including Company's obligation to transport gas at all, are subject and subordinate to the provisions of any certificates and rate schedules issued by or filed with the Commission or successor authority, as well as any and all local, state and federal laws, orders, rules and regulations, to the extent applicable to the transportation of gas by Company, as contemplated hereby. To the extent that any local, state or federal authorization and/or approval is required to provide such transportation service, Company will proceed with due diligence to seek to obtain same as and when necessary in such manner as Company considers to be appropriate, provided that due diligence will not obligate Company to accept conditions or rates otherwise unacceptable to Company.

3.27. UNACCEPTABLE QUANTITIES

3.27.1. Company shall have the right to refuse at any time, and from time to time, to receive at any receipt point or to deliver at any delivery point a quantity of gas that Company determines, in its reasonable judgment, to be unduly burdensome from an operating or administrative standpoint.

3.28. LIMITATION OF LIABILITY

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.35/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

3.28.1. In no event shall Company be liable (in contract or in tort, including actions based on claims of negligence) to customer or any other claimant for special, indirect, incidental, or consequential damages, including, but not limited to, lost profits and any part of the expense incurred in securing alternative services which exceeds the amount customer would have paid hereunder, resulting from Company's performance, nonperformance or delay in performing its obligations hereunder.

3.29. FACILITIES POLICY

3.29.1. Section VII of the Standard Service Rules and Regulations shall govern when gas is connected to a new facility.

3.30. SALES SERVICE

3.30.1. Company shall only be obligated to provide sales service to customer if and to the extent it is purchased and contracted for by customer pursuant to one of Company's filed rate schedules. In those circumstances in which customer elects to purchase sales service offered by Company during periods of full or partial interruption of transportation service by customer's upstream pipeline transporter, customer shall pay Company the total applicable cost of providing such emergency sales service.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.36/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

3.31. OPERATIONAL NOTICES AND COMMUNICATIONS

3.31.1. Company shall make available scheduling personnel on a twenty-four (24) hour basis. Customer shall provide, and update as necessary, the name, address, and telephone number of an operational contact person or persons who will be available on a twenty-four (24) hour basis to receive or provide communications involving receipts, deliveries, curtailment and for any other purposes relating to customer's service under this rate schedule. Company shall be entitled to rely on such contact person's actions and communications for all purposes and shall have no liability for doing so, and if customer fails to designate such person or such person is unavailable to Company at any time, customer may be liable and shall indemnify and hold Company harmless from and against losses, damages and other expenses which Company or any other person may suffer or for which Company may be liable which are attributable to such failure or unavailability.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3.37/37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: (to be determined)

3.32. APPENDICES

3.32.1. The following appendices shall apply to both large commercial and small commercial customers under the TSO. For small commercial customers, references to the "LCS" rate schedule shall be changed to the SCS rate schedule where appropriate.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.1/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

LARGE VOLUME COMMERCIAL CUSTOMER AGREEMENT

(System Supply Option)

THIS AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 20____, by and between

Summit Utilities Arkansas, Inc.

hereinafter referred to as "Company," and

_____,
a _____ corporation,

hereinafter referred to as "Customer,"

WITNESSETH THAT:

WHEREAS, Company is a local distribution company; and

WHEREAS, Customer owns or operates a facility and has requested natural gas service under Company's Rate Schedule No. 3, Large Commercial Firm Service (hereinafter referred to as "LCS-1");

NOW THEREFORE, Company agrees to provide the services to Customer as hereinafter set forth and Customer agrees to pay for such services and comply with the provisions hereof, on the following terms and conditions:

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.2/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

ARTICLE I
SUPPLY OPTION

Section 1.1 – Customer has selected the System Supply Option ("SSO") under LCS-1 pursuant to which Customer will be delivered natural gas supply designated as general system supply of Company for the term of this Agreement.

ARTICLE II
TERM

Section 2.1 – This Agreement shall remain in force for a primary term beginning _____ and ending _____, and from year to year thereafter unless terminated by either party by a minimum of sixty (60) days' written notice prior to the end of the primary or any succeeding term.

ARTICLE III
POINT OF DELIVERY

Section 3.1 – Company shall deliver gas to Customer at the outlet of Company's facilities at the Point(s) of Delivery designated on Exhibit "A" hereto.

ARTICLE IV
QUANTITIES

Section 4.1 – As used herein, the following terms shall have the following meanings:

Maximum Daily Winter Quantity ("MDWQ") shall mean the total maximum MMBtu which Company shall be obligated to deliver on a firm basis on any given day on behalf of Customer during the period November through March of each year.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.3/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

Maximum Hourly Quantity ("MHQ") shall mean the maximum MMBtu Company is obligated to deliver or receive in any single hour.

Average Daily Volume shall be calculated by dividing the annual volume by 365.

Section 4.2 – The Maximum Daily Winter Quantity ("MDWQ"), the Maximum Hourly Quantity ("MHQ") and the Average Daily Volume applicable to services rendered under this Agreement are set forth on Exhibit "A" hereto.

Section 4.3 – The MDWQ and Average Daily Volume may be adjusted pursuant to the provisions of Part 3.2.4. of LCS-1.

ARTICLE V
RATES

Section 5.1 – Customer shall pay to Company each month for all services rendered hereunder the charges, fees, surcharges, taxes, penalties, balancing charges, adjustments and assessments provided for in LCS-1 and associated riders, as on file and in effect from time to time.

Section 5.2 - The capacity demand ("CD") shall be the billing determinant for distribution demand charges and gas supply demand charges. Each individually metered point of delivery shall have a CD equal to the higher of (i) the MDWQ, subject to the maximum quantities provision in LCS-1; (ii) the Average Daily Volume.

ARTICLE VI
MISCELLANEOUS

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.4/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

Section 6.1 – Customer represents that it qualifies for service under LCS-1.

Section 6.2 – Customer agrees to certify, document and update in writing annually prior to October 1 its human needs requirements and other requirements necessary for the preservation of life, health or physical property, and any material change to the level of said requirements.

Section 6.3 – Customer agrees that Company shall have the right at any time and from time to time to file and place into effect unilateral changes or modifications in the rates and charges, and other terms and conditions of service hereunder, in accordance with applicable law. Company agrees that Customer may protest or contest any such charges or modifications.

Section 6.4 – Service hereunder shall be in accordance with and subject to, and both parties agree to be bound by, all applicable terms and conditions set forth in LCS-1, as in effect from time to time, which terms and conditions are incorporated herein by reference.

Section 6.5 – Customer agrees that, to the extent not already satisfied, Customer shall pay Company for the installation of appropriate telemetering equipment to be installed and owned by Company under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter.

Customer will be subject to meter reading fees for an inoperable phone line for each meter.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.5/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

( ) Option 4: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.

Under any option chosen above, customer shall comply with all necessary and appropriate procedures, as required by Company, pertaining to the installation, reading, monitoring, testing, repair and maintenance of all telemetering and associated equipment.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date hereinabove first written.

COMPANY:

Summit Utilities Arkansas, Inc.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.6/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

By:_____
[Name]
[Title]

CUSTOMER:

_____

By:_____
[Name]
[Title]
[Address]

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.7/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

EXHIBIT A
TO
LARGE VOLUME COMMERCIAL CUSTOMER AGREEMENT
(SYSTEM SUPPLY OPTION)

DELIVERY POINTS

Address:_____
CA#_____

Delivery Point(s)

For the account of
Customer at Customer's
Facility located at
_____,
_____, Texas _____

QUANTITIES

Maximum Daily Winter Quantity ("MDWQ") _____ MMBtu

Maximum Hourly Quantity ("MHQ") _____MMBtu

Average Daily Volume _____MMBtu

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.8/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

LARGE VOLUME COMMERCIAL CUSTOMER AGREEMENT
(Transportation Supply Option)

THIS AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 20____, by and between

Summit Utilities Arkansas, Inc.

hereinafter referred to as "Company," and

_____,
a _____ corporation,

hereinafter referred to as "Customer,"

WITNESSETH THAT:

WHEREAS, Company is a local distribution company; and

WHEREAS, Customer owns or operates a facility and has requested natural gas service under Company's Rate Schedule No. 3, Large Commercial Firm Service (hereinafter referred to as "LCS-1" or qualified "SCS-1,SCS-2 or SCS-3");

NOW THEREFORE, Company agrees to provide the services to Customer as hereinafter set forth and Customer agrees to pay for such services and comply with the provisions hereof, on the following terms and conditions:

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.9/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

ARTICLE I
SUPPLY OPTION

Section 1.1 – Customer has selected the Transportation Supply Option ("TSO") under LCS-1 pursuant to which Customer will be delivered natural gas supply received for Customer's account at points of receipt on Company's distribution facilities for the term of this Agreement. If Customer later desires to convert to the Sales Supply Option ("SSO"), pursuant to which Customer will be delivered natural gas supply designated as general system supply of Company, Customer will be required to contract for such service between the months of February through April preceding the expiration of the primary or any succeeding term of this Agreement. Subject to this requirement, Customer will be allowed to convert to the SSO provided that the Company is able to secure firm upstream capacity and other upstream pipeline services sufficient to meet Customer's needs. Any such conversion will be effective upon the expiration of the term of this Agreement, unless the Company and the Customer agree otherwise.

Section 1.2 – If volume usage of meters at business facilities under Customer's common ownership and subject to other commercial rate schedules are aggregated for the sole purpose of qualifying for the TSO under LCS-1, then each individual account shall be treated as a separate account and shall be subject to the same rates and charges under the originating commercial rate schedule(s), in addition to any additional specific rates, charges or adjustment riders peculiar to the TSO under this rate schedule, such as, but not limited to, administrative fees.

ARTICLE II
TERM

Section 2.1 – This Agreement shall remain in force for a primary term beginning _____ and ending _____, and from year to year thereafter unless terminated by either party by a minimum of sixty (60) days' written notice prior to the end of the primary or any succeeding term.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.10/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

ARTICLE III
POINTS OF RECEIPT AND DELIVERY

Section 3.1 – Company shall receive gas from Customer at the Point(s) of Receipt designated on Exhibit "A" hereto and Company shall deliver gas to Customer at the outlet of Company's facilities at the Point(s) of Delivery designated on Exhibit "A" hereto.

ARTICLE IV
QUANTITIES

Section 4.1 - As used herein, the following terms shall have the following meanings:

Maximum Daily Winter Quantity ("MDWQ") shall mean the total maximum MMBtu which Company shall be obligated to receive or deliver on a firm basis on any given day on behalf of Customer during the period November through March of each year.

Maximum Hourly Quantity ("MHQ") shall mean the maximum MMBtu Company is obligated to receive or deliver in any single hour.

Average Daily Volume shall be calculated by dividing the annual volume by 365.

Section 4.2 – The Maximum Daily Winter Quantity ("MDWQ"), the Maximum Hourly Quantity ("MHQ") and the Average Daily Volume applicable to services rendered under this Agreement are set forth on Exhibit "A" hereto.

Section 4.3 – The MDWQ and Average Daily Volume may be adjusted pursuant to the provisions of Part 3.2.4. of LCS-1.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.11/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

Section 4.4 – Company shall not be obligated under any circumstances: (i) to deliver more gas to Customer during any given day or month than it shall have received for the account of Customer during said period; or (ii) to receive or deliver during any given Day a total quantity of gas in excess of the MDWQ or Average Daily Volume as applicable.

ARTICLE V
RATES

Section 5.1 – Customer shall pay to Company each month for all services rendered hereunder the charges, fees, surcharges, taxes, penalties, balancing charges, adjustments and assessments provided for in LCS-1 and associated riders, or SCS-1, SCS-2 or SCS-3 and associated riders if subject to the aggregation provision in Part 3.1.2., as on file and in effect from time to time.

Section 5.2 – The capacity demand ("CD") shall be the billing determinant for distribution demand charges and gas supply demand charges. Each individually metered point of delivery shall have a CD equal to the higher of (i) the MDWQ, subject to the maximum quantities provision in LCS-1; (ii) the Average Daily Volume.

ARTICLE VI
MISCELLANEOUS

Section 6.1 – Customer represents that it qualifies for service under LCS-1 or qualified SCS-1, SCS-2 or SCS-3.

Section 6.2 – Customer agrees to certify and document in writing its human needs requirements and other requirements necessary for the preservation of life, health or physical property, and any material change to the level of said requirements prior to the start of service. The Customer shall update the Company in writing when its human needs requirements change. If Customer has human needs requirements, then Customer provides the following certifications and authorizations by choosing Scenario A or B below:

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.12/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

( ) Scenario A.

- Customer certifies that the _____ facility located at _____, _____, has human needs usage requirements of _____ MMBtu per day and that Customer has purchased and will continue to maintain the corresponding level of firm upstream pipeline capacity and upstream gas supply for the entire time period of November 1st through March 31st each year.

- Customer authorizes the Company to obtain the firm pipeline capacity information directly from the applicable upstream pipeline to ensure both the requisite level of capacity and that it is firm primary delivery point capacity at the appropriate location required to serve the facility.

- Customer furthermore certifies that it will maintain such firm primary delivery point capacity for each day of the November 1st through March 31st time period. If these certified arrangements should not be accurate, however, or if Customer's upstream pipeline capacity or upstream gas supply become insufficient for any reason, Customer is authorized by the Board of Directors or equivalent governing body to fully release Summit Utilities Arkansas, Inc. from any and all claims, lawsuits, damages, costs, expenses, causes of action, and any and all liability associated with the interruption, curtailment, failure or suspension of natural gas service for any period of time. Customer further indemnifies Summit Utilities Arkansas, Inc. from any and all claims, causes of action, lawsuits, damages, costs, expenses, and similar liability that might be asserted by third parties as a result of the interruption, curtailment, failure or suspension of natural gas service for any period of time.

- In the event of any change in circumstances pertaining to Customer's upstream pipeline and upstream gas supply arrangements, Customer agrees to immediately notify the appropriate person at the Company by sending a certified letter to the Company's Gas Flow Information Center at the following address:

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.13/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

Summit Utilities Arkansas, Inc.
Gas Supply Department
115 North 12th Street
Fort Smith, Arkansas 72902-2414
E-Mail: transportationservices@summitutilities.com

( ) Scenario B.

- Customer certifies that the _____ facility located at _____, _____ has on hand a fully functioning _____ back-up energy system (Describe type of back-up system) that can replace natural gas as the energy source for all of the facility's human needs usage requirements. This back-up system is also capable of being a continuing and sustaining source of energy for all of the facility's human needs usage requirements. Accordingly, on behalf of the Board of Directors or equivalent governing body, Customer hereby certifies it does require firm pipeline capacity and natural gas supplies to meet its facility's human needs usage requirements.

- Customer recognize that if all or any portion of its natural gas supply fails to reach the appropriate Summit Utilities Arkansas, Inc. delivery point, its natural gas service may be interrupted or curtailed.

- Customer acknowledges that the Company's sole responsibility to it is to redeliver to Customer's facilities such gas supplies as Customer or its agents physically deliver to the Company's city gate, subject to the curtailment priority schedule (Standard Service Rules and Regulations, Order of Curtailment),which will not categorize our facility as a human needs customer. In acknowledgement of these facts, should all or any portion of Customer's natural gas supplies fail to reach the appropriate Company city-gate delivery point, Customer is authorized by the Board of Directors or equivalent governing body to fully release Summit Utilities

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.14/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

Arkansas, Inc. from any and all claims, lawsuits, damages, costs, expenses, causes of action, and any and all liability associated with the interruption, curtailment, failure or suspension of natural gas service for any period of time. Customer further indemnify Summit Utilities Arkansas, Inc. from any and all claims, causes of action, lawsuits, damages, costs, expenses, and similar liability that might be asserted by third parties as a result of the interruption, curtailment, failure or suspension of natural gas service for any period of time.

- In the event of any change in circumstances pertaining to our facility's energy backup system, Customer agrees to immediately notify the appropriate person at the Company by sending a certified letter to the Company's Gas Flow Information Center at the following address:

  Summit Utilities Arkansas, Inc.
  Gas Supply Department
  115 North 12th Street
  Fort Smith, Arkansas 72902-2414
  E-Mail: transportationservices@summitutilities.com

Section 6.3 - Customer agrees that Company shall have the right at any time and from time to time to file and place into effect unilateral changes or modifications in the rates and charges, and other terms and conditions of service hereunder, in accordance with applicable law. Company agrees that Customer may protest or contest any such charges or modifications.

Section 6.4 - Service hereunder shall be in accordance with and subject to, and both parties agree to be bound by, all applicable terms and conditions set forth in LCS-1, as in effect from time to time, which terms and conditions are incorporated herein by reference.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.15/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

Section 6.5 - Customer agrees that, to the extent not already satisfied, Customer shall pay Company for the installation of appropriate telemetering equipment to be installed and owned by Company under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

( ) Option 4: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.

Under any option chosen above, Customer shall comply with all necessary and appropriate procedures, as required by Company, pertaining to the installation, reading, monitoring, testing, repair and maintenance of all telemetering and associated equipment.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.16/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

Section 6.7 – This agreement shall be governed by and construed in accordance with the laws of the State of Texas. Any proceeding related to any cause of action of any nature arising in this contract may be brought only before the appropriate forum in Texas.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date hereinabove first written.

COMPANY:

Summit Utilities Arkansas, Inc.

By:_____
[Name]
[Title]

CUSTOMER:

_____

By:_____
[Name]
[Title]
[Address]

EXHIBIT A
TO
LARGE VOLUME COMMERCIAL CUSTOMER AGREEMENT
(TRANSPORTATION SUPPLY OPTION)

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.17/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

RECEIPT AND DELIVERY POINTS

Address:_____
CA#_____

Receipt Points

The gas will be received for Customer's account at the point(s) where the _____ (Upstream Pipeline) is interconnected with the distribution facilities of Summit Utilities Arkansas, Inc. at or near _____,Texas.

Delivery Point(s)
For the account of
Customer at Customer's
Facility located at
_____,
_____, Texas_____

QUANTITIES

Maximum Daily Winter Quantity ("MDWQ") _____ MMBtu

Maximum Hourly Quantity ("MHQ") _____ MMBtu

Average Daily Volume _____ MMBtu

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.18/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

PREDETERMINED ALLOCATION AGREEMENT

THIS AGREEMENT is made and entered into by Summit Utilities Arkansas, Inc. ("Company") and _____ ("Customer") effective _____.

WHEREAS, Company and Customer are parties to Large Commercial Service Agreements (the "Agreements") entered pursuant to Company's Rate Schedule No. 3, Large Commercial Firm Service (hereinafter referred to as "LCS-1"); and

WHEREAS, the Agreements select more than one of the two supply options offered under Part 3.1.3. of LCS-1; and

WHEREAS, the parties wish to enter this Predetermined Allocation Agreement.

NOW, THEREFORE, pursuant to Part 3.22. of LCS-1, Company and Customer hereby agree as follows:

1. In the event gas received by Company at any single delivery point involves supply under more than one of the two supply options offered under LCS-1, then such deliveries shall be allocated to each service option in the following manner:

[Describe allocation method]

2. [other provisions]

3. This Agreement shall be effective for at least one Service Month, and shall remain in effect until superceded by a new Predetermined Allocation Agreement.

4. This Predetermined Allocation Agreement is subject to all applicable terms and conditions set forth in LCS-1, as in effect from time to time, which provisions are incorporated herein by reference.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.19/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

Company:

Summit Utilities Arkansas, Inc.

By:_____
Title

Customer:
_____

By:_____
Title

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.20/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

POOLING SERVICE AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 20____, by and between

Summit Utilities Arkansas, Inc.

hereinafter referred to as "Company," and

_____,
a _____ corporation,

hereinafter referred to as "Pool Manager,"

WITNESSETH THAT:

WHEREAS, Company is a local distribution company; and

WHEREAS, Pool Manager has entered into agency agreements with the entities identified on Exhibit A hereto, as the same may be revised from time to time during the term of this Agreement, (hereinafter referred to collectively as "Customers") who Pool Manager represents have entered into Large Volume Commercial Customer Agreements, Transportation Supply Option, under Company's Rate Schedule No. 3, Large Commercial Firm Service (hereinafter referred to as "LCS-1"); and

WHEREAS, pursuant to the agency agreements between Pool Manager and Customers, Pool Manager is authorized to act on behalf of Customer's in all respects, including the submission of nominations and allocation information in accordance with LCS-1; and

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.21/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

WHEREAS, Pool Manager and Customers desire to avail themselves of the Pooling Service offered by Company pursuant to Part 3.23. of LCS-1.

NOW THEREFORE, Company and Pool Manager, acting individually, and as agent for Customers, agree as follows:

ARTICLE I
NOMINATIONS AND ALLOCATIONS

Section 1.1 – Pool Manager agrees to submit to Company on behalf of Customers all nominations and allocation information required pursuant to LCS-1.

ARTICLE II
IMBALANCES

Section 2.1 – Imbalances between receipts and deliveries among the Customers subject to this Agreement will be calculated by determining the difference between the total aggregated deliveries by the Customers to Company at receipt points and the total aggregated deliveries received by the Customers at delivery points.

Section 2.2 – The imbalance tolerance set forth in Parts 3.21.5. and 3.21.8. shall apply to the aggregated imbalance total, unless and until pooling rights are interrupted by Company for a specified period.

ARTICLE III
PAYMENTS

Section 3.1 – Payments due Company for Customers' imbalances arising under LCS-1 shall be paid by Pool Manager.

Section 3.2 – In the event Pool Manager should fail to timely pay the imbalances set forth in Section 3.1 of this Agreement, then Company shall redetermine the imbalance

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.22/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

payments due by each Customer, which redetermination shall be made without benefit of the aggregated tolerances, and each Customer shall pay the said redetermined imbalance payment.

ARTICLE IV
TERM

Section 4.1 – This Agreement shall be effective _____ and, shall continue from month to month thereafter until terminated by either party upon written notice delivered at least five (5) days prior to the beginning of a month.

ARTICLE V
MISCELLANEOUS

Section 5.1 – Pool Manager represents that it is authorized to act on behalf of Customers with respect to the service rendered hereunder.

Section 5.2 – Pool Manager agrees that Company shall have the right at any time and from time to time to file and place into effect unilateral changes or modifications in the rates and charges, and other terms and conditions of service hereunder, in accordance with applicable law. Company agrees that Pool Manager may protest or contest any such charges or modifications.

Section 5.3 – Service hereunder shall be in accordance with and subject to, and the parties agree to be bound by, all applicable terms and conditions set forth in LCS-1, as in effect from time to time, which terms and conditions are incorporated herein by reference.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date hereinabove first written.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.23/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

COMPANY:

Summit Utilities Arkansas, Inc.

By:_____
[Name]
[Title]

POOL MANAGER,
INDIVIDUALLY AND AS AGENT
FOR CUSTOMERS

_____

By:_____
[Name]
[Title]
[Address]

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.24/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

AGENCY AGREEMENT
SUMMIT UTILITIES ARKANSAS, INC.

[Customer]
_____
_____
_____

[Agent]
_____
_____
_____

RE: Large Volume Commercial Customer Agreement (Transportation Supply Option) ("Agreement") dated as of _____, by and between Summit Utilities Arkansas, Inc. ("Company"), and _____, ("Customer")

Ladies and Gentlemen:

This Letter will evidence the understanding between _____ ("Customer"), _____ ("Agent") and Summit Utilities Arkansas, Inc. ("Company"), that effective as of _____, Agent will act as Customer's agent for services provided by Company pursuant to the referenced Agreement for all purposes related thereto, unless expressly provided otherwise herein, including, but not limited to, the purposes of submitting and receiving notices, nominations and other information related to receipts and deliveries of gas and performing other administrative or contractual duties [,including payment obligations,] under the Agreement and as required by Company's Rate Schedule No. 3, Large Commercial Firm Service ("LCS-1"), as on file and in effect from time to time. Company will coordinate with Agent for all imbalance administration, contract administration, nominations, scheduling and

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.25/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

allocations for Customer's account, and shall be entitled to rely on Agent's actions with respect to the Agreement.

( ) Timely payments made by Agent to Company for services rendered to Customer in accordance with the terms of the Agreement and for any penalties, fees, assessments or other charges assessed against Customer's account by Company shall be credited to Customer's account and all notices given to Agent shall be deemed given to Customer.

( ) Company shall make any cash balancing payments it may be required to make for Customer's account to Agent. Company shall make any refund payments it may be required to make directly to Agent.

Agent agrees to indemnify, defend and hold harmless Company from any and all liabilities, losses, damages, expenses, claims, actions and fines of whatever nature (including, but not limited to, attorney's fees and court costs incurred by Company, whether related to the collection of any amounts due under the Agreement or otherwise) resulting from Company's reliance on Agent, including, but not limited to, actions taken by Company pursuant to Agent's action or inaction under the Agreement. Customer shall remain liable to Company for all of its obligations as Customer under the Agreement, and Company shall have no duty, liability or responsibility whatsoever to Agent. Customer acknowledges that if Agent acts as a Pool Manager pursuant to Part 3.23. of LCS-1 and (i) should the Pool Manager fail to pay invoices calculated at the aggregated level, or (ii), should Company interrupt Pooling Service for any reason pursuant to Part 3.23.1. of LCS-1, then upon default to the individual Customer invoice, the invoice shall be recalculated at the individual Customer level, without benefit of the aggregated tolerance, as provided in Part 3.23.4. of LCS-1.

Customer's designation and appointment of Agent may be terminated or canceled by Customer, Agent, or Company but no such termination or cancellation shall be effective as to Company until the first day of the month, following the expiration of a five (5) day period after Company's receipt of written notice of such termination or cancellation from Customer or Agent. Notwithstanding the foregoing, this designation and appointment of

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.26/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

Agent shall automatically terminate upon termination or cancellation of the referenced Agreement. This Agency Agreement will supersede any previously executed Agency Agreements.

If the foregoing is acceptable, please so indicate by having an authorized officer execute and return to the undersigned.

Very truly yours,

Summit Utilities Arkansas, Inc.

By:_____

ACCEPTED AND AGREED TO THIS
_____ DAY OF _____, 20___

CUSTOMER:
_____

By:_____
Name:_____
Title:_____

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-3A.27/27

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: (to be determined)

ACCEPTED AND AGREED TO THIS
_____ DAY OF _____, 20___

AGENT:
_____

By:_____
Name:_____
Title:_____

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-4.1/2

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART I - Rate Schedule No. 4

Title: UNMETERED GAS LIGHT FIRM SALES SERVICE (GL-1) Effective: (to be determined)

4. UNMETERED GAS LIGHT FIRM SALES SERVICE (GL-1)

4.1. AVAILABILITY

4.1.1. This rate schedule is available at points of adequate capacity and suitable pressure. This rate schedule is available to new or existing customers for unmetered gas, to be used solely for the continuous operation of natural gas lighting fixtures. Service under this rate schedule is offered at the Company's discretion, and only when metering the lighting fixtures' consumption is not economical.

4.1.2. This rate schedule is applicable to unmetered, continuously burning, natural gas lighting. The natural gas lighting fixture must be equipped with a natural gas or L.P. regulator approved by the Company, capable of regulating Company's main line pressure down to an appropriate pressure level. Where applicable, the natural gas lighting fixture must also be equipped with an orifice that will restrict gas flow to the appropriate cubic feet per hour input capacity rate, identified in this schedule. Customer is responsible for all natural gas lighting fixture modifications, maintenance, and installation. Company must inspect and approve the lighting fixture, any fixture modifications, and fixture installations, before natural gas service is made available.

4.1.3. Company is responsible for providing a main line tap, cut-off valve, and up to 75 feet of service line per natural gas lighting fixture. Customer will be responsible for the cost of service line installation beyond 75 feet. Company must inspect and approve the natural gas lighting fixture, any fixture modifications, and fixture installation, before natural gas service is made available.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-4.2/2

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART I - Rate Schedule No. 4

Title: UNMETERED GAS LIGHT FIRM SALES SERVICE (GL-1) Effective: (to be determined)

4.1.4. The Ccf to be billed during a billing period shall be calculated using the following procedure: (A) Manufacturer's rated input for each gas light in cubic feet per hour; multiplied by (B) the number of lights in installation; multiplied by (C) 7.3.

4.2. RATE

4.2.1. The customer shall be charged in accordance with the currently effective residential or commercial rate schedule otherwise applicable to the customer served hereunder.

4.3. MINIMUM CHARGE

4.3.1. The minimum charge rate shall be computed in accordance with the currently effective residential or commercial rate schedule otherwise applicable to the customer served hereunder.

4.4. RIDERS

4.4.1. The applicability of riders shall be in accordance with the currently effective residential or commercial rate schedule otherwise applicable to the customer served hereunder, except for the WNA Rider, which shall not apply, as gas light usage is not affected by weather.

4.4.2. Service will be rendered under this rate schedule until service is discontinued to customer or until the schedule is superseded.

4.5. RULES AND REGULATIONS GOVERNING UTILITY SERVICE

4.5.1. The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-5.1/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

Effective: (to be determined)

5. SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

5.1. AVAILABILITY

5.1.1. This rate schedule is available at points of adequate capacity and suitable pressure on the Company's existing facilities. This rate schedule is available to any consumer engaging in business, professional, institutional, agricultural or other non-residential activity supplied at an individually metered point of delivery for all uses of gas. Natural gas supplied hereunder is for the individual use of the customer at the point of delivery and shall not be resold or shared with others. Standby Service is not available under this rate schedule.

5.1.2. Gas consumption under this rate schedule is limited to 365,000 Ccf in any 12 consecutive month period. In at least one of the two preceding calendar years, the customer must have consumed 80% of the September 1 through August 31 annual volume in the April through October billing periods and it's September 1 through August 31 annual consumption for that year must have exceeded 99 Ccf. In the case of new customers or customers who anticipate changing their usage pattern, this rate will be available if a reasonable projection of their volumes in the upcoming year indicates they will use 80% of their September 1 through August 31 annual volume in the April through October billing periods and that their September 1 through August 31 annual consumption will exceed 99 Ccf. If at any time, it is anticipated based on the Company's estimate, that the customer will consume in excess of 365,000 Ccf per year in the succeeding 12 consecutive month period, the customer shall become subject to the applicable large commercial firm service rate schedule.

5.1.3. Company has historically allowed the volume usage of meters at business facilities under common ownership and subject to this rate schedule to be aggregated for the sole purpose of establishing eligibility for

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-5.2/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

Effective: (to be determined)

transportation as referenced in Part 3.1.3. of Rate Schedule LCS-1. Customers historically qualifying for transportation under this aggregation provision shall remain subject to the rates and charges under this rate schedule in addition to any additional specific rates, charges, or adjustment riders peculiar to the Transportation Supply Option set out in Rate Schedule LCS-1, such as, but not limited to, administrative fees. Customers aggregating volume shall be subject to all provisions and policies governing TSO option customers as specified in LCS-1, except as provided for herein. Although no aggregation will be allowed for eligibility, the ability to aggregate for eligibility purposes at existing and new locations shall remain unchanged for transportation customers eligible under such aggregation provision prior to September 21, 2002. Future aggregation for the purpose of qualification, except as otherwise referenced herein, is prohibited. Each individual account of historically qualified customers shall be treated as a separate account and shall be subject to the same rates and charges under the originating SCS-2 or LCS rate schedule, and are additionally subject to any specific rates, charges or riders specific to the TSO.

For the purpose of establishing eligibility for the Transportation Supply Option ("TSO") defined in the LCS rate schedule, customers experiencing or anticipating an average daily demand of 10 MMBtu per day during the preceding or succeeding twelve months will be eligible for the TSO. Customers qualifying for transportation who choose the TSO shall be subject to rates and charges under the SCS-2 rate schedule, and are additionally subject to any additional specific rates, charges or riders specific to the TSO.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-5.3/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

Effective: (to be determined)

5.1.4. Customers converting from transportation service to sales service will be required to contract for such sales services between the months of February through April preceding the expiration of the primary or any succeeding term of the Customer's existing contract. Customers seeking to contract for sales service during the required time frame will be allowed to convert to sales service provided that the Company is able to secure firm upstream transportation capacity and other upstream pipeline services sufficient to meet the Customer's needs. Any such conversion will be effective upon the expiration of the term of the Customer's existing contract, unless the Company and the Customer agree otherwise.

5.1.5. Seasonal Transportation. Customer facilities experiencing more than 80% of annual load during the flow months April through October, and who experience or anticipate an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding April through October, are eligible to transport on a seasonal basis. Customers meeting the aforementioned criteria may elect the TSO option and choose a subsequent return to the SSO option only once during the calendar year. Customers electing the TSO option on a seasonal basis, pursuant to notice given prior to May 31st or thirty days prior to commencement of service, whichever is earlier, may receive transportation service for a continuous period of at least 30 days between April 1 and October 31. Customers electing the TSO option on a seasonal basis are subject to the TSO contract administration fee. Additionally, each participating location shall pay a $300 set-up fee upon initial election and upon any subsequent return to transportation service.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-5.4/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

Effective: (to be determined)

5.2. RATES

5.2.1. Each customer receiving service under this rate schedule shall be charged the sum of (a) and (b):

(a) Distribution Rate for customers electing the SSO option:

First 1,500 Ccf per Month at	$0.24421 per Ccf
Next 13,500 Ccf per Month at	$0.13440 per Ccf
Over 15,000 Ccf per month at	$0.05762 per Ccf

Distribution Rate for customers electing the TSO option:

First 150 MMBtu at	$2.40341 per MMBtu
Next 1,350 MMBtu at	$1.32275 per MMBtu
Over 1,500 MMBtu at	$0.56706 per MMBtu

(b) Gas Supply Rate – The Gas Supply Rate will be calculated and adjusted periodically as defined in the Company's Gas Supply Rate Rider. Customers qualifying for service under this rate schedule will pay for their upstream demand related charges on a volumetric basis as provided for in the Company's Gas Supply Rate Rider.

5.2.2. Rates for customers historically qualifying for service under the Part 5.1.3. aggregation provision and customers qualifying for transportation under this rate schedule will be subject to thermal adjustment. Delivered volumes will be adjusted by the appropriate thermal content factor obtained from the nearest available chromatograph or sampling location (Ccf / 10) x thermal content factor = MMBtu).

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-5.5/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

Effective: (to be determined)

5.3. TELEMETERING

5.3.1. Telemetering is required for customers electing and qualifying for transportation service. Company shall install telemetry equipment of standard make and manufacture to determine hourly and daily flow at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

( ) Option 4: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-5.6/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 5

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

Effective: (to be determined)

standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.

In the event customer has in place working telemetering facilities and equipment; and the customer receives system supply service; and Company determines it necessary to keep the telemeter(s) operational, Company will arrange and pay for the associated telecommunications cost while the customer receives sales service under this rate schedule.

5.3.2. If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunication lines. Should customer fail to maintain or repair telecommunication lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.
If customer chooses wireless telemetry, then customer shall pay Company $10 per month per meter for wireless telemetry service for the entire period such meter(s) is(are) served under this or any other transportation rate schedule.

5.4. RIDERS

5.4.1. In addition to the Gas Supply Rate Rider, the following riders are applicable to service under this rate schedule:

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-5.7/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

Effective: (to be determined)

Rider Name	Description	Identification on Customer Bills
TA	Municipal Tax Adjustment	Municipal Franchise Adj
EECR	Energy Efficiency Cost Recovery Rider	EE Cost Rate

5.4.2. Service will be rendered under this rate schedule until service is discontinued to customer, the customer no longer qualifies for service under the SCS-2 rate schedule, but qualifies for service under the Small Commercial Firm Service (SCS-1) rate schedule, the customer qualifies for service under the Large Commercial Firm Service rate schedule, or the schedule is superseded.

5.5. RULES AND REGULATIONS GOVERNING UTILITY SERVICE

5.5.1. The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.1/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)

Effective: (to be determined)

6. SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)

6.1. AVAILABILITY

6.1.1. This rate schedule is available at points of adequate capacity and suitable pressure on the Company's existing facilities. This rate schedule is available to any consumer engaging in business, professional, institutional, agricultural or other non-residential activity who purchases annual volumes less than 365,000 Ccf and who receives this natural gas from the Company through an individual meter, and whose sole usage of natural gas through this meter is to provide compressed natural gas for use as a vehicle fuel. Standby Service is not available under this rate schedule.

In cases where this compressed natural gas is resold to the public, the end price of the compressed natural gas sold or delivered by the customer to the vehicles receiving the compressed natural gas is not subject to the regulated pricing restrictions of this rate schedule.

6.1.2. Company has historically allowed the volume usage of meters at business facilities under common ownership and subject to this rate schedule to be aggregated for the sole purpose of establishing eligibility for transportation as referenced in Part 3.1.3. of Rate Schedule LCS-1. Customers historically qualifying for transportation under this aggregation provision shall remain subject to the rates and charges under this rate schedule in addition to any additional specific rates, charges, or adjustment riders peculiar to the Transportation Supply Option ("TSO") set out in Rate Schedule LCS-1, such as, but not limited to, administrative fees. Customers aggregating volume shall be subject to all provisions and policies governing TSO option customers as specified in LCS-1, except as provided for herein. Although no aggregation will be allowed for eligibility, the ability to aggregate for eligibility purposes

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.2/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)

Effective: (to be determined)

at existing and new locations shall remain unchanged for transportation customers eligible under such aggregation provision prior to September 21, 2002. Future aggregation for the purpose of qualification, except as otherwise referenced herein, is prohibited. Each individual account of historically qualified customers shall be treated as a separate account and shall be subject to the same rates and charges under the originating SCS-3 or LCS rate schedule, and are additionally subject to any specific rates, charges or riders specific to the TSO.

For the purpose of establishing eligibility for the TSO defined in the LCS rate schedule, customers experiencing or anticipating an average daily demand of 10 MMBtu per day during the preceding or succeeding twelve months will be eligible for the TSO. Customers qualifying for transportation who choose the TSO shall be subject to rates and charges under the SCS-3 rate schedule, and are additionally subject to any additional specific rates, charges or riders specific to the TSO.

6.1.3 Customers converting from transportation service to sales service will be required to contract for such sales services between the months of February through April preceding the expiration of the primary or any succeeding term of the Customer's existing contract. Customers seeking to contract for sales service during the required time frame will be allowed to convert to sales service provided that the Company is able to secure firm upstream transportation capacity and other upstream pipeline services sufficient to meet the Customer's needs. Any such conversion will be effective upon the expiration of the term of the Customer's existing contract, unless the Company and the Customer agree otherwise.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.3/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)

Effective: (to be determined)

6.1.4. Seasonal Transportation. Customer facilities experiencing more than 80% of annual load during the flow months April through October, and who experience or anticipate an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding April through October, are eligible to transport on a seasonal basis. Customers meeting the aforementioned criteria, may elect the TSO option and choose a subsequent return to the System Supply Option ("SSO") only once during the calendar year. Customers electing the TSO on a seasonal basis, pursuant to notice given prior to May 31st or thirty days prior to commencement of service, whichever is earlier, may receive transportation service for a continuous period of at least 30 days between April 1 and October 31. Customers electing the TSO option on a seasonal basis are subject to the TSO contract administration fee. Additionally, each participating location shall pay a $300 set-up fee upon initial election and upon any subsequent return to transportation service.

6.1.5. Term. This rate schedule shall have an extended term of the shorter of three (3) years from the date of Commission approval or the completion of the Company's next general rate filing, unless otherwise extended further by Order of the Commission.

6.2. RATES

6.2.1. Each customer receiving service under this rate schedule shall be charged the sum of (a), (b), and (c) as follows:

(a) Monthly Customer Charge - $15.63. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.4/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)

Effective: (to be determined)

(b) Distribution Rate for customers electing the SSO option:

First 1,500 Ccf at	$0.18242
1,501 – 15,000 Ccf at	$0.13797
Over 15,000 Ccf at	$0.05915

Distribution Rate for customers electing the TSO option:

First 150 MMBtu at	$1.79532
151 – 1,500 MMBtu at	$1.35787
Over 1,500 MMBtu at	$0.58211

(c) Gas Supply Rate - The Gas Supply Rate will be calculated and adjusted periodically as defined in the Company's Gas Supply Rate Rider.

6.2.2. Rates for customers historically qualifying for service under the Part 8.1.2. aggregation provision and customers qualifying for transportation under this rate schedule will be subject to thermal adjustment. Delivered volumes will be adjusted by the appropriate thermal content factor obtained from the nearest available chromatograph or sampling location (Ccf / 10) x thermal content factor = MMBtu).

6.3. MINIMUM CHARGE

6.3.1. Monthly Customer Charge -- $15.63. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

6.4. TELEMETERING

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.5/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)

Effective: (to be determined)

6.4.1. Telemetering is required for customers electing and qualifying for transportation service. Company shall install telemetry equipment of standard make and manufacture to determine hourly and daily flow at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through Summit Utilities Arkansas, Inc.for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

( ) Option 4: Customer elects wireless service through Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.6/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)

Effective: (to be determined)

In the event customer has in place working telemetering facilities and equipment; and the customer receives system supply service; and Company determines it necessary to keep the telemeter(s) operational, Company will arrange and pay for the associated telecommunications cost while the customer receives sales service under this rate schedule.

6.4.2. If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunication lines. Should customer fail to maintain or repair telecommunication lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.

If customer chooses wireless telemetry, then customer shall pay Company $10 per month per meter for wireless telemetry service for the entire period such meter(s) is(are) served under this or any other transportation rate schedule.

6.5. **R**IDERS

6.5.1. In addition to the Gas Supply Rate Rider, the following riders, as on file with the Commission and in effect from time to time, are applicable to service under this rate schedule:

Rider Name	Description	Identification on Customer Bills
TA	Municipal Tax Adjustment	Municipal Franchise Adj
EECR	Energy Efficiency Cost Recovery Rider	EE Cost Rate

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.7/7

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)

Effective: (to be determined)

6.5.2. Service will be rendered under this rate schedule until service is discontinued to customer, the customer no longer qualifies for service under the SCS-3 rate schedule, but qualifies for service under the Small Commercial Firm Service (SCS-1) rate schedule, or the customer qualifies for service under the Large Commercial Firm Service rate schedule.

6.6. **RULES AND REGULATIONS GOVERNING UTILITY SERVICE**

The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.1/9

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: (to be determined)

1. GAS SUPPLY RATE (GSR)

1.1. GAS SUPPLY RATE (GSR) APPLICABILITY AND REQUIREMENTS

The charges for gas sales service contained in Company's total billing to sales customers shall include the cost of gas sold as identified in this Rider. For purposes of this Rider the cost of gas sold shall include the sum of all gas purchased for Company's customers, upstream transportation charges, storage charges, the cost of gas withdrawn from storage less the cost of gas injected into storage, any transaction-related fees, gains or losses and other transaction costs associated with the use of various financial instruments used by Company to stabilize prices.

1.2. DEFINITIONS

1.2.1. Cost of Gas Sold - For purposes of this clause the cost of gas sold during a month shall be the sum of all gas purchased for the customers, transportation and storage charges, the cost of gas withdrawn from storage less the cost of gas injected into storage, and any transaction-related fees, gains or losses and other transaction costs associated with the use of various financial instruments to stabilize gas prices.

1.2.2. Lost and Unaccounted for Gas (LUFG) – For purposes of this clause LUFG will be the portion of the Cost of Gas Sold that is not delivered to sales or transportation customers. LUFG is calculated as purchase volumes less sales volumes. More specifically it will contain Shrinkage, Company Used gas, and Remaining LUFG (RLUFG). Shrinkage is calculated by rate classification at the time of billing and represents a calculation of gas delivered but not measured to customers due to known departures from the Ideal Gas Laws. Company Used Gas is gas measured directly to Company facilities, and RLUFG is total LUFG less Shrinkage and Company Used Gas. Company shall not be allowed to recover LUFG in excess of 5%, computed on an annual basis.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.2/9

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: (to be determined)

1.2.3. Fixed Transportation Charges - Charges incurred for transporting gas to Company's system that do not vary with the volume of gas being transported, including, for example, pipeline Firm Transportation (FT) and No Notice Transportation (NNT) demand and/or reservation fees.

1.2.4. Fixed Storage Charges - Charges incurred for storing gas that do not vary with the volume of gas injected into or withdrawn from storage, including, for example, Firm Storage Service (FSS) demand and/or reservation fees.

1.2.5. Fixed Gas Supply Charges - Charges incurred for the acquisition of gas supply that do not vary with the volume of gas purchased, including, for example, supply demand and/or reservation fees.

1.3. GSR FILINGS

1.3.1. Scheduled GSR Filings:

Company shall make two Scheduled GSR Filings each year: a Winter Season GSR and a Summer Season GSR. The Winter Season GSR shall be effective for billings rendered to customers during the months of November through the following March. The Summer Season GSR shall be effective for bills rendered to customers during the months of April through the following October.

The Winter Season GSR filing shall contain rates reflecting: (1) the then current estimate of gas cost revenue requirement for the period between the effective date of filing and the next Summer Season GSR; and, (2) all of the annual actual cost (true-up or secondary adjustment factor) adjustments and any refund factor adjustments relating to or arising during the immediately preceding 12 months ending August each year.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.3/9

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: (to be determined)

The Summer Season GSR filing shall contain rates reflecting: (1) the then current estimate of gas cost revenue requirements for the period between the effective date of the Summer Season GSR and the effective date of its next Winter Season GSR; and, (2) maintaining all of the actual cost of gas adjustment (annual true-up or secondary adjustment) and any refund adjustments.

1.3.2. Unscheduled GSR Filings:
Should a projected under or over recovery balance arise during any seasonal GSR period which exceeds ten percent (10%) of the projected annual gas cost per the most recent scheduled GSR filing, then the Company may propose an Unscheduled GSR filing.

If an Unscheduled GSR Filing is made, that filing: (1) must contain rates reflecting the then current estimate of the gas cost revenue requirement for the period from the effective date of such filing to the next scheduled filing, and (2) must maintain all of the actual cost of gas adjustment (annual true-up or secondary adjustment factors) and any refund adjustment factors.

The Unscheduled GSR Factor shall remain in effect only until the next scheduled GSR Filing.

1.3.3. Scheduled and any Unscheduled GSR filings shall be filed with the Commission by the last business day of the month immediately preceding the month the proposed new GSR factor will be implemented.

1.4. ALLOCATION OF COSTS

1.4.1. Calculation of Demand Cost Component:
Calculating demand costs - The demand gas cost revenue requirement component shall be the annual total of the gas costs that do not vary with

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.4/9

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: (to be determined)

the actual consumption, such as fixed transportation and storage costs, fixed gas supply charges, and fixed financial charges associated with financial instruments purchased to stabilize prices.

Calculating demand cost allocation- The demand cost component of each season's filing shall be calculated by multiplying the total annual projected demand costs by the appropriate allocation factors for those demand costs for the respective RS-1, and the non- TSO SCS customers (defined as the factor representing the peak day demand for the non-TSO SCS-1, non-TSO SCS-2, and non-TSO SCS-3 customers), and LCS customers.

1.4.2. Calculation of Commodity Cost Component:
Calculating commodity costs by season - The commodity gas cost revenue requirement component of each season's GSR shall be the sum of all gas cost purchased for sales customers other than demand costs or LUFG costs, such as variable transportation costs, gas supply commodity costs, and the transaction costs associated with the use of futures contracts and options and other prudently incurred costs associated with various financial instruments purchased by Company to stabilize gas supply rates. The commodity gas costs shall include the commodity cost of storage withdrawals and injections. Company will utilize any technique or method it deems reasonable for purposes of estimating the commodity cost component of each seasonal filing.

Seasonal commodity cost allocation - the seasonal commodity costs assigned to RS-1 and non-TSO SCS and LCS customers will be determined by multiplying the Seasonal Commodity Cost by the ratio of estimated sales volumes for the respective classes in that season. For purposes of Commodity allocation and the establishment of Commodity rates, the SCS-1, SCS-2, and SCS-3 classes will be combined and considered as one class.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.5/9

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: (to be determined)

1.4.3. LUFG Allocation:

For purposes of LUFG allocation, and the establishment of LUFG rates, the SCS-1, SCS-2, and SCS-3 classes will be combined and considered as one class. For purposes of calculating the allocation percentages only, LUFG-in-Kind will be added to LUFG and will be known as True LUFG. True LUFG will be allocated to the respective rate classes based on the factors established below for each of the components of LUFG:

Shrinkage – for each rate class (including regular sales and TSO customers) shall be determined based on cost causation.

Company Used Gas – shall be determined by the direct measurement of the gas consumed by Company facilities, and allocated to each rate class (including regular sales and TSO customers) based on the ratio of the number of customers in each class and the total for such classes.

Remaining LUFG (RLUFG) – shall be defined as the difference between (a) total True LUFG; and (b) the sum of Shrinkage and Company Used Gas established above. It shall be allocated to the respective customer classes as follows:

55% based on the volumes for the most recent twelve-month-ending August period of the rate classes (including regular sales and TSO customers).

35% based on the demand components for the rate classes (including regular sales and TSO customers).

10% based on the annualized number of customers of the rate classes (including regular sales and TSO customers) as of the most recent twelve-month-ending August period.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.6/9

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: (to be determined)

The sum of the allocated LUFG volumes for the three LUFG components will be used to develop an allocation percentage by class to be applied to the LUFG cost.

1.5. RATE CALCULATION

RS-1 Customers - The GSR for Residential customers will be a per Ccf rate that is determined by summing the allocated costs in Parts 1.4.2. and 1.4.3. above and dividing that total by the projected seasonal volumes for the residential class and adding that result to the per Ccf rate determined by dividing the allocated annual costs in Part 1.4.1. by the estimated annual sales volumes.

SCS and LCS Customers - The commodity portion of the rate for non-TSO customers will be determined by respectively summing the allocated costs in Parts 1.4.2. and 1.4.3. above and dividing that total by the projected seasonal volumes for the respective classes. SCS-1, SCS-2, and SCS-3 customers will be combined and considered as one class for purposes of determining the commodity portion of the rate. While the calculation will be made in Ccf, it will be appropriately translated to MMBtu as needed.

The demand portion of the rate for LCS non-TSO customers will be charged to the customers based on their assigned CD's in MMBtu. The rate will be determined by dividing the respective classes allocated costs in Part 1.4.1. above by their respective annualized CD's. Since the demand charges are part of an overall non-specific set of upstream contracts, the support for their allocations will be provided in the schedules supporting the filing.

Allocation and Demand Rate Calculation for SCS-1, SCS-2, and SCS-3 Customers – The costs allocated to the combined SCS-1, SCS-2, and SCS-3 customer classes will be based on the allocation of costs as described in paragraph 1.4.1. The demand portion of the rate for the non-TSO SCS-1 customers and the non-TSO SCS-2

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.7/9

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: (to be determined)

customers (during the November-March period) will be determined by dividing the costs attributable to the SCS customer class reduced by the anticipated demand revenue paid by SCS-2 class in the summer period (April – October) and further reduced by the demand revenue paid by the SCS-3 class for the entire year (September – August), by the sum of the projected annualized SCS-1 volumes and the projected SCS-2 winter volumes (November-March). The demand portion of the rate for the non-TSO SCS-2 customer class in the summer period (April – October) will be $0.01984 per Ccf. The demand portion of the rate for the non-TSO SCS-3 customer class will be $0.04310 per Ccf for the entire period (November – October).

1.6. SPECIAL PROVISION REGARDING TSO CUSTOMERS

LUFG costs - Customers under the TSO option may provide LUFG-in-Kind gas volumes. The LUFG-in-Kind (volumetric delivery requirement) for each customer's account will be determined based on the most recent twelve-month ended August period and expressed as a percentage of the gas delivered for the customer's account at the customer's point of consumption. The percentage will be determined by dividing the allocated volumes of total LUFG in the respective class (SCS or LCS) by the total estimated sales volumes in their respective class.

Assignment of Surcharges to TSO Customers - In the event an LCS-1, SCS-1, or SCS-3 customer changes its supply service election at the end of the contract term from the system supply option (SSO), the amount of the deferred gas cost account attributable to that customer shall be charged or distributed to that customer, whichever is applicable. The charging to or distribution of the deferred gas cost account attributable to that customer shall be removed or added to the deferred gas cost account of the applicable rate schedule.

1.7 DEFERRED PURCHASED GAS COST ACCOUNTS

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.8/9

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: (to be determined)

Company shall establish and maintain a Deferred Gas Cost Account(s) in which shall be recorded any over or under recovery resulting from the operation of the GSR procedure. Such over or under recovery by class shall be determined monthly by comparison of the actual Cost of Gas Sold as defined above for each cost month to the gas cost revenue recovery for the same revenue month as the cost month. The accumulated balance of over or under recovered gas costs, plus the carrying charge described below, shall be used to determine the surcharge. The surcharge shall be computed annually by dividing each class' cumulative balance over recoveries or under recoveries as of the end of each August by the respective class' estimated volumes of sales for the projected twelve-month period. The surcharge shall be filed annually and will be included with the Scheduled Winter Season GSR Filing and shall be rounded to the nearest $0.0001 per Ccf. The surcharge shall remain in effect until the earlier of: (1) superseded by a subsequent surcharge calculated according to this provision or, (2) the beginning of the second revenue month following the month in which the full recovery or refund is accomplished if such full recovery or refund is accomplished prior to the end of the established recovery period.

A carrying charge shall be included in the monthly under or over recovery balance resulting from the monthly comparison of the actual Cost of Gas Sold to the revenue recovery resulting from the application of the prescribed GSR, and a carrying charge shall be included in the monthly under or over recovery balance applicable to the surcharge. The monthly carrying charge shall be determined by multiplying the average of the beginning and ending month balance of under or over recovery for the cost month times the rate of interest applicable to customer deposits.

1.8. DEMAND ALLOCATION

It is recognized that over time as customer classifications change or demand levels change, the accuracy of the originally approved demand factors may deteriorate. Company can request a change in the allocation procedures with a minimum three month lead time prior to the filing date for the seasonal filings. Changes under this

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.9/9

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: (to be determined)

provision are limited to changes required to restore the accuracy of the originally approved demand factors and shall be not be used by either Company or the applicable regulator to implement changes in allocation methodologies that would normally require a general rate application.

1.9. REFUND PROVISION

If an increase in the cost of gas paid or payable to Company shall be reduced by the final order of a duly constituted regulatory body or the final decree of a court, if appealed thereto, and such increase shall have been reflected in Company's rate to the extent and in the manner specified in this GSR, Company shall report to the Commission the receipt of any refunds resulting from such final order or decree. Thereupon, Company shall submit for the Commission's approval a plan to make equitable disposition of such refund monies to the extent such monies represent increased charges paid by its customers as result of this GSR; provided, however, that if the amount to be refunded to customers hereunder with respect to a particular refund received does not amount to more than one-tenth cent per Ccf, then Company will apply that refund as a credit in its cost of gas computations hereunder for the month in which it receives the refund from its supplier. Nothing in this clause shall be construed to require refunds or a reduction of Company's rate as a result of such an order reducing the cost of gas where the original increase in the cost of gas has not been reflected in Company's billings for its sales to customers under this rate schedule.

1.10. APPLICABLE RATE SCHEDULES

Residential Firm Sales Service (RS-1)
Small Commercial Firm Sales Service (SCS-1)
Small Commercial Firm Sales Service – Off-Peak (SCS-2)
Small Commercial Firm Sales Service– NGV (SCS-3)
Large Commercial Firm Service (LCS-1)
Unmetered Gas Light Firm Sales Service (GL-1)

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-3.1/2

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 3

Title: MUNICIPAL TAX ADJUSTMENT CLAUSE (TA) Effective: (to be determined)

3. MUNICIPAL TAX ADJUSTMENT CLAUSE (TA)

3.1. The Company will pass on Municipal Taxes to Local Customers by adding to each monthly bill rendered a Local Customer as a separate line item identified as "Municipal Franchise Adj," an amount calculated on an equal-per-meter basis determined in accordance with the following:

3.1.1. As used herein, the term "City Tax," or "Municipal Tax," refers to any and all privilege, occupation, franchise meter, gross receipts or other tax or assessment of whatever kind and by whatever name (except ad valorem taxes) now and at any time hereafter levied on, the Company by any Municipality.

3.1.2. "Municipality" refers to the local taxing authority imposing the Municipal Tax, whether city, town, village, unincorporated association, district, county or other authority authorized to impose same under present or future law.

3.1.3. "Local Customers" refers to any and all residential and general service customers in Texas that are within the geographical boundaries or taxing authority of the Municipality; provided, that if a particular tax ordinance or other act imposing the Municipal Tax includes in its taxing impact any service locations that would otherwise not be considered a "Local Customer" hereunder, then such service will be included in the term Local Customer.

3.2. Notwithstanding the above, if a particular tax ordinance or other act imposing the Municipal Tax specifies a method of payment of collection other than on an equal-per-meter basis, then the method so specified shall be utilized provided such method results in the collection of taxes from Local Customers equal to the

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-3.2/2

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 3

Title: MUNICIPAL TAX ADJUSTMENT CLAUSE (TA) Effective: (to be determined)

taxes levied on the Company.

3.3. The Company, upon receipt of a certified copy of the approved municipal ordinance will initiate the pass-on of any increase or decrease in taxes subject to this clause beginning with the billing cycle immediately following receipt of the ordinance, and upon the availability of customer billing data necessary to initiate or to revise the calculation of the pass-on.

3.4. If at any time there is a significant change in any of the above determining factors which will cause an unreasonable over or under collection of Municipal Taxes, the Company will adjust the amount collected so that such over or under collection will be minimized.

3.5. APPLICABLE RATE SCHEDULES:
Residential Firm Sales Service (RS-1)
Small Commercial Firm Sales Service (SCS-1)
Small Commercial Firm Sales Service—Off-Peak (SCS-2)
Small Commercial Firm Sales Service—NGV (SCS-3)
Large Commercial Firm Service (LCS-1)
Unmetered Gas Light Firm Sales Service (GL-1)

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-4.1/3

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Residential (RS-1) and Small Commercial (SCS-1)

PART II – Rider Schedule No. 4

Title: WEATHER NORMALIZATION ADJUSTMENT (WNA) Effective: (to be determined)

4. WEATHER NORMALIZATION ADJUSTMENT (WNA)

4.1. For bills rendered from November 1 through April 30 each year, the applicable margin rates for gas service to customers served under the applicable rate schedules shall be adjusted by a Weather Normalization Adjustment (WNA) to reflect much of the impact of heating degree day variations from normal levels which were used to set rates under the applicable rate schedules.

4.2. In order to calculate the total weather adjustment for the applicable billing cycle, a weather deviation is computed and multiplied by the applicable margin rate. A per Ccf WNA adjustment is calculated by dividing the total weather adjustment by the average Ccf usage per customer for all customers in each billing cycle, using the formula described below. The per Ccf adjustment for each applicable rate schedule is applied to customer's usage for the billing cycle. The WNA shall be separately identified on customer bills.

4.3. CALCULATION OF WEATHER NORMALIZATION ADJUSTMENT

4.3.1. The WNA is calculated as follows:

$$WNA_i = \frac{R_i(DDF_i\ (NDD - ADD))}{AAU_i}$$

Where: i = Any particular rate classification to which the WNA is to be applied.

WNA = Weather Normalization Dollar Adjustment per Ccf

R = Applicable Margin Rate

DDF = Degree Day Factor associated with the applicable rate schedule:

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-4.2/3

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Residential (RS-1) and Small Commercial (SCS-1)

PART II – Rider Schedule No. 4

Title: WEATHER NORMALIZATION ADJUSTMENT (WNA) Effective: (to be determined)

Residential Service (RS-1)	.1536
Small Commercial Sales (SCS-1) (SSO)	.5921

NDD = Normal Degree Days during the billing cycle

ADD = Actual Degree Days during the billing cycle

AAU = Average Actual Usage per customer for each billing cycle

4.4. DEFINITIONS

4.4.1. Normal Degree-days: The heating degree-days, which are based on a 30-year average ending June 30, 2015 as are shown on Attachment 1.

4.4.2. Actual Degree Days: The actual heating degree days as published by Weather Services Corporation, or any other nationally recognized third-party weather service.

4.4.3. Applicable Margin Rate:

4.4.3.1. The Residential Service (RS-1). The RS-1 WNA marginal rate will use the marginal rate of the residential volumes that are in excess of 15 Ccf. The resulting WNA price will be applicable only to volumes in excess of 15 Ccf.

4.4.3.2. The Small Commercial Sales Service (SCS-1) System Supply Option ("SSO"). The SCS-1 WNA marginal rate will use a weighted average marginal rate of the November - April SCS-1 SSO volumes that are in excess of 78 Ccf. The mechanics wil1 be to use the monthly bill frequencies to determine the volume in the 79-1,500 Ccf range, the volume in the 1,501-15,000 Ccf range, and the volume above the 15,000 Ccf range. The weighted average margin will be determined by applying the first block

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-4.3/3

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Residential (RS-1) and Small Commercial (SCS-1)

PART II – Rider Schedule No. 4

Title: WEATHER NORMALIZATION ADJUSTMENT (WNA) Effective: (to be determined)

margin rate to the 79-1,500 Ccf volumes, the second block margin rate to the volumes in the 1,501-15,000 range, and the third block margin rate to the volumes in the range above 15,000 Ccf, summing those totals and dividing the results by the total volumes in those ranges. The resulting WNA price will only apply to volumes in excess of 78 Ccf.

4.5. APPLICABLE RATE SCHEDULES
Residential Firm Sales Service (RS-1)
Small Commercial Firm Sales Service (SCS-1) System Supply Option (SSO)

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-5.1/1

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 5

Title: ENERGY EFFICIENCY COST RECOVERY RIDER (EECR)

Effective: (to be determined)

5. ENERGY EFFICIENCY COST RECOVERY RIDER (EECR)

5.1. The Energy Efficiency Cost Recovery Rider (EECR) shall be the amount charged to Summit Utilities Arkansas' customers residing or located in Texarkana, Arkansas under Arkansas tariff Rider Schedule No. 5 Energy Efficiency Cost Recovery Rider (EECR).

5.2. APPLICABLE RATE SCHEDULES
Residential Firm Sales Service (RS-1)
Small Commercial Firm Sales Service (SCS-1)
Small Commercial Firm Sales Service—Off-Peak (SCS-2)
Small Commercial Firm Sales Service—NGV (SCS-3)
Large Commercial Firm Service (LCS-1)
Unmetered Gas Light Firm Sales Service (GL-1)

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART III

STANDARD SERVICE RULES AND REGULATIONS

Effective: (to be determined)

I. APPLICATIONS FOR OR DISCONTINUANCE OF SERVICE

(A) The Company shall require all customers to execute a deposit-service agreement upon application for gas service or upon the filing of a petition for relief under the United States Bankruptcy Code. Such agreements are not transferable. All customers accepting gas service from the Company shall be subject to the rules, regulations and rate schedules applicable.

(B) When gas service is inaugurated or transferred from one location to another, at a location where there is an existing meter installation, or upon the filing of a petition for relief under the United States Bankruptcy Code, the Company shall charge a non-refundable service initiation fee of $48.00. When gas service is inaugurated or transferred from one location to another, at a location where a meter must be installed, or upon the filing of a petition for relief under the United States Bankruptcy Code, the Company shall charge a non-refundable service initiation fee of $62.00

(C) When a customer requests the initiation or restoration of service which requires overtime work after normal daily working hours or on weekends and holidays, the customer will be advised of an additional charge which will be based on actual overtime costs involved. An overtime charge shall not apply to work required through no fault of the Customer.

(D) No customer may temporarily discontinue service and thereafter request restoration and continuation of service under his old service agreement but must execute a new agreement. If service is discontinued at the request of the customer and service is suspended during all or a portion of the non-heating season and thereafter restored at the same location for the same occupant, a reconnect charge will become due and payable when service is restored. This charge will be computed on the basis of the applicable customer charge for each month or fraction thereof that service is discontinued. Such charge shall be in addition to the regular service initiation fee of $48.00 at a location where there is an existing meter installation or $62.00 at a location where a meter must be installed or reconnection fee of $37.00. Any

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

commercial or industrial customer who discontinues service for any period of time must be considered a new customer for State and Federal regulatory policy purposes when application is made for restoration of service.

(E) The company will not accept orders to discontinue service other than from the person in whose name the account is billed.

(F) The Company may turn on service after normal daily working hours, or on weekends and holidays, in emergency situations requiring immediate initiation of service. When this service is offered, the customer will be assessed an additional charge of $27.00. An after-hours charge shall not apply to work required through no fault of the customer.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 3

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

II. CUSTOMERS FACILITIES AND EQUIPMENT

(A) Gas should be used only in appliances designed for use with natural gas, in compliance with all applicable manufacturing specifications. Vent pipes must be used on water heaters, cook stoves, enclosed type space heaters, or other appliances designed to be vented.

(B) The customer shall provide a system of piping within his premises for connection to gas appliances. Customer's piping system will be installed and maintained in compliance with all federal, state and local laws, codes and regulations. Customer shall provide an above-ground delivery point in a suitable location, unless otherwise specified by the Company. For SCS and LCS customers, vehicle access for meter testing purposes must be provided. The normal gauge pressure**,** at which gas will be supplied through the Company's meter to the customer's piping, will be as defined in XVI(A).

(C) The Company under previously existing regulations has provided service through one master meter to private distribution lines for multiple federal, municipal, or private housing projects and mobile home parks, and has in some cases provided individual meters for such facilities. Bills will be rendered on an individual basis to the individual metered customers, but the customer(s) owning the private distribution line or being served by the private distribution line will be responsible for payment of any differences between gas delivered through the master meter and gas delivered through the sum total of individual meters. All such construction within the above mentioned projects and mobile home parks must meet the requirements of all federal, state and local piping laws before the Company will connect the customer.

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Original Sheet No. 4

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

III. REFUSAL TO SERVE CUSTOMERS

(A) The Company may decline to serve a customer or prospective customer until he has complied with the state and municipal regulations governing the service applied for and the reasonable rules and regulations of the utility.

(B) Until adequate facilities can be provided, the Company may decline to serve an applicant for service or to change materially the service of any customer, if, in its judgement, it does not have adequate facilities to render the service applied for or if the desired service is of a character that is likely to affect unfavorably the service to other customers.

(C) The Company may refuse to serve a customer if, in its best judgment, the customer's installation or equipment is regarded as hazardous or of such character that satisfactory service cannot be given.

(D) The Company may refuse to serve individual mobile homes and house trailers if the trailer does not have a firm foundation which will not permit it to rock or move thereby cracking or parting the connecting pipe or facilities. None of the weight of the trailer may be carried on the wheels or springs. All piping and appliance installations in trailers must be made in compliance with applicable laws, codes, and ordinances governing such installations.

(E) The Company may decline to serve any applicant who is indebted to the Company for gas utility service; provided, however, that in the event the indebtedness of the applicant for service is in dispute, applicant shall be served upon complying with the deposit requirement, and, in addition thereto, making a special deposit in an amount equal to the net balance in dispute. Upon settlement of a disputed account, the balance, if any, due the applicant shall be promptly repaid, together with interest thereon from the date of the deposit until repaid at the rate prescribed by law or order of the Commission.

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Original Sheet No. 5

Replacing: Sheet No.

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Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

(F) The Company shall also have the right to refuse service or to discontinue the supply of gas to a customer at a location until payment shall be made of delinquent bills for gas utility service for the customer at other premises.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 6

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

IV. DISCONTINUANCE OF SERVICE

Subject to Commission rules suspending disconnection during an extreme weather emergency (7.460):

(A) The Company reserves the right to shut off the gas at any time and to remove its property from the premises for any of the following reasons: (a) for tests or repairs; (b) for non-payment of bills for gas utility service when due, after required notice has been given; (c) for incorrect representation of facts in application for service, after required notice has been given; (d) for failure to make or increase the cash deposit when required by the Company, after required notice has been given; (e) for reselling gas in violation of the Company's Standard Rules and Regulations, after required notice has been given; (f) for placing or permitting the placing of any by-pass around any meter or service line; or for tampering; or permitting tampering with same; (g) for permitting pipes, or appliances owned or used by the customer to leak or otherwise permit the escape or waste of gas, after required notice has been given; (h) for failure to comply with the Rules and Regulations of the Company, after required notice has been given; (i) failure to pay the applicable connect charge, after required notice has been given; (j) on order of municipal authorities having jurisdiction; or (k) when checks received from customer for amounts past due or for the required deposit are repeatedly not honored when presented to the bank for payment, then service may be discontinued without advance notice.

(B) The Company shall not discontinue service to any customer for violation of its rules or regulations nor for non-payment of bills, without first having diligently tried to induce the customer to comply with its rules and regulations, or to pay amounts due the Company. Service may be discontinued after five (5) days' written notice shall have been given to the customer by the Company in the manner provided for in Paragraph IV (d). Prior notice of disconnection shall not be required for fraudulent, negligent, or unlawful use of the commodity or service detected, or where a dangerous condition is found to exist on a customer's premises.

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Original Sheet No. 7

Replacing: Sheet No.

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(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

(C) The customer shall have the privilege of paying any delinquent account at any time prior to the actual disconnection or turning off of service; provided, however, that payment at Company's office within four hours of the time of actual disconnection or turning off of service shall not affect the right to disconnect or turn off service for non-payment. Whenever the Company dispatches an employee to the premises of any customer for the purpose of discontinuing service for non-payment, and such payment arrangements are made that do not result in actually disconnecting or turning off of service, a fee of $16.00 shall be added to and collected as a part of such delinquent account to cover, in part, the cost to the Company of dispatching such employee to the customer's premises. A $15.00 charge may also be added to an account and collected to recover cost for reprocessing any check that has been returned to the Company by the bank by reason of insufficient funds on deposit. Whenever service has actually been disconnected on account of the failure of the customer to pay such delinquent account, or for any other reason without fault of the utility if the customer desires the service to be reconnected, the Company shall require the customer to pay a reconnection charge of $37.00.

(D) Notice of delinquency shall be construed to be given to the customer when a copy of such notice is left with such customer, or left at the premises where service is required, or posted in the United States mail addressed to the customer's last known post office address except as specified in (h) and (i) below.

(E) The Company shall not be liable for any damage to persons or property resulting from the discontinuance of gas service after having given the required notice. Arrangement satisfactory to the Company for the continuance of service on account of serious illness or other causes shall be made by the customer prior to the expiration of the notice period.

(F) When, at the customer's request, the Company changes the location at which service is rendered the gas consumed at the new and old locations, for the purposes of billing, shall be combined. The change of the location to which service is rendered shall not be deemed to affect the rights of the Company with regard to the application of deposit or discontinuance of service for non-payment of the account.

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Original Sheet No. 8

Replacing: Sheet No.

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(G) The fact that the Company has a cash deposit from a customer shall not in any manner affect the right of the Company to discontinue service to that customer for the non-payment of amounts past due regardless of the fact that the deposit is in excess of the amount past due.

(H) Termination of service to Elderly Persons, Handicapped Persons, and Persons with Serious Illnesses

(1) Definitions

(a) "Elderly." An "elderly" person is any residential customer aged 65 or older whose total gross income is less than or equal to the median income for Texas families categorized as "65 years and over" in Table 19A or successor tables reported in Consumer Income: Money Income and Poverty Status in 1975 of Families and Persons in the United States and the South Region, By Divisions and States (Spring 1976 Survey of Income and Education by the Bureau of Census of the United States Department of Commerce**,** as most recently published.

(b) "Handicapped." A handicapped person is any residential customer:

(i) who has any permanent severe physical or mental impairment which substantially limits his ability to pay for utility service; and

(ii) who is certified as being physically or mentally disabled by a physician, licensed psychologist, by the United States Veterans Administration, the Social Security Administration, the appropriate governmental agency, or a local regional mental health center.

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Original Sheet No. 9

Replacing: Sheet No.

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(c) "Serious illness" includes serious injury not amounting to a handicap.

(2) Special Provision for the Elderly and Handicapped

Each utility shall file with the Commission, for its approval, procedures the utility will follow to insure the protection of elderly and handicapped customers. In addition, each utility shall keep records of all delinquent accounts of elderly or handicapped customers and the disposition of these accounts. Protection procedures shall include:

(a) Identification of eligible households.

(b) Personal contact by telephone or in person by utility personnel to arrange installment of deferred payment of any delinquency.

(c) Notification of right to third-party notice before termination of service.

(d) Assistance to customers wishing to make arrangements with state or local social service agencies for payment for service.

The procedures may require elderly and handicapped persons to disclose information and furnish documents in connection with the status claimed on an annual basis. If a customer provides false information to the utility in order to claim an exemption under this Rule, it shall be grounds for termination. Customers establishing eligibility to claim an exemption as elderly or handicapped shall be presumed to retain this status for one (1) year after the date eligibility is established. Eligibility related to income level and ability to pay for utility service shall be reestablished annually.

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Original Sheet No. 10

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(3) Delay of Termination on Grounds of Serious Illness

(a) A utility shall postpone termination of service to a residential customer, or reconnect previously terminated service**,** for a reasonable time up to thirty (30) days if the customer presents a certificate from a physician stating it is likely that termination of service will either aggravate a serious illness or give rise to a substantial risk of death or a grave impairment of the health of the customer, of a member of the customer's family, or of another permanent resident of the premises where service is rendered. The certificate shall identify the medical emergency, specify the effect of termination of service, and specify the time during which termination of service will aggravate the illness. The utility may**,** at its expense, obtain an additional medical report or certificate from a physician of its choice and may rely on that opinion and in reliance on that opinion terminate service five days after mailing an additional notice of termination to the customer. Failure of customer without good cause to attend the company-scheduled medical appointment shall be sufficient reason for termination of service by the utility.

A customer, his physician, or a nurse, nurse practitioner, physician's assistant, or a public or private agency providing physical or mental health care services may notify the utility of a serious illness in person, by telephone, or by letter. The customer shall have seven (7) days from the date of notification to present the certificate. Notice by telephone shall be subject to verification by the utility.

(b) The thirty-day postponement may be extended one time by renewal by notice as above and renewal of the certificate by a physician as above.

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Original Sheet No. 11

Replacing: Sheet No.

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(c) Continuation or reconnection of service under this rule shall not in any way relieve the customer of liability incurred for utility services.

(4) Delay of Termination for Elderly and Handicapped Persons

(a) Residential utility service shall not be terminated and, if previously terminated shall be reconnected, during the months of November through March for elderly and handicapped customers of the utility, provided that service may be terminated if such customers fail to pay at least one-half of the amount billed for service either as they fall due or pursuant to delayed payment agreement. Any balance due for service during these months shall be made in the months of April through October in installments agreed upon by the customer and the utility. If, during the months of April through October**,** a customer fails to pay the deferred balance due for service from November to March, the utility shall not be obligated to refrain from terminating or to reconnect service during the next November through March time period**.** Residential gas air condition service to such customers shall not be terminated on a day when the National Weather Service forecasts between 5:00 a.m. and 8:00 a.m**.** a maximum temperature for that day of 95 degrees Fahrenheit, or higher.

(b) At least 72 hours prior to the proposed termination of residential service to an elderly or handicapped person, a utility shall personally contact the customer, a person living in this household, or any other person or agency designated by the elderly or handicapped person to receive notice in person or by telephone during the utility's normal, working hours or between 9:00 a.m. and 4:00 p.m. on Saturdays and holidays that termination of service is imminent and that steps can be taken to avoid termination. This notice shall include an explanation of the procedures available under this or other applicable rules. If none of these parties is contacted on the first

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Original Sheet No. 12

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attempt, a second attempt shall be made and may take place between 6:00 a.m. and 10:00 P.M.

(c) Continuation or reconnection of service under this rule shall not in any way relieve the customer of liability incurred for utility services.

(I) Notice of Termination to Tenants

(1) For the purposes of this rule, "landlord" means the owner, agent, manager, or lessor of premises intended primarily for residential use for which he receives lease or rent payments which include amounts for utility service**.**

(2) Each utility shall file with the Commission procedures for identifying accounts where service is rendered at an address different from the mailing address of the bill. Such procedures may include requiring landlords to identifying themselves as such and to identify their tenants by name, address, and account number. Absent such identification, the utility shall not be required to treat a customer as a tenant unless it has actual knowledge or information that reliably indicates that the person to whom service is rendered is a tenant.

(3) The utility shall not disconnect service to such an account for nonpayment of the bill until the following actions have been taken:

(a) When a termination notice has been sent to the landlord, if no response is received by the utility within seven (7) days, notice shall also be sent to the affected tenants or shall be posted in conspicuous locations such as near mail boxes, building entrances and exits, and other areas of common usage.

(b) If a landlord fails to pay for service to a tenant a utility shall not terminate service to the tenant until at least thirty (30) days have elapsed from the date of the delinquency, and, after being notified of

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Original Sheet No. 13

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the delinquency the tenant has not paid for service provided after the date of notification or made arrangements with the utility to do so.

(c) Where feasible the utility shall offer the tenant the opportunity to apply for service in his own name. If such service is not feasible or if the tenant declines to apply for such service**,** the utility may terminate service. If the tenant chooses to take service in his own name**,** termination shall thereafter be governed by other appropriate provisions of this rule.

(d) Where premises are master-metered and a tenant and the utility are unable to agree upon payments to be made by the tenant for service, the utility shall petition the Commission for an immediate informal resolution or formal hearing to resolve the dispute.

(4) A utility shall not attempt to recover from a tenant or condition service to a tenant on the payment of any amounts owed by the landlord to the utility.

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Original Sheet No. 14

Replacing: Sheet No.

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Kind of Service: Natural Gas Class of Service: All

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V. CUSTOMER DEPOSITS

(A) The Company may require, with each service application from any customer or any prospective customer, a cash deposit to guarantee payment of bill. This required deposit shall not exceed an amount equivalent to two estimated average bills when payment is due after the service is rendered. The Company shall pay interest on the deposit at the rate prescribed by law or order of the Commission. When service is discontinued by the Company for any reason other than for repairs, the Company may apply such deposit to the payment of all charges authorized under these Rules and Regulations. Interest will not accrue on deposits when they become Inactive. The Company shall pay interest on deposits annually in January of each year and upon return of the deposit to the customer.

(B) Interest shall not accrue on any cash deposit after the date the Company has made a bona fide effort to return such deposit to the depositor. The Company shall keep in its records evidence of its efforts to return such deposit.

(C) A new or additional deposit may be required upon reasonable written notice of the need of such a requirement in any case where a deposit has been refunded or is found to be inadequate as above provided for, or as provided by the applicable provisions of the Commission's Rules, as they may be in effect from time to time. The service of any customer who fails to comply with these requirements may be disconnected upon five (5) days' written notice.

(D) All charges authorized under these Rules and Regulations shall be due and payable on the same terms and conditions as charges made for gas service and the same procedure for discontinuance of service for such charges may be applied against refunds, if any, due on the customer's deposits.

(E) Upon the filing of a petition for relief under the United States Bankruptcy Code, the customer will be required to provide a cash deposit in an amount not to exceed two times the maximum estimated bill for the service location.

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Original Sheet No. 15

Replacing: Sheet No.

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Kind of Service: Natural Gas Class of Service: All

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VI. BILLING

(A) Gas supplies will be charged for from the time of turn on until the Company discontinues the supply. Failure on the part of the customer to properly notify the Company when their responsibility for the payment for gas at a premises ceases, shall not relieve the customer from the obligation of paying all bills accruing up to the time proper notification is received by the Company. The customer shall pay for all gas passing through the meter, whether the same be used or wasted through leaks in pipes, apparatus, or otherwise and shall be bound by the true reading of the meter, provided it is in good repair and working order.

(B) Bills rendered for service for less than the standard monthly billing period shall be calculated as follows:

(1) Where meter reading indicates no consumption and the period involved is less than fifteen (15) days, no charge will be made. If the period involved is fifteen (15) days or more**,** applicable monthly minimum will be charged**.**

(2) Where meter reading indicates any consumption, regular rate schedules will apply, regardless of period involved. Meter will be read to the nearest hundred cubic feet and bills computed on this basis.

(3) Where customer changes location within the same distribution plant, the consumption at both locations will be combined for the monthly billing.

(C) All customers of Company which are either, (1) sixty (60) years of age or older and depend upon a pension or Social Security check as their primary source of income, or (2) are dependent solely upon a disability income, regardless of age, are eligible to participate in the Company's FLEX-DATE Payment Plan. Such Plan will extend the due date for payment to the earlier of: (1) twenty-five (25) days after the current month's bill date, or (2) three (3) work days before the next month's bill date. Only the extended due date provided by FLEX-DATE will appear on eligible customers' bills. In addition, the Company will waive any otherwise applicable late penalty.

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Original Sheet No. 16

Replacing: Sheet No.

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Customers shall become Plan participants either upon telephone or form notification to Company, and their participation will be effective for each month of each calendar year thereafter.

(D) Monthly statements will be delivered to the location at which gas is supplied, by an employee of the Company, or posted in the United States mail, unless the customer has directed the Company in writing to send statements to another address. The terms “Delivered" or "Rendered" shall not be construed as an obligation on the part of the Company to deliver or render statements to the customer in person, or to other occupants of the premises**.** Duplicate copies of statements will be furnished upon request, and failure to receive statements for any reason whatsoever, will not entitle customer to further time to pay account, or to a continuation of gas supply if account is over due.

(E) Customers whose facilities are located on pipeline taps which are not centrally odorized will receive monthly statements based on the customer’s reading of the meter. If the meter is not read by the customer, bills will be estimated. The Company will read these meters at least every six (6) months and the difference between the customer readings or the estimated consumption will be billed or credited to the customer's account.

(F) A residential apartment shall be defined as a room or group of rooms which contain a sink and/or cooking facilities and shall be considered a separate apartment for metering and billing purposes. House trailers shall also be considered separate apartments for metering and billing purposes.

(G) Individual residential customer premises shall be metered and billed separately even if under common ownership, and combined metering or billing shall not be permitted. Commercial and industrial premises shall be considered separate when not on the same tract or contiguous tracts of land, or when each is a complete unit not physically integrated with, or essentially a part of, the other or others, and each renders a complete service or produces a finished product. Tracts of land separated by public streets, roads or alleys shall be considered non-contiguous tracts.

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Original Sheet No. 17

Replacing: Sheet No.

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Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

(H) The commercial rate schedule of the Company will be applied to the gas used in two or more individual flats or apartments in a dwelling which was originally constructed as, or which has been converted into, a multiple-family building and where the owner has not elected to separately meter the gas used in each individual flat or apartment. Rooming houses without cooking facilities, tourist homes for transients and hotels will be metered and billed as single unit on the commercial rate.

(I) The Company may make a charge of $5.00 for any special meter reading which it is called upon to make other than on the regular reading date. Where interim meter readings are furnished the owner of premises the Company accepts no responsibility as to the distribution of the monthly bill as between tenants.

(J) Claims for error in statements rendered should be made by the customer as soon as discovered; if the claim is found to be meritorious, the Company will make proper adjustment on the Customer's subsequent bills, or make refund to the customer within a reasonable time.

(K) The Company shall make a test of the accuracy of registration of a meter upon request of a customer. Except as otherwise provided in these rate schedules, if such test shows the meter to be slow or within the tolerance limit as to accuracy of registration, the customer may be required to pay a charge of ten dollars ($10.00) for each test so made. If the test shows the meter to be fast and in excess of the tolerance limit of accuracy, such test shall be made at the expense of the Company and an adjustment shall be made with the customer. If no such test has been performed within the previous four years for the same customer at the same location, the test is to be performed without charge.

(L) In case a meter ceases to register, the quantity consumed will be estimated from the amount consumed during the corresponding period for the previous year, giving due consideration to weather and other pertinent factors**,** or by such other method that will be equitable.

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Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

VII. EXTENSION OF FACILITIES

(A) SERVICE LINES AND CONNECTIONS

(1) The Company will make, own and maintain all necessary connections with its street mains. Under normal construction conditions, the Company will install up to 100 feet of service line (up to one inch in diameter and capable of a delivery pressure of up to 60 psig) at no cost to the customer. In the event a service line exceeding the diameter and pressure requirements set forth above is needed, or in the event of abnormal construction conditions, such as solid rock, road crossings that require a bore, the need to bore under landscaping, etc., or in regard to the installation of excess flow valves, any additional costs incurred by the Company will be charged to the customer. The Company may waive these charges when it determines that it is economically justifiable to do so. The Company will own, maintain and specify the route of the piping. Access must be granted on customer's property for replacement or repairs of these facilities. The Company may at its option install a service cock and box. The meter location will be determined by the Company. The Company will also set and own the meter and regulator, but all other piping, connections, and appliances for the purpose of utilizing gas shall be furnished and installed by the customer at the customer's risk and expense. Customer will pay the cost of any relocation of the Company's facilities that the Company may perform at customer's request.

(B) MAIN EXTENSIONS

(1) Extensions from the Company's distribution lines, will be made under the following conditions and circumstances:

(a) Subject to the availability of capital funds, the Company shall construct main extensions from its existing facilities to serve new customers where the cost of the Company's capital investment is economically feasible. Determination of whether a proposed extension is economically feasible shall be made through the use of

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 19

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

an economic model that will take into consideration the following factors:

(1) construction cost estimate;
(2) non-gas revenue;
(3) depreciation;
(4) incremental operating costs; and,
(5) any other factors relevant to economic feasibility of the project.

(b) If it is determined that the Company's return on investment (ROI) on the proposed main extension will equal or exceed the Company's cost of funding capital projects, the extension will be made at no cost to the customer. If it is determined that the Company's ROI will be less than the Company's cost of funding capital projects, the customer shall be required to pay an amount sufficient to ensure that the Company is able to earn an ROI equal to its cost of funding capital projects. On such an advance, the Company may enter into an agreement with the customer to refund the customer contribution. Refunds will be based only on changes in the factors considered in the economic model under which the investment was originally made. The Company shall establish, when capital funds are available, such new distribution service where the Company will be reasonably assured of a sufficient number of customers and an annual revenue to justify the capital expenditure. The Company may, however, refuse to extend facilities in the event system design and/or operational considerations so dictate.

(c) When the Company is requested to extend its distribution facilities to an area with existing potential users where no contributory capital is available, the Company has the option to provide the necessary capital in the amount equal to the necessary customer contribution to be recovered by a fixed daily surcharge rate applied to each customer account within the boundaries of the project for up to five

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Original Sheet No. 20

Replacing: Sheet No.

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years* or until the customer contribution is recovered by the Company, whichever comes first. Under this option, the Company will construct and finance the facilities and recover the customer contribution, in addition to an appropriate interest (or finance charge) assigned to the capital required to fund the customer contribution, through the surcharge rate. If the customer contribution is not recovered during the pay-back period, the remaining balance of the customer contribution (including interest or finance charge) will be added to and included in the Company's overall rate base from that point forward. To insure sufficient customer commitment to each project, each customer will be required to sign an Extension Surcharge Agreement and may be required to make a reasonable customer deposit prior to commencement of construction. Surcharge areas are defined as those areas served by the facilities to be constructed. After the initial installation of facilities to serve the surcharge area, all subsequent connections which utilize mains from the original surcharge area installation will be subject to the same surcharge rate for the remaining period of the surcharge agreement.

*Special conditions may warrant extending this period based on economic conditions.

(d) When new extensions from the surcharge area are requested, the person(s) requesting an extension from these facilities will be required to make whatever customer contribution might otherwise be required for the extension under Part VII (B)(1)(b) and, in addition, will be subject to the surcharge rate for the remaining surcharge period.

(e) When a subsequent area requests service utilizing the facilities of an existing surcharge area, the following regulations will apply:

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Original Sheet No. 21

Replacing: Sheet No.

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(1) When a subsequent surcharge area is established after the installation of an existing surcharge area and the subsequent surcharge area's surcharge rate would be in excess of the surcharge rate applicable to the established surcharge area, the subsequent surcharge area will bear only the cost of their new facilities.

(2) When a subsequent surcharge area is established after the installation of an existing surcharge area and the subsequent surcharge rate is less than the surcharge rates applicable to the established surcharge area, the subsequent surcharge area will bear a portion of the remaining unpaid customer contribution of the established surcharge area in addition to its own surcharge allocation as follows:

(2)(a) The cost of the mainline established for the existing surcharge area shall be shared by the subsequent surcharge area up to an amount equal to the existing area surcharge rate if their computed surcharge is lower than the surcharge for the existing area. This shall be achieved by assigning an unamortized portion of the mainline investment which was required for the existing surcharge area to the subsequent surcharge area in order to fairly equate the surcharges. The amount of investment cost assigned to the subsequent surcharge area will then be credited to the unamortized amount payable by the existing surcharge area customers.

(2) The Company will not be required to enlarge its system of mains to meet the demand for gas of a prospective customer or to provide for an appreciable increase in the demands of a present customer, unless in the judgment of the Company, a reasonable rate of return is assured as a result of the expenditure required.

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Original Sheet No. 22

Replacing: Sheet No.

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(3) When the Company extends its main to serve new customers, the Company will extend its main, in a manner which, in its judgment, will be most advantageous for rendering service.

(4) Where the customer requires that his meter be placed in a particular location, the customer will be required to pay any additional cost that may result from compliance with the customer's request.

(5) A standard Rural Gas Contract must be executed by each customer requesting a pipeline tap. The Company will not make or serve a tap on any federally certificated transmission line, unless, in the judgment of the Company, a reasonable rate of return can be earned as a result of the expenditure required to construct the tap and serve the customer, without unreasonable consequences to other customers. In addition, the Company will not make or serve a tap on any other transmission line, field gathering pipeline, or lines to wells which in the Company's opinion, presently contain or may in the foreseeable future contain undehydrated gas, liquid hydrocarbons, sour gas, or gas that is otherwise not merchantable. The Company may discontinue service whenever it believes reliable service cannot continue to be provided for any reason, including, but not limited to, water content of the gas furnished. In the event service is suspended or terminated because the Company cannot or believes it cannot continue to provide safe and reliable service, the Company will be under no obligation to compensate the affected customer(s) for such loss of service.

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Original Sheet No. 23

Replacing: Sheet No.

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(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

EXTENSION SURCHARGE AGREEMENT

The undersigned promises to pay to Summit Utilities Arkansas, Inc., a surcharge on his/her/their/its monthly gas bill in consideration of the Company's extension of its facilities into the surcharge area in which the undersigned resides. The surcharge amount will be $_____ per month. The surcharge will be applied to all monthly billings to the undersigned for a ____ year period or until the Company recovers the required customer contribution for the surcharge area, whichever comes first. The surcharge amount will appear as a separate line item on the undersigned's bill.

The terms of this Extension Surcharge Agreement shall be subject to the provisions of the Company's rates and policies.

_____

_____

Accepted this _____ day of _____, 20__.

Summit Utilities Arkansas, Inc.

By _____

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Original Sheet No. 24

Replacing: Sheet No.

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(Name of Company)

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VIII. GENERAL

The customer shall use the gas delivered by the Company for his purposes only. The customer shall not, under any circumstances, resell or share with others any gas delivered by the Company. No changes**,** extensions, or replacement of service `lines shall be made without the written consent of the Company. No extension whatsoever of customer owned piping shall be made for the purpose of supplying gas to adjacent property**,** or other person or concerns residing or operating on the premises of the customer.

The foregoing natural gas resale prohibition shall not apply to distributors selling compressed natural gas as a motor vehicle fuel.

The authorized agent of the Company shall have the right and permission to enter upon the premises of the customer to inspect or test lines, and appliances, to read, change or remove the meter, to turn on and shut off the gas, or to perform other related functions. This right shall not be construed as placing any responsibility on the Company to inspect and test the lines or equipment of the customer.

No structures shall be erected over the Company's gas lines. In the event any such structure is erected, the customer will be provided the option of either removing the structure or paying the Company the cost of relocating the gas line, including the cost of obtaining alternative easements, if required.

The place of delivery of all gas purchased shall be at the outside wall of the first structure being served if the Company has installed or replaced the service line to that point. In all other cases, the place of delivery of all gas purchased shall be at the point of connection to the customer's service line from which point all gas delivered shall become the property of the customer, who shall thereafter be responsible for its passage through the meter and for all damage caused by said gas.

The Company shall have no responsibility for any act or omission, and shall have no liability from any cause, downstream of delivery. In case the supply of gas should fail, whether from natural causes, bursting of pipes or accident in any way, the Company shall

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Original Sheet No. 25

Replacing: Sheet No.

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(Name of Company)

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not be liable for damages, whether direct, special, continuing, exemplary, presumptive, incidental, indirect or consequential, including without limitation, loss of profits, loss of revenue, or loss of production capacity by reason of such failure. The Company shall not be liable in damages for any act or event that is beyond the Company's control and which could not be reasonably anticipated and prevented through the use of reasonable measures, including, but not limited to acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, arrests, wars, blockades, insurrections, riots and epidemics, landslides, lightning, earthquakes, fires, storms, floods and washouts, priority limitation or restraining orders of any governmental authority and civil disturbances, explosions, breakage, accidents, tests, maintenance or repair to machinery, equipment, lines of pipe or other facilities; inability to obtain, or unavoidable delay in obtaining, material, equipment, rights-of-way or permits; and any other causes whether of the kind herein enumerated or otherwise.

Meters and pipes are likely to freeze in cold weather, and it shall be the duty of each customer to protect the pipes and the meter or meters from the action of the elements.

These Rules and Regulations are made a part and condition of all rate schedules of the Company and all customers served under such schedules shall be subject to these Rules and Regulations.

These Rules and Regulations are in addition to Rules and Regulations now established by the Regulatory Body having jurisdiction over these matters.

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Original Sheet No. 26

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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IX. STATE AND MUNICIPAL TAXES

Whenever the State or a municipality imposes upon the Company any sales privilege, occupation, meter, or other special tax, except ad valorem taxes, the Company shall pass the tax on to customers within the jurisdiction of the taxing authority in accordance with provisions set forth in such tax law or ordinance.

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Original Sheet No. 27

Replacing: Sheet No.

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Kind of Service: Natural Gas Class of Service: All

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X. LEVELIZED PAYMENT PLAN

A. Residential customers and small commercial customers having less than 500 MMBtu annual usage may have the option of participating in the "Levelized Payment Plan" (LPP) for billing purposes as opposed to the normal billing procedure.

B. Operation of the Levelized Payment Plan

Under the LPP a customer's bill will be computed by averaging to the nearest dollar, the amount derived by applying the current applicable rate schedule, cost-of-gas adjustment, and applicable tax factor to each of the most recent twelve months historical volumes. The average bill amount thus derived will be the monthly payment amount for each of the succeeding six months.

Actual billings will continue to be based upon the applicable rates and meter readings obtained to determine consumption. The amount due under the LPP will be identified as a separate item on the customer's bill so the customer will know the amount to pay. The actual bill amount will also be reflected on the bill as a memo item for the customer's information.

The cumulative difference between actual billings and the levelized billings under the LPP will be carried in a deferred balance that will accumulate both debit and credit differences.

The monthly payment amount will be automatically reviewed and adjusted six months after the anniversary date. This adjustment will be made to assure that the difference between actual payments and average payments under the LPP will be minimal. The new LPP payment amount will be computed by averaging the sum of the most recent six months actual billings and a projected amount for the next six months. The projected amount will be derived by applying the current applicable rate schedule, cost-of-gas adjustment, and applicable tax factor to each of the most recent year's historical volumes for the corresponding months. This amount will be

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Original Sheet No. 28

Replacing: Sheet No.

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rounded to the nearest dollar and will be the monthly LPP payment amount for the next six months.

On the initial and subsequent anniversary dates a new levelized payment amount is calculated by averaging to the nearest dollar, the amount of the deferred balance and the amount derived by applying the current applicable rate schedule, cost-of-gas adjustment, and applicable tax factor to each of the most recent twelve months historical volumes. This new LPP amount will then be in effect until the time of the next six-months review. On each subsequent anniversary date a new levelized payment amount will be calculated in this manner.

In such instances where sufficient billing history is not available, a twelve-month billing history will be estimated by the local office. The estimated history will be based on actual billings for those months in which actual billing data is available and estimated based on the service address or a similar location for those months in which no such actual billing is available.

Participation in the LPP will have no effect on the Company's approved rate schedules or other billing charges used to calculate the customer's actual monthly billing.

C. Customer Qualification for "Levelized Payment Plan"

No additional customers shall be added to the LPP. The Company will, however, maintain the LPP for those customers participating in the LPP.

Customer may discontinue LPP at any time by notifying the Company. If a customer requests termination, if an account is final billed, or if the customer is suspended by the Company as a result of past due amounts on an account, any outstanding balance owed to the Company at the time, including any differences between billings under the LPP and billings which would have been rendered under normal billing procedures shall be immediately due and payable. Likewise, any credit due customer shall be applied to the next bill or refunded, as appropriate.

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Original Sheet No. 29

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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XI. EXTENDED ABSENCE PAYMENT PLAN

(A) The following options are available to residential customers to avoid suspension of service during any extended absence over one (1) month:

(1) Bills due during the customer's absence may be paid in advance. The amount of the payment will be based on the prior year's corresponding usage based on current rates. Any over or under payment by the customer will be applied to the customer's next bill when he returns. A delayed payment agreement will be available for underpayments.

(2) The customer will be given the opportunity to enroll in the Company's automatic bank draft program. The monthly bill will be paid automatically through the customer's checking or savings account.

(a) This option may be utilized by the customer in conjunction with the Company's Average Monthly Billing (AMB), which establishes the monthly bill amount for customer's budgeting purposes during the absence.

(3) The customer can arrange to have bills coming due mailed to an alternate address, or to a third party during the absence.

(a) Third-party notification does not imply the third party will be responsible for the bill. Normal suspension of service rules will apply in the event bills are not paid.

(B) The customer must notify the Company in order to take advantage of any of these extended absence payment plans.

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Original Sheet No. 30

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
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Kind of Service: Natural Gas Class of Service: All

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XII. AVERAGE MONTHLY BILLING

(A) Residential customers have the option of adopting the "Average Monthly Billing" plan ("AMB") for billing purposes as opposed to the normal billing procedure.

(B) OPERATION OF THE "AVERAGE MONTHLY BILLING"

(1) Each month, under the AMB a customer's bill will be computed by averaging to the nearest dollar, the amount billed to the customer's account during the last 12 months, plus or minus one-twelfth of the deferred budget balance. The average bill amount thus derived will be the payment amount for the month.

(2) Actual billings will continue to be based upon the appropriate rate schedules, riders, tax factors, and meter readings used to determine consumption. The AMB amount will be identified as a separate item on the customer's bill so the customer will know the amount to pay. The actual bill amount will also be shown on the bill as a memo item for the customer's information.

(3) The cumulative difference between actual billings and the AMB billings will be carried in a deferred budget balance that will accumulate both debits and credits and will adjust monthly.

(4) The monthly payment amount will be automatically reviewed and adjusted each month.

(5) In such instances where sufficient billing history is not available, a twelve-month billing history may be estimated.

(6) Participation in the AMB will have no effect on the Company's approved rate schedules or other billing charges used to calculate the customer's actual monthly billing.

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Original Sheet No. 31

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
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(C) CUSTOMER QUALIFICATION FOR "AVERAGE MONTHLY BILLING" PLAN

(1) The AMB shall be made available to residential customers. The AMB is optional and will be available only on customer request, after an appropriate application for the AMB is completed, submitted and approved by the Company.

(2) At the time a customer chooses to participate in the AMB, his account must be current. This means that the current billings must not be past due and no unpaid balance exists.

(3) The customer may discontinue the AMB at any time by notifying the Company. The AMB will be discontinued if the customer requests a disconnect, if the customer is delinquent 30 or more days, if an account is final billed, or if the customer is turned off for non-payment as a result of past due amounts. Any outstanding balance owed to the Company at the time, including the deferred balance, will be due immediately. A delayed payment plan may be available to qualifying customers. Likewise, any credit due customer shall be applied to the next bill or refunded, as appropriate.

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Original Sheet No. 32

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
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Kind of Service: Natural Gas Class of Service: All

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XIII. PROVISIONS FOR LANDLORDS AND TENANTS

(A) LANDLORD/TENANT ACCOUNT IDENTIFICATION

(1) The following procedure is used by the Company to identify landlord/tenant accounts:

(a) New service applicants are questioned during the initial application to determine if a landlord/tenant relationship exists.

(b) If Company personnel determine a landlord/tenant relationship exists, then the account will be coded accordingly.

(1) The landlord may be contacted to confirm tenant information.

(c) Company personnel may review landlord/tenant accounts periodically to verify landlord/tenant status.

(d) The Company will not be liable for any damage to persons or property resulting from the failure to properly identify a landlord/tenant account.

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Original Sheet No. 33

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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XIV. MINIMUM HEATING VALUE FOR GAS

(A) The average heating value for gas delivered to customers shall not be less than 975 Btu per cubic foot at 14.73 psia and 60° Fahrenheit.

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Original Sheet No. 34

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
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XV. BASE OR ABSOLUTE GAS PRESSURE

(A) The established absolute pressure base for all deliveries shall be 14.73 psia.

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Original Sheet No. 35

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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XVI. NORMAL GAUGE PRESSURE FOR GAS

(A) The normal gauge pressure for all deliveries shall be .33 pounds gauge pressure per square inch above 14.4 assumed atmospheric pressure.

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Original Sheet No. 36

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

XVII. LEAVE ON AGREEMENT

(A) Pursuant to owner/manager's request and upon completion and approval of a Leave on Agreement as provided on sheet numbers 36 through 39 herein, the Company agrees to continue to sell and deliver natural gas service to owner/manager's rental units identified in the Agreement and the owner/manager agrees to pay Company for all gas service and charges provided for in the Agreement, subject to the terms and conditions of the Agreement.

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Original Sheet No. 37

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

LEAVE ON AGREEMENT FOR NATURAL GAS SERVICE

This contract and agreement (hereinafter called the "Agreement") is made and entered into this _____ day of _____, 20____, by and between Summit Utilities Arkansas Inc., (hereinafter called "Company") its successors and assigns, and _____, (hereinafter called "Customer").

Customer represents that it is the owner/manager of the residential or commercial property identified on Attachment A hereto (said property being hereinafter referred to as the "rental property"), and that the terms and provisions of this Agreement are intended to cover and pertain to said rental property, consisting of a total of _____ rental unit(s).

Article I

Customer hereby requests that Company continue to sell and deliver natural gas service to each of the rental units identified above during any period of time subsequent to the closing of an account for service to a tenant or occupant of any of such rental units, or to the discontinuance or termination of service to any such rental units for any reason whatsoever except the nonpayment of utility bills by either the tenant or customer, and prior to the opening of an account for service to a new tenant or occupant of such rental unit. Customer agrees to be responsible for payment of all charges for gas service provided to any and all rental units covered by this Agreement during the aforesaid period of time.

Article II

A. Company agrees to waive the connection charge on all units identified on Attachment A, provided the gas service is transferred directly to the Customer without interruption. It is understood and agreed to by the Customer that the normal connection fee as approved by the appropriate regulatory authority will apply on units where a service interruption has occurred.

B. Customer agrees to pay Company for all gas service and charges provided for in this Agreement in accordance with all rates, tariffs, schedules and charges which have been approved by the prevailing regulatory authority. Both parties understand that the charges provided and set forth in

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Original Sheet No. 38

Replacing: Sheet No.

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Kind of Service: Natural Gas Class of Service: All

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this Agreement may, from time to time, be revised pursuant to order of prevailing regulatory authorities. The parties agree that in the event any charge provided and set forth in this Agreement is so revised, the provisions of this Agreement will automatically be revised in accordance therewith without further action by either party.

Article III

A. This Agreement shall continue in full force and effect as to all rental units identified herein until terminated by either party by written notice mailed or delivered to the other party at least thirty (30) days prior to the date on which termination of this Agreement is desired.

B. In the event the Customer desires additional rental units to be covered by this Agreement or to delete rental units covered by this Agreement from such coverage, Customer agrees to provide notice of such changes to Company in writing. It is agreed that changes in the coverage of this Agreement requested by Customer shall become effective no more than one (1) business day after Customer's written request for such changes is received by Company.

Article IV

It is understood and agreed that this Agreement and the gas service to be provided by Company hereunder shall be subject to all applicable rules of the prevailing regulatory authorities, and the Company's rates and policies as presently on file with those authorities, as the same may be changed in accordance with the law.

Article V

This Agreement supersedes any previous Leave On Agreements entered into between Company and Customer with respect to the rental property or units identified herein.

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Original Sheet No. 39

Replacing: Sheet No.

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(Name of Company)

Kind of Service: Natural Gas Class of Service: All

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Effective: (to be determined)

Article VI

This Agreement shall bind and benefit the successors and assigns of Company and may be assigned by Customer upon written consent of Company.

_____ Summit Utilities Arkansas, Inc.

By:_____ By:_____

Mailing Address for Notices Required Herein:

_____ _____

_____ _____

_____ _____

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 40

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART III

STANDARD SERVICE RULES AND REGULATIONS

Effective: (to be determined)

ATTACHMENT A

Summit Utilities Arkansas, Inc.
LEAVE ON AGREEMENT PROPERTY LISTING

Customer _____ Date_____

UNIT NUMBER	PROPERTY DESCRIPTION	ADDRESS	CITY/TOWN	STATE

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 41

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART III

STANDARD SERVICE RULES AND REGULATIONS

Effective: (to be determined)

XVIII. ORDER OF CURTAILMENT (OC)

(A) In order to take steps necessary for the protection of the reliable and adequate service that present supplies, capacities and facilities will permit, the Company will adhere to the following curtailment program:

(1) Deliveries of gas will be curtailed to whatever extent and for whatever periods Company may find necessary from time to time in the operation of its system for the primary benefit of human needs customers.

(2) In case of curtailments for whatever reason, the following order of priorities will be observed insofar as practicable, with the first noted category having the highest priority, and so on:

Priority 1.1 Residential; all commercial requirements of less than 500 Ccf per peak day.

Priority 1.2 All other commercial requirements (including schools, hospitals, and similar institutions unless they have provided an affidavit of waiver as set forth in Affidavit B of the LCS-1 Appendix), plant protection, small industrial and essential agricultural users with total requirements of up to 3,000 Ccf per day, and other uses the curtailment of which the Secretary of Energy or FERC determines would endanger life, health, or maintenance of physical property.

Priority 2.1* All other firm requirements for essential agricultural uses as defined in Section 401 of the Natural Gas Policy Act of 1978 which cannot use an alternate fuel within the meaning of applicable rules and regulations promulgated by the FERC under Section 401(b) of that Act.

Priority 2.2* Firm requirements for essential commercial process and feedstock uses as defined in Section 402 of the Natural Gas Policy Act of 1978 which cannot use an alternate fuel.

Priority 2.3* Firm requirements for other feedstock and process needs.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 42

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART III

STANDARD SERVICE RULES AND REGULATIONS

Effective: (to be determined)

Priority 3 Firm requirements for commercial needs not covered elsewhere.

Priority 4 Firm requirements for commercial needs for boiler fuel use of more than 3,000 Ccf per day but not more than 15,000 Ccf per day.

Priority 5 Firm requirements for commercial needs for boiler fuel use of more than 15,000 Ccf per day but not more than 30,000 Ccf per day.

Priority 6 Firm requirements for commercial needs for boiler fuel use of more than 30,000 Ccf per day.

Priority 7 Commercial transportation requirements for customers contracting directly with an upstream pipeline where gas supply deliveries have been interrupted or curtailed by the pipeline.

* **When it is necessary to curtail loads in each of these priorities, the large requirements that normally use more than 3,000 Mcf per day will be curtailed before the smaller loads.**

(3) Each higher priority of use will be fully protected from curtailment until all lower priorities have been ordered curtailed 100 percent; that is, no curtailments of Priority 5 uses will be ordered until all Priority 6 uses have been ordered curtailed, and so forth.

(4) If system deliverability permits only partial delivery of gas to a given category of use, curtailment will occur, on the basis of a pro rata sharing based on historical deliveries to customers for that category. On days when curtailment is required, total deliveries to individual customers may not exceed contract volumes.

(5) Before service commences, when the character of gas usage materially changes, and from time to time upon request, each customer shall furnish Company with all information reasonably required by Company with regard to gas usage at the facility served to assist Company in its determination of the proportionate parts, if any, of that usage falling in different priority categories. In determining the appropriate priority

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 43

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART III

STANDARD SERVICE RULES AND REGULATIONS

Effective: (to be determined)

category for gas sold, no distinction will be made between gas sold to direct customers and to resale customers.

(6) Company will implement this curtailment plan throughout each of Company's systems to the extent possible consistent with the practical operation of the system, giving due regard to such factors as system capacity and where curtailable customers are located in relation to where the gas is needed.

Any customer who fails to comply with any curtailment directive issued by the Company in response to this order shall be subject to total curtailment of gas during the remainder of the curtailment period. The Company shall have the right to enter the premises of the customer to ascertain the degree of compliance with the curtailment order and to take such other steps as may be necessary to enforce the provisions of this curtailment order.

(7) An emergency exemption from curtailment will be provided for all firm electric utility customers to the extent required to avoid the curtailment of firm electric load upon an attestation by a utility to Company that: (1) the utility faces an emergency situation wherein it will be required to shed firm electric load necessary to serve human needs customers unless an exemption from curtailment is granted in an amount which will avoid the curtailment of firm electric load necessary to serve human needs customers; (2) the utility has no alternate fuel capability; (3) the utility has exhausted all purchased power opportunities; (4) the utility has utilized all alternative sources of power; and (5) the utility will accept reduced deliveries during the emergency exemption from curtailment. Electric utilities served at more than one location are permitted to divert their entitlements between plants so long as they stay within their total entitlements, where Company determines that this can be done consistently with prudent operation of its system.

(8) Any firm customer claiming an emergency need for supplemental deliveries during curtailment to forestall irreparable injury to life or property shall furnish Company with full details of the nature, cause, unavoidability and estimated duration of the emergency. This information is to be given by telephone followed by immediate

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 44

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART III

STANDARD SERVICE RULES AND REGULATIONS

Effective: (to be determined)

written notice to Company signed by an officer or responsible employee under oath. Upon receipt of the initial notice Company will make such investigation as is reasonably possible under the circumstances and if gas is available, Company will deliver such supplemental volumes as Company determines the situation to require. The customer must promptly take all reasonable steps to eliminate the cause of the emergency and accept reduced deliveries after the emergency to offset the supplemental deliveries.

(9) Company shall be relieved of all liabilities, penalties, charges, payments, price adjustments, alternate fuel subsidizations and claims of whatever kind, contractual and otherwise, resulting from or arising out of Company's failure to deliver all, or any portion of, the volumes of gas desired by any particular customer or customers to the extent that such failure results from Company's implementation of this curtailment plan in accordance with its provisions and applicable regulatory orders, notwithstanding inconsistent provisions in contracts, jurisdictional and non-jurisdictional, heretofore entered into.

(10) Until the reserves available to Company's system are substantially augmented, Company will husband its existing gas supply by regulating its receipts from connected sources so as to receive gas at rates reasonably calculated to permit the maximum utilization of the reserves for the benefit of Company's human needs customers over the longest possible periods of time.

(11) All surplus gas deliveries are to be discontinued completely before contract service to the above listed priorities is curtailed.

(12) To the extent Company has gas available, Company will deliver volumes of natural gas to firm customers:

(a) to respond to emergency situations (including environmental emergencies) during period of curtailment where additional supplies are required to forestall irreparable injury to life or to property; and

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 45

Replacing: Sheet No.

Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART III

STANDARD SERVICE RULES AND REGULATIONS

Effective: (to be determined)

(b) to provide for minimum plant protection when the plant is shut down.

Attachment: 2022-004 EXH 'A' Clean TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-1.1/3

Replacing: ~~Original~~ Sheet No. ~~1-1.1~~/3

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Residential

PART I – Rate Schedule No. 1

Title: RESIDENTIAL FIRM SALES SERVICE (RS-1) Effective: ~~(September 1, 2017~~TBD~~~~to be determined)

1. RESIDENTIAL FIRM SALES SERVICE (RS-1)

1.1. AVAILABILITY

1.1.1. This rate is available to any consumer where gas is delivered to an individually metered, single, private dwelling and its appurtenances, the major use of which is for household appliances, and for the personal comfort and convenience of those persons residing therein. This rate schedule is not available for any dwelling used principally for commercial purposes. Natural gas supplied hereunder is for the individual use of the customer at the point of delivery and shall not be resold or shared with others. Standby service is not available under this rate schedule.

1.2. RATES

1.2.1. Each customer receiving service under this rate schedule shall be charged the sum of (a), (b), and (c) as follows:

(a) Monthly Customer Charge -- $10.75. ~~–~~The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

(b) Distribution Rate:

First 15 Ccf at $0.45335 per Ccf
Over 15 Ccf at $0.36576 per Ccf

(c) Gas Supply Rate - The Gas Supply Rate will be calculated and adjusted periodically as defined in the Company's Gas Supply Rate Rider.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-1.2/3

Replacing: ~~Original~~ Sheet No. ~~1-1.~~2~~/3~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Residential

PART I – Rate Schedule No. 1

Title: RESIDENTIAL FIRM SALES SERVICE (RS-1) Effective: ~~(September 1, 2017~~TBD~~~~to be determined)

(d) WNA Rider will be applicable only to volumes in excess of 15 Ccf per month.

1.3. MINIMUM CHARGE

1.3.1. Monthly Customer Charge -- $10.75. ~~-~~The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

1.4. RIDERS

1.4.1. In addition to the Gas Supply Rate Rider, the following riders are applicable to service under this rate schedule:

Rider Name	Description	Identification on Customer Bills
TA	Municipal Tax Adjustment	Municipal Franchise Adj
WNA	Weather Normalization Adjustment	Weather Normalization Adj
~~BDA~~	~~Interim Billing Determinant Rate Adjustment~~	~~Billing Determinant Rate Adj~~
EECR	Energy Efficiency Cost Recovery Rider	EE Cost Rate
~~FRP~~	~~Formula Rate Plan Rider~~	~~Formula Rate Plan Adj~~

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-1.3/3

Replacing: ~~Original~~ Sheet No. ~~1-1.~~3~~/3~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Residential

PART I – Rate Schedule No. 1

Title: RESIDENTIAL FIRM SALES SERVICE (RS-1) Effective: ~~(September 1, 2017~~~~TBD~~to be determined)

1.4.2. Service will be rendered under this rate schedule until service is discontinued to customer or the schedule is superseded.

1.5. RULES AND REGULATIONS GOVERNING UTILITY SERVICE

1.5.1. The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-2.1/8

Replacing: ~~Original~~ Sheet No. ~~1-2.1/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

2. SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

2.1. AVAILABILITY

2.1.1. This rate schedule is available at points of adequate capacity and suitable pressure on the Company's existing facilities. This rate schedule is available to any consumer engaging in business, professional, institutional or other non-residential activity supplied at an individually metered point of delivery for all uses of gas. Natural gas supplied hereunder is for the individual use of the customer at the point of delivery and shall not be resold or shared with others. Standby service is not available under this rate schedule.

2.1.2. Gas consumption under this rate schedule is limited to 365,000 Ccf in any 12 consecutive month period. If at any time, it is anticipated, based on Company's estimate, that the customer will consume in excess of 365,000 Ccf per year in the succeeding 12 consecutive month period, the customer shall become subject to the applicable large commercial firm service rate schedule.

2.1.3. Company has historically allowed the volume usage of meters at business facilities under common ownership and subject to this rate schedule to be aggregated for the sole purpose of establishing eligibility for transportation as referenced in Part 3.1.3. of Rate Schedule LCS-1. Customers historically qualifying for transportation under this aggregation provision shall remain subject to the rates and charges under this rate schedule in addition to any additional specific rates, charges, or adjustment riders peculiar to the Transportation Supply Option ("TSO") set out in Rate Schedule LCS-1, such as, but not limited to, administrative fees. Customers aggregating volume shall be subject to all provisions and policies governing TSO option customers as specified in LCS-1, except as provided for herein.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-2.2/8

Replacing: ~~Original~~ Sheet No. ~~1-2.2/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

Although no aggregation will be allowed for eligibility, the ability to aggregate for eligibility purposes at existing and new locations shall remain unchanged for transportation customers eligible under such aggregation provision prior to September 21, 2002. Future aggregation for the purpose of qualification, except as otherwise referenced herein, is prohibited. Each individual account of historically qualified customers shall be treated as a separate account and shall be subject to the same rates and charges under the originating SCS-1 or LCS-1 rate schedule, and are additionally subject to any specific rates, charges or riders specific to the TSO.

For the purpose of establishing eligibility for the "TSO" defined in the LCS rate schedule, customers experiencing or anticipating an average daily demand of 10 MMBtu per day during the preceding or succeeding twelve months will be eligible for the TSO. Customers qualifying for transportation who choose the TSO shall be subject to rates and charges under the SCS-1 rate schedule, and are additionally subject to any additional specific rates, charges or riders specific to the TSO.

2.1.4. Customers converting from transportation service to sales service will be required to contract for such sales services between the months of February through April preceding the expiration of the primary or any succeeding term of the Customer's existing contract. Customers seeking to contract for sales service during the required time frame will be allowed to convert to sales service provided that the Company is able to secure firm upstream transportation capacity and other upstream pipeline services sufficient to meet the Customer's needs. Any such conversion will be effective upon the expiration of the term of the Customer's existing contract, unless the Company and the Customer agree otherwise.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-2.3/8

Replacing: ~~Original~~ Sheet No. ~~1-2.~~3~~/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

2.1.5. Seasonal Transportation. Customer facilities experiencing more than 80% of annual load during the flow months April through October, and who experience or anticipate an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding April through October, are eligible to transport on a seasonal basis. Customers meeting the aforementioned criteria, may elect the TSO option and choose a subsequent return to the System Supply Option ("SSO") only once during the calendar year. Customers electing the TSO on a seasonal basis, pursuant to notice given prior to May 31st or thirty days prior to commencement of service, whichever is earlier, may receive transportation service for a continuous period of at least 30 days between April 1 and October 31. Customers electing the TSO option on a seasonal basis are subject to the TSO contract administration fee. Additionally, each participating location shall pay a $300 set-up fee upon initial election and upon any subsequent return to transportation service.

2.2. RATES

2.2.1. Each customer receiving service under this rate schedule shall be charged the sum of (a), (b), and (c) as follows:

(a) Monthly Customer Charge - $14.67. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

(b) Distribution Rate for customers electing the SSO option:

First 1,500 Ccf at	$0.17133
1,501 – 15,000 Ccf at	$0.12959
Over 15,000 Ccf at	$0.05555

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-2.4/8

Replacing: ~~Original~~ Sheet No. ~~1-2.~~4~~/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

Distribution Rate for customers electing the TSO option:

First 150 MMBtu at	$1.68620
151 – 1,500 MMBtu at	$1.27534
Over 1,500 MMBtu at	$0.54673

(c) Gas Supply Rate - The Gas Supply Rate will be calculated and adjusted periodically as defined in the Company's Gas Supply Rate Rider.

(d) WNA Rider will be applicable only to volumes in excess of 78 Ccf.

2.2.2. Rates for customers historically qualifying for service under the Part 2.1.3. aggregation provision and customers qualifying for transportation under this rate schedule will be subject to thermal adjustment. Delivered volumes will be adjusted by the appropriate thermal content factor obtained from the nearest available chromatograph or sampling location (Ccf / 10) x thermal content factor = MMBtu).

2.3. MINIMUM CHARGE

2.3.1. Monthly Customer Charge -- $14.67. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

2.4. TELEMETERING

2.4.1.

Telemetering is required for customers electing and qualifying for transportation service. Company shall install telemetry equipment of

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-2.5/8

Replacing: ~~Original~~ Sheet No. ~~1-2.~~5~~/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

standard make and manufacture to determine hourly and daily flow at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc. for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

( ) Option 4: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-2.6/8

Replacing: ~~Original~~ Sheet No. ~~1-2.~~6~~/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

In the event customer has in place working telemetering facilities and equipment; and the customer receives system supply service; and Company determines it necessary to keep the telemeter(s) operational, Company will arrange and pay for the associated telecommunications cost while the customer receives sales service under this rate schedule.

2.4.2. If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunications lines. Should customer fail to maintain or repair telecommunications lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.

If customer chooses wireless telemetry, then customer shall pay Company $10 per month per meter for wireless telemetry service for the entire period such meter(s) is(are) served under this or any other transportation rate schedule.

2.5. RIDERS

2.5.1. In addition to the Gas Supply Rate Rider, the following riders are applicable to service under this rate schedule:

Rider Name	Description	Identification on Customer Bills
TA	Municipal Tax Adjustment	Municipal Franchise Adj
WNA	Weather Normalization	Weather Normalization Adj

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-2.7/8

Replacing: ~~Original~~ Sheet No. ~~1-2.7/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

	Adjustment	
~~BDA~~	~~Interim Billing Determinant Rate Adjustment~~	~~Billing Determinant Rate Adj~~

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-2.8/8

Replacing: Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. 2

Title: SMALL COMMERCIAL FIRM SALES SERVICE (SCS-1)

Effective: ~~September 1, 2017~~TBD

EECR	Energy Efficiency Cost Recovery Rider	EE Cost Rate
~~FRP~~	~~Formula Rate Plan Rider~~	~~Formula Rate Plan Adj~~

2.5.2. Service will be rendered under this rate schedule until service is discontinued to customer, the customer qualifies for service under the large commercial firm service rate schedule, or the schedule is superseded.

2.6. RULES AND REGULATIONS GOVERNING UTILITY SERVICE

2.6.1. The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.1/39

Replacing: ~~Original~~ Sheet No. ~~1-3.1~~/38

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017~~(to be determined)~~T~~

3. LARGE COMMERCIAL FIRM SERVICE (LCS-1)

3.1. AVAILABILITY

3.1.1. This rate schedule is available at points of adequate capacity and suitable pressure on the Company's existing facilities. This rate schedule is available to any customer at a particular facility owned or operated by customer who enters into a large volume commercial service agreement ("Agreement") with Company, in the form appended to this rate schedule on reasonable terms and conditions acceptable to the Company, for delivery of gas at the facility, provided such facility has experienced, or anticipates, an average daily demand of more than 100 MMBtu per day during the preceding or succeeding twelve (12) months, respectively.

For the purpose of establishing eligibility for the Transportation Supply Option ("TSO") defined in this rate schedule, customers experiencing or anticipating an average daily demand of 10 MMBtu per day during the preceding or succeeding twelve months will be eligible for the TSO. Customers choosing the TSO will remain under their originating SCS or LCS rate schedules, and are additionally subject to any specific rates, charges or riders specific to the TSO.

3.1.2. Company has historically allowed the volume usage of meters at facilities under common ownership and subject to other commercial rate schedules to be aggregated for the sole purpose of establishing eligibility for transportation. Although no aggregation will be allowed for eligibility, the ability to aggregate for eligibility purposes at existing and new locations shall remain unchanged for transportation customers eligible under such aggregation provision prior to September 21, 2002. Future aggregation for the purpose of qualification, except as otherwise referenced herein, is prohibited. Each individual account of historically qualified customers shall be treated as a separate account and shall be subject to the same rates and

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Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.2/39

Replacing: ~~Original~~ Sheet No. ~~1-3.2~~/38

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017(to be determined)T~~

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charges under the originating SCS or LCS rate schedule, and are additionally subject to any specific rates, charges or riders specific to the TSO.

3.1.3. Customers under this rate schedule may choose between two sources of supply, as follows:

(a) System Supply Option ("SSO") - under which customer will be delivered natural gas supply designated as general system supply of Company.

(b) Transportation Supply Option ("TSO") - under which customer will be delivered natural gas supply received for customer's account at points of receipt on Company's distribution facilities.

3.1.4. The customer's election between the two supply options under this rate schedule shall be set forth in the requisite Agreement which will specify the term (duration) of this customer election. Under no circumstances shall the Company be obligated to (a) deliver natural gas volumes to a customer under this rate schedule from a supply source other than the one reflected in customer's election embodied in the Agreement or (b) enter into an agreement with a term of less than one year. LCS customers failing to execute the requisite agreement setting forth the supply option election, shall default to the System Supply Option, and shall remain until such time that an agreement setting forth the alternative supply option is executed.

3.1.5. If customer has human needs requirements, or other requirements necessary for the preservation of life, health or physical property, the Company will require customer to certify and document such requirements in writing prior to the start of service. The Customer shall update the Company in writing when its human needs requirements change.

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.3/39

Replacing: ~~Original~~ Sheet No. ~~1-3.3/38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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3.1.6. Additionally, if customer has human needs requirements under the TSO, the Company will require customer to certify and document to Company that it:

(a) has made firm pipeline capacity and gas supply arrangements sufficient to ensure non-interruptible deliveries to satisfy its level of human needs requirements. This documentation will include written acknowledgement from the upstream pipeline that firm, primary delivery point capacity is under contract for the appropriate location that will service customer, and that such capacity is under contract for the entire November through March time period; or,

(b) has one or more alternative energy back-up systems in place to provide for continuous energy to satisfy the total human needs requirements that otherwise would be met by natural gas. In such instance, there will be no requirement to meet this firm pipeline capacity and gas supply provision.

3.1.7. Customers converting from sales service to transportation service shall bear the supply-related cost/credit shifts or additional costs/credits, if any, directly resulting from that conversion, including existing pipeline commitments, existing gas supply costs, and additional administrative costs. The Company shall maintain adequate records to demonstrate such costs and to substantiate that this result has been achieved, and shall make such information available to the converting customer upon request. Upon request, Company shall provide a good faith estimate of such costs/credits based upon representations made by the customer as to usage, demand, timing, and other factors.

3.1.8 Customers converting from transportation service to sales service will be required to contract for such sales service between the months of February through April preceding the expiration of the primary or any succeeding term of the Customer's existing contract. Customers seeking to contract for

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Replacing: ~~Original~~ Sheet No. ~~1-3.4/38~~

~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017~~(to be determined)~~T~~

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sales service during the required time frame will be allowed to convert to sales service provided that the Company is able to secure firm upstream transportation capacity and other upstream pipeline services sufficient to meet the Customer's needs. Any such conversion will be effective upon the expiration of the term of the Customer's existing contract, unless the Company and the Customer agree otherwise.

3.1.9. Seasonal Transportation. Customer facilities experiencing more than 80% of annual load during the flow months April through October, and who has experienced or anticipates an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding April through October, are eligible to transport on a seasonal basis. Customers meeting the aforementioned criteria, may elect the TSO option and choose a subsequent return to the SSO option only once during the calendar year. Customers electing the TSO option on a seasonal basis, pursuant to notice given prior to May 31st or thirty days prior to commencement of service, whichever is earlier, may receive transportation service for a continuous period of at least 30 days between April 1 and October 31. Customers electing the TSO option on a seasonal basis are subject to the TSO contract administration fee. Additionally, each participating location shall pay a $300 set-up fee upon initial election and upon any subsequent return to transportation service.

3.2. MAXIMUM QUANTITIES

3.2.1. Company and customer shall agree upon a Maximum Daily Winter Quantity ("MDWQ") applicable to the period from November through March which will be reflected in the Agreement, and shall establish the maximum MMBtu Quantity that the Company will be obligated to deliver on a firm basis on any given day to customer's point of delivery until such maximum quantity is revised pursuant to Part 3.2.4.

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~~First Revised~~Original Sheet No. 1-3.5/39

Replacing: ~~Original~~ Sheet No. ~~1-3.5/38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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3.2.2. Average Daily Volume shall be calculated by dividing the annual volume by 365.

3.2.3. Under no circumstances is Company required to agree to an MDWQ, Average Daily Volume or other quantity-related obligation under this rate schedule that it finds inconsistent with actual expected operating outcomes or load requirements based on observed historical operating data, the level and nature of currently installed natural gas facilities, equipment and appliances, or other relevant, reasonable and appropriate information or data. When entering into a new Agreement, an existing customer will not be required to agree to an MDWQ, Average Daily Volume or other quantity-related obligation under this rate schedule that is less than the quantities in effect during the previous Agreement, provided, however, that the quantities sought by the customer were actually experienced during the two-year period preceding the new Agreement.

3.2.4. Unless agreed otherwise, should customer deliveries exceed the Initial MDWQ during the period from November through March, then delivery demand set on that day shall reestablish the MDWQ and shall hereinafter be referred to as the Replacement MDWQ. Should annual deliveries exceed previously established levels, for the prior 12-month period, then the Initial Average Daily Volume will be reestablished for the annual period, and shall be known as the Replacement Average Daily Volume. The Replacement MDWQ or Average Daily Volume, respectively, become effective on the first day of the month after which the excess occurred for all meters read on and after that date, and continue for the remaining term of the contract or until such time that a Replacement MDWQ or Average Daily Volume is established. The Replacement MDWQ or Average Daily Volume shall not, however, exceed the quantity that is capable of being received or delivered on a firm basis. In the event that the Replacement MDWQ or Average Daily Volume would otherwise exceed the quantity that is capable of being

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Replacing: ~~Original~~ Sheet No. ~~1-3.6/38~~

~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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received or delivered on a firm basis, then the Replacement MDWQ or Average Daily Volume shall be the maximum level that can be received or delivered on a firm basis.

3.2.5. Company shall not be obligated to receive or deliver more than the Maximum Hourly Quantity ("MHQ"). If customer takes gas in excess of the specified MHQ at the point of delivery without the approval of Company, and such excess flow causes physical harm to the Company, its other customers or its facilities, then customer shall reimburse Company for the actual cost of damages or harm or repairs to its facilities, plus overhead expenses, within 15 days after the date of Company's invoice to customer for such damages.

3.3. CAPACITY DEMAND

3.3.1. Each individually metered point of delivery under this rate schedule shall have a capacity demand ("CD"), equal to the higher of:

(a) The Initial MDWQ specified in customer's Agreement with Company, subject to the maximum quantities provision herein, or the Replacement MDWQ as established pursuant to the provisions of Part 3.2.4.

(b) The Initial Average Daily Volume specified in customer's Agreement with Company, or the Replacement Average Daily Volume as established pursuant to the provisions of Part 3.2.4.

3.3.2. This CD shall be the billing determinant for both distribution demand charges and Fixed Storage Charges, Fixed Gas Supply Charges and Fixed Transportation Charges (GSR Demand) under the Gas Supply Rate Rider. The Initial MDWQ or Initial Average Daily Volume, the higher of which is also known as the Initial CD, shall remain in place until such time as a Replacement MDWQ or Replacement Average Daily Volume, the higher of

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~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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which is also known as the Replacement CD, is established pursuant to the provisions of Part 3.2.4. During the course of the contract term, the CD established as billing determinant shall be the higher of the Initial CD under the contract or any Replacement CD established during the previous 12-month period. Unless agreed upon otherwise, if during the course of a multi-year contract, any Replacement CD established pursuant to Part 3.2.4. does not re-occur during any prior 12-month period, then effective the first day of the following month the Replacement CD will be established as the higher of the Initial CD or highest daily volume during the MDWQ period that falls within the previous twelve months. In no instance shall the Replacement CD be based upon usage occurring before the effective date of the customer's Agreement.

3.4. RATES

3.4.1. Each customer receiving service under this rate schedule, other than small commercial firm sales service customers historically qualifying under the Part 3.1.2. aggregation provision, shall be charged the sum of (a), (b), (c) and (d) as follows:

(a) Distribution Customer Charge - $290.00 per month. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

(b) Distribution Demand Charge per MMBtu of CD per month:

(i) $8.01586per MMBtu of CD up to 400 MMBtu of CD plus, if applicable

(ii) $1.23854 per MMBtu of CD over 400 MMBtu of CD.

(c) Gas Supply Rate Rider :

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(i) SSO - The Gas Supply Rate will be calculated and adjusted periodically as defined in the Company's Gas Supply Rate Rider.

(ii) TSO - The customer will provide the appropriate LUFG-in-Kind as described in the Company's Gas Supply Rate Rider. Volumes provided as LUFG-in-Kind will not be considered in the calculation of Capacity Demand and shall not be subject to Distribution Charges.

3.4.2. Monthly charges applicable to customers under the TSO described in Part 3.1.3. of this rate schedule, including small commercial firm sales service customers historically qualifying under the Part 3.1.2. aggregation provision of this rate schedule or qualifying for transportation under the SCS rate schedule, are as follows:

(a) Contract Administration Fees:

TSO - $332.61 per month.

3.5. MINIMUM CHARGE
The sum of (a), (b), and (c) if applicable:

(a) Distribution Customer Charge - $290.00 per month. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

(b) Distribution Demand Charge - per MMBtu of CD per month:

(i) $8.01586 per MMBtu of CD up to 400 MMBtu of CD

plus, if applicable

(ii) $1.23854 per MMBtu of CD over 400 MMBtu of CD

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~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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(c) Contract Administration Fee – TSO - $332.61 per month.

3.6. TELEMETERING EQUIPMENT

3.6.1. Telemetering is required for all customers who receive service pursuant to this rate schedule, including customers qualifying under Part 3.1.2. of the aggregation provision of this rate schedule. If Company does not have telemetry at customer's point of delivery, upon execution of the Agreement, Company shall install telemetry equipment of standard make and manufacture to determine hourly and daily flow of gas at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc. for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

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( ) Option 4: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~ Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.

3.6.2. If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunications lines. Should customer fail to maintain or repair telecommunications lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.

If customer chooses wireless telemetry, then customer shall pay Company $10 per month per meter for wireless telemetry service for the entire period such meter(s) is(are) served under this or any other transportation rate schedule.

3.7. RIDERS

3.7.1 In addition to the Gas Supply Rate Rider, the following riders are applicable to service under this rate schedule:

Rider Name	Description	Identification on Customer Bills
TA	Municipal Tax Adjustment	Municipal Franchise Adj
EECR	Energy Efficiency Cost Recovery Rider	EE Cost Rate

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~~FRP~~ ~~Formula Rate Plan Rider~~ ~~Formula Rate Plan Adj~~

3.7.2. Service will be rendered under this rate schedule until service is discontinued to customer, the customer qualifies for service under the small commercial firm sales service rate schedule, or the schedule is superseded.

3.8. RULES AND REGULATIONS GOVERNING UTILITY SERVICE

3.8.1. The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

3.9. BILLING AND PAYMENT

3.9.1. Customer's bills will be based on capacity demand and the quantity of MMBtu's delivered to customer at the delivery point. Such bills shall be rendered promptly after the close of each billing period and shall be paid within fourteen (14) days after the date the bill is mailed or made available electronically. Company shall have the right to bill customer each month hereunder on the basis of nominated quantities or estimated quantities, provided that adjustments shall be made to such quantities in subsequent months' billings based on actual quantities delivered. Amounts past due hereunder shall bear interest from the due date until paid at the maximum lawful rate. The Company shall not discontinue service to customer for violation of its rates and policies nor for non-payment of bills, without first having diligently tried to induce the customer to comply with its rates and policies, or to pay amounts due the Company. Company may suspend service to customer after written notice shall have been given to the customer by the Company in the manner provided for in the Commission's Rules. Company may require as a condition of recommencement or continuation of service the maximum refundable deposit or bond allowed by

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~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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the Commission to secure payment of bills. Interest at such rates as are required by the Commission shall be paid on any such deposit amount.

3.10. DEFINITIONS

3.10.1. The following terms when used herein shall be construed to have the following meaning, except where the context of their use clearly indicates another meaning:

3.10.2. The term "Large Volume Commercial Customer Agreement" (Agreement) shall mean a written and fully executed agreement between Company and customer which provides for service under the applicable supply option of this rate schedule.

3.10.3. The term "customer" shall mean the party so identified in the Agreement, or its designee.

3.10.4. The term "day" or "daily" shall mean a period of twenty-four (24) consecutive hours, beginning and ending as near as practicable to 9:00 a.m., Central Standard Time, at the point at which delivery of gas is made.

3.10.5. The term “month,” “Service Month,” or “monthly” shall mean the period beginning at or as near as practicable to 9:00 a.m., Central Standard Time, on the first day of the calendar month and ending as near as practicable to 9:00 a.m. on the first day of the next succeeding calendar month.

3.10.6. The term "year" or "service year" shall mean a period of three hundred sixty-five (365) consecutive days beginning on the date specified in the Agreement for the commencement of the term of service or any anniversary thereof; provided, however, that any year which contains a date of February 29, shall consist of three hundred sixty-six (366) consecutive days.

3.10.7. The term "cubic foot" shall mean the volume of gas which occupies one (1) cubic foot when said gas is at a temperature of sixty degrees (60

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degrees) Fahrenheit, and at a pressure of 14.73 pounds per square inch absolute.

3.10.8. The term "Mcf" shall mean one thousand (1,000) cubic feet of gas.

3.10.9. The term "Btu" shall mean British Thermal Unit.

3.10.10. The term "MMBtu" shall mean one million (1,000,000) Btu's.

3.10.11. The term "gas supply" as it relates to purchased gas costs shall mean the charge for the product known as natural gas, and does not include any charges associated with delivery of the product by Company or any supplier pipeline of the Company.

3.10.12. The term "balancing" shall mean the service provided by Company when quantities of gas received by Company at the Point(s) of Receipt differ at any time from the quantities of gas delivered by Company at the Point(s) of Delivery under the Agreement.

3.10.13. 3.10.13.The term "Point(s) of Receipt" shall mean the point or points specified in the Agreement where Company agrees to receive gas for transportation for the account of customer.

3.10.14.The term "Point(s) of Delivery" shall mean the point or points specified in the Agreement where Company agrees to deliver gas transported for the account of customer.

3.10.15.The term "imbalance" shall mean the difference in the MMBtu's of natural gas which customer takes at the Point(s) of Delivery and the MMBtu's which customer provides for transportation at the Point(s) of Receipt.

3.10.16.The term “Average Daily Volume” shall be calculated by dividing the annual volume by 365.

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3.10.17. The term "Maximum Hourly Quantity" or "MHQ" shall mean the maximum MMBtu Company is obligated to deliver or receive for customer's account in any single hour. Company shall not be obligated to agree to a maximum hourly quantity greater than 1/15 of, MDWQ or Average Daily Volume.

3.10.18. The term "Initial CD" shall mean the higher of the Average Daily Volume or the Maximum Daily Winter Quantity "MDWQ." The Initial CD shall be negotiated by the Company and the customer.

3.10.19. The term "Initial Maximum Daily Winter Quantity" shall mean the Maximum Daily Winter Quantity "MDWQ" reflected on the initial Exhibit A to the Large Volume Commercial Customer Agreement.

3.10.20. The term "Replacement CD" shall mean a daily volume higher than the Initial CD, that is substituted and used as a CD pursuant to Part 3.3.2.

3.10.21. The term "Replacement Maximum Daily Winter Quantity" shall mean the Maximum Daily Winter Quantity "MDWQ" reflected on the revised Exhibit A to the Large Volume Commercial Customer Agreement.

3.10.22. The term "*Inside FERC* Enable-East First-of-the-Month Index," or "Enable Index," shall mean the price published in Platt's *Inside FERC*'s *Gas Market Report* under the heading "Prices of Spot Gas Delivered to Pipelines" for "Enable Gas Transmission, LLC." "East" under the subheading "Index" for the applicable Month of gas delivery. For any month in which Platt's *Inside FERC Gas Market Report* fails to report an Enable Index, Company shall substitute the price published in Platt's *Inside FERC Gas Market Report* under the heading "Market Center Spot Gas Prices" for "Henry Hub" under the subheading "Index" for the applicable Month of gas delivery (the "Henry Hub Index"), adjusted to reflect a historical variance between the Enable Index and the Henry Hub

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Index. The variance shall be the average of the difference between the Henry Hub Index and the Enable Index for the two most recent months in which both indices were published by Platt's *Inside FERC's Gas Market Report*. "

3.11. GOVERNMENTAL REGULATIONS

3.11.1. Service hereunder shall be subject to all relevant present and future local, state and federal laws and all rules, regulations and orders of regulatory authorities having jurisdiction over any of the parties, as applicable, and the obligations of all parties hereunder are subject to obtaining whatever regulatory approvals and authorizations are necessary for the lawful implementation of the Agreement, on continuing conditions satisfactory to the party affected. Customer shall cooperate with the Company by providing promptly all information and in making whatever reports or filings are necessary in regard to service rendered under this rate schedule. Neither party shall be held in default for failure to perform hereunder if such failure is due to good faith compliance with the requirements of any such laws, orders, rules and regulations. Should any governmental body having jurisdiction impose on the Company or the services provided hereunder or otherwise require service hereunder on terms and conditions that are unacceptable to Company, in its sole discretion, then Company may terminate service hereunder at any time thereafter upon notice to customer. Customer shall also reimburse Company, or cause Company to be reimbursed, for any fees, taxes (other than income and property taxes) or other charges levied or paid by Company to any governmental authorities in connection with or attributable to the services provided hereunder.

3.12. MEASUREMENT

3.12.1. Except as may be otherwise provided elsewhere herein or required by law, the measurement and testing of gas received and delivered hereunder shall

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.16/39

Replacing: ~~Original~~ Sheet No. ~~1-3.16/38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017~~(to be determined)~~T~~

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be done by Company, or its designee, as measuring party in accordance with the following:

3.12.2. The gas received by Company hereunder shall be measured as follows:

3.12.2.A. The unit of volume shall be 1,000 cubic feet of gas (Mcf) at a temperature base of 60 degrees Fahrenheit and at a pressure base of 14.73 pounds per square inch absolute. Whenever the actual conditions of pressure and temperature of the particular gas stream being measured differ from the above standard, conversion of the volume from such actual conditions to the above standard conditions shall be made in accordance with the Ideal Gas Laws corrected for super-compressibility in accordance with the method customarily used by the measuring party.

3.12.2.B. Measurements of gas shall always be in accordance with requirements of law, and if the procedures, bases, or standards herein contemplated to be used in the determination of gas volumes are changed by law or regulatory action, the applicable rates shall be appropriately modified and adjusted to the extent necessary to the end that calculations to determine sums of money due hereunder after the change will reach the same end result in dollars and cents as would have been reached in the absence of such change.

3.12.2.C. The temperature of the gas at each point of receipt shall be (i) determined by a recording thermometer, (ii) determined by taking the average of the daily readings of an indicating thermometer, or (iii) assumed by mutual agreement to be 60 degrees Fahrenheit, provided that, if a recording thermometer is not being used, customer shall have the right, by reimbursing the

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.17/39

Replacing: ~~Original~~ Sheet No. ~~1-3.17/38~~

~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017~~(to be determined)~~T~~

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cost of the equipment and its installation, to require the use of a recording thermometer. The Btu content of the gas per cubic foot shall be determined on a dry basis in accordance with good engineering practice in a manner reasonably calculated to result in a fair and accurate determination.

3.12.2.D. The specific gravity of the gas shall be determined in accordance with good engineering practice as often as found necessary in operation.

3.12.2.E. Standard type measuring and testing equipment necessary to measure and determine quantities hereunder shall be installed, operated and maintained in a workmanlike manner. Readings, calibrations, tests, repairs and adjustments of said equipment, and changing of charts, shall be done only by employees or agents of measuring party and in accordance with good engineering practice as often as found necessary in operation. Orifice meters, if used, shall be installed and operated, and volumes computed, in accordance with the latest version of the American Gas Association Gas Measurement Committee Report and Appendices thereto, and such amendments thereof as measuring party may place in use on its system for transactions of this type. Customer shall have access to the measuring and testing equipment at reasonable times, and shall have the right to have a representative present at tests, calibrations and adjustments thereof. Upon request by customer for a special test of any meter or auxiliary equipment, the accuracy of same shall be verified promptly, provided that the cost of such special test shall be borne by customer unless the percentage of inaccuracy is found to be more than two percent (2%), then previous readings shall be corrected to zero error for the period of time

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~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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during which the equipment was known to be inaccurate, or if not known then to the shorter of six (6) months or the last date that the meter was tested; if said total inaccuracy is not more than two percent (2%), then previous reading shall be considered correct but the equipment shall be adjusted to read correctly. Measuring party shall not be required to verify the accuracy of such equipment more than once in any 90-day period, unless customer has a specific and verifiable reason to believe that the equipment is inaccurate by more than 2%.

3.12.2.F. If any meter or auxiliary equipment is out of service or out for repair for a period of time so that the quantity of gas delivered cannot be ascertained or computed from the reading thereof, then the quantity delivered during such period shall be estimated upon the basis of the best data available, using the first of the following methods which is feasible: (i) by correcting the error if the percentage of error is ascertainable by calibration, test, or mathematical calculations; (ii) by using the registration of any check equipment installed and accurately registering, or (iii) by estimating the volume on the basis of deliveries during preceding periods under similar conditions when the equipment was registering accurately.

3.12.2.G. Upon request, measurement charts and records shall be submitted to customer for examination, the same to be returned within twenty (20) days. The measurement charts and records for a given accounting month shall be conclusively presumed correct if no written objection thereto is served on Company within the 12-month period following the given accounting month. All test data, meter charts and similar records shall be preserved for a period of at least one (1) year.

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.19/39

Replacing: ~~Original~~ Sheet No. ~~1-3.19/38~~

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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

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3.12.2.H. The formal measurement and testing of gas hereunder shall only be by the equipment operated by measuring party, but customer may install, operate and maintain, at customer's own cost, risk and expense and in the same manner as is required for the primary equipment hereunder, check measuring and testing equipment of standard type, provided that the same does not interfere with the operation of the primary equipment. Company shall have the same rights with respect to check equipment as customer has with respect to the primary equipment.

3.12.2.I. If Company causes any or all of the foregoing measurements and testing procedures to be done by a third-party designee, then in such event:

3.12.2.I(1) Customer's rights hereunder with respect to the third-party's equipment and procedures will be subject to reasonable arrangements by Company with such third party; and

3.12.2.I(2) If the third party's usual and customary procedures differ in particular respects from the detailed procedures set out above, then the third-party's procedures, and measured quantities resulting therefrom shall be acceptable and used hereunder so long as they are consistent with good engineering practice in the industry.

3.12.2.J. The gas delivered by Company to customer after transportation shall be measured in the same manner as are volumes sold by Company to customers of similar size as customer under Company's sales rate schedules.

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.20/39

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(Name of Company)

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3.12.2.K. Volume measured in Mcf will be subject to thermal adjustment and billed in MMBtu as measured on a dry basis. Delivered volumes will be adjusted by the appropriate thermal content factor obtained from the nearest available chromatograph or sampling location. The formula for conversion from Mcf to MMBtu is as follows: Mcf x thermal content factor = MMBtu.

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~~First Revised~~Original Sheet No. 1-3.21/39

Replacing: ~~Original~~ Sheet No. ~~1-3.21/38~~

~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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3.13. FORCE MAJEURE

3.13.1. Neither customer nor Company shall be liable to the other for failure to perform their respective obligations under the Agreement (other than to make any and all payments thereunder) due to acts or conditions beyond the reasonable control of the parties affected. The obligations of the affected party to perform shall be suspended so long as and to the extent that performance is prevented by the occurrence of such acts or conditions. Such acts or conditions shall be deemed to include, but not be limited to, fire, labor disputes, acts of God, the elements, wars, epidemics, riots, civil disturbances, explosions, breakdown of equipment, test and repairs of pipeline facilities, freezing of wells or pipelines, requirements of local, state or federal authorities, failure of any intermediate transporters relied upon by Company to transport the gas for any reason, failure of appropriate regulatory approvals or lack of sufficient capacity, the inability of Company to obtain or maintain such regulatory authorizations as may be necessary for the lawful performance of the service contemplated hereby on continuing conditions satisfactory to Company, the curtailment of service by Company in accordance with Company's curtailment plan as effective from time to time, failure of gas supply and any other cause, similar or dissimilar, not within the reasonable control of the party claiming relief. The party affected shall notify the other promptly and shall remedy the cause of suspension with reasonable diligence, retaining to such party unqualified discretion in settling labor disputes.

3.14. OPERATING INFORMATION AND FORECASTS

3.14.1. Customer, upon request, shall furnish or cause to be furnished to Company from time to time such reasonable data as in Company's judgment is necessary for the proper analysis of the daily and annual gas load requirements of customer for this service. Customer at all times shall keep

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Replacing: ~~Original~~ Sheet No. ~~1-3.~~22~~/38~~

~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

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Company informed of anticipated significant changes in the size and character of such load requirements.

3.15. USE

3.15.1. All gas delivered to customer under the Agreement shall be for customer's own use and shall not be resold.

3.16. NON-SYSTEM SUPPLY: TERMS AND CONDITIONS

3.16.1. Customer transactions operating under the SSO described in Part 3.1.3. of this rate schedule shall be governed by Company's other generally applicable rates and policies. The operating terms and conditions of service provided hereinafter, in addition to the Company's other generally applicable rates and policies not consistent therewith, shall apply to customer transactions under the TSO of this rate schedule.

3.17. NOTICES

3.17.1. Notices, requests, demands, statements, or bills provided for under this rate schedule and the Agreement (other than those related to nomination, scheduling and other operational issues having immediate operational consequence and requiring shorter notice that either Company or customer may desire to give the other, as provided for under Part 3.32.1.) shall be in writing and if delivered shall be considered as duly delivered when mailed by registered or certified mail to the post office address of Company or customer as indicated in the Agreement, or at such other address as either shall designate by formal written notice to the other. Routine, non-operational communications, including monthly statements and payments if received, shall be considered as duly delivered when mailed by either registered, certified or ordinary mail or when provided electronically.

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3.18. RECEIPT OF GAS FOR TRANSPORT

3.18.1. The customer must tender the gas for transportation hereunder at a mutually agreeable point or points as specified in the Agreement at whatever pressure is necessary to effect deliveries of the gas against the fluctuating working pressures maintained in Company's system at that point from time to time. Company will not be obligated to accept any gas into such system for transportation that does not meet the quality specifications required to be met by Company's suppliers when delivering gas to Company for sales to Company's customers.

3.18.2. Company will be responsible for installing and operating the necessary tap and measurement facilities at each point of receipt to receive and measure the gas delivered for transportation hereunder. If Company agrees to provide new or additional facilities to perform the services requested by customer, upon Company's request, customer shall reimburse Company, or cause Company to be reimbursed, for all costs of construction, installation and/or acquisition of such facilities.

3.19. DELIVERY OF GAS BY COMPANY AFTER TRANSPORTATION

3.19.1. Except as may be otherwise specified elsewhere herein, the gas shall be tendered for delivery after transportation at the working pressures maintained from time to time by the delivering party at the designated point of delivery as specified in the Agreement from time to time. It is recognized that the gas delivered to customer after transportation will not be the same gas that Company received for transportation, but that the gas delivered after transportation will meet the quality specifications applicable to gas that Company sells on its system from its general system supply. Company will use its best efforts consistent with the prudent operation of its system to deliver gas meeting such specifications but shall not be liable in damages for failure to do so. If the gas tendered by Company fails at any time to conform to any of said specifications, then customer shall notify Company

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~~First Revised~~Original Sheet No. 1-3.24/39

Replacing: ~~Original~~ Sheet No. ~~1-3.~~24~~/38~~

~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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of such deficiency and thereupon may, at customer's option, refuse to accept delivery pending correction by Company.

3.19.2. The point where responsibility for the gas shall pass to customer after transportation shall be at the outlet of the delivery facilities at the designated point of delivery. Customer shall provide reasonable access to the premises at the point of delivery for any purpose connected with this service.

3.19.3. Company shall install, operate and maintain whatever facilities are necessary to deliver the gas at the point or points of delivery hereunder and shall indemnify customer and hold it harmless from and against any and all claims, actions, suits, damages, liabilities, penalties, costs and expenses arising out of use, possession or presence of the gas before it passes the point of delivery. If Company agrees to provide new or additional facilities to perform services requested by customer, upon Company's request, customer shall reimburse Company, or cause Company to be reimbursed, for all costs of construction, installation and/or acquisition of such facilities.

3.19.4. Customer shall install, operate and maintain at its own expense whatever facilities are necessary to safely receive and utilize the gas at and beyond the point of delivery hereunder, and shall indemnify Company and hold it harmless from and against any and all claims, actions, suits, damages, liabilities, penalties, costs and expenses arising out of the use, possession, or presence of the gas at and after it passes the point of delivery.

3.19.5. If the services of one or more other transporters are necessary for Company to provide the service herein contemplated, Company's obligations hereunder shall be subject to the availability of such services by others on continuing terms and conditions acceptable to Company, and in such event, customer agrees that Company may act as agent for customer in arranging for such services, including execution of the necessary agreements therefore and administering same, and arranging and confirming capacity release

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~~First Revised~~Original Sheet No. 1-3.25/39

Replacing: ~~Original~~ Sheet No. ~~1 3.25/38~~

~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

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transactions necessary to facilitate the transaction, provided that, unless otherwise provided elsewhere, any costs and/or charges or penalties associated with such services by a third party to the point of delivery hereunder shall be borne by customer.

3.20. SCHEDULING AND NOMINATIONS

3.20.1. Nominations for gas flow shall be submitted by customer to Company no later than 10:00 a.m. Central Standard Time the day prior to gas flow; provided however, if a change in the nomination level is desired on a weekend or Company holiday, then nominations shall be submitted by customer to Company no later than 10:00 a.m. Central Standard Time the last business day immediately prior to such weekend or holiday. Nominations shall be submitted via the Company's internet based nomination system. Company and customer may agree on other means of submitting nominations from time to time. Nomination quantities shall be expressed in MMBtu. Company shall not be required to confirm a nomination that is: (A) inconsistent with the recently observed deliveries and projected deliveries for the Service Month; or (B) higher than the MDWQ or MDSQ in the applicable season; or (C) not confirmed by the upstream pipeline. For these purposes, the projected deliveries for the Service Month shall be equal to the arithmetic average of the number of observed deliveries within the Service Month to date multiplied by the number of days in the Service Month. Once a nomination is made and confirmed by the Company, that nomination will remain in effect through the end of the month or until changed by the customer. Company shall confirm nominated volume to Pipeline.

3.20.2. Company will require customer to comply with the scheduling and nominating procedures as set forth in customer's upstream pipeline supplier's transportation tariffs as on file with and approved by the Federal Energy Regulatory Commission. Customer shall be liable for and shall

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~~First Revised~~Original Sheet No. 1-3.26/39

Replacing: ~~Original~~ Sheet No. ~~1-3.26/38~~

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(Name of Company)

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compensate Company for any costs imposed upon Company as a result of customer's scheduling and nomination deviations or non-compliance.

3.21. BALANCING

3.21.1. General Intent: These balancing provisions are in recognition of the fact that Company's upstream transportation, storage and no-notice service capacity is reserved for the exclusive use by Company for transactions related to its system supply.

3.21.1.A. SSO transactions are allocated costs associated with the Company's upstream transportation, storage and no-notice service capacity. Therefore, SSO transactions have defined relative rights to those upstream services.

3.21.1.B. TSO transactions are not allocated any costs associated with the Company's upstream transportation, storage and no-notice services or associated capacity. Therefore, TSO transactions carry no explicit or implicit right to make use of the Company's upstream services or associated capacity.

3.21.2. [Reserved.]

3.21.3. [Reserved.]

3.21.4. Company shall make available electronically daily imbalance information which shall notify customer of any imbalance under an Agreement in the current Service Month, based on the best information then available to Company, including, but not limited to data such as nominations, allocations, electronic measurement data, and meter observations. The provision of such information shall not relieve customer of its obligations under this tariff to avoid, correct or eliminate actual imbalances.

3.21.5. Customers shall make a good faith effort to: (i) conform their takes each day at delivery points with their deliveries to Company at receipt points on

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the same day and thereby minimize imbalances; and (ii) to correct any such imbalances as soon as practical. Company shall monitor the accumulation of daily imbalances by customer and shall have the right to take corrective action pursuant to this tariff, as required, to eliminate customer encroachment upon upstream transportation, storage, or no-notice service capacity held by Company for general system supply.

3.21.5.A. A Critical Period Event may be called for operational purposes relating to a physical event causing or threatening a system failure and/or existence of an Operational Flow Order ("OFO") on the upstream pipeline. Additionally, the Company's declaration of a Critical Period Event will be location-specific, when possible, and the Company is not required to apply the Critical Period Event where corrective action would not be curative of the critical situation. A Critical Period Event declared for economic purposes shall be applicable only to customers with an annual average customer delivery of 100 MMBtu or less. Critical Period Events declared for economic purposes may be declared only on days when the *Gas Daily* price differs by more than $.50 per MMBtu from the *Inside FERC* Enable-East First-of-the-Month Index. The Company shall notify affected customers verbally of the critical situation and customers shall have a minimum of twenty-four (24) hours to bring receipts and deliveries into balance, or other longer time periods as deemed applicable by the Company. If, after the specified notice period indicated in Company's notice to customer of critical situation, customer has not balanced receipts and deliveries, Company shall have the right to balance deliveries and receipts. Company shall not be obligated to redeliver a greater volume of gas to the point of delivery than it

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~~First Revised~~Original Sheet No. 1-3.28/39

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received at the point of receipt for customer's account, as indicated by the upstream delivering pipeline, until such time as Company determines that the critical situation no longer exists. An imbalance that occurs during such critical situation, after the expiration of the notice period, may not be carried forward for clearing during the month, but instead may, at the Company's option, be cashed out based on the "Critical Period Price."

(i) The Critical Period Price shall be the applicable regional posting for the upstream pipeline expressed in ($/MMBtu) for the day of delivery as found in the publication *Gas Daily* under the heading "Daily Price Survey" and under the subheading "Midpoint." If *Gas Daily* fails to publish this information for the upstream pipeline for the day of delivery, then the Critical Period Price shall be based upon the same information published by *Gas Daily* in regard to Henry Hub for the day of delivery, adjusted to reflect the variance between the most recently published monthly indices for the applicable upstream pipeline and Henry Hub.

(ii) If, on any day during a critical situation, after the expiration of the notice period, customer delivers to Company volumes of gas that are greater than customer's gas requirements at the point of delivery then Company can purchase such over-delivered volumes at the point of delivery from customer at the following rates per MMBtu. The first 6% of over-delivered volumes will be cashed out at the Critical Period Price. Amounts greater than 6% will be

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~~First Revised~~Original Sheet No. 1-3.29/39

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cashed out at a rate equal to 50% of the Critical Period Price.

(iii) If, on any day during a critical situation, after the expiration of the notice period, customer delivers to Company volumes of gas that are less than customer's gas requirements at the point of delivery, then Company may require customer to purchase such deficiency at the point of delivery from Company at the following rates per MMBtu. The first 6% of under-delivered volumes will be cashed out at the Critical Period Price. Amounts greater than 6% will be cashed out at a rate equal to 150% of the Critical Period Price for the day in which the deficiency occurred.

(iv) Any Critical Period imbalance incurred of 10 MMBtu or less shall not be subject to Critical Period cash-out pricing. Such imbalances will be deferred until the end of the month, and will be cashed out in accordance with the terms of Part 3.21.8.

(v) Company shall make a reasonable effort to provide 24 hours' notice of the issuance of a CPE. Upon issuance of notice of a CPE, Company will allow shipper to submit revised nominations to the extent permitted by the upstream pipeline declaring an OFO, in an attempt to minimize imbalance activity on the Company's system. During any CPE, Company shall remain obligated to deliver all natural gas supplies that it receives on behalf of each individual shipper.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.30/39

Replacing: ~~Original~~ Sheet No. ~~1-3.~~30/~~38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017~~(to be determined)~~T~~

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3.21.5.B. For any multi-day period measured from the beginning of the first day of the Month where a cumulative imbalance is equal to or greater than 6% of the projected deliveries for the Service Month, Company may at its option, eliminate, through an intra-month cash-out action, all or part of said cumulative imbalance. For these purposes, the projected deliveries for the Service Month shall be equal to the arithmetic average of the number of observed deliveries within the Service Month to date multiplied by the number days in the Service Month. The "cash-out" price applicable to such intra-month cash-out transactions for cash out quantities that are 3% or less of deliveries shall be equal to 75% of the Critical Period Price for cash-out purchases by Company from customer and 125% of Critical Period Price for cash-out purchases required of customer from Company. The "cash-out" price applicable to such intra-month cash-out transactions for cash out quantities that are in excess of 3% of deliveries shall be equal to 50% of the Critical Period Price for cash-out purchases by Company from customer and 150% of Critical Period Price for cash-out purchases required of customer from Company. The Company shall give a two-day warning before penalties are imposed.

3.21.6. Company shall not be obligated under any circumstances: (i) to deliver more gas to customer during any given day or month than it shall have received for the account of customer during said period; or (ii) to receive or deliver during any given Day a total quantity of gas in excess of the MDWQ.

3.21.7. Customer will be responsible for its allocable share of any incremental costs associated with Company's upstream transportation, storage, or no-notice services attributable to nomination and scheduling activities

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.31/39

Replacing: ~~Original~~ Sheet No. ~~1-3.31/38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017~~(to be determined)~~T~~

of customer, including but not limited to incremental overrun charges, commodity charges, daily demand charges, and penalties. The responsibility provided for herein shall not relieve customer of its obligations under this rate schedule or the tariffs of Company's upstream service providers to avoid, correct or eliminate nomination or scheduling errors.

3.21.8. At the end of each Service Month, remaining customer Imbalances to the extent the receipts do not equal deliveries under customer's Agreement shall be cashed out. To the extent customer owes natural gas volumes to Company (deliveries exceeded receipts) customer will purchase said volumes at the applicable cash-out price described below. To the extent Company owes natural gas volumes to customer (receipts exceeded deliveries), Company will purchase said volumes at the applicable cash-out price described below.

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.32/39

Replacing: ~~Original~~ Sheet No. ~~1-3.32/38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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Imbalance Level	Overage The Company Pays Customer	Underage Customer Pays the Company
From 0% to 5%	100%	100%
From 5% to 10%	80%	120%
From 10% to 15%	70%	130%
From 15% to 20%	60%	140%
Greater than 20%	50%	150%

Overages in all tiers will be priced, using the applicable percentage, at the lesser of: *Inside FERC* Enable-East First-of-the-Month Index or the Company's Commodity Cost component. Underages in all tiers will be priced, using the applicable percentage, at the greater of: *Inside FERC* Enable-East First-of-the-Month Index or the Company's Commodity Cost component under the Gas Supply Rate Rider.

3.21.9. The imbalances incurred due to customers' reliance on imbalance data that differ materially from subsequently corrected data will be assumed to fall into the 0% to 5% range for the determination of the applicable cash-out price.

3.22. PREDETERMINED ALLOCATION

3.22.1. Should customer elect service under this rate schedule under more than one of the two supply options, such that gas delivered by Company at any single delivery point will involve supply under more than one of the

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.33/39

Replacing: ~~Original~~ Sheet No. ~~1-3.~~33/~~38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017~~(to be determined)~~T~~

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two options, Company and customer shall enter into a Predetermined Allocation Agreement ("PDA") in the form appended to this rate schedule. This PDA will establish the allocation of deliveries, which can be relied upon by either party in the conduct and performance under the Agreement. The method of allocation can be: (i) ranked (order through the meter); (ii) pro rata; (iii) fixed percentage; (iv) swing; or (v) any other method to which both Company and customer agree. Each PDA shall be effective for at least one Service Month and shall remain in effect until superseded by a new PDA.

3.23. POOLING SERVICE

3.23.1 The Company shall make Pooling Service available to any party (hereinafter referred to as Pool Manager) that requests Pooling Service from Company when:

(a) Company has received, reviewed and accepted a credit application from Pool Manager, and Pool Manager has been deemed creditworthy.

(b) Company and Pool Manager have executed a Pooling Service Agreement in the form acceptable to Company.

(c) Pool Manager has submitted formal documentation of agency for customers subject to aggregation under this service.

(d) Pool Manager complies with all applicable provisions of this rate schedule.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.34/39

Replacing: ~~Original~~ Sheet No. ~~1-3.~~34~~/38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017~~(to be determined)~~T~~

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Pooling service shall be available subject to capacity constraints and operational conditions. Company reserves the right to require the Pool Manager to deliver supply adequate to meet the requirements of the customers served by the Pool Manager.

3.23.2. Pooling shall consist of the aggregation of the Receipt Point(s) available to customers subject to the Pooling Service Agreement and deliveries made at Delivery Point(s) delivered subject to the Pooling Service Agreement. The Pool Manager, having documented agency authority, shall submit nominations and allocation information for all customers subject to the Pooling Service Agreement, to Company, in accordance with Part 3.20.

Company shall not have any liability to a Pool Manager or customer as a result of Company's reliance on the performance of Pool Manager.

3.23.3. Pooling Managers shall make Pooling Service available for all customers for which Pooling Manager provides supply services on the Company's system.

3.23.4. Imbalances in a Pool will be calculated by determining the difference between total aggregated receipts into the Pool and the total deliveries allocated out of the Pool to end users. Imbalance tolerances outlined in Part 3.21.5.A., 3.21.5.B. and 3.21.8. shall apply to the aggregated imbalance total, unless and until Pooling rights are interrupted for a specified period.

3.23.5. Imbalances incurred subject to Parts 3.21.5.A., 3.21.5.B. and 3.21.8. will be billed as specified in the Pooling Service Agreement. In the event that the Pool Manager fails to pay invoices, customer will remain liable for payment of all charges, as acknowledged in the Pooling Service Agreement.

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.35/39

Replacing: ~~Original~~ Sheet No. ~~1-3.~~35/~~38~~

~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

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Should Pool Manager fail to pay invoices calculated at the aggregated level, upon default to the individual customer invoice, the invoice shall be recalculated at the individual customer level, without benefit of the aggregated tolerance.

3.23.6. Pooling Service Agreements and Agency Agreements, and changes thereto, shall become effective on the first day of the month provided that the Company receives such Agreements, or changes thereto, at least five (5) business days before the first day of the month.

3.24. WARRANTY OF TITLE

3.24.1. Customer shall have title to and shall warrant its title to all gas delivered to Company under the TSO of this rate schedule, and such gas shall be delivered to Company free and clear of all liens, claims and encumbrances. Customer shall indemnify Company against all suits, actions, debts, accounts and damages arising out of any adverse claims to, against or in respect of such gas. Customer shall also indemnify Company and hold it harmless from and against any and all claims, actions, suits, costs, liabilities and expenses caused by or arising out of possession or presence of such gas before it is delivered into Company's facilities. Customers entering into Agreements as specified in Part 3.1.1. shall have the right to deliver volume for redelivery, available exclusively for customers' own use. Such delivery rights shall not be resold to or shared with third parties.

3.25. ASSIGNMENT

3.25.1. Customer shall not assign the Agreement in whole or in part, nor shall customer agree to provide services to others by use of any capacity contracted for under the Agreement, without Company's prior written consent. In addition to all other rights and remedies, Company may terminate the Agreement immediately if it is assigned by customer or if customer subcontracts its transportation capacity to others without such

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Replacing: ~~Original~~ Sheet No. ~~1-3.~~36/~~38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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prior consent, whether the assignment be voluntary or by operation of law or otherwise. Subject to the above, the respective rights and obligations of the parties under the Agreement shall extend to and be binding upon their heirs, successors, assigns and legal representatives.

3.26. TRANSPORTATION REGULATIONS

3.26.1. With regard to all aspects of the transportation service, it is recognized that Company operates a local distribution system, and, accordingly, all provisions hereof having to do with transportation of gas and the charge therefore, including Company's obligation to transport gas at all, are subject and subordinate to the provisions of any certificates and rate schedules issued by or filed with the Commission or successor authority, as well as any and all local, state and federal laws, orders, rules and regulations, to the extent applicable to the transportation of gas by Company, as contemplated hereby. To the extent that any local, state or federal authorization and/or approval is required to provide such transportation service, Company will proceed with due diligence to seek to obtain same as and when necessary in such manner as Company considers to be appropriate, provided that due diligence will not obligate Company to accept conditions or rates otherwise unacceptable to Company.

3.27. UNACCEPTABLE QUANTITIES

3.27.1. Company shall have the right to refuse at any time, and from time to time, to receive at any receipt point or to deliver at any delivery point a quantity of gas that Company determines, in its reasonable judgment, to be unduly burdensome from an operating or administrative standpoint.

3.28. LIMITATION OF LIABILITY

3.28.1. In no event shall Company be liable (in contract or in tort, including actions based on claims of negligence) to customer or any other claimant for special, indirect, incidental, or consequential damages, including, but not

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.37/39

Replacing: ~~Original~~ Sheet No. ~~1-3.37/38~~

~~CenterPoint Energy Resources Corp.~~
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(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017(to be determined)~~

limited to, lost profits and any part of the expense incurred in securing alternative services which exceeds the amount customer would have paid hereunder, resulting from Company's performance, nonperformance or delay in performing its obligations hereunder.

3.29. FACILITIES POLICY

3.29.1. Section VII of the Standard Service Rules and Regulations shall govern when gas is connected to a new facility.

3.30. SALES SERVICE

3.30.1. Company shall only be obligated to provide sales service to customer if and to the extent it is purchased and contracted for by customer pursuant to one of Company's filed rate schedules. In those circumstances in which customer elects to purchase sales service offered by Company during periods of full or partial interruption of transportation service by customer's upstream pipeline transporter, customer shall pay Company the total applicable cost of providing such emergency sales service.

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3.38/39

Replacing: ~~Original~~ Sheet No. ~~1-3.~~38/~~38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017~~(to be determined)~~T~~

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3.31. OPERATIONAL NOTICES AND COMMUNICATIONS

3.31.1. Company shall make available scheduling personnel on a twenty-four (24) hour basis. Customer shall provide, and update as necessary, the name, address, and telephone number of an operational contact person or persons who will be available on a twenty-four (24) hour basis to receive or provide communications involving receipts, deliveries, curtailment and for any other purposes relating to customer's service under this rate schedule. Company shall be entitled to rely on such contact person's actions and communications for all purposes and shall have no liability for doing so, and if customer fails to designate such person or such person is unavailable to Company at any time, customer may be liable and shall indemnify and hold Company harmless from and against losses, damages and other expenses which Company or any other person may suffer or for which Company may be liable which are attributable to such failure or unavailability.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

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~~First Revised~~Original Sheet No. 1-3.39/39

Replacing: ~~Original~~ Sheet No. ~~1 3.~~39/~~38~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I - Rate Schedule No. 3

Title: LARGE COMMERCIAL FIRM SERVICE (LCS-1) Effective: ~~September 1, 2017(to be determined)T~~

3.32. APPENDICES

3.32.1. The following appendices shall apply to both large commercial and small commercial customers under the TSO. For small commercial customers, references to the "LCS" rate schedule shall be changed to the SCS rate schedule where appropriate.

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Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.1/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.2/27~~

~~CenterPoint Energy Resources Corp.~~
Summit Utilities Arkansas, Inc.~~d/b/a CenterPoint Energy Arkansas Gas~~
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

LARGE VOLUME COMMERCIAL CUSTOMER AGREEMENT
(System Supply Option)

THIS AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 20____, by and between

~~CenterPoint Energy Resources Corp.~~Summit Utilities Arkansas, Inc.
~~d/b/a CenterPoint Energy Arkansas Gas~~

hereinafter referred to as "Company," and

_____,
a _____ corporation,

hereinafter referred to as "Customer,"

WITNESSETH THAT:

WHEREAS, Company is a local distribution company; and

WHEREAS, Customer owns or operates a facility and has requested natural gas service under Company's Rate Schedule No. 3, Large Commercial Firm Service (hereinafter referred to as "LCS-1");

NOW THEREFORE, Company agrees to provide the services to Customer as hereinafter set forth and Customer agrees to pay for such services and comply with the provisions hereof, on the following terms and conditions:

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.2/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.2/27~~

~~CenterPoint Energy Resources Corp.~~
Summit Utilities Arkansas, Inc.~~d/b/a CenterPoint Energy Arkansas Gas~~
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

ARTICLE I
SUPPLY OPTION

Section 1.1 – Customer has selected the System Supply Option ("SSO") under LCS-1 pursuant to which Customer will be delivered natural gas supply designated as general system supply of Company for the term of this Agreement.

ARTICLE II
TERM

Section 2.1 – This Agreement shall remain in force for a primary term beginning _____ and ending _____, and from year to year thereafter unless terminated by either party by a minimum of sixty (60) days' written notice prior to the end of the primary or any succeeding term.

ARTICLE III
POINT OF DELIVERY

Section 3.1 – Company shall deliver gas to Customer at the outlet of Company's facilities at the Point(s) of Delivery designated on Exhibit "A" hereto.

ARTICLE IV
QUANTITIES

Section 4.1 – As used herein, the following terms shall have the following meanings:

Maximum Daily Winter Quantity ("MDWQ") shall mean the total maximum MMBtu which Company shall be obligated to deliver on a firm basis on any given day on behalf of Customer during the period November through March of each year.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.3/28~~–~~

Replacing: ~~Original~~ Sheet No. ~~1-3A.~~3~~/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

Maximum Hourly Quantity ("MHQ") shall mean the maximum MMBtu Company is obligated to deliver or receive in any single hour.

Average Daily Volume shall be calculated by dividing the annual volume by 365.

Section 4.2 – The Maximum Daily Winter Quantity ("MDWQ"), the Maximum Hourly Quantity ("MHQ") and the Average Daily Volume applicable to services rendered under this Agreement are set forth on Exhibit "A" hereto.

Section 4.3 – The MDWQ and Average Daily Volume may be adjusted pursuant to the provisions of Part 3.2.4. of LCS-1.

ARTICLE V
RATES

Section 5.1 – Customer shall pay to Company each month for all services rendered hereunder the charges, fees, surcharges, taxes, penalties, balancing charges, adjustments and assessments provided for in LCS-1 and associated riders, as on file and in effect from time to time.

Section 5.2 - The capacity demand ("CD") shall be the billing determinant for distribution demand charges and gas supply demand charges. Each individually metered point of delivery shall have a CD equal to the higher of (i) the MDWQ, subject to the maximum quantities provision in LCS-1; (ii) the Average Daily Volume.

ARTICLE VI
MISCELLANEOUS

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.4/28~~–~~

Replacing: ~~Original~~ Sheet No. ~~1-3A.4~~/27

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

Section 6.1 – Customer represents that it qualifies for service under LCS-1.

Section 6.2 – Customer agrees to certify, document and update in writing annually prior to October 1 its human needs requirements and other requirements necessary for the preservation of life, health or physical property, and any material change to the level of said requirements.

Section 6.3 – Customer agrees that Company shall have the right at any time and from time to time to file and place into effect unilateral changes or modifications in the rates and charges, and other terms and conditions of service hereunder, in accordance with applicable law. Company agrees that Customer may protest or contest any such charges or modifications.

Section 6.4 – Service hereunder shall be in accordance with and subject to, and both parties agree to be bound by, all applicable terms and conditions set forth in LCS-1, as in effect from time to time, which terms and conditions are incorporated herein by reference.

Section 6.5 – Customer agrees that, to the extent not already satisfied, Customer shall pay Company for the installation of appropriate telemetering equipment to be installed and owned by Company under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter.

Customer will be subject to meter reading fees for an inoperable phone line for each meter.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.5/28

Replacing: ~~Original~~ Sheet No.~~1-3A.~~5~~/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

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Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~ Summit Utilities Arkansas, Inc. for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

( ) Option 4: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~ Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.

Under any option chosen above, customer shall comply with all necessary and appropriate procedures, as required by Company, pertaining to the installation, reading, monitoring, testing, repair and maintenance of all telemetering and associated equipment.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date hereinabove first written.

COMPANY:

Incorporated Cities of Texarkana, Nash, Redwater and Wake Village, Texas

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.6/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.6/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

~~CENTERPOINT ENERGY RESOURCES CORP.~~Summit Utilities Arkansas, Inc.

~~d/b/a CenterPoint Energy Arkansas Gas~~

By:_____
[Name]
[Title]

CUSTOMER:

_____

By:_____
[Name]
[Title]
[Address]

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.7/28~~ –~~

Replacing: ~~Original~~ _____Sheet No.~~1-3A.7~~/~~27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

EXHIBIT A
TO
LARGE VOLUME COMMERCIAL CUSTOMER AGREEMENT
(SYSTEM SUPPLY OPTION)

DELIVERY POINTS

Address:_____
CA#_____

Delivery Point(s)

For the account of
Customer at Customer's
Facility located at
_____,
_____, Texas _____

QUANTITIES

Maximum Daily Winter Quantity ("MDWQ") _____ MMBtu

Maximum Hourly Quantity ("MHQ") _____MMBtu

Average Daily Volume _____MMBtu

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.8/28~~.~~

Replacing: ~~Original~~ Sheet No.~~1-3A.~~8~~/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

LARGE VOLUME COMMERCIAL CUSTOMER AGREEMENT
(Transportation Supply Option)

THIS AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 20____, by and between

~~CenterPoint Energy Resources Corp~~Summit Utilities Arkansas, Inc.~~.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~

hereinafter referred to as "Company," and

_____,
a _____ corporation,

hereinafter referred to as "Customer,"

WITNESSETH THAT:

WHEREAS, Company is a local distribution company; and

WHEREAS, Customer owns or operates a facility and has requested natural gas service under Company's Rate Schedule No. 3, Large Commercial Firm Service (hereinafter referred to as "LCS-1" or qualified "SCS-1,SCS-2 or SCS-3");

NOW THEREFORE, Company agrees to provide the services to Customer as hereinafter set forth and Customer agrees to pay for such services and comply with the provisions hereof, on the following terms and conditions:

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.9/28~~—~~

Replacing: ~~Original~~ Sheet No.~~1-3A.9/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

ARTICLE I
SUPPLY OPTION

Section 1.1 – Customer has selected the Transportation Supply Option ("TSO") under LCS-1 pursuant to which Customer will be delivered natural gas supply received for Customer's account at points of receipt on Company's distribution facilities for the term of this Agreement. If Customer later desires to convert to the Sales Supply Option ("SSO"), pursuant to which Customer will be delivered natural gas supply designated as general system supply of Company, Customer will be required to contract for such service between the months of February through April preceding the expiration of the primary or any succeeding term of this Agreement. Subject to this requirement, Customer will be allowed to convert to the SSO provided that the Company is able to secure firm upstream capacity and other upstream pipeline services sufficient to meet Customer's needs. Any such conversion will be effective upon the expiration of the term of this Agreement, unless the Company and the Customer agree otherwise.

Section 1.2 – If volume usage of meters at business facilities under Customer's common ownership and subject to other commercial rate schedules are aggregated for the sole purpose of qualifying for the TSO under LCS-1, then each individual account shall be treated as a separate account and shall be subject to the same rates and charges under the originating commercial rate schedule(s), in addition to any additional specific rates, charges or adjustment riders peculiar to the TSO under this rate schedule, such as, but not limited to, administrative fees.

ARTICLE II
TERM

Section 2.1 – This Agreement shall remain in force for a primary term beginning _____ and ending _____, and from year to year thereafter unless terminated by either party by a minimum of sixty (60) days' written notice prior to the end of the primary or any succeeding term.

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.10/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.10/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

ARTICLE III
POINTS OF RECEIPT AND DELIVERY

Section 3.1 – Company shall receive gas from Customer at the Point(s) of Receipt designated on Exhibit "A" hereto and Company shall deliver gas to Customer at the outlet of Company's facilities at the Point(s) of Delivery designated on Exhibit "A" hereto.

ARTICLE IV
QUANTITIES

Section 4.1 - As used herein, the following terms shall have the following meanings:

Maximum Daily Winter Quantity ("MDWQ") shall mean the total maximum MMBtu which Company shall be obligated to receive or deliver on a firm basis on any given day on behalf of Customer during the period November through March of each year.

Maximum Hourly Quantity ("MHQ") shall mean the maximum MMBtu Company is obligated to receive or deliver in any single hour.

Average Daily Volume shall be calculated by dividing the annual volume by 365.

Section 4.2 – The Maximum Daily Winter Quantity ("MDWQ"), the Maximum Hourly Quantity ("MHQ") and the Average Daily Volume applicable to services rendered under this Agreement are set forth on Exhibit "A" hereto.

Section 4.3 – The MDWQ and Average Daily Volume may be adjusted pursuant to the provisions of Part 3.2.4. of LCS-1.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.11/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.11~~/27

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

Section 4.4 – Company shall not be obligated under any circumstances: (i) to deliver more gas to Customer during any given day or month than it shall have received for the account of Customer during said period; or (ii) to receive or deliver during any given Day a total quantity of gas in excess of the MDWQ or Average Daily Volume as applicable.

ARTICLE V
RATES

Section 5.1 – Customer shall pay to Company each month for all services rendered hereunder the charges, fees, surcharges, taxes, penalties, balancing charges, adjustments and assessments provided for in LCS-1 and associated riders, or SCS-1, SCS-2 or SCS-3 and associated riders if subject to the aggregation provision in Part 3.1.2., as on file and in effect from time to time.

Section 5.2 – The capacity demand ("CD") shall be the billing determinant for distribution demand charges and gas supply demand charges. Each individually metered point of delivery shall have a CD equal to the higher of (i) the MDWQ, subject to the maximum quantities provision in LCS-1; (ii) the Average Daily Volume.

ARTICLE VI
MISCELLANEOUS

Section 6.1 – Customer represents that it qualifies for service under LCS-1 or qualified SCS-1, SCS-2 or SCS-3.

Section 6.2 – Customer agrees to certify and document in writing its human needs requirements and other requirements necessary for the preservation of life, health or physical property, and any material change to the level of said requirements prior to the start of service. The Customer shall update the Company in writing when its human needs requirements change.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.12/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.12/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

If Customer has human needs requirements, then Customer provides the following certifications and authorizations by choosing Scenario A or B below:

( ) Scenario A.

- Customer certifies that the _____ facility located at _____, _____, has human needs usage requirements of _____ MMBtu per day and that Customer has purchased and will continue to maintain the corresponding level of firm upstream pipeline capacity and upstream gas supply for the entire time period of November 1st through March 31st each year.

- Customer authorizes the Company to obtain the firm pipeline capacity information directly from the applicable upstream pipeline to ensure both the requisite level of capacity and that it is firm primary delivery point capacity at the appropriate location required to serve the facility.

- Customer furthermore certifies that it will maintain such firm primary delivery point capacity for each day of the November 1st through March 31st time period. If these certified arrangements should not be accurate, however, or if Customer's upstream pipeline capacity or upstream gas supply become insufficient for any reason, Customer is authorized by the Board of Directors or equivalent governing body to fully release ~~CenterPoint Energy Arkansas Gas and CenterPoint Energy Resources Corp.~~Summit Utilities Arkansas, Inc. from any and all claims, lawsuits, damages, costs, expenses, causes of action, and any and all liability associated with the interruption, curtailment, failure or suspension of natural gas service for any period of time. Customer further indemnifies ~~CenterPoint Energy Arkansas Gas and CenterPoint Energy Resources Corp.~~Summit Utilities Arkansas, Inc. from any and all claims, causes of action, lawsuits, damages, costs, expenses, and similar liability that might be asserted by third parties as a result of the interruption, curtailment, failure or suspension of natural gas service for any period of time.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.13/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.13~~/27

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

- In the event of any change in circumstances pertaining to Customer's upstream pipeline and upstream gas supply arrangements, Customer agrees to immediately notify the appropriate person at the Company by sending a certified letter to the Company's Gas Flow Information Center at the following address:

Summit Utilities Arkansas, Inc.~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~
Gas ~~Flow Information Center~~ Supply Department
~~525 Milam Street, Room 207~~115 North 12th Street
~~Shreveport~~Fort Smith, ~~Louisiana~~ Arkansas ~~71101~~72902-2414
E-Mail~~Telephone No.~~: ~~1-800-254-4342~~transportationservices@summitutilities.com~~TBD~~
~~Facsimile No.: 1-318-429-3986~~

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( ) Scenario B.

- Customer certifies that the _____ facility located at _____, _____ has on hand a fully functioning _____ back-up energy system (Describe type of back-up system) that can replace natural gas as the energy source for all of the facility's human needs usage requirements. This back-up system is also capable of being a continuing and sustaining source of energy for all of the facility's human needs usage requirements. Accordingly, on behalf of the Board of Directors or equivalent governing body, Customer hereby certifies it does require firm pipeline capacity and natural gas supplies to meet its facility's human needs usage requirements.

- Customer recognize that if all or any portion of its natural gas supply fails to reach the appropriate ~~CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc. delivery point, its natural gas service may be interrupted or curtailed.

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.14/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.14~~/27

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

- Customer acknowledges that the Company's sole responsibility to it is to redeliver to Customer's facilities such gas supplies as Customer or its agents physically deliver to the Company's city gate, subject to the curtailment priority schedule (Standard Service Rules and Regulations, Order of Curtailment),which will not categorize our facility as a human needs customer. In acknowledgement of these facts, should all or any portion of Customer's natural gas supplies fail to reach the appropriate Company city-gate delivery point, Customer is authorized by the Board of Directors or equivalent governing body to fully release ~~CenterPoint Energy Arkansas Gas and CenterPoint Energy Resources Corp.~~ Summit Utilities Arkansas, Inc. from any and all claims, lawsuits, damages, costs, expenses, causes of action, and any and all liability associated with the interruption, curtailment, failure or suspension of natural gas service for any period of time. Customer further indemnify ~~CenterPoint Energy Arkansas Gas and CenterPoint Energy Resources Corp.~~ Summit Utilities Arkansas, Inc. from any and all claims, causes of action, lawsuits, damages, costs, expenses, and similar liability that might be asserted by third parties as a result of the interruption, curtailment, failure or suspension of natural gas service for any period of time.

- In the event of any change in circumstances pertaining to our facility's energy backup system, Customer agrees to immediately notify the appropriate person at the Company by sending a certified letter to the Company's Gas Flow Information Center at the following address:

Summit Utilities Arkansas, Inc.
Gas Supply Department
115 North 12th Street
Fort Smith, Arkansas 72902-2414
E-Mail: transportationservices@summitutilities.com~~TBD~~
~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~

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Incorporated Cities of Texarkana, Nash, Redwater and Wake Village, Texas

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.15/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.~~15/~~27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

~~Gas Flow Information Center~~
~~525 Milam Street, Room 207~~
~~Shreveport, Louisiana 71101~~
~~Telephone No.: 1-800-254-4342~~
~~Facsimile No.: 1-318-429-3986~~

Section 6.3 - Customer agrees that Company shall have the right at any time and from time to time to file and place into effect unilateral changes or modifications in the rates and charges, and other terms and conditions of service hereunder, in accordance with applicable law. Company agrees that Customer may protest or contest any such charges or modifications.

Section 6.4 - Service hereunder shall be in accordance with and subject to, and both parties agree to be bound by, all applicable terms and conditions set forth in LCS-1, as in effect from time to time, which terms and conditions are incorporated herein by reference.

Section 6.5 - Customer agrees that, to the extent not already satisfied, Customer shall pay Company for the installation of appropriate telemetering equipment to be installed and owned by Company under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~ Summit Utilities Arkansas, Inc. for each meter and agrees to pay for

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.16/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.16/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

( ) Option 4: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~ Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.

Under any option chosen above, Customer shall comply with all necessary and appropriate procedures, as required by Company, pertaining to the installation, reading, monitoring, testing, repair and maintenance of all telemetering and associated equipment.

Section 6.7 – This agreement shall be governed by and construed in accordance with the laws of the State of Texas. Any proceeding related to any cause of action of any nature arising in this contract may be brought only before the appropriate forum in Texas.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date hereinabove first written.

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.17/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.~~17/~~27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

COMPANY:

~~CENTERPOINT ENERGY RESOURCES CORP.~~Summit Utilities Arkansas, Inc.

~~d/b/a CenterPoint Energy Arkansas Gas~~

By:_____
[Name]
[Title]

CUSTOMER:

_____

By:_____
[Name]
[Title]
[Address]

EXHIBIT A
TO
LARGE VOLUME COMMERCIAL CUSTOMER AGREEMENT
(TRANSPORTATION SUPPLY OPTION)

RECEIPT AND DELIVERY POINTS

Address:_____
CA#_____

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.18/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.18~~/27

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

Receipt Points

The gas will be received for Customer's account at the point(s) where the _____ (Upstream Pipeline) is interconnected with the distribution facilities of ~~CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc. at or near _____,Texas.

Delivery Point(s)
For the account of
Customer at Customer's
Facility located at
_____,
_____, Texas_____

QUANTITIES

Maximum Daily Winter Quantity ("MDWQ") _____ MMBtu

Maximum Hourly Quantity ("MHQ") _____ MMBtu

Average Daily Volume _____ MMBtu

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.19/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.19/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

PREDETERMINED ALLOCATION AGREEMENT

THIS AGREEMENT is made and entered into by ~~CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Arkansas Gas~~ Summit Utilities Arkansas, Inc. ("Company") and _____ ("Customer") effective _____.

WHEREAS, Company and Customer are parties to Large Commercial Service Agreements (the "Agreements") entered pursuant to Company's Rate Schedule No. 3, Large Commercial Firm Service (hereinafter referred to as "LCS-1"); and

WHEREAS, the Agreements select more than one of the two supply options offered under Part 3.1.3. of LCS-1; and

WHEREAS, the parties wish to enter this Predetermined Allocation Agreement.

NOW, THEREFORE, pursuant to Part 3.22. of LCS-1, Company and Customer hereby agree as follows:

1. In the event gas received by Company at any single delivery point involves supply under more than one of the two supply options offered under LCS-1, then such deliveries shall be allocated to each service option in the following manner:

[Describe allocation method]

2. [other provisions]

3. This Agreement shall be effective for at least one Service Month, and shall remain in effect until superceded by a new Predetermined Allocation Agreement.

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.20/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.20~~/27

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

4. This Predetermined Allocation Agreement is subject to all applicable terms and conditions set forth in LCS-1, as in effect from time to time, which provisions are incorporated herein by reference.

Company:

~~CENTERPOINT ENERGY RESOURCES CORP~~Summit Utilities Arkansas, Inc.
~~d/b/a CenterPoint Energy Arkansas Gas~~

By:_____
Title

Customer:
_____

By:_____
Title

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.21/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.21/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

POOLING SERVICE AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 20____, by and between

~~CenterPoint Energy Resources Corp.~~Summit Utilities Arkansas, Inc.
~~d/b/a CenterPoint Energy Arkansas Gas~~

hereinafter referred to as "Company," and

_____,
a _____ corporation,

hereinafter referred to as "Pool Manager,"

WITNESSETH THAT:

WHEREAS, Company is a local distribution company; and

WHEREAS, Pool Manager has entered into agency agreements with the entities identified on Exhibit A hereto, as the same may be revised from time to time during the term of this Agreement, (hereinafter referred to collectively as "Customers") who Pool Manager represents have entered into Large Volume Commercial Customer Agreements, Transportation Supply Option, under Company's Rate Schedule No. 3, Large Commercial Firm Service (hereinafter referred to as "LCS-1"); and

WHEREAS, pursuant to the agency agreements between Pool Manager and Customers, Pool Manager is authorized to act on behalf of Customer's in all respects, including the submission of nominations and allocation information in accordance with LCS-1; and

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.22/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.22/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

WHEREAS, Pool Manager and Customers desire to avail themselves of the Pooling Service offered by Company pursuant to Part 3.23. of LCS-1.

NOW THEREFORE, Company and Pool Manager, acting individually, and as agent for Customers, agree as follows:

ARTICLE I
NOMINATIONS AND ALLOCATIONS

Section 1.1 – Pool Manager agrees to submit to Company on behalf of Customers all nominations and allocation information required pursuant to LCS-1.

ARTICLE II
IMBALANCES

Section 2.1 – Imbalances between receipts and deliveries among the Customers subject to this Agreement will be calculated by determining the difference between the total aggregated deliveries by the Customers to Company at receipt points and the total aggregated deliveries received by the Customers at delivery points.

Section 2.2 – The imbalance tolerance set forth in Parts 3.21.5. and 3.21.8. shall apply to the aggregated imbalance total, unless and until pooling rights are interrupted by Company for a specified period.

ARTICLE III
PAYMENTS

Section 3.1 – Payments due Company for Customers' imbalances arising under LCS-1 shall be paid by Pool Manager.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.23/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.23~~/27

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

Section 3.2 – In the event Pool Manager should fail to timely pay the imbalances set forth in Section 3.1 of this Agreement, then Company shall redetermine the imbalance payments due by each Customer, which redetermination shall be made without benefit of the aggregated tolerances, and each Customer shall pay the said redetermined imbalance payment.

ARTICLE IV
TERM

Section 4.1 – This Agreement shall be effective _____ and, shall continue from month to month thereafter until terminated by either party upon written notice delivered at least five (5) days prior to the beginning of a month.

ARTICLE V
MISCELLANEOUS

Section 5.1 – Pool Manager represents that it is authorized to act on behalf of Customers with respect to the service rendered hereunder.

Section 5.2 – Pool Manager agrees that Company shall have the right at any time and from time to time to file and place into effect unilateral changes or modifications in the rates and charges, and other terms and conditions of service hereunder, in accordance with applicable law. Company agrees that Pool Manager may protest or contest any such charges or modifications.

Section 5.3 – Service hereunder shall be in accordance with and subject to, and the parties agree to be bound by, all applicable terms and conditions set forth in LCS-1, as in effect from time to time, which terms and conditions are incorporated herein by reference.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date hereinabove first written.

Incorporated Cities of Texarkana, Nash, Redwater and Wake Village, Texas

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.24/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.24/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

COMPANY:

~~CENTERPOINT ENERGY RESOURCES~~
~~CORP.~~Summit Utilities Arkansas, Inc.
~~d/b/a CenterPoint Energy Arkansas Gas~~

By:_____
[Name]
[Title]

POOL MANAGER,
INDIVIDUALLY AND AS AGENT
FOR CUSTOMERS

_____

By:_____
[Name]
[Title]
[Address]

Incorporated Cities of Texarkana, Nash, Redwater and Wake Village, Texas

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.25/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.25/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

AGENCY AGREEMENT
~~CENTERPOINT ENERGY RESOURCES CORP.~~SUMMIT UTILITIES ARKANSAS, INC.
~~D/B/A CENTERPOINT ENERGY ARKANSAS GAS~~

[Customer]
_____
_____
_____

[Agent]
_____
_____
_____

RE: Large Volume Commercial Customer Agreement (Transportation Supply Option) ("Agreement") dated as of _____, by and between ~~CenterPoint Energy Resources Corp., d/b/a/ CenterPoint Energy Arkansas Gas~~ Summit Utilities Arkansas, Inc. ("Company"), and _____, ("Customer")

Ladies and Gentlemen:

This Letter will evidence the understanding between _____ ("Customer"), _____ ("Agent") and ~~CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Arkansas Gas~~ Summit Utilities Arkansas, Inc. ("Company"), that effective as of _____, Agent will act as Customer's agent for services provided by Company pursuant to the referenced Agreement for all purposes related thereto, unless expressly provided otherwise herein, including, but not limited to, the purposes of submitting and receiving notices, nominations and other

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.26/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.~~26/~~27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

information related to receipts and deliveries of gas and performing other administrative or contractual duties [,including payment obligations,] under the Agreement and as required by Company's Rate Schedule No. 3, Large Commercial Firm Service ("LCS-1"), as on file and in effect from time to time. Company will coordinate with Agent for all imbalance administration, contract administration, nominations, scheduling and allocations for Customer's account, and shall be entitled to rely on Agent's actions with respect to the Agreement.

( ) Timely payments made by Agent to Company for services rendered to Customer in accordance with the terms of the Agreement and for any penalties, fees, assessments or other charges assessed against Customer's account by Company shall be credited to Customer's account and all notices given to Agent shall be deemed given to Customer.

( ) Company shall make any cash balancing payments it may be required to make for Customer's account to Agent. Company shall make any refund payments it may be required to make directly to Agent.

Agent agrees to indemnify, defend and hold harmless Company from any and all liabilities, losses, damages, expenses, claims, actions and fines of whatever nature (including, but not limited to, attorney's fees and court costs incurred by Company, whether related to the collection of any amounts due under the Agreement or otherwise) resulting from Company's reliance on Agent, including, but not limited to, actions taken by Company pursuant to Agent's action or inaction under the Agreement. Customer shall remain liable to Company for all of its obligations as Customer under the Agreement, and Company shall have no duty, liability or responsibility whatsoever to Agent. Customer acknowledges that if Agent acts as a Pool Manager pursuant to Part 3.23. of LCS-1 and (i) should the Pool Manager fail to pay invoices calculated at the aggregated level, or (ii), should Company interrupt Pooling Service for any reason pursuant to Part 3.23.1. of LCS-1, then upon default to the individual Customer invoice, the invoice shall be recalculated at the individual Customer level, without benefit of the aggregated tolerance, as provided in Part 3.23.4. of LCS-1.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.27/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.~~27~~/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

Customer's designation and appointment of Agent may be terminated or canceled by Customer, Agent, or Company but no such termination or cancellation shall be effective as to Company until the first day of the month, following the expiration of a five (5) day period after Company's receipt of written notice of such termination or cancellation from Customer or Agent. Notwithstanding the foregoing, this designation and appointment of Agent shall automatically terminate upon termination or cancellation of the referenced Agreement. This Agency Agreement will supersede any previously executed Agency Agreements.

If the foregoing is acceptable, please so indicate by having an authorized officer execute and return to the undersigned.

Very truly yours,

~~CENTERPOINT ENERGY RESOURCES CORP.~~Summit Utilities Arkansas, Inc.
~~d/b/a/ CenterPoint Energy Arkansas Gas~~

By:_____

ACCEPTED AND AGREED TO THIS
_____ DAY OF _____, 20___

CUSTOMER:

_____
Incorporated Cities of Texarkana, Nash, Redwater and Wake Village, Texas

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-3A.28/28

Replacing: ~~Original~~ Sheet No. ~~1-3A.28/27~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Large Commercial

PART I – Rate Schedule No. 3 Appendix

Title: LARGE CUSTOMER FIRM SERVICE (LCS-1) APPENDIX Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

_____

By:_____
Name:_____
Title:_____

ACCEPTED AND AGREED TO THIS
_____ DAY OF _____, 20___

AGENT:
_____

By:_____
Name:_____
Title:_____

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-4.1/3

Replacing: Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART I - Rate Schedule No. 4

Title: UNMETERED GAS LIGHT FIRM SALES SERVICE (GL-1) Effective: ~~January 11, 2008~~~~TBD~~(to be determined)

4. UNMETERED GAS LIGHT FIRM SALES SERVICE (GL-1)

4.1. AVAILABILITY

4.1.1. This rate schedule is available at points of adequate capacity and suitable pressure. This rate schedule is available to new or existing customers for unmetered gas, to be used solely for the continuous operation of natural gas lighting fixtures. Service under this rate schedule is offered at the Company's discretion, and only when metering the lighting fixtures' consumption is not economical.

4.1.2. This rate schedule is applicable to unmetered, continuously burning, natural gas lighting. The natural gas lighting fixture must be equipped with a natural gas or L.P. regulator approved by the Company, capable of regulating Company's main line pressure down to an appropriate pressure level. Where applicable, the natural gas lighting fixture must also be equipped with an orifice that will restrict gas flow to the appropriate cubic feet per hour input capacity rate, identified in this schedule. Customer is responsible for all natural gas lighting fixture modifications, maintenance, and installation. Company must inspect and approve the lighting fixture, any fixture modifications, and fixture installations, before natural gas service is made available.

4.1.3. Company is responsible for providing a main line tap, cut-off valve, and up to 75 feet of service line per natural gas lighting fixture. Customer will be responsible for the cost of service line installation beyond 75 feet. Company must inspect and approve the natural gas lighting fixture, any fixture modifications, and fixture installation, before natural gas service is made available.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-4.2/3

Replacing: ~~Original~~ Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART I - Rate Schedule No. 4

Title: UNMETERED GAS LIGHT FIRM SALES SERVICE (GL-1) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

4.1.4. The Ccf to be billed during a billing period shall be calculated using the following procedure: (A) Manufacturer's rated input for each gas light in cubic feet per hour; multiplied by (B) the number of lights in installation; multiplied by (C) 7.3.

4.2. RATE

4.2.1. The customer shall be charged in accordance with the currently effective residential or commercial rate schedule otherwise applicable to the customer served hereunder.

4.3. MINIMUM CHARGE

4.3.1. The minimum charge rate shall be computed in accordance with the currently effective residential or commercial rate schedule otherwise applicable to the customer served hereunder.

4.4. RIDERS

4.4.1. The applicability of riders shall be in accordance with the currently effective residential or commercial rate schedule otherwise applicable to the customer served hereunder, except for the WNA Rider, which shall not apply, as gas light usage is not affected by weather.

4.4.2. Service will be rendered under this rate schedule until service is discontinued to customer or until the schedule is superseded.

4.5. RULES AND REGULATIONS GOVERNING UTILITY SERVICE

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-4.3/3

Replacing: ~~Original~~ Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART I - Rate Schedule No. 4

Title: UNMETERED GAS LIGHT FIRM SALES SERVICE (GL-1) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

4.5.1. The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-5.1/10

Replacing: ~~Original~~ Sheet No. ~~1-~~5.1/6

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2) Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

5. SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

5.1. AVAILABILITY

5.1.1. This rate schedule is available at points of adequate capacity and suitable pressure on the Company's existing facilities. This rate schedule is available to any consumer engaging in business, professional, institutional, agricultural or other non-residential activity supplied at an individually metered point of delivery for all uses of gas. Natural gas supplied hereunder is for the individual use of the customer at the point of delivery and shall not be resold or shared with others. Standby Service is not available under this rate schedule.

5.1.2. Gas consumption under this rate schedule is limited to 365,000 Ccf in any 12 consecutive month period. In at least one of the two preceding calendar years, the customer must have consumed 80% of the September 1 through August 31 annual volume in the April through October billing periods and it's September 1 through August 31 annual consumption for that year must have exceeded 99 Ccf. In the case of new customers or customers who anticipate changing their usage pattern, this rate will be available if a reasonable projection of their volumes in the upcoming year indicates they will use 80% of their September 1 through August 31 annual volume in the April through October billing periods and that their September 1 through August 31 annual consumption will exceed 99 Ccf. If at any time, it is anticipated based on the Company's estimate, that the customer will consume in excess of 365,000 Ccf per year in the succeeding 12 consecutive month period, the customer shall become subject to the applicable large commercial firm service rate schedule.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-5.2/10

Replacing: ~~Original~~ Sheet No. ~~1-5.1/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2) Effective: ~~September 1, 2017~~(to be determined)~~TBD~~

5.1.3. Company has historically allowed the volume usage of meters at business facilities under common ownership and subject to this rate schedule to be aggregated for the sole purpose of establishing eligibility for

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-5.3/10

Replacing: ~~Original~~ Sheet No. ~~1-5.~~3~~/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

Effective: ~~January 11, 2008~~~~TBD~~(to be determined)

transportation as referenced in Part 3.1.3. of Rate Schedule LCS-1. Customers historically qualifying for transportation under this aggregation provision shall remain subject to the rates and charges under this rate schedule in addition to any additional specific rates, charges, or adjustment riders peculiar to the Transportation Supply Option set out in Rate Schedule LCS-1, such as, but not limited to, administrative fees. Customers aggregating volume shall be subject to all provisions and policies governing TSO option customers as specified in LCS-1, except as provided for herein. Although no aggregation will be allowed for eligibility, the ability to aggregate for eligibility purposes at existing and new locations shall remain unchanged for transportation customers eligible under such aggregation provision prior to September 21, 2002. Future aggregation for the purpose of qualification, except as otherwise referenced herein, is prohibited. Each individual account of historically qualified customers shall be treated as a separate account and shall be subject to the same rates and charges under the originating SCS-2 or LCS rate schedule, and are additionally subject to any specific rates, charges or riders specific to the TSO.

For the purpose of establishing eligibility for the Transportation Supply Option ("TSO") defined in the LCS rate schedule, customers experiencing or anticipating an average daily demand of 10 MMBtu per day during the preceding or succeeding twelve months will be eligible for the TSO. Customers qualifying for transportation who choose the TSO shall be subject to rates and charges under the SCS-2 rate schedule, and are additionally subject to any additional specific rates, charges or riders specific to the TSO.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-5.4/10

Replacing: ~~Original~~ Sheet No. ~~1-5.~~4~~/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2) Effective: ~~January 11, 2008~~~~TBD~~(to be determined)

5.1.4. Customers converting from transportation service to sales service will be required to contract for such sales services between the months of February through April preceding the expiration of the primary or any succeeding term of the Customer's existing contract. Customers seeking to contract for sales service during the required time frame will be allowed to convert to sales service provided that the Company is able to secure firm upstream transportation capacity and other upstream pipeline services sufficient to meet the Customer's needs. Any such conversion will be effective upon the expiration of the term of the Customer's existing contract, unless the Company and the Customer agree otherwise.

5.1.5. Seasonal Transportation. Customer facilities experiencing more than 80% of annual load during the flow months April through October, and who experience or anticipate an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding April through October, are eligible to transport on a seasonal basis. Customers meeting the aforementioned criteria may elect the TSO option and choose a subsequent return to the SSO option only once during the calendar year. Customers electing the TSO option on a seasonal basis, pursuant to notice given prior to May 31st or thirty days prior to commencement of service, whichever is earlier, may receive transportation service for a continuous period of at least 30 days between April 1 and October 31. Customers electing the TSO option on a seasonal basis are subject to the TSO contract administration fee. Additionally, each participating location shall pay a $300 set-up fee upon initial election and upon any subsequent return to transportation service.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-5.5/10

Replacing: ~~Original~~ Sheet No. ~~1-5.~~5/~~6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

Effective: ~~January 11, 2008~~~~TBD~~(to be determined)

5.2. RATES

5.2.1. Each customer receiving service under this rate schedule shall be charged the sum of (a) and (b):

(a) Distribution Rate for customers electing the SSO option:

First 1,500 Ccf per Month at	$0.24421 per Ccf
Next 13,500 Ccf per Month at	$0.13440 per Ccf
Over 15,000 Ccf per month at	$0.05762 per Ccf

Distribution Rate for customers electing the TSO option:

First 150 MMBtu at	$2.40341 per MMBtu
Next 1,350 MMBtu at	$1.32275 per MMBtu
Over 1,500 MMBtu at	$0.56706 per MMBtu

(b) Gas Supply Rate – The Gas Supply Rate will be calculated and adjusted periodically as defined in the Company's Gas Supply Rate Rider. Customers qualifying for service under this rate schedule will pay for their upstream demand related charges on a volumetric basis as provided for in the Company's Gas Supply Rate Rider.

5.2.2. Rates for customers historically qualifying for service under the Part 5.1.3. aggregation provision and customers qualifying for transportation under this rate schedule will be subject to thermal adjustment. Delivered volumes will be adjusted by the appropriate thermal content factor

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-5.6/10

Replacing: ~~Original~~ Sheet No. ~~1-5.~~6~~/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2) Effective: ~~January 11, 2008~~~~TBD~~(to be determined)

obtained from the nearest available chromatograph or sampling location (Ccf / 10) x thermal content factor = MMBtu).

5.3. TELEMETERING

5.3.1. Telemetering is required for customers electing and qualifying for transportation service. Company shall install telemetry equipment of standard make and manufacture to determine hourly and daily flow at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc. for each meter and agrees to pay for standard telemetry equipment and installation costs for

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-5.7/10

Replacing: ~~Original~~ Sheet No. ~~1-5.7/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2) Effective: ~~January 11, 2008~~~~TBD~~(to be determined)

each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

( ) Option 4: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.

In the event customer has in place working telemetering facilities and equipment; and the customer receives system supply service; and Company determines it necessary to keep the telemeter(s) operational, Company will arrange and pay for the associated telecommunications cost while the customer receives sales service under this rate schedule.

5.3.2. If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunication lines. Should customer fail to maintain or repair telecommunication lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.
If customer chooses wireless telemetry, then customer shall pay Company $10 per month per meter for wireless telemetry service for the entire period such meter(s) is(are) served under this or any other transportation rate schedule.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 1-5.8/10

Replacing: ~~Original~~ Sheet No. ~~1-5.~~8~~/6~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2) Effective: ~~January 11, 2008~~~~TBD~~(to be determined)

5.4. RIDERS

5.4.1. In addition to the Gas Supply Rate Rider, the following riders are applicable to service under this rate schedule:

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-5.9/10

Replacing: _____ Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2)

Effective: ~~January 11, 2008~~~~TBD~~(to be determined)

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Rider Name	Description	Identification on Customer Bills
TA	Municipal Tax Adjustment	Municipal Franchise Adj
EECR	Energy Efficiency Cost Recovery Rider	EE Cost Rate
~~FRPBDA~~	~~Formula Rate Plan Rider~~~~Interim Billing Determinant Rate Adjustment~~	~~Formula Rate Plan Adj~~~~Billing Determinant Rate Adj~~
~~EECR~~	~~Energy Efficiency Cost Recovery Rider~~	~~EE Cost Rate~~
~~FRP~~	~~Formula Rate Plan Rider~~	~~Formula Rate Plan Adj~~

5.4.2. Service will be rendered under this rate schedule until service is discontinued to customer, the customer no longer qualifies for service under the SCS-2 rate schedule, but qualifies for service under the Small Commercial Firm Service (SCS-1) rate schedule, the customer qualifies for service under the Large Commercial Firm Service rate schedule, or the schedule is superseded.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-5.10/10

Replacing: _____ Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *5*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—OFF-PEAK (SCS-2) Effective: ~~January 11, 2008~~~~TBD~~(to be determined)

5.5. RULES AND REGULATIONS GOVERNING UTILITY SERVICE

5.5.1. The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.1/7

Replacing: Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

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6. **SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)**

6.1. AVAILABILITY

6.1.1. This rate schedule is available at points of adequate capacity and suitable pressure on the Company's existing facilities. This rate schedule is available to any consumer engaging in business, professional, institutional, agricultural or other non-residential activity who purchases annual volumes less than 365,000 Ccf and who receives this natural gas from the Company through an individual meter, and whose sole usage of natural gas through this meter is to provide compressed natural gas for use as a vehicle fuel. Standby Service is not available under this rate schedule.

In cases where this compressed natural gas is resold to the public, the end price of the compressed natural gas sold or delivered by the customer to the vehicles receiving the compressed natural gas is not subject to the regulated pricing restrictions of this rate schedule.

6.1.2. Company has historically allowed the volume usage of meters at business facilities under common ownership and subject to this rate schedule to be aggregated for the sole purpose of establishing eligibility for transportation as referenced in Part 3.1.3. of Rate Schedule LCS-1. Customers historically qualifying for transportation under this aggregation provision shall remain subject to the rates and charges under this rate schedule in addition to any additional specific rates, charges, or adjustment riders peculiar to the Transportation Supply Option ("TSO") set out in Rate Schedule LCS-1, such as, but not limited to, administrative fees. Customers aggregating volume shall be subject to all provisions and policies governing TSO option customers as specified in LCS-1, except as provided for herein. Although no aggregation

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.2/7

Replacing: Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3) Effective: ~~September 1, 2017~~TBD(to be determined)

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will be allowed for eligibility, the ability to aggregate for eligibility purposes at existing and new locations shall remain unchanged for transportation customers eligible under such aggregation provision prior to September 21, 2002. Future aggregation for the purpose of qualification, except as otherwise referenced herein, is prohibited. Each individual account of historically qualified customers shall be treated as a separate account and shall be subject to the same rates and charges under the originating SCS-3 or LCS rate schedule, and are additionally subject to any specific rates, charges or riders specific to the TSO.

For the purpose of establishing eligibility for the TSO defined in the LCS rate schedule, customers experiencing or anticipating an average daily demand of 10 MMBtu per day during the preceding or succeeding twelve months will be eligible for the TSO. Customers qualifying for transportation who choose the TSO shall be subject to rates and charges under the SCS-3 rate schedule, and are additionally subject to any additional specific rates, charges or riders specific to the TSO.

6.1.3 Customers converting from transportation service to sales service will be required to contract for such sales services between the months of February through April preceding the expiration of the primary or any succeeding term of the Customer's existing contract. Customers seeking to contract for sales service during the required time frame will be allowed to convert to sales service provided that the Company is able to secure firm upstream transportation capacity and other upstream pipeline services sufficient to meet the Customer's needs. Any such conversion will be effective upon the

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.3/7

Replacing: Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3) Effective: ~~September 1, 2017~~TBD(to be determined)

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expiration of the term of the Customer's existing contract, unless the Company and the Customer agree otherwise.

6.1.4. Seasonal Transportation. Customer facilities experiencing more than 80% of annual load during the flow months April through October, and who experience or anticipate an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding April through October, are eligible to transport on a seasonal basis. Customers meeting the aforementioned criteria, may elect the TSO option and choose a subsequent return to the System Supply Option ("SSO") only once during the calendar year. Customers electing the TSO on a seasonal basis, pursuant to notice given prior to May 31st or thirty days prior to commencement of service, whichever is earlier, may receive transportation service for a continuous period of at least 30 days between April 1 and October 31. Customers electing the TSO option on a seasonal basis are subject to the TSO contract administration fee. Additionally, each participating location shall pay a $300 set-up fee upon initial election and upon any subsequent return to transportation service.

6.1.5. Term. This rate schedule shall have an extended term of the shorter of three (3) years from the date of Commission approval or the completion of the Company's next general rate filing, unless otherwise extended further by Order of the Commission.

6.2. RATES

6.2.1. Each customer receiving service under this rate schedule shall be charged the sum of (a), (b), and (c) as follows:

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.4/7

Replacing: Sheet No.

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~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

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(a) Monthly Customer Charge - $15.63. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

(b) Distribution Rate for customers electing the SSO option:

First 1,500 Ccf at	$0.18242
1,501 – 15,000 Ccf at	$0.13797
Over 15,000 Ccf at	$0.05915

Distribution Rate for customers electing the TSO option:

First 150 MMBtu at	$1.79532
151 – 1,500 MMBtu at	$1.35787
Over 1,500 MMBtu at	$0.58211

(c) Gas Supply Rate - The Gas Supply Rate will be calculated and adjusted periodically as defined in the Company's Gas Supply Rate Rider.

6.2.2. Rates for customers historically qualifying for service under the Part 8.1.2. aggregation provision and customers qualifying for transportation under this rate schedule will be subject to thermal adjustment. Delivered volumes will be adjusted by the appropriate thermal content factor obtained from the nearest available chromatograph or sampling location (Ccf / 10) x thermal content factor = MMBtu).

6.3. MINIMUM CHARGE

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.5/7

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(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

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6.3.1. Monthly Customer Charge -- $15.63. The monthly customer charge shall be pro-rated in the months that the customer initiates and terminates gas service.

6.4. TELEMETERING

6.4.1. Telemetering is required for customers electing and qualifying for transportation service. Company shall install telemetry equipment of standard make and manufacture to determine hourly and daily flow at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following payment options as chosen by the customer:

( ) Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $30 per month per meter for meters that do not require pressure instrumentation and $84 per month per meters that do require pressure instrumentation. The customer will be subject to meter reading fees for an inoperable phone line for each meter.

( ) Option 3: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~ Summit Utilities Arkansas, Inc. for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. The wireless service fee will be $10 per month per meter, and Customer will not be subject to meter reading fees.

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TEXARKANA, TEXAS SERVICE AREA

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(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

( ) Option 4: Customer elects wireless service through ~~CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc. for each meter and elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The fee will be $40 per month for meters that do not require pressure instrumentation and $94 per month per meter for meters that do require pressure instrumentation. The customer will not be subject to meter reading fees.
In the event customer has in place working telemetering facilities and equipment; and the customer receives system supply service; and Company determines it necessary to keep the telemeter(s) operational, Company will arrange and pay for the associated telecommunications cost while the customer receives sales service under this rate schedule.

6.4.2. If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunication lines. Should customer fail to maintain or repair telecommunication lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.

If customer chooses wireless telemetry, then customer shall pay Company $10 per month per meter for wireless telemetry service for the entire period such meter(s) is(are) served under this or any other transportation rate schedule.

6.5. RIDERS

6.5.1. In addition to the Gas Supply Rate Rider, the following riders, as on file with the Commission and in effect from time to time, are applicable to service under this rate schedule:

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.7/7

Replacing: Sheet No.

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~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)

Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

Rider Name	Description	Identification on Customer Bills
TA	Municipal Tax Adjustment	Municipal Franchise Adj
~~BDA~~	~~Interim Billing Determinant Rate Adjustment~~	~~Billing Determinant Rate Adj~~
EECR	Energy Efficiency Cost Recovery Rider	EE Cost Rate
~~FRP~~	~~Formula Rate Plan Rider~~	~~Formula Rate Plan Adj~~

6.5.2. Service will be rendered under this rate schedule until service is discontinued to customer, the customer no longer qualifies for service under the SCS-3 rate schedule, but qualifies for service under the Small Commercial Firm Service (SCS-1) rate schedule, or the customer qualifies for service under the Large Commercial Firm Service rate schedule.

6.6. **RULES AND REGULATIONS GOVERNING UTILITY SERVICE**

The Company's Standard Rules and Regulations, as the same may from time to time be changed in accordance with the law, shall be applicable to service under this rate schedule.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 1-6.8/7

Replacing: Sheet No.

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~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: Small Commercial

PART I – Rate Schedule No. *6*

Title: SMALL COMMERCIAL FIRM SALES SERVICE—NGV (SCS-3)

Effective: ~~September 1, 2017~~TBD(to be determined)

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Incorporated Cities of Texarkana, Nash, Redwater and Wake Village, Texas

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 2-1.1/10

Replacing: ~~Original~~ Sheet No. ~~2-1.1/1~~

~~CenterPoint Energy Resources Corp.~~
Summit Utilities Arkansas, Inc.~~d/b/a CenterPoint Energy Arkansas Gas~~
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

1. GAS SUPPLY RATE (GSR)

1.1. GAS SUPPLY RATE (GSR) APPLICABILITY AND REQUIREMENTS

The charges for gas sales service contained in Company's total billing to sales customers shall include the cost of gas sold as identified in this Rider. For purposes of this Rider the cost of gas sold shall include the sum of all gas purchased for Company's customers, upstream transportation charges, storage charges, the cost of gas withdrawn from storage less the cost of gas injected into storage, any transaction-related fees, gains or losses and other transaction costs associated with the use of various financial instruments used by Company to stabilize prices.

1.2. DEFINITIONS

1.2.1. Cost of Gas Sold - For purposes of this clause the cost of gas sold during a month shall be the sum of all gas purchased for the customers, transportation and storage charges, the cost of gas withdrawn from storage less the cost of gas injected into storage, and any transaction-related fees, gains or losses and other transaction costs associated with the use of various financial instruments to stabilize gas prices.

1.2.2. Lost and Unaccounted for Gas (LUFG) – For purposes of this clause LUFG will be the portion of the Cost of Gas Sold that is not delivered to sales or transportation customers. LUFG is calculated as purchase volumes less sales volumes. More specifically it will contain Shrinkage, Company Used gas, and Remaining LUFG (RLUFG). Shrinkage is calculated by rate classification at the time of billing and represents a calculation of gas delivered but not measured to customers due to known departures from the Ideal Gas Laws. Company Used Gas is gas measured directly to Company facilities, and RLUFG is total LUFG less Shrinkage and Company Used Gas. Company shall not be allowed to recover LUFG in excess of 5%, computed on an annual basis.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.2/10

Replacing: Sheet No.

~~CenterPoint Energy Resources Corp.~~
Summit Utilities Arkansas, Inc.~~d/b/a CenterPoint Energy Arkansas Gas~~
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

1.2.3. Fixed Transportation Charges - Charges incurred for transporting gas to Company's system that do not vary with the volume of gas being transported, including, for example, pipeline Firm Transportation (FT) and No Notice Transportation (NNT) demand and/or reservation fees.

1.2.4. Fixed Storage Charges - Charges incurred for storing gas that do not vary with the volume of gas injected into or withdrawn from storage, including, for example, Firm Storage Service (FSS) demand and/or reservation fees.

1.2.5. Fixed Gas Supply Charges - Charges incurred for the acquisition of gas supply that do not vary with the volume of gas purchased, including, for example, supply demand and/or reservation fees.

1.3. GSR FILINGS

1.3.1. Scheduled GSR Filings:
Company shall make two Scheduled GSR Filings each year: a Winter Season GSR and a Summer Season GSR. The Winter Season GSR shall be effective for billings rendered to customers during the months of November through the following March. The Summer Season GSR shall be effective for bills rendered to customers during the months of April through the following October.

The Winter Season GSR filing shall contain rates reflecting: (1) the then current estimate of gas cost revenue requirement for the period between the effective date of filing and the next Summer Season GSR; and, (2) all of the annual actual cost (true-up or secondary adjustment factor) adjustments and any refund factor adjustments relating to or arising during the immediately preceding 12 months ending August each year.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.3/10

Replacing: Sheet No.

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Summit Utilities Arkansas, Inc.~~d/b/a CenterPoint Energy Arkansas Gas~~
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

The Summer Season GSR filing shall contain rates reflecting: (1) the then current estimate of gas cost revenue requirements for the period between the effective date of the Summer Season GSR and the effective date of its next Winter Season GSR; and, (2) maintaining all of the actual cost of gas adjustment (annual true-up or secondary adjustment) and any refund adjustments.

1.3.2. Unscheduled GSR Filings:
Should a projected under or over recovery balance arise during any seasonal GSR period which exceeds ten percent (10%) of the projected annual gas cost per the most recent scheduled GSR filing, then the Company may propose an Unscheduled GSR filing.

If an Unscheduled GSR Filing is made, that filing: (1) must contain rates reflecting the then current estimate of the gas cost revenue requirement for the period from the effective date of such filing to the next scheduled filing, and (2) must maintain all of the actual cost of gas adjustment (annual true-up or secondary adjustment factors) and any refund adjustment factors.

The Unscheduled GSR Factor shall remain in effect only until the next scheduled GSR Filing.

1.3.3. Scheduled and any Unscheduled GSR filings shall be filed with the Commission by the last business day of the month immediately preceding the month the proposed new GSR factor will be implemented.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.4/10

Replacing: Sheet No.

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Summit Utilities Arkansas, Inc.~~d/b/a CenterPoint Energy Arkansas Gas~~
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: ~~September 1, 2017~~TBD(to be determined)

1.4. ALLOCATION OF COSTS

1.4.1. Calculation of Demand Cost Component:

Calculating demand costs - The demand gas cost revenue requirement component shall be the annual total of the gas costs that do not vary with the actual consumption, such as fixed transportation and storage costs, fixed gas supply charges, and fixed financial charges associated with financial instruments purchased to stabilize prices.

Calculating demand cost allocation- The demand cost component of each season's filing shall be calculated by multiplying the total annual projected demand costs by the appropriate allocation factors for those demand costs for the respective RS-1, and the non- TSO SCS customers (defined as the factor representing the peak day demand for the non-TSO SCS-1, non-TSO SCS-2, and non-TSO SCS-3 customers), and LCS customers.

1.4.2. Calculation of Commodity Cost Component:

Calculating commodity costs by season - The commodity gas cost revenue requirement component of each season's GSR shall be the sum of all gas cost purchased for sales customers other than demand costs or LUFG costs, such as variable transportation costs, gas supply commodity costs, and the transaction costs associated with the use of futures contracts and options and other prudently incurred costs associated with various financial instruments purchased by Company to stabilize gas supply rates. The commodity gas costs shall include the commodity cost of storage withdrawals and injections. Company will utilize any technique or method it deems reasonable for purposes of estimating the commodity cost component of each seasonal filing.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.5/10

Replacing: Sheet No.

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Summit Utilities Arkansas, Inc.~~d/b/a CenterPoint Energy Arkansas Gas~~
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

Seasonal commodity cost allocation - the seasonal commodity costs assigned to RS-1 and non-TSO SCS and LCS customers will be determined by multiplying the Seasonal Commodity Cost by the ratio of estimated sales volumes for the respective classes in that season. For purposes of Commodity allocation and the establishment of Commodity rates, the SCS-1, SCS-2, and SCS-3 classes will be combined and considered as one class.

1.4.3. LUFG Allocation:
For purposes of LUFG allocation, and the establishment of LUFG rates, the SCS-1, SCS-2, and SCS-3 classes will be combined and considered as one class. For purposes of calculating the allocation percentages only, LUFG-in-Kind will be added to LUFG and will be known as True LUFG. True LUFG will be allocated to the respective rate classes based on the factors established below for each of the components of LUFG:

Shrinkage – for each rate class (including regular sales and TSO customers) shall be determined based on cost causation.

Company Used Gas – shall be determined by the direct measurement of the gas consumed by Company facilities, and allocated to each rate class (including regular sales and TSO customers) based on the ratio of the number of customers in each class and the total for such classes.

Remaining LUFG (RLUFG) – shall be defined as the difference between (a) total True LUFG; and (b) the sum of Shrinkage and Company Used Gas established above. It shall be allocated to the respective customer classes as follows:

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.6/10

Replacing: Sheet No.

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Summit Utilities Arkansas, Inc.~~d/b/a CenterPoint Energy Arkansas Gas~~
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

55% based on the volumes for the most recent twelve-month-ending August period of the rate classes (including regular sales and TSO customers).

35% based on the demand components for the rate classes (including regular sales and TSO customers).

10% based on the annualized number of customers of the rate classes (including regular sales and TSO customers) as of the most recent twelve-month-ending August period.

The sum of the allocated LUFG volumes for the three LUFG components will be used to develop an allocation percentage by class to be applied to the LUFG cost.

1.5. RATE CALCULATION

RS-1 Customers - The GSR for Residential customers will be a per Ccf rate that is determined by summing the allocated costs in Parts 1.4.2. and 1.4.3. above and dividing that total by the projected seasonal volumes for the residential class and adding that result to the per Ccf rate determined by dividing the allocated annual costs in Part 1.4.1. by the estimated annual sales volumes.

SCS and LCS Customers - The commodity portion of the rate for non-TSO customers will be determined by respectively summing the allocated costs in Parts 1.4.2. and 1.4.3. above and dividing that total by the projected seasonal volumes for the respective classes. SCS-1, SCS-2, and SCS-3 customers will be combined and considered as one class for purposes of determining the commodity portion of the rate. While the calculation will be made in Ccf, it will be appropriately translated to MMBtu as needed.

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.7/10

Replacing: Sheet No.

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Summit Utilities Arkansas, Inc.~~d/b/a CenterPoint Energy Arkansas Gas~~
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

The demand portion of the rate for LCS non-TSO customers will be charged to the customers based on their assigned CD's in MMBtu. The rate will be determined by dividing the respective classes allocated costs in Part 1.4.1. above by their respective annualized CD's. Since the demand charges are part of an overall non-specific set of upstream contracts, the support for their allocations will be provided in the schedules supporting the filing.

Allocation and Demand Rate Calculation for SCS-1, SCS-2, and SCS-3 Customers – The costs allocated to the combined SCS-1, SCS-2, and SCS-3 customer classes will be based on the allocation of costs as described in paragraph 1.4.1. The demand portion of the rate for the non-TSO SCS-1 customers and the non-TSO SCS-2 customers (during the November-March period) will be determined by dividing the costs attributable to the SCS customer class reduced by the anticipated demand revenue paid by SCS-2 class in the summer period (April – October) and further reduced by the demand revenue paid by the SCS-3 class for the entire year (September – August), by the sum of the projected annualized SCS-1 volumes and the projected SCS-2 winter volumes (November-March). The demand portion of the rate for the non-TSO SCS-2 customer class in the summer period (April – October) will be $0.01984 per Ccf. The demand portion of the rate for the non-TSO SCS-3 customer class will be $0.04310 per Ccf for the entire period (November – October).

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.8/10

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(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

1.6. SPECIAL PROVISION REGARDING TSO CUSTOMERS

LUFG costs - Customers under the TSO option may provide LUFG-in-Kind gas volumes. The LUFG-in-Kind (volumetric delivery requirement) for each customer's account will be determined based on the most recent twelve-month ended August period and expressed as a percentage of the gas delivered for the customer's account at the customer's point of consumption. The percentage will be determined by dividing the allocated volumes of total LUFG in the respective class (SCS or LCS) by the total estimated sales volumes in their respective class.

Assignment of Surcharges to TSO Customers - In the event an LCS-1, SCS-1, or SCS-3 customer changes its supply service election at the end of the contract term from the system supply option (SSO), the amount of the deferred gas cost account attributable to that customer shall be charged or distributed to that customer, whichever is applicable. The charging to or distribution of the deferred gas cost account attributable to that customer shall be removed or added to the deferred gas cost account of the applicable rate schedule.

1.7 DEFERRED PURCHASED GAS COST ACCOUNTS

Company shall establish and maintain a Deferred Gas Cost Account(s) in which shall be recorded any over or under recovery resulting from the operation of the GSR procedure. Such over or under recovery by class shall be determined monthly by comparison of the actual Cost of Gas Sold as defined above for each cost month to the gas cost revenue recovery for the same revenue month as the cost month. The accumulated balance of over or under recovered gas costs, plus the carrying charge described below, shall be used to determine the surcharge. The surcharge shall be computed annually by dividing each class' cumulative balance over recoveries or under recoveries as of the end of each August by the respective class' estimated volumes of sales for the projected twelve-month period. The surcharge shall be filed annually and will be included with the Scheduled Winter Season GSR Filing and

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-1.9/10

Replacing: Sheet No.

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(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

shall be rounded to the nearest $0.0001 per Ccf. The surcharge shall remain in effect until the earlier of: (1) superseded by a subsequent surcharge calculated according to this provision or, (2) the beginning of the second revenue month following the month in which the full recovery or refund is accomplished if such full recovery or refund is accomplished prior to the end of the established recovery period.

A carrying charge shall be included in the monthly under or over recovery balance resulting from the monthly comparison of the actual Cost of Gas Sold to the revenue recovery resulting from the application of the prescribed GSR, and a carrying charge shall be included in the monthly under or over recovery balance applicable to the surcharge. The monthly carrying charge shall be determined by multiplying the average of the beginning and ending month balance of under or over recovery for the cost month times the rate of interest applicable to customer deposits.

1.8. DEMAND ALLOCATION

It is recognized that over time as customer classifications change or demand levels change, the accuracy of the originally approved demand factors may deteriorate. Company can request a change in the allocation procedures with a minimum three month lead time prior to the filing date for the seasonal filings. Changes under this provision are limited to changes required to restore the accuracy of the originally approved demand factors and shall be not be used by either Company or the applicable regulator to implement changes in allocation methodologies that would normally require a general rate application.

1.9. REFUND PROVISION

If an increase in the cost of gas paid or payable to Company shall be reduced by the final order of a duly constituted regulatory body or the final decree of a court, if appealed thereto, and such increase shall have been reflected in Company's rate to the extent and in the manner specified in this GSR, Company shall report to the

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TEXARKANA, TEXAS SERVICE AREA

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Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 1

Title: GAS SUPPLY RATE (GSR) Effective: ~~September 1, 2017~~~~TBD~~(to be determined)

Commission the receipt of any refunds resulting from such final order or decree. Thereupon, Company shall submit for the Commission's approval a plan to make equitable disposition of such refund monies to the extent such monies represent increased charges paid by its customers as result of this GSR; provided, however, that if the amount to be refunded to customers hereunder with respect to a particular refund received does not amount to more than one-tenth cent per Ccf, then Company will apply that refund as a credit in its cost of gas computations hereunder for the month in which it receives the refund from its supplier. Nothing in this clause shall be construed to require refunds or a reduction of Company's rate as a result of such an order reducing the cost of gas where the original increase in the cost of gas has not been reflected in Company's billings for its sales to customers under this rate schedule.

1.10. APPLICABLE RATE SCHEDULES
Residential Firm Sales Service (RS-1)
Small Commercial Firm Sales Service (SCS-1)
Small Commercial Firm Sales Service – Off-Peak (SCS-2)
Small Commercial Firm Sales Service– NGV (SCS-3)
Large Commercial Firm Service (LCS-1)
Unmetered Gas Light Firm Sales Service (GL-1)

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

~~TEXARKANA, TEXAS SERVICE AREA~~

~~Original~~ ~~Sheet No. 2-2.1/1~~

~~Replacing:~~ ~~Sheet No.~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
~~(Name of Company)~~

~~Kind of Service:~~ ~~Natural Gas~~ ~~Class of Service:~~ ~~All~~

~~PART II – Rider Schedule No. 2~~

~~**Title: FORMULA RATE PLAN RIDER (RIDER FRP)**~~ ~~Effective: September 1, 2017~~~~TBD~~(to be determined)

~~1. FORMULA RATE PLAN RIDER (RIDER FRP)~~

~~1.1. The Formula Rate Plan Rider (Rider FRP) shall be the amount charged~~ of $0.00. ~~to CenterPoint Energy's~~Summit Utilities Arkansas' ~~customers residing or located in the Incorporated Cities of Texarkana, Nash, Redwater and Wake Village, Texas~~Arkansas~~. under Arkansas tariff Rider Schedule Rider Schedule No. 9 Formula Rate Plan Rider (Rider FRP).~~

~~1.2. APPLICABLE RATE SCHEDULES~~
~~Residential Firm Sales Service (RS-1)~~
~~Small Commercial Firm Sales Service (SCS-1)~~
~~Small Commercial Firm Sales Service – Off-Peak (SCS-2)~~
~~Small Commercial Firm Sales Service – NGV (SCS-3)~~
~~Large Commercial Firm Service (LCS-1)~~
~~Unmetered Gas Light Firm Sales Service (GL-1)~~

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-3.1/3

Replacing: Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 3

Title: MUNICIPAL TAX ADJUSTMENT CLAUSE (TA) Effective: ~~September 1, 2017~~(to be determined)

3. MUNICIPAL TAX ADJUSTMENT CLAUSE (TA)

3.1. The Company will pass on Municipal Taxes to Local Customers by adding to each monthly bill rendered a Local Customer as a separate line item identified as "Municipal Franchise Adj," an amount calculated on an equal-per-meter basis determined in accordance with the following:

3.1.1. As used herein, the term "City Tax," or "Municipal Tax," refers to any and all privilege, occupation, franchise meter, gross receipts or other tax or assessment of whatever kind and by whatever name (except ad valorem taxes) now and at any time hereafter levied on, the Company by any Municipality.

3.1.2. "Municipality" refers to the local taxing authority imposing the Municipal Tax, whether city, town, village, unincorporated association, district, county or other authority authorized to impose same under present or future law.

3.1.3. "Local Customers" refers to any and all residential and general service customers in Texas that are within the geographical boundaries or taxing authority of the Municipality; provided, that if a particular tax ordinance or other act imposing the Municipal Tax includes in its taxing impact any service locations that would otherwise not be considered a "Local Customer" hereunder, then such service will be included in the term Local Customer.

3.2. Notwithstanding the above, if a particular tax ordinance or other act imposing the Municipal Tax specifies a method of payment of collection other than on an equal-per-meter basis, then the method so specified shall be utilized provided

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TEXARKANA, TEXAS SERVICE AREA

Original Sheet No. 2-3.2/3

Replacing: Sheet No.

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 3

Title: MUNICIPAL TAX ADJUSTMENT CLAUSE (TA) Effective: ~~September 1, 2017~~(to be determined)

such method results in the collection of taxes from Local Customers equal to the

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TEXARKANA, TEXAS SERVICE AREA

~~First Revised~~Original Sheet No. 2-3.3/3

Replacing: ~~Original~~ Sheet No. ~~2-3.2/2~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
(Name of Company)

Kind of Service: Natural Gas Class of Service: All

PART II – Rider Schedule No. 3

Title: MUNICIPAL TAX ADJUSTMENT CLAUSE (TA) Effective: ~~September 1, 2017~~(to be determined)

taxes levied on the Company.

3.3. The Company, upon receipt of a certified copy of the approved municipal ordinance will initiate the pass-on of any increase or decrease in taxes subject to this clause beginning with the billing cycle immediately following receipt of the ordinance, and upon the availability of customer billing data necessary to initiate or to revise the calculation of the pass-on.

3.4. If at any time there is a significant change in any of the above determining factors which will cause an unreasonable over or under collection of Municipal Taxes, the Company will adjust the amount collected so that such over or under collection will be minimized.

3.5. APPLICABLE RATE SCHEDULES:
Residential Firm Sales Service (RS-1)
Small Commercial Firm Sales Service (SCS-1)
Small Commercial Firm Sales Service—Off-Peak (SCS-2)
Small Commercial Firm Sales Service—NGV (SCS-3)
Large Commercial Firm Service (LCS-1)
Unmetered Gas Light Firm Sales Service (GL-1)

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4. WEATHER NORMALIZATION ADJUSTMENT (WNA)

4.1. For bills rendered from November 1 through April 30 each year, the applicable margin rates for gas service to customers served under the applicable rate schedules shall be adjusted by a Weather Normalization Adjustment (WNA) to reflect much of the impact of heating degree day variations from normal levels which were used to set rates under the applicable rate schedules.

4.2. In order to calculate the total weather adjustment for the applicable billing cycle, a weather deviation is computed and multiplied by the applicable margin rate. A per Ccf WNA adjustment is calculated by dividing the total weather adjustment by the average Ccf usage per customer for all customers in each billing cycle, using the formula described below. The per Ccf adjustment for each applicable rate schedule is applied to customer's usage for the billing cycle. The WNA shall be separately identified on customer bills.

4.3. CALCULATION OF WEATHER NORMALIZATION ADJUSTMENT

4.3.1. The WNA is calculated as follows:

$$WNA_i = \frac{R_i(DDF_i\ (NDD - ADD))}{AAU_i}$$

Where: i = Any particular rate classification to which the WNA is to be applied.

WNA = Weather Normalization Dollar Adjustment per Ccf

R = Applicable Margin Rate

DDF = Degree Day Factor associated with the applicable rate schedule:

Residential Service (RS-1)	.1536
Small Commercial Sales (SCS-1) (SSO)	.5921

NDD = Normal Degree Days during the billing cycle

ADD = Actual Degree Days during the billing cycle

AAU = Average Actual Usage per customer for each billing cycle

4.4. DEFINITIONS

4.4.1. Normal Degree-days: The heating degree-days, which are based on a 30-year average ending June 30, 2015 as are shown on Attachment 1.

4.4.2. Actual Degree Days: The actual heating degree days as published by Weather Services Corporation, or any other nationally recognized third-party weather service.

4.4.3. Applicable Margin Rate:

4.4.3.1. The Residential Service (RS-1). The RS-1 WNA marginal rate will use the marginal rate of the residential volumes that are in excess of 15 Ccf. The resulting WNA price will be applicable only to volumes in excess of 15 Ccf.

4.4.3.2. The Small Commercial Sales Service (SCS-1) System Supply Option ("SSO"). The SCS-1 WNA marginal rate will use a weighted average marginal rate of the November - April SCS-1 SSO volumes that are in excess of 78 Ccf. The mechanics wil1 be to use the monthly bill frequencies to determine the volume in the 79-1,500 Ccf range, the volume in the 1,501-15,000 Ccf

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range, and the volume above the 15,000 Ccf range. The weighted average margin will be determined by applying the first block

margin rate to the 79-1,500 Ccf volumes, the second block margin rate to the volumes in the 1,501-15,000 range, and the third block margin rate to the volumes in the range above 15,000 Ccf, summing those totals and dividing the results by the total volumes in those ranges. The resulting WNA price will only apply to volumes in excess of 78 Ccf.

4.5. APPLICABLE RATE SCHEDULES
Residential Firm Sales Service (RS-1)
Small Commercial Firm Sales Service (SCS-1) System Supply Option (SSO)

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5. **ENERGY EFFICIENCY COST RECOVERY RIDER (EECR)**

5.1. The Energy Efficiency Cost Recovery Rider (EECR) shall be the amount charged to ~~CenterPoint Energy's~~Summit Utilities Arkansas' customers residing or located in Texarkana, Arkansas under Arkansas tariff Rider Schedule No. 5 Energy Efficiency Cost Recovery Rider (EECR).

5.2. APPLICABLE RATE SCHEDULES

Residential Firm Sales Service (RS-1)
Small Commercial Firm Sales Service (SCS-1)
Small Commercial Firm Sales Service—Off-Peak (SCS-2)
Small Commercial Firm Sales Service—NGV (SCS-3)
Large Commercial Firm Service (LCS-1)
Unmetered Gas Light Firm Sales Service (GL-1)

~~TEXARKANA, TEXAS SERVICE AREA~~

~~First Revised~~Original ~~Sheet No. 2-6.1/1~~

~~Replacing: Original Sheet No. 2-6.1/1~~

~~CenterPoint Energy Resources Corp.~~
~~d/b/a CenterPoint Energy Arkansas Gas~~Summit Utilities Arkansas, Inc.
~~(Name of Company)~~

~~Kind of Service:~~ Natural Gas ~~Class of Service:~~ All

~~PART II Rider Schedule No. 6~~

~~**Title: INTERIM BILLING DETERMINANT RATE ADJUSTMENT TARIFF (BDA)**~~ ~~Effective: September 1, 2017~~TBD~~(to be determined)~~

~~6. **INTERIM BILLING DETERMINANT RATE ADJUSTMENT TARIFF (BDA)**~~

~~6.1. The Interim Billing Determinant Rate Adjustment Tariff (BDA) shall be the amount charged of $0.00 to CenterPoint Energy's~~Summit Utilities Arkansas' ~~customers residing or located in the Incorporated Cities of Texarkana, Nash, Redwater and Wake Village, Texas Arkansas. under Arkansas interim Rider Schedule No. 6 Trial Billing Determinant Adjustment Tariff (BDA).~~

~~6.2. APPLICABLE RATE SCHEDULES~~
~~Residential Firm Sales Service (RS-1)~~
~~Small Commercial Firm Sales Service (SCS-1)~~
~~Small Commercial Firm Sales Service – Off Peak (SCS-2)~~
~~Small Commercial Firm Sales Service – NGV (SCS-3)~~
~~Gas Light Firm Sales Service (GL-1)~~

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I. APPLICATIONS FOR OR DISCONTINUANCE OF SERVICE

(A) The Company shall require all customers to execute a deposit-service agreement upon application for gas service or upon the filing of a petition for relief under the United States Bankruptcy Code. Such agreements are not transferable. All customers accepting gas service from the Company shall be subject to the rules, regulations and rate schedules applicable.

(B) When gas service is inaugurated or transferred from one location to another, at a location where there is an existing meter installation, or upon the filing of a petition for relief under the United States Bankruptcy Code, the Company shall charge a non-refundable service initiation fee of $48.00. When gas service is inaugurated or transferred from one location to another, at a location where a meter must be installed, or upon the filing of a petition for relief under the United States Bankruptcy Code, the Company shall charge a non-refundable service initiation fee of $62.00

(C) When a customer requests the initiation or restoration of service which requires overtime work after normal daily working hours or on weekends and holidays, the customer will be advised of an additional charge which will be based on actual overtime costs involved. An overtime charge shall not apply to work required through no fault of the Customer.

(D) No customer may temporarily discontinue service and thereafter request restoration and continuation of service under his old service agreement but must execute a new agreement. If service is discontinued at the request of the customer and service is suspended during all or a portion of the non-heating season and thereafter restored at the same location for the same occupant, a reconnect charge will become due and payable when service is restored. This charge will be computed on the basis of the applicable customer charge for each month or fraction thereof that service is discontinued. Such charge shall be in addition to the regular service initiation fee

of $48.00 at a location where there is an existing meter installation or $62.00 at a location where a meter must be installed or reconnection fee of $37.00. Any

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commercial or industrial customer who discontinues service for any period of time must be considered a new customer for State and Federal regulatory policy purposes when application is made for restoration of service.

(E) The company will not accept orders to discontinue service other than from the person in whose name the account is billed.

(F) The Company may turn on service after normal daily working hours, or on weekends and holidays, in emergency situations requiring immediate initiation of service. When this service is offered, the customer will be assessed an additional charge of $27.00. An after-hours charge shall not apply to work required through no fault of the customer.

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II. CUSTOMERS FACILITIES AND EQUIPMENT

(A) Gas should be used only in appliances designed for use with natural gas, in compliance with all applicable manufacturing specifications. Vent pipes must be used on water heaters, cook stoves, enclosed type space heaters, or other appliances designed to be vented.

(B) The customer shall provide a system of piping within his premises for connection to gas appliances. Customer's piping system will be installed and maintained in compliance with all federal, state and local laws, codes and regulations. Customer shall provide an above-ground delivery point in a suitable location, unless otherwise specified by the Company. For SCS and LCS customers, vehicle access for meter testing purposes must be provided. The normal gauge pressure**,** at which gas will be supplied through the Company's meter to the customer's piping, will be as defined in XVI(A).

(C) The Company under previously existing regulations has provided service through one master meter to private distribution lines for multiple federal, municipal, or private housing projects and mobile home parks, and has in some cases provided individual meters for such facilities. Bills will be rendered on an individual basis to the individual metered customers, but the customer(s) owning the private distribution line or being served by the private distribution line will be responsible for payment of any differences between gas delivered through the master meter and gas delivered through the sum total of individual meters. All such construction within the above mentioned projects and mobile home parks must meet the requirements of all federal, state and local piping laws before the Company will connect the customer.

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III. REFUSAL TO SERVE CUSTOMERS

(A) The Company may decline to serve a customer or prospective customer until he has complied with the state and municipal regulations governing the service applied for and the reasonable rules and regulations of the utility.

(B) Until adequate facilities can be provided, the Company may decline to serve an applicant for service or to change materially the service of any customer, if, in its judgement, it does not have adequate facilities to render the service applied for or if the desired service is of a character that is likely to affect unfavorably the service to other customers.

(C) The Company may refuse to serve a customer if, in its best judgment, the customer's installation or equipment is regarded as hazardous or of such character that satisfactory service cannot be given.

(D) The Company may refuse to serve individual mobile homes and house trailers if the trailer does not have a firm foundation which will not permit it to rock or move thereby cracking or parting the connecting pipe or facilities. None of the weight of the trailer may be carried on the wheels or springs. All piping and appliance installations in trailers must be made in compliance with applicable laws, codes, and ordinances governing such installations.

(E) The Company may decline to serve any applicant who is indebted to the Company for gas utility service; provided, however, that in the event the indebtedness of the applicant for service is in dispute, applicant shall be served upon complying with the deposit requirement, and, in addition thereto, making a special deposit in an amount equal to the net balance in dispute. Upon settlement of a disputed account, the balance, if any, due the applicant shall be promptly repaid, together with interest thereon from the date of the deposit until repaid at the rate prescribed by law or order of the Commission.

(F) The Company shall also have the right to refuse service or to discontinue the supply of gas to a customer at a location until payment shall be made of delinquent bills for gas utility service for the customer at other premises.

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IV. DISCONTINUANCE OF SERVICE

Subject to Commission rules suspending disconnection during an extreme weather emergency (7.460):

(A) The Company reserves the right to shut off the gas at any time and to remove its property from the premises for any of the following reasons: (a) for tests or repairs; (b) for non-payment of bills for gas utility service when due, after required notice has been given; (c) for incorrect representation of facts in application for service, after required notice has been given; (d) for failure to make or increase the cash deposit when required by the Company, after required notice has been given; (e) for reselling gas in violation of the Company's Standard Rules and Regulations, after required notice has been given; (f) for placing or permitting the placing of any by-pass around any meter or service line; or for tampering; or permitting tampering with same; (g) for permitting pipes, or appliances owned or used by the customer to leak or otherwise permit the escape or waste of gas, after required notice has been given; (h) for failure to comply with the Rules and Regulations of the Company, after required notice has been given; (i) failure to pay the applicable connect charge, after required notice has been given; (j) on order of municipal authorities having jurisdiction; or (k) when checks received from customer for amounts past due or for the required deposit are repeatedly not honored when presented to the bank for payment, then service may be discontinued without advance notice.

(B) The Company shall not discontinue service to any customer for violation of its rules or regulations nor for non-payment of bills, without first having diligently tried to induce the customer to comply with its rules and regulations, or to pay amounts due the Company. Service may be discontinued after five (5) days' written notice shall have been given to the customer by the Company in the manner provided for in Paragraph IV (d). Prior notice of disconnection shall not be required for fraudulent, negligent, or unlawful use of the commodity or service detected, or where a dangerous condition is found to exist on a customer's premises.

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(C) The customer shall have the privilege of paying any delinquent account at any time prior to the actual disconnection or turning off of service; provided, however, that payment at Company's office within four hours of the time of actual disconnection or turning off of service shall not affect the right to disconnect or turn off service for non-payment. Whenever the Company dispatches an employee to the premises of any customer for the purpose of discontinuing service for non-payment, and such payment arrangements are made that do not result in actually disconnecting or turning off of service, a fee of $16.00 shall be added to and collected as a part of such delinquent account to cover, in part, the cost to the Company of dispatching such employee to the customer's premises. A $15.00 charge may also be added to an account and collected to recover cost for reprocessing any check that has been returned to the Company by the bank by reason of insufficient funds on deposit. Whenever service has actually been disconnected on account of the failure of the customer to pay such delinquent account, or for any other reason without fault of the utility if the customer desires the service to be reconnected, the Company shall require the customer to pay a reconnection charge of $37.00.

(D) Notice of delinquency shall be construed to be given to the customer when a copy of such notice is left with such customer, or left at the premises where service is required, or posted in the United States mail addressed to the customer's last known post office address except as specified in (h) and (i) below.

(E) The Company shall not be liable for any damage to persons or property resulting from the discontinuance of gas service after having given the required notice. Arrangement satisfactory to the Company for the continuance of service on account of serious illness or other causes shall be made by the customer prior to the expiration of the notice period.

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(F) When, at the customer's request, the Company changes the location at which service is rendered the gas consumed at the new and old locations, for the purposes of billing, shall be combined. The change of the location to which service is rendered shall not be deemed to affect the rights of the Company with regard to the application of deposit or discontinuance of service for non-payment of the account.

(G) The fact that the Company has a cash deposit from a customer shall not in any manner affect the right of the Company to discontinue service to that customer for the non-payment of amounts past due regardless of the fact that the deposit is in excess of the amount past due.

(H) Termination of service to Elderly Persons, Handicapped Persons, and Persons with Serious Illnesses

(1) Definitions

(a) "Elderly." An "elderly" person is any residential customer aged 65 or older whose total gross income is less than or equal to the median income for Texas families categorized as "65 years and over" in Table 19A or successor tables reported in Consumer Income: Money Income and Poverty Status in 1975 of Families and Persons in the United States and the South Region, By Divisions and States (Spring 1976 Survey of Income and Education by the Bureau of Census of the United States Department of Commerce**,** as most recently published.

(b) "Handicapped." A handicapped person is any residential customer:

(i) who has any permanent severe physical or mental impairment which substantially limits his ability to pay for utility service; and

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(ii) who is certified as being physically or mentally disabled by a physician, licensed psychologist, by the United States Veterans Administration, the Social Security Administration, the appropriate governmental agency, or a local regional mental health center.

(c) "Serious illness" includes serious injury not amounting to a handicap.

(2) Special Provision for the Elderly and Handicapped

Each utility shall file with the Commission, for its approval, procedures the utility will follow to insure the protection of elderly and handicapped customers. In addition, each utility shall keep records of all delinquent accounts of elderly or handicapped customers and the disposition of these accounts. Protection procedures shall include:

(a) Identification of eligible households.

(b) Personal contact by telephone or in person by utility personnel to arrange installment of deferred payment of any delinquency.

(c) Notification of right to third-party notice before termination of service.

(d) Assistance to customers wishing to make arrangements with state or local social service agencies for payment for service.

The procedures may require elderly and handicapped persons to disclose information and furnish documents in connection with the status claimed on

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an annual basis. If a customer provides false information to the utility in order to claim an exemption under this Rule, it shall be grounds for termination. Customers establishing eligibility to claim an exemption as elderly or handicapped shall be presumed to retain this status for one (1) year after the date eligibility is established. Eligibility related to income level and ability to pay for utility service shall be reestablished annually.

(3) Delay of Termination on Grounds of Serious Illness

(a) A utility shall postpone termination of service to a residential customer, or reconnect previously terminated service**,** for a reasonable time up to thirty (30) days if the customer presents a certificate from a physician stating it is likely that termination of service will either aggravate a serious illness or give rise to a substantial risk of death or a grave impairment of the health of the customer, of a member of the customer's family, or of another permanent resident of the premises where service is rendered. The certificate shall identify the medical emergency, specify the effect of termination of service, and specify the time during which termination of service will aggravate the illness. The utility may**,** at its expense, obtain an additional medical report or certificate from a physician of its choice and may rely on that opinion and in reliance on that opinion terminate service five days after mailing an additional notice of termination to the customer. Failure of customer without good cause to attend the company-scheduled medical appointment shall be sufficient reason for termination of service by the utility.

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A customer, his physician, or a nurse, nurse practitioner, physician's assistant, or a public or private agency providing physical or mental health care services may notify the utility of a serious illness in person, by telephone, or by letter. The customer shall have seven (7) days from the date of notification to present the certificate. Notice by telephone shall be subject to verification by the utility.

(b) The thirty-day postponement may be extended one time by renewal by notice as above and renewal of the certificate by a physician as above.

(c) Continuation or reconnection of service under this rule shall not in any way relieve the customer of liability incurred for utility services.

(4) Delay of Termination for Elderly and Handicapped Persons

(a) Residential utility service shall not be terminated and, if previously terminated shall be reconnected, during the months of November through March for elderly and handicapped customers of the utility, provided that service may be terminated if such customers fail to pay at least one-half of the amount billed for service either as they fall due or pursuant to delayed payment agreement. Any balance due for service during these months shall be made in the months of April through October in installments agreed upon by the customer and the utility. If, during the months of April through October**,** a customer fails to pay the deferred balance due for service from November to March, the utility shall not be obligated to refrain from terminating or to reconnect service during the next November through March time period**.** Residential gas air condition service to such customers shall not be terminated on a day when the National

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Weather Service forecasts between 5:00 a.m. and 8:00 a.m**.** a maximum temperature for that day of 95 degrees Fahrenheit, or higher.

(b) At least 72 hours prior to the proposed termination of residential service to an elderly or handicapped person, a utility shall personally contact the customer, a person living in this household, or any other person or agency designated by the elderly or handicapped person to receive notice in person or by telephone during the utility's normal, working hours or between 9:00 a.m. and 4:00 p.m. on Saturdays and holidays that termination of service is imminent and that steps can be taken to avoid termination. This notice shall include an explanation of the procedures available under this or other applicable rules. If none of these parties is contacted on the first attempt, a second attempt shall be made and may take place between 6:00 a.m. and 10:00 P.M.

(c) Continuation or reconnection of service under this rule shall not in any way relieve the customer of liability incurred for utility services.

(I) Notice of Termination to Tenants

(1) For the purposes of this rule, "landlord" means the owner, agent, manager, or lessor of premises intended primarily for residential use for which he receives lease or rent payments which include amounts for utility service**.**

(2) Each utility shall file with the Commission procedures for identifying accounts where service is rendered at an address different from the mailing address of the bill. Such procedures may include requiring landlords to identifying themselves as such and to identify their tenants by name, address, and account number. Absent such identification, the utility shall

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not be required to treat a customer as a tenant unless it has actual knowledge or information that reliably indicates that the person to whom service is rendered is a tenant.

(3) The utility shall not disconnect service to such an account for nonpayment of the bill until the following actions have been taken:

(a) When a termination notice has been sent to the landlord, if no response is received by the utility within seven (7) days, notice shall also be sent to the affected tenants or shall be posted in conspicuous locations such as near mail boxes, building entrances and exits, and other areas of common usage.

(b) If a landlord fails to pay for service to a tenant a utility shall not terminate service to the tenant until at least thirty (30) days have elapsed from the date of the delinquency, and, after being notified of the delinquency the tenant has not paid for service provided after the date of notification or made arrangements with the utility to do so.

(c) Where feasible the utility shall offer the tenant the opportunity to apply for service in his own name. If such service is not feasible or if the tenant declines to apply for such service**,** the utility may terminate service. If the tenant chooses to take service in his own name**,** termination shall thereafter be governed by other appropriate provisions of this rule.

(d) Where premises are master-metered and a tenant and the utility are unable to agree upon payments to be made by the tenant for service, the utility shall petition the Commission for an immediate informal resolution or formal hearing to resolve the dispute.

(4) A utility shall not attempt to recover from a tenant or condition service to a tenant on the payment of any amounts owed by the landlord to the utility.

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V. CUSTOMER DEPOSITS

(A) The Company may require, with each service application from any customer or any prospective customer, a cash deposit to guarantee payment of bill. This required deposit shall not exceed an amount equivalent to two estimated average bills when payment is due after the service is rendered. The Company shall pay interest on the deposit at the rate prescribed by law or order of the Commission. When service is discontinued by the Company for any reason other than for repairs, the Company may apply such deposit to the payment of all charges authorized under these Rules and Regulations. Interest will not accrue on deposits when they become Inactive. The Company shall pay interest on deposits annually in January of each year and upon return of the deposit to the customer.

(B) Interest shall not accrue on any cash deposit after the date the Company has made a bona fide effort to return such deposit to the depositor. The Company shall keep in its records evidence of its efforts to return such deposit.

(C) A new or additional deposit may be required upon reasonable written notice of the need of such a requirement in any case where a deposit has been refunded or is found to be inadequate as above provided for, or as provided by the applicable provisions of the Commission's Rules, as they may be in effect from time to time. The service of any customer who fails to comply with these requirements may be disconnected upon five (5) days' written notice.

(D) All charges authorized under these Rules and Regulations shall be due and payable on the same terms and conditions as charges made for gas service and the same procedure for discontinuance of service for such charges may be applied against refunds, if any, due on the customer's deposits.

(E) Upon the filing of a petition for relief under the United States Bankruptcy Code, the customer will be required to provide a cash deposit in an amount not to exceed two times the maximum estimated bill for the service location.

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VI. BILLING

(A) Gas supplies will be charged for from the time of turn on until the Company discontinues the supply. Failure on the part of the customer to properly notify the Company when their responsibility for the payment for gas at a premises ceases, shall not relieve the customer from the obligation of paying all bills accruing up to the time proper notification is received by the Company. The customer shall pay for all gas passing through the meter, whether the same be used or wasted through leaks in pipes, apparatus, or otherwise and shall be bound by the true reading of the meter, provided it is in good repair and working order.

(B) Bills rendered for service for less than the standard monthly billing period shall be calculated as follows:

(1) Where meter reading indicates no consumption and the period involved is less than fifteen (15) days, no charge will be made. If the period involved is fifteen (15) days or more**,** applicable monthly minimum will be charged**.**

(2) Where meter reading indicates any consumption, regular rate schedules will apply, regardless of period involved. Meter will be read to the nearest hundred cubic feet and bills computed on this basis.

(3) Where customer changes location within the same distribution plant, the consumption at both locations will be combined for the monthly billing.

(C) All customers of Company which are either, (1) sixty (60) years of age or older and depend upon a pension or Social Security check as their primary source of income, or (2) are dependent solely upon a disability income, regardless of age, are eligible to participate in the Company's FLEX-DATE Payment Plan. Such Plan will extend the due date for payment to the earlier of: (1) twenty-five (25) days after the current month's bill date, or (2) three (3) work days before the next month's bill date. Only

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the extended due date provided by FLEX-DATE will appear on eligible customers' bills. In addition, the Company will waive any otherwise applicable late penalty.

Customers shall become Plan participants either upon telephone or form notification to Company, and their participation will be effective for each month of each calendar year thereafter.

(D) Monthly statements will be delivered to the location at which gas is supplied, by an employee of the Company, or posted in the United States mail, unless the customer has directed the Company in writing to send statements to another address. The terms “Delivered" or "Rendered" shall not be construed as an obligation on the part of the Company to deliver or render statements to the customer in person, or to other occupants of the premises**.** Duplicate copies of statements will be furnished upon request, and failure to receive statements for any reason whatsoever, will not entitle customer to further time to pay account, or to a continuation of gas supply if account is over due.

(E) Customers whose facilities are located on pipeline taps which are not centrally odorized will receive monthly statements based on the customer’s reading of the meter. If the meter is not read by the customer, bills will be estimated. The Company will read these meters at least every six (6) months and the difference between the customer readings or the estimated consumption will be billed or credited to the customer's account.

(F) A residential apartment shall be defined as a room or group of rooms which contain a sink and/or cooking facilities and shall be considered a separate apartment for metering and billing purposes. House trailers shall also be considered separate apartments for metering and billing purposes.

(G) Individual residential customer premises shall be metered and billed separately even if under common ownership, and combined metering or billing shall not be permitted. Commercial and industrial premises shall be considered separate when

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not on the same tract or contiguous tracts of land, or when each is a complete unit not physically integrated with, or essentially a part of, the other or others, and each renders a complete service or produces a finished product. Tracts of land separated by public streets, roads or alleys shall be considered non-contiguous tracts.

(H) The commercial rate schedule of the Company will be applied to the gas used in two or more individual flats or apartments in a dwelling which was originally constructed as, or which has been converted into, a multiple-family building and where the owner has not elected to separately meter the gas used in each individual flat or apartment. Rooming houses without cooking facilities, tourist homes for transients and hotels will be metered and billed as single unit on the commercial rate.

(I) The Company may make a charge of $5.00 for any special meter reading which it is called upon to make other than on the regular reading date. Where interim meter readings are furnished the owner of premises the Company accepts no responsibility as to the distribution of the monthly bill as between tenants.

(J) Claims for error in statements rendered should be made by the customer as soon as discovered; if the claim is found to be meritorious, the Company will make proper adjustment on the Customer's subsequent bills, or make refund to the customer within a reasonable time.

(K) The Company shall make a test of the accuracy of registration of a meter upon request of a customer. Except as otherwise provided in these rate schedules, if such test shows the meter to be slow or within the tolerance limit as to accuracy of registration, the customer may be required to pay a charge of ten dollars ($10.00) for each test so made. If the test shows the meter to be fast and in excess of the tolerance limit of accuracy, such test shall be made at the expense of the Company and an adjustment shall be made with the customer. If no such test has been performed within the previous four years for the same customer at the same location, the test is to be performed without charge.

(L) In case a meter ceases to register, the quantity consumed will be estimated from the amount consumed during the corresponding period for the previous year, giving due consideration to weather and other pertinent factors**,** or by such other method that will be equitable.

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VII. EXTENSION OF FACILITIES

(A) SERVICE LINES AND CONNECTIONS

(1) The Company will make, own and maintain all necessary connections with its street mains. Under normal construction conditions, the Company will install up to 100 feet of service line (up to one inch in diameter and capable of a delivery pressure of up to 60 psig) at no cost to the customer. In the event a service line exceeding the diameter and pressure requirements set forth above is needed, or in the event of abnormal construction conditions, such as solid rock, road crossings that require a bore, the need to bore under landscaping, etc., or in regard to the installation of excess flow valves, any additional costs incurred by the Company will be charged to the customer. The Company may waive these charges when it determines that it is economically justifiable to do so. The Company will own, maintain and specify the route of the piping. Access must be granted on customer's property for replacement or repairs of these facilities. The Company may at its option install a service cock and box. The meter location will be determined by the Company. The Company will also set and own the meter and regulator, but all other piping, connections, and appliances for the purpose of utilizing gas shall be furnished and installed by the customer at the customer’s risk and expense. Customer will pay the cost of any relocation of the Company’s facilities that the Company may perform at customer’s request.

(B) MAIN EXTENSIONS

(1) Extensions from the Company's distribution lines, will be made under the following conditions and circumstances:

(a) Subject to the availability of capital funds, the Company shall construct main extensions from its existing facilities to serve new customers where the cost of the Company's capital investment is

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economically feasible. Determination of whether a proposed extension is economically feasible shall be made through the use of

an economic model that will take into consideration the following factors:

(1) construction cost estimate;
(2) non-gas revenue;
(3) depreciation;
(4) incremental operating costs; and,
(5) any other factors relevant to economic feasibility of the project.

(b) If it is determined that the Company's return on investment (ROI) on the proposed main extension will equal or exceed the Company's cost of funding capital projects, the extension will be made at no cost to the customer. If it is determined that the Company's ROI will be less than the Company's cost of funding capital projects, the customer shall be required to pay an amount sufficient to ensure that the Company is able to earn an ROI equal to its cost of funding capital projects. On such an advance, the Company may enter into an agreement with the customer to refund the customer contribution. Refunds will be based only on changes in the factors considered in the economic model under which the investment was originally made. The Company shall establish, when capital funds are available, such new distribution service where the Company will be reasonably assured of a sufficient number of customers and an annual revenue to justify the capital expenditure. The Company may, however, refuse to extend facilities in the event system design and/or operational considerations so dictate.

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(c) When the Company is requested to extend its distribution facilities to an area with existing potential users where no contributory capital is available, the Company has the option to provide the necessary capital in the amount equal to the necessary customer contribution to be recovered by a fixed daily surcharge rate applied to each customer account within the boundaries of the project for up to five

years* or until the customer contribution is recovered by the Company, whichever comes first. Under this option, the Company will construct and finance the facilities and recover the customer contribution, in addition to an appropriate interest (or finance charge) assigned to the capital required to fund the customer contribution, through the surcharge rate. If the customer contribution is not recovered during the pay-back period, the remaining balance of the customer contribution (including interest or finance charge) will be added to and included in the Company's overall rate base from that point forward. To insure sufficient customer commitment to each project, each customer will be required to sign an Extension Surcharge Agreement and may be required to make a reasonable customer deposit prior to commencement of construction. Surcharge areas are defined as those areas served by the facilities to be constructed. After the initial installation of facilities to serve the surcharge area, all subsequent connections which utilize mains from the original surcharge area installation will be subject to the same surcharge rate for the remaining period of the surcharge agreement.

*Special conditions may warrant extending this period based on economic conditions.

(d) When new extensions from the surcharge area are requested, the person(s) requesting an extension from these facilities will be required to make whatever customer contribution might otherwise

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be required for the extension under Part VII (B)(1)(b) and, in addition, will be subject to the surcharge rate for the remaining surcharge period.

(e) When a subsequent area requests service utilizing the facilities of an existing surcharge area, the following regulations will apply:

(1) When a subsequent surcharge area is established after the installation of an existing surcharge area and the subsequent surcharge area's surcharge rate would be in excess of the surcharge rate applicable to the established surcharge area, the subsequent surcharge area will bear only the cost of their new facilities.

(2) When a subsequent surcharge area is established after the installation of an existing surcharge area and the subsequent surcharge rate is less than the surcharge rates applicable to the established surcharge area, the subsequent surcharge area will bear a portion of the remaining unpaid customer contribution of the established surcharge area in addition to its own surcharge allocation as follows:

(2)(a) The cost of the mainline established for the existing surcharge area shall be shared by the subsequent surcharge area up to an amount equal to the existing area surcharge rate if their computed surcharge is lower than the surcharge for the existing area. This shall be achieved by assigning an unamortized portion of the mainline investment which was required for the existing surcharge area to the subsequent surcharge

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area in order to fairly equate the surcharges. The amount of investment cost assigned to the subsequent surcharge area will then be credited to the unamortized amount payable by the existing surcharge area customers.

(2) The Company will not be required to enlarge its system of mains to meet the demand for gas of a prospective customer or to provide for an appreciable increase in the demands of a present customer, unless in the judgment of the Company, a reasonable rate of return is assured as a result of the expenditure required.

(3) When the Company extends its main to serve new customers, the Company will extend its main, in a manner which, in its judgment, will be most advantageous for rendering service.

(4) Where the customer requires that his meter be placed in a particular location, the customer will be required to pay any additional cost that may result from compliance with the customer's request.

(5) A standard Rural Gas Contract must be executed by each customer requesting a pipeline tap. The Company will not make or serve a tap on any federally certificated transmission line, unless, in the judgment of the Company, a reasonable rate of return can be earned as a result of the expenditure required to construct the tap and serve the customer, without unreasonable consequences to other customers. In addition, the Company will not make or serve a tap on any other transmission line, field gathering pipeline, or lines to wells which in the Company's opinion, presently contain or may in the foreseeable future contain undehydrated gas, liquid hydrocarbons, sour gas, or gas that is otherwise not merchantable. The Company may discontinue service whenever it believes reliable service cannot continue to be provided for any reason, including, but not limited to, water content of the gas furnished. In the event service is suspended or terminated because the Company cannot or believes it cannot continue to provide safe and reliable service, the

Company will be under no obligation to compensate the affected customer(s) for such loss of service.

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EXTENSION SURCHARGE AGREEMENT

The undersigned promises to pay to Summit Utilities Arkansas, Inc.~~CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Arkansas Gas ("Company")~~, a surcharge on his/her/their/its monthly gas bill in consideration of the Company's extension of its facilities into the surcharge area in which the undersigned resides. The surcharge amount will be $_____ per month. The surcharge will be applied to all monthly billings to the undersigned for a ____ year period or until the Company recovers the required customer contribution for the surcharge area, whichever comes first. The surcharge amount will appear as a separate line item on the undersigned's bill.

The terms of this Extension Surcharge Agreement shall be subject to the provisions of the Company's rates and policies.

_____

_____

Accepted this _____ day of _____, 20__.

Summit Utilities Arkansas, Inc.~~CENTERPOINT ENERGY RESOURCES CORP. d/b/a CenterPoint Energy Arkansas Gas~~

By _____

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VIII. GENERAL

The customer shall use the gas delivered by the Company for his purposes only. The customer shall not, under any circumstances, resell or share with others any gas delivered by the Company. No changes**,** extensions, or replacement of service `lines shall be made without the written consent of the Company. No extension whatsoever of customer owned piping shall be made for the purpose of supplying gas to adjacent property**,** or other person or concerns residing or operating on the premises of the customer.

The foregoing natural gas resale prohibition shall not apply to distributors selling compressed natural gas as a motor vehicle fuel.

The authorized agent of the Company shall have the right and permission to enter upon the premises of the customer to inspect or test lines, and appliances, to read, change or remove the meter, to turn on and shut off the gas, or to perform other related functions. This right shall not be construed as placing any responsibility on the Company to inspect and test the lines or equipment of the customer.

No structures shall be erected over the Company's gas lines. In the event any such structure is erected, the customer will be provided the option of either removing the structure or paying the Company the cost of relocating the gas line, including the cost of obtaining alternative easements, if required.

The place of delivery of all gas purchased shall be at the outside wall of the first structure being served if the Company has installed or replaced the service line to that point. In all other cases, the place of delivery of all gas purchased shall be at the point of connection to the customer's service line from which point all gas delivered shall become the property of the customer, who shall thereafter be responsible for its passage through the meter and for all damage caused by said gas.

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The Company shall have no responsibility for any act or omission, and shall have no liability from any cause, downstream of delivery. In case the supply of gas should fail, whether from natural causes, bursting of pipes or accident in any way, the Company shall

not be liable for damages, whether direct, special, continuing, exemplary, presumptive, incidental, indirect or consequential, including without limitation, loss of profits, loss of revenue, or loss of production capacity by reason of such failure. The Company shall not be liable in damages for any act or event that is beyond the Company's control and which could not be reasonably anticipated and prevented through the use of reasonable measures, including, but not limited to acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, arrests, wars, blockades, insurrections, riots and epidemics, landslides, lightning, earthquakes, fires, storms, floods and washouts, priority limitation or restraining orders of any governmental authority and civil disturbances, explosions, breakage, accidents, tests, maintenance or repair to machinery, equipment, lines of pipe or other facilities; inability to obtain, or unavoidable delay in obtaining, material, equipment, rights-of-way or permits; and any other causes whether of the kind herein enumerated or otherwise.

Meters and pipes are likely to freeze in cold weather, and it shall be the duty of each customer to protect the pipes and the meter or meters from the action of the elements.

These Rules and Regulations are made a part and condition of all rate schedules of the Company and all customers served under such schedules shall be subject to these Rules and Regulations.

These Rules and Regulations are in addition to Rules and Regulations now established by the Regulatory Body having jurisdiction over these matters.

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IX. STATE AND MUNICIPAL TAXES

Whenever the State or a municipality imposes upon the Company any sales privilege, occupation, meter, or other special tax, except ad valorem taxes, the Company shall pass the tax on to customers within the jurisdiction of the taxing authority in accordance with provisions set forth in such tax law or ordinance.

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X. LEVELIZED PAYMENT PLAN

A. Residential customers and small commercial customers having less than 500 MMBtu annual usage may have the option of participating in the "Levelized Payment Plan" (LPP) for billing purposes as opposed to the normal billing procedure.

B. Operation of the Levelized Payment Plan

Under the LPP a customer's bill will be computed by averaging to the nearest dollar, the amount derived by applying the current applicable rate schedule, cost-of-gas adjustment, and applicable tax factor to each of the most recent twelve months historical volumes. The average bill amount thus derived will be the monthly payment amount for each of the succeeding six months.

Actual billings will continue to be based upon the applicable rates and meter readings obtained to determine consumption. The amount due under the LPP will be identified as a separate item on the customer's bill so the customer will know the amount to pay. The actual bill amount will also be reflected on the bill as a memo item for the customer's information.

The cumulative difference between actual billings and the levelized billings under the LPP will be carried in a deferred balance that will accumulate both debit and credit differences.

The monthly payment amount will be automatically reviewed and adjusted six months after the anniversary date. This adjustment will be made to assure that the difference between actual payments and average payments under the LPP will be minimal. The new LPP payment amount will be computed by averaging the sum of the most recent six months actual billings and a projected amount for the next six months. The projected amount will be derived by applying the current applicable

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rate schedule, cost-of-gas adjustment, and applicable tax factor to each of the most recent year's historical volumes for the corresponding months. This amount will be

rounded to the nearest dollar and will be the monthly LPP payment amount for the next six months.

On the initial and subsequent anniversary dates a new levelized payment amount is calculated by averaging to the nearest dollar, the amount of the deferred balance and the amount derived by applying the current applicable rate schedule, cost-of-gas adjustment, and applicable tax factor to each of the most recent twelve months historical volumes. This new LPP amount will then be in effect until the time of the next six-months review. On each subsequent anniversary date a new levelized payment amount will be calculated in this manner.

In such instances where sufficient billing history is not available, a twelve-month billing history will be estimated by the local office. The estimated history will be based on actual billings for those months in which actual billing data is available and estimated based on the service address or a similar location for those months in which no such actual billing is available.

Participation in the LPP will have no effect on the Company's approved rate schedules or other billing charges used to calculate the customer's actual monthly billing.

C. Customer Qualification for "Levelized Payment Plan"

No additional customers shall be added to the LPP. The Company will, however, maintain the LPP for those customers participating in the LPP.

Customer may discontinue LPP at any time by notifying the Company. If a customer requests termination, if an account is final billed, or if the customer is suspended by the Company as a result of past due amounts on an account, any outstanding balance owed to

the Company at the time, including any differences between billings under the LPP and billings which would have been rendered under normal billing procedures shall be immediately due and payable. Likewise, any credit due customer shall be applied to the next bill or refunded, as appropriate.

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XI. EXTENDED ABSENCE PAYMENT PLAN

(A) The following options are available to residential customers to avoid suspension of service during any extended absence over one (1) month:

(1) Bills due during the customer's absence may be paid in advance. The amount of the payment will be based on the prior year's corresponding usage based on current rates. Any over or under payment by the customer will be applied to the customer's next bill when he returns. A delayed payment agreement will be available for underpayments.

(2) The customer will be given the opportunity to enroll in the Company's automatic bank draft program. The monthly bill will be paid automatically through the customer's checking or savings account.

(a) This option may be utilized by the customer in conjunction with the Company's Average Monthly Billing (AMB), which establishes the monthly bill amount for customer's budgeting purposes during the absence.

(3) The customer can arrange to have bills coming due mailed to an alternate address, or to a third party during the absence.

(a) Third-party notification does not imply the third party will be responsible for the bill. Normal suspension of service rules will apply in the event bills are not paid.

(B) The customer must notify the Company in order to take advantage of any of these extended absence payment plans.

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XII. AVERAGE MONTHLY BILLING

(A) Residential customers have the option of adopting the "Average Monthly Billing" plan ("AMB") for billing purposes as opposed to the normal billing procedure.

(B) OPERATION OF THE "AVERAGE MONTHLY BILLING"

(1) Each month, under the AMB a customer's bill will be computed by averaging to the nearest dollar, the amount billed to the customer's account during the last 12 months, plus or minus one-twelfth of the deferred budget balance. The average bill amount thus derived will be the payment amount for the month.

(2) Actual billings will continue to be based upon the appropriate rate schedules, riders, tax factors, and meter readings used to determine consumption. The AMB amount will be identified as a separate item on the customer's bill so the customer will know the amount to pay. The actual bill amount will also be shown on the bill as a memo item for the customer's information.

(3) The cumulative difference between actual billings and the AMB billings will be carried in a deferred budget balance that will accumulate both debits and credits and will adjust monthly.

(4) The monthly payment amount will be automatically reviewed and adjusted each month.

(5) In such instances where sufficient billing history is not available, a twelve-month billing history may be estimated.

(6) Participation in the AMB will have no effect on the Company's approved rate schedules or other billing charges used to calculate the customer's actual monthly billing.

(C) CUSTOMER QUALIFICATION FOR "AVERAGE MONTHLY BILLING" PLAN

(1) The AMB shall be made available to residential customers. The AMB is optional and will be available only on customer request, after an appropriate application for the AMB is completed, submitted and approved by the Company.

(2) At the time a customer chooses to participate in the AMB, his account must be current. This means that the current billings must not be past due and no unpaid balance exists.

(3) The customer may discontinue the AMB at any time by notifying the Company. The AMB will be discontinued if the customer requests a disconnect, if the customer is delinquent 30 or more days, if an account is final billed, or if the customer is turned off for non-payment as a result of past due amounts. Any outstanding balance owed to the Company at the time, including the deferred balance, will be due immediately. A delayed payment plan may be available to qualifying customers. Likewise, any credit due customer shall be applied to the next bill or refunded, as appropriate.

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XIII. PROVISIONS FOR LANDLORDS AND TENANTS

(A) LANDLORD/TENANT ACCOUNT IDENTIFICATION

(1) The following procedure is used by the Company to identify landlord/tenant accounts:

(a) New service applicants are questioned during the initial application to determine if a landlord/tenant relationship exists.

(b) If Company personnel determine a landlord/tenant relationship exists, then the account will be coded accordingly.

(1) The landlord may be contacted to confirm tenant information.

(c) Company personnel may review landlord/tenant accounts periodically to verify landlord/tenant status.

(d) The Company will not be liable for any damage to persons or property resulting from the failure to properly identify a landlord/tenant account.

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XIV. MINIMUM HEATING VALUE FOR GAS

(A) The average heating value for gas delivered to customers shall not be less than 975 Btu per cubic foot at 14.73 psia and 60° Fahrenheit.

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XV. BASE OR ABSOLUTE GAS PRESSURE

(A) The established absolute pressure base for all deliveries shall be 14.73 psia.

XVI. NORMAL GAUGE PRESSURE FOR GAS

(A) The normal gauge pressure for all deliveries shall be .33 pounds gauge pressure per square inch above 14.4 assumed atmospheric pressure.

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XVII. LEAVE ON AGREEMENT

(A) Pursuant to owner/manager's request and upon completion and approval of a Leave on Agreement as provided on sheet numbers 36 through 39 herein, the Company agrees to continue to sell and deliver natural gas service to owner/manager's rental units identified in the Agreement and the owner/manager agrees to pay Company for all gas service and charges provided for in the Agreement, subject to the terms and conditions of the Agreement.

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LEAVE ON AGREEMENT FOR NATURAL GAS SERVICE

This contract and agreement (hereinafter called the "Agreement") is made and entered into this _____ day of _____, 20____, by and between Summit Utilities Arkansas Inc.~~CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Arkansas Gas~~, (hereinafter called "Company") its successors and assigns, and _____, (hereinafter called "Customer").

Customer represents that it is the owner/manager of the residential or commercial property identified on Attachment A hereto (said property being hereinafter referred to as the "rental property"), and that the terms and provisions of this Agreement are intended to cover and pertain to said rental property, consisting of a total of _____ rental unit(s).

Article I

Customer hereby requests that Company continue to sell and deliver natural gas service to each of the rental units identified above during any period of time subsequent to the closing of an account for service to a tenant or occupant of any of such rental units, or to the discontinuance or termination of service to any such rental units for any reason whatsoever except the nonpayment of utility bills by either the tenant or customer, and prior to the opening of an account for service to a new tenant or occupant of such rental unit. Customer agrees to be responsible for payment of all charges for gas service provided to any and all rental units covered by this Agreement during the aforesaid period of time.

Article II

A. Company agrees to waive the connection charge on all units identified on Attachment A, provided the gas service is transferred directly to the Customer without interruption. It is understood and agreed to by the Customer that the normal connection fee as approved by the appropriate regulatory authority will apply on units where a service interruption has occurred.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

B. Customer agrees to pay Company for all gas service and charges provided for in this Agreement in accordance with all rates, tariffs, schedules and charges which have been approved by the prevailing regulatory authority. Both parties understand that the charges provided and set forth in

this Agreement may, from time to time, be revised pursuant to order of prevailing regulatory authorities. The parties agree that in the event any charge provided and set forth in this Agreement is so revised, the provisions of this Agreement will automatically be revised in accordance therewith without further action by either party.

Article III

A. This Agreement shall continue in full force and effect as to all rental units identified herein until terminated by either party by written notice mailed or delivered to the other party at least thirty (30) days prior to the date on which termination of this Agreement is desired.

B. In the event the Customer desires additional rental units to be covered by this Agreement or to delete rental units covered by this Agreement from such coverage, Customer agrees to provide notice of such changes to Company in writing. It is agreed that changes in the coverage of this Agreement requested by Customer shall become effective no more than one (1) business day after Customer's written request for such changes is received by Company.

Article IV

It is understood and agreed that this Agreement and the gas service to be provided by Company hereunder shall be subject to all applicable rules of the prevailing regulatory authorities, and the Company's rates and policies as presently on file with those authorities, as the same may be changed in accordance with the law.

Article V

This Agreement supersedes any previous Leave On Agreements entered into between Company and Customer with respect to the rental property or units identified herein.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Article VI

This Agreement shall bind and benefit the successors and assigns of Company and may be assigned by Customer upon written consent of Company.

_____ Summit Utilities Arkansas, Inc.~~CENTERPOINT ENERGY RESOURCES CORP., d/b/a/ CenterPoint Energy Arkansas Gas~~	
By:_____	By:_____
Mailing Address for Notices Required Herein:	Mailing Address for Notices Required Herein:
_____	_____
_____	_____
_____	_____

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

ATTACHMENT A

Summit Utilities Arkansas, Inc.~~CENTERPOINT ENERGY RESOURCES CORP. D/B/A CENTERPOINT ENERGY ARKANSAS GAS~~

LEAVE ON AGREEMENT PROPERTY LISTING

Customer _____ Date_____

UNIT NUMBER	PROPERTY DESCRIPTION	ADDRESS	CITY/TOWN	STATE

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

XVIII. ORDER OF CURTAILMENT (OC)

(A) In order to take steps necessary for the protection of the reliable and adequate service that present supplies, capacities and facilities will permit, the Company will adhere to the following curtailment program:

(1) Deliveries of gas will be curtailed to whatever extent and for whatever periods Company may find necessary from time to time in the operation of its system for the primary benefit of human needs customers.

(2) In case of curtailments for whatever reason, the following order of priorities will be observed insofar as practicable, with the first noted category having the highest priority, and so on:

Priority 1.1 Residential; all commercial requirements of less than 500 Ccf per peak day.

Priority 1.2 All other commercial requirements (including schools, hospitals, and similar institutions unless they have provided an affidavit of waiver as set forth in Affidavit B of the LCS-1 Appendix), plant protection, small industrial and essential agricultural users with total requirements of up to 3,000 Ccf per day, and other uses the curtailment of which the Secretary of Energy or FERC determines would endanger life, health, or maintenance of physical property.

Priority 2.1* All other firm requirements for essential agricultural uses as defined in Section 401 of the Natural Gas Policy Act of 1978 which cannot use an alternate fuel within the meaning of applicable rules and regulations promulgated by the FERC under Section 401(b) of that Act.

Priority 2.2* Firm requirements for essential commercial process and feedstock uses as defined in Section 402 of the Natural Gas Policy Act of 1978 which cannot use an alternate fuel.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Priority 2.3* Firm requirements for other feedstock and process needs.

Priority 3 Firm requirements for commercial needs not covered elsewhere.

Priority 4 Firm requirements for commercial needs for boiler fuel use of more than 3,000 Ccf per day but not more than 15,000 Ccf per day.

Priority 5 Firm requirements for commercial needs for boiler fuel use of more than 15,000 Ccf per day but not more than 30,000 Ccf per day.

Priority 6 Firm requirements for commercial needs for boiler fuel use of more than 30,000 Ccf per day.

Priority 7 Commercial transportation requirements for customers contracting directly with an upstream pipeline where gas supply deliveries have been interrupted or curtailed by the pipeline.

* **When it is necessary to curtail loads in each of these priorities, the large requirements that normally use more than 3,000 Mcf per day will be curtailed before the smaller loads.**

(3) Each higher priority of use will be fully protected from curtailment until all lower priorities have been ordered curtailed 100 percent; that is, no curtailments of Priority 5 uses will be ordered until all Priority 6 uses have been ordered curtailed, and so forth.

(4) If system deliverability permits only partial delivery of gas to a given category of use, curtailment will occur, on the basis of a pro rata sharing based on historical deliveries to customers for that category. On days when curtailment is required, total deliveries to individual customers may not exceed contract volumes.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

(5) Before service commences, when the character of gas usage materially changes, and from time to time upon request, each customer shall furnish Company with all information reasonably required by Company with regard to gas usage at the facility served to assist Company in its determination of the proportionate parts, if any, of that usage falling in different priority categories. In determining the appropriate priority category for gas sold, no distinction will be made between gas sold to direct customers and to resale customers.

(6) Company will implement this curtailment plan throughout each of Company's systems to the extent possible consistent with the practical operation of the system, giving due regard to such factors as system capacity and where curtailable customers are located in relation to where the gas is needed.

Any customer who fails to comply with any curtailment directive issued by the Company in response to this order shall be subject to total curtailment of gas during the remainder of the curtailment period. The Company shall have the right to enter the premises of the customer to ascertain the degree of compliance with the curtailment order and to take such other steps as may be necessary to enforce the provisions of this curtailment order.

(7) An emergency exemption from curtailment will be provided for all firm electric utility customers to the extent required to avoid the curtailment of firm electric load upon an attestation by a utility to Company that: (1) the utility faces an emergency situation wherein it will be required to shed firm electric load necessary to serve human needs customers unless an exemption from curtailment is granted in an amount which will avoid the curtailment of firm electric load necessary to serve human needs customers; (2) the utility has no alternate fuel capability; (3) the utility has exhausted all purchased power opportunities; (4) the utility has utilized all alternative sources of power; and (5) the utility will accept reduced deliveries during the emergency exemption from curtailment. Electric utilities served at more than one location are permitted to divert their entitlements between plants so long as they stay within their

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

total entitlements, where Company determines that this can be done consistently with prudent operation of its system.

(8) Any firm customer claiming an emergency need for supplemental deliveries during curtailment to forestall irreparable injury to life or property shall furnish Company with full details of the nature, cause, unavoidability and estimated duration of the emergency. This information is to be given by telephone followed by immediate written notice to Company signed by an officer or responsible employee under oath. Upon receipt of the initial notice Company will make such investigation as is reasonably possible under the circumstances and if gas is available, Company will deliver such supplemental volumes as Company determines the situation to require. The customer must promptly take all reasonable steps to eliminate the cause of the emergency and accept reduced deliveries after the emergency to offset the supplemental deliveries.

(9) Company shall be relieved of all liabilities, penalties, charges, payments, price adjustments, alternate fuel subsidizations and claims of whatever kind, contractual and otherwise, resulting from or arising out of Company's failure to deliver all, or any portion of, the volumes of gas desired by any particular customer or customers to the extent that such failure results from Company's implementation of this curtailment plan in accordance with its provisions and applicable regulatory orders, notwithstanding inconsistent provisions in contracts, jurisdictional and non-jurisdictional, heretofore entered into.

(10) Until the reserves available to Company's system are substantially augmented, Company will husband its existing gas supply by regulating its receipts from connected sources so as to receive gas at rates reasonably calculated to permit the maximum utilization of the reserves for the benefit of Company's human needs customers over the longest possible periods of time.

(11) All surplus gas deliveries are to be discontinued completely before contract service to the above listed priorities is curtailed.

(12) To the extent Company has gas available, Company will deliver volumes of natural gas to firm customers:

(a) to respond to emergency situations (including environmental emergencies) during period of curtailment where additional supplies are required to forestall irreparable injury to life or to property; and

(b) to provide for minimum plant protection when the plant is shut down.

Attachment: 2022-004 ATTH 01 Redline TXK TX Service Area Tariffs (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

ORDINANCE NO. 2017 - 083

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ORDERING THE RATES TO BE CHARGED BY CENTERPOINT ENERGY RESOURCES CORPORATION, D/B/A CENTERPOINT ENERGY ARKANSAS GAS, FOR NATURAL GAS AND NATURAL GAS SERVICE TO RESIDENTIAL AND COMMERCIAL CUSTOMERS WITHIN THE CITY OF TEXARKANA, TEXAS; INCLUDING A REPEALER CLAUSE AND A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, On July 27, 2017, CenterPoint Energy Resources Corporation, d/b/a CenterPoint Energy Arkla (CENTERPOINT), filed a Statement of Intent with the City Secretary to increase rates in the City of Texarkana, Texas; and

WHEREAS, On September 2, 2016, the Arkansas Public Service Commission published Order Number 8 (Docket No. 15-098-U) approving CENTERPOINT rates for its Arkansas service areas; and

WHEREAS, the CENTERPOINT filing meets the filing requirements as set by Texas Utility Code §104.102; and

WHEREAS, the rate schedules have been considered by the City Council, and it is the opinion of the City Council that the rate schedules and service charges proposed for residential and commercial gas service by CENTERPOINT in the City of Texarkana, Texas, are just and reasonable, and should be approved.

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

SECTION 1: That CENTERPOINT is hereby ordered to issue and file with the City Clerk of the City of Texarkana, Texas, tariff sheets containing residential and commercial rate schedules identical to those rate schedules attached hereto as **Exhibit "A"**, and that such rate schedules are hereby adopted, established, and authorized as proper, reasonable, and lawful rates for such natural gas service.

SECTION 2: That the rates, set out on the rate schedules filed pursuant to Section 1 hereof, are to be observed by CENTERPOINT, its successors and assigns until changed as provided by the Gas Utility Regulatory Act, Texas Utility Code Chapter 101 *et seq.*

SECTION 3: That this Order, determining the level of rates to be charged and applied by CENTERPOINT, shall be served upon CENTERPOINT by United States Mail.

Attachment: 2022-004 ATTH 02 2017 Tariff & EXH 'A' (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

SECTION 4: That the tariff sheets approved by this Ordinance shall become effective with bills rendered on or after September 1, 2017.

SECTION 5: That all applications and motions to intervene in this matter however designated, are hereby denied.

SECTION 6: That all Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

SECTION 7: That this Ordinance shall be in full force and effect on and after its date of passage by the City Council.

SECTION 8: That if any portion of the rates or service charges established herein shall be declared invalid for any reason, the invalidity hereof shall in no manner affect the validity and enforcement of the remainder of such rates for service charges.

PASSED AND APPROVED in Regular Council Session on this the **28th day of August, 2017**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:41 p.m.

Attachment: 2022-004 ATTH 02 2017 Tariff & EXH 'A' (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

2017-083 Exhibit "A"
(1 of 2)

CenterPoint Energy Resources Corporation Statement of Intent to Increase Rates

Class of Service	Code	Customers	Object	Current Rates				Proposed Rates			
					Volume	Per Unit	Charge		Volume	Per Unit	Charge
Residential	RS-1	9,394	Monthly Customer Charge				$ 9.75				$ 10.75
			Natural Gas		First 50 Ccf	$ 0.34655			First 15 Ccf	$ 0.45335	
					Over 50 Ccf	$ 0.16664			Over 15 Ccf	$ 0.36576	
			Minimum Charge				$ 9.75				$ 10.75
			Riders:	Gas Supply Rate				Gas Supply Rate			
				Main Replacement Program (adjusted monthly)				--removed--			
				Municipal Tax Adjustment				Municipal Tax Adjustment			
				Weather Normalization Adjustment				Weather Normalization Adjustment (applicable only on volumes in excess of 15 Ccf)			
				Trial Billing Determinant Rate Adjustment				Interim Billing Determinant Rate Adjustment			
				Energy Efficiency Cost Recovery Rider				Energy Efficiency Cost Recovery Rider			
								Formula Rate Plan Rider (adjusted annually, beginning the first business day of October, 2017)			
								Average monthly increase for residential customer			$ 7.27
Small Commercial (Limited to 365,000 Ccf in any 12 consecutive month period)	SCS-1	1,469	Monthly Customer Charge				$ 13.00				$ 14.67
			Natural Gas	Natural Gas - System Supply Option (SSO)	First 1,500 Ccf	$ 0.15177				$ 0.17133	
					1,501 - 15,000 Ccf	$ 0.11479				$ 0.12959	
					Over 15,000 Ccf	$ 0.04921				$ 0.05555	
				Natural Gas - Transportation Supply Option (TSO) *Customers experiencing or anticipating an average daily demand of 25 MMBtu per day*	First 150 MMBtu	$ 1.49368		Natural Gas - Transportation Supply Option (TSO) *Customers experiencing or anticipating an average daily demand of 10 MMBtu per day*		$ 1.68620	
					151-1,500 MMBtu	$ 1.12973				$ 1.27534	
					Over 1,500 MMBtu	$ 0.48431				$ 0.54673	
			Minimum Charge				$ 13.00				$ 14.67
			Riders:	Gas Supply Rate				Gas Supply Rate			
				Main Replacement Program (adjusted monthly)				--removed--			
				Municipal Tax Adjustment				Municipal Tax Adjustment			
				Weather Normalization Adjustment				Weather Normalization Adjustment (applicable only on volumes in excess of 78 Ccf)			
				Trial Billing Determinant Rate Adjustment				Interim Billing Determinant Rate Adjustment			
				Energy Efficiency Cost Recovery Rider				Energy Efficiency Cost Recovery Rider			
								Formula Rate Plan Rider (adjusted annually, beginning the first business day of October, 2017)			
			Set-up TSO (Each Time)	Customer may switch between SSO and TSO seasonally provided they experience more than 80% of annual load during APR through OCT and who experience or anticipate an average daily demand of more than 25 MMBtu per day during any consecutive 30-day period of the preceding or succeeding APR through OCT.			$ 300.00	Customer may switch between SSO and TSO seasonally provided they experience more than 80% of annual load during APR through OCT and who experience or anticipate an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding APR through OCT.			$ 300.00
			Telemetering	In the event customer has in place working telemetering facilities and equipment; and the customer receives system supply service; and Company determines it necessary to keep the telemeter(s) operational, Company will arrange and pay for associated telecommunications cost while the customer receives sales service under the rate schedule. Customers electing seasonal transportation service pursuant to Part 21.6. shall be responsible for the full installed cost of telemetry equipment of standard make and manufacture to determine hourly and daily flow at customer's point of delivery.				Telemetering is required for customers electing and qualifying for transportation service. Company shall install telemetry equipment of standard make and manufacture to determine hourly and daily flow at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following options as chosen by the Customer:			
								Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.			
								Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The Customer will be subject to meter reading fees for an inoperable phone line for each meter.			
								Non-pressure instrumentation per month per meter			$ 30.00
								Pressure instrumentation per month per meter			$ 84.00
								Option 3: Customer elects wireless service through CenterPoint for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. Customer will not be subject to meter reading fee.			
								Wireless service fee per month per meter			$ 10.00
								Option 4: Customer elects wireless service through CenterPoint for each meter and elects to pay a monthly fee for the standard telemetry equipment and installation costs for each meter. The customer will not be subject to meter reading fees.			
								Non-pressure instrumentation per month per meter			$ 40.00
								Pressure instrumentation per month per meter			$ 94.00
				Customer shall be responsible for installing and maintaining telecommunications lines. Should customer fail to maintain or repair telecommunications lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.				If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunications lines. Should customer fail to maintain or repair telecommunications lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.			
								If customer chooses wireless telemetry, then customer shall pay Company a monthly fee per meter for wireless telemetry service for the entire period such meter(s) is (are) served under this or any other transportation rate schedule.			$ 10.00
Large Commercial Firm Service	LCS-1	3	Monthly Distribution Customer Charge				$ 290.00				$ 290.00
			Natural Gas	Distribution Demand Charge per MMBtu of Capacity Demand (CD)	Up to 400 MMBtu	$ 6.17300			Up to 400 MMBtu	$ 8.01586	
					Over 400 MMBtu	$ 0.95380			Over 400 MMBtu	$ 1.23854	
				Distribution Rate - All MMBtu consumed		$ 0.02560					
			TSO Contract Administration Fee	Per month			$ 350.00				$ 332.61
			Minimum Charge	Sum of: Distribution Customer Charge +		$ 290.00				$ 290.00	
				Distribution Demand Charge per MMBtu of Capacity Demand (CD) +	Up to 400 MMBtu	$ 6.17300			Up to 400 MMBtu	$ 8.01586	
					Over 400 MMBtu	$ 0.95380			Over 400 MMBtu	$ 1.23854	
				TSO Contract Administration Fee		$ 350.00				$ 332.61	
			Riders:	Gas Supply Rate				Gas Supply Rate			
				Main Replacement Program (adjusted monthly)				--removed--			
				Municipal Tax Adjustment				Municipal Tax Adjustment			
				Energy Efficiency Cost Recovery Rider				Energy Efficiency Cost Recovery Rider			
								Formula Rate Plan Rider (adjusted annually, beginning the first business day of October, 2017)			
			Set-up TSO (Each Time)	Customer may switch between SSO and TSO seasonally provided they experience more than 80% of annual load during APR through OCT and who experience or anticipate an average daily demand of more than 25 MMBtu per day during any consecutive 30-day period of the preceding or succeeding APR through OCT.			$ 300.00	Customer may switch between SSO and TSO seasonally provided they experience more than 80% of annual load during APR through OCT and who experience or anticipate an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding APR through OCT.			$ 300.00
			Telemetering	Telemetering is required under the TSO described in Part 3.1.3 of this rate schedule, including customers qualifying under Part 3.1.2 of the aggregation provision of this rate schedule. If Company does not have telemetry at customer's point of delivery, upon execution of the Agreement, Company shall install telemetry equipment of stand make and manufacture to determine hourly and daily flow of gas at customer's point of delivery. Customer will reimburse Company for the full, installed cost of such telemetry				Telemetering is required for all customers who receive service pursuant to this rate schedule, including customers qualifying under Part 3.1.2 of the aggregation provision of this rate schedule. If Company does not have telemetry at customer's point of delivery, upon execution of the Agreement, Company shall install telemetry equipment of stand make and manufacture to determine hourly and daily flow of gas at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following payment options as chosen by the customer:			
								Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.			
								Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The Customer will be subject to meter reading fees for an inoperable phone line for each meter.			
								Non-pressure instrumentation per month per meter			$ 30.00
								Pressure instrumentation per month per meter			$ 84.00
								Option 3: Customer elects wireless service through CenterPoint for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. Customer will not be subject to meter reading fee.			
								Wireless service fee per month per meter			$ 10.00
								Option 4: Customer elects wireless service through CenterPoint for each meter and elects to pay a monthly fee for the standard telemetry equipment and installation costs for each meter. The customer will not be subject to meter reading fees.			
								Non-pressure instrumentation per month per meter			$ 40.00
								Pressure instrumentation per month per meter			$ 94.00
				Customer shall be responsible for installing and maintaining telecommunications lines. Should customer fail to maintain or repair telecommunications lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.				If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunications lines. Should customer fail to maintain or repair telecommunications lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.			
								If customer chooses wireless telemetry, then customer shall pay Company a monthly fee per meter for wireless telemetry service for the entire period such meter(s) is (are) served under this or any other transportation rate schedule.			$ 10.00
Unmetered Gas Light Firm Sales Service	GL-1	Not Reported		The service is available where there is adequate capacity and suitable pressure. Customer is responsible for all installation and modifications subject to Company inspection. Ccf to be billed based on manufacturer's rated input for each gas light multiplied by the number of lights. The rate charged and riders shall be in accordance with the currently effective residential or commercial rate schedule otherwise applicable to the customer served. Except the Weather Normalization Adjustment rider shall not apply.				No change			
Small Commercial Firm Sales Service -- Off-Peak	SCS-2	Not Reported	Natural Gas	Natural Gas - System Supply Option (SSO)	First 1,500 Ccf	$ 0.20857				$ 0.24421	
					Next 13,500 Ccf	$ 0.11479				$ 0.13440	
					Over 15,000 Ccf	$ 0.04921				$ 0.05762	
				Natural Gas - Transportation Supply Option (TSO) *Customers experiencing or anticipating an average daily demand of 25 MMBtu per day*	First 150 MMBtu	$ 2.05269		Natural Gas - Transportation Supply Option (TSO) *Customers experiencing or anticipating an average daily demand of 10 MMBtu per day*		$ 2.40341	
					Next 1,350 MMBtu	$ 1.12973				$ 1.32275	
					Over 1,500 MMBtu	$ 0.48431				$ 0.56706	
			All other Small Commercial Firm Sales -- Off-Peak SCS-2 prices and services same as Small Commercial Firm Sales Service SCS-1								

Attachment: 2022-004 ATTH 02 2017 Tariff & EXH 'A' (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

2017-083 Exhibit "A"
(2 of 2)

CenterPoint Energy Resources Corporation Statement of Intent to Increase Rates

Class of Service	Code	Customers	Object	Current Rates Volume	Current Rates Per Unit	Current Rates Charge	Proposed Rates	Proposed Rates Volume	Proposed Rates Per Unit	Proposed Rates Charge
Small Commercial Firm Sales Service -- NGV	SCS-3	Not Reported	Natural Gas				This rate schedule is available at points of adequate capacity and suitable pressure on the Company's existing facilities. This rate schedule is available to any consumer engaging in business, professional, institutional, agricultural or other non-residential activity who purchases annual volumes less than 365,000 Ccf and who receives this natural gas from the Company through an individual meter, and whose sole usage of natural gas through this meter is to provide compressed natural gas for use as a vehicle fuel. Standby Service is not available under this rate schedule.			
							Company has historically allowed the volume usage of meters at business facilities under common ownership and subject to this rate schedule to be aggregated for the sole purpose of establishing eligibility for transportation as referenced in Part 3.1.3. of the Rate Schedule LCS-1. Customers historically qualifying for transportation under this aggregation provision shall remain subject to the rates and charges under this rate schedule in addition to any additional specific rates, charges, or adjustment riders peculiar to the TSO set out in Rate Schedule LCS-1, such as, but not limited to, administrative fees. Customers aggregating volume shall be subject to all provisions and policies governing TSO option customers as specified in LCS-1, except as provided for herein. Although no aggregation will be allowed for eligibility, the ability to aggregate for eligibility purposes at existing and new locations shall remain unchanged for transportation customers eligible under such aggregation provision prior to 21 SEP 02. Future aggregation for the purpose of qualification, except as otherwise referenced herein is prohibited. Each individual account of historically qualified customers shall be treated as a separate account and shall be subject to the same rates and charges under the originating SCS-3 or LCS rate schedule, and are additionally subject to any specific rates, charges or riders specific to the TSO.			
							Customer may switch between SSO and TSO seasonally provided they experience more than 80% of annual load during APR through OCT and who experience or anticipate an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding APR through OCT.			$ 300.00
							This rate schedule shall have an extended term of the shorter of three (3) years from the date of Commission approval or the completion of the Company's next general rate filing, unless otherwise extended further by Order of the Commission.			
			Monthly Customer Charge							$ 15.63
			Natural Gas				Natural Gas - System Supply Option (SSO)	First 1,500 Ccf	$ 0.18242	
								1,501 - 15,000 Ccf	$ 0.13797	
								Over 15,000 Ccf	$ 0.05915	
							Natural Gas - Transportation Supply Option (TSO)	First 150 MMBtu	$ 1.79532	
							Customers experiencing or anticipating an average daily demand of 10 MMBtu per day	151-1,500 MMBtu	$ 1.35787	
								Over 1,500 MMBtu	$ 0.58211	
			Minimum Charge							$ 15.63
			Riders:				Gas Supply Rate			
							Municipal Tax Adjustment			
							Interim Billing Determinant Rate Adjustment			
							Energy Efficiency Cost Recovery Rider			
							Formula Rate Plan Rider (adjusted annually, beginning the first business day of October, 2017)			
			Set-up TSO (Each Time)	Customer may switch between SSO and TSO seasonally provided they experience more than 80% of annual load during APR through OCT and who experience or anticipate an average daily demand of more than 25 MMBtu per day during any consecutive 30-day period of the preceding or succeeding APR through OCT.		$ 300.00	Customer may switch between SSO and TSO seasonally provided they experience more than 80% of annual load during APR through OCT and who experience or anticipate an average daily demand of more than 10 MMBtu per day during any consecutive 30-day period of the preceding or succeeding APR through OCT.			$ 300.00
			Telemetering				Telemetering is required for customers electing and qualifying for transportation service. Company shall install telemetry equipment of standard make and manufacture to determine hourly and daily flow at customer's point of delivery. Customer shall choose between analog telemetry and wireless telemetry, if suitable wireless service is available. Customer will pay Company for telemetry equipment under one of the following payment options as chosen by the customer:			
							Option 1: Customer agrees to provide an analog phone line for each meter and pay for standard telemetry equipment and installation costs for each meter. Customer will be subject to meter reading fees for an inoperable phone line for each meter.			
							Option 2: Customer will provide an analog phone line for each meter but elects to pay a monthly fee for standard telemetry equipment and installation costs for each meter. The Customer will be subject to meter reading fees for an inoperable phone line for each meter.			
							Non-pressure instrumentation per month per meter			$ 30.00
							Pressure instrumentation per month per meter			$ 84.00
							Option 3: Customer elects wireless service through CenterPoint for each meter and agrees to pay for standard telemetry equipment and installation costs for each meter. Customer will not be subject to meter reading fee.			
							Wireless service fee per month per meter			$ 10.00
							Option 4: Customer elects wireless service through CenterPoint for each meter and elects to pay a monthly fee for the standard telemetry equipment and installation costs for each meter. The customer will not be subject to meter reading fees.			
							Non-pressure instrumentation per month per meter			$ 40.00
							Pressure instrumentation per month per meter			$ 94.00
							If customer chooses analog telemetry, then customer shall be responsible for installing and maintaining telecommunications lines. Should customer fail to maintain or repair telecommunications lines required to communicate with telemetry equipment, Company shall have the right to bill customer all labor and expense required to manually read the meter, at whatever intervals the Company may deem necessary.			
							If customer chooses wireless telemetry, then customer shall pay Company a monthly fee per meter for wireless telemetry service for the entire period such meter(s) is (are) served under this or any other transportation rate schedule.			$ 10.00
The effect of the Company's proposed new rate schedules and tariff changes is to increase CenterPoint Arkla's net annual non-gas revenues in the City (approximately)										$ 886,391
The changes represent a total increase to the Company's revenues in the City of approximately:										10.1%

Attachment: 2022-004 ATTH 02 2017 Tariff & EXH 'A' (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

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: 2022-004 Goals & Perspectives (3620 : 2022-004 ORD Reauthorizing Summit to charge natural gas rates)

Attachment: 2022-004 ORD Reauthorizing Summit to charge for natural gas signed (3620 : 2022-004 ORD Reauthorizing Summit to charge

ORDINANCE NO. 2022-004

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING ORDINANCE NO. 2017-083, SUBSTITUTING SUMMIT UTILITIES ARKANSAS, INC., ASSIGNEE OF CENTERPOINT ENERGY RESOURCES CORP., AS THE NATURAL GAS PROVIDER AND FRANCHISE HOLDER FOR THE CITY OF TEXARKANA, TEXAS; REAUTHORIZING IDENTICAL RESIDENTIAL AND COMMERCIAL RATE SCHEDULES AUTHORIZED IN ORDINANCE NO. 2017-083 WITH EXCEPTIONS; ORDERING THE RATES TO BE CHARGED BY SUMMIT UTILITIES ARKANSAS, INC., FOR NATURAL GAS AND NATURAL GAS SERVICE TO RESIDENTIAL AND COMMERCIAL CUSTOMERS WITHIN THE CITY OF TEXARKANA, TEXAS; PROVIDING FOR REPEALER, SUPERSEDING, AND SEVERABILITY CLAUSES; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on August 28, 2017, by Ordinance No. 2017-083, the City Council approved rate schedules and service charges proposed for residential and commercial gas service by CenterPoint Energy Resources Corp., d/b/a Centerpoint Energy Arkansas Gas (CERC), and ordered CERC to file with the City Clerk tariff sheets containing residential and commercial rate schedules identical to those rate schedules included with said ordinance; and

WHEREAS, on June 11, 2021, CERC and Summit Utilities Arkansas, Inc. (SUA) filed with the Arkansas Public Service Commission a Joint Application for approval of a proposed transaction whereby CERC would sell, and SUA, as the ultimate owner and operator, would acquire certain of CERC's public utility natural gas assets, comprised of an operating unit or system, which provide service to customers in Arkansas, as well as certain areas located in Bowie County, Texas, including Texarkana, Texas; and

WHEREAS, on December 6, 2021, the Arkansas Public Service Commission, Docket No. 21-060-U, Order No. 11, found, ordered, and directed, among other things, that SUA has the experience and expertise to operate a public utility in compliance with Arkansas laws and regulations and provide quality customer service to CERC's Arkansas customers, granted a Certificate of Public Convenience and Necessity pursuant to Arkansas law to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with CERC, and cancelled the Certificate of Public Convenience and Necessity of CERC to operate as a natural gas utility to provide natural gas services in Arkansas effective upon the closing of the transaction with SUA; and

WHEREAS, on December 13, 2021, SUA filed with the Arkansas Public Service Commission, in compliance with Docket No. 21-060-U, Order No. 11, a revised tariff consistent with the Order; and pertinent to the City of Texarkana, Texas, the revised Arkansas tariff eliminated or terminated two riders, the Trial Billing Determinant Adjustment Tariff (BDA) and Formula Rate Plan Rider (FRP), which had been directly referenced and incorporated in the City's tariff approved by the City Council by Ordinance No. 2017-083; and

WHEREAS, on January 18, 2022, SUA provided the City of Texarkana, Texas, with an "Assignment and Assumption of Franchises" effective January 10, 2022, executed by CERC as Assignor and SUA as Assignee, with CERC assigning and transferring to SUA all of CERC's right, title, and benefits as of the effective date to the natural gas franchise granted by Ordinance No. 335-84 of the City Council approved on November 12, 1984, as amended by Ordinance No. 188-87 approved on September 14, 1987, and Ordinance No. 241-05 approved on October 10, 2005 (collectively, "the City's Natural Gas Franchise Ordinances"), granting the right to enter upon the public ways to install, operate and maintain a distribution system along, across, over and under the public ways for the privilege of transporting, distributing and selling gas to consumers and the public generally within the corporate limits of the City of Texarkana, Texas; and

WHEREAS, the City of Texarkana, Texas, by Ordinance No. 2022-003, duly enacted on the Third and Final Reading on February 14, 2022, approved the assignment and transfer to SUA, as Assignee of CERC, of the City's Natural Gas Franchise Ordinances (that is, the non-exclusive franchise privilege to SUA) for natural gas and natural gas service to residential and commercial customers within the City of Texarkana, Texas; and

WHEREAS, SUA proposes no increase in the City's rates, but rather a continuation of the same tariff approved by the City Council in Ordinance No. 2017-083 except for deleting the defunct BDA and FRP riders given the elimination of said riders from the Arkansas tariff structure; and

WHEREAS, the City Council found and determined, in Ordinance No. 2017-083, that the rate schedules and service charges proposed for residential and commercial gas service were just, proper, reasonable, and lawful rates for such natural gas service, and that finding and determination has not changed notwithstanding the elimination of the defunct BDA and FRP riders given the elimination or termination of said riders from the Arkansas tariff structure; and

WHEREAS, by this Ordinance, the City Council amends Ordinance No. 2017-083 to substitute SUA in place of CERC as the natural gas provider and, except for deletion of the BDA and FRP riders, reauthorizes the residential and commercial rate schedules identical to those rate schedules authorized in Ordinance No. 2017-083.

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

SECTION 1. Upon SUA filing with the City Secretary a fully-executed written acceptance of Ordinance No. 2022-003 as set out in Exhibit "A" to that ordinance (that is, accepting the assignment and transfer of the City's public utility franchise and agreeing to abide by the terms of the City's Natural Gas Franchise Ordinances), Ordinance No. 2017-083 is amended as follows:

a. SUA is substituted in place of CERC as the natural gas provider and franchise holder for the City of Texarkana, Texas;

b. The residential and commercial rate schedules authorized in Ordinance No. 2017-083 are reauthorized, with the exception of the BDA and FRP riders which are now defunct given the elimination or termination of said riders from the Arkansas tariff structure; and

Attachment: 2022-004 ORD Reauthorizing Summit to charge for natural gas signed (3620 : 2022-004 ORD Reauthorizing Summit to charge

c. SUA is hereby ordered to issue and file with the City Secretary of the City of Texarkana, Texas, tariff sheets in the form that SUA has proposed and submitted to the City, attached hereto as Exhibit "A", substituting SUA in place of CERC, deleting the BDA and FRP riders, containing the applicable effective date, and containing in all other respects residential and commercial rate schedules identical to those rate schedules authorized in Ordinance No. 2017-083.

SECTION 2. The rates and rate schedules ordered in Section 1 of this Ordinance and as set out in Exhibit "A" to be filed with the City are hereby adopted, established, and authorized as proper, reasonable, and lawful rates for such natural gas service; and such rates and rate schedules are to be observed by SUA, its successors and assigns, until changed as provided by the Gas Utility Regulatory Act, Texas Utility Code Chapter 101, *et seq.*

SECTION 3. This Order, determining the level of rates to be charged and applied by SUA, shall be served upon SUA by United States Mail.

SECTION 4. The tariff sheets approved by this Ordinance shall become effective retroactive with bills rendered on or after January 10, 2022.

SECTION 5. Although the form of the Exhibit "A" tariff that SUA has proposed and submitted to the City references other Texas municipalities in the footer of each page, nothing in this Ordinance should be construed as the City Council exercising any jurisdiction or authority on behalf of said municipalities in approving tariffs, rates, or rate schedules for those municipalities; no such jurisdiction nor authority has been extended to the City, and such should not be inferred.

SECTION 6. All applications and motions to intervene in this matter, if any, however designated, are hereby denied.

SECTION 7. Except as otherwise provided below, all ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict; provided, however, that nothing in this ordinance shall be construed to repeal, modify, or interpret (i) Ordinance No. 2017-083 except as amended by Section 1 of this ordinance, and (ii) Ordinance No. 2022-003 or the City's Natural Gas Franchise Ordinances, which shall also supersede and control over this ordinance in the event any part of this ordinance shall be declared to be in conflict or noncompliant with either Ordinance No. 2022-003 or the City's Natural Gas Franchise Ordinances. Notwithstanding any other section of this ordinance, the City Council, having been made aware of SUA's tariff and rate structure for the State of Arkansas which includes a new three-year customer credit rider, does not by this ordinance find or affirm that the absence or lack of a commensurate credit inuring to the benefit of the City of Texarkana, Texas, in the rates and rate schedules as set out in Exhibit "A" complies with Ordinance No. 335-84.

SECTION 8. If any portion of the rates or service charges established herein shall be declared invalid for any reason, the invalidity hereof shall in no manner affect the validity and enforcement of the remainder of such rates for service charges.

Attachment: 2022-004 ORD Reauthorizing Summit to charge for natural gas signed (3620 : 2022-004 ORD Reauthorizing Summit to charge

SECTION 9: 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 **14th day of February, 2022.**

ATTEST:

Jennifer Evans, City Secretary

Bob Bruggeman, Mayor

6:24p.m.

Attachment: 2022-004 ORD Reauthorizing Summit to charge for natural gas signed (3620 : 2022-004 ORD Reauthorizing Summit to charge

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 2/11/2022 9:01 AM

Lead Department: Finance Department **Action Officer:** Kristin Peeples,
Subject: Resolution No. 2022-006 amending the Purchasing Policy Manual for the City of Texarkana, Texas.

Briefing: 2/28/2022 **Public Hearing:** **Council Vote:** 2/28/2022

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

Updates/History of Briefing:

The Purchasing Policy Manual was last amended on April 19, 2021 to add specific language related to the purchasing process for the Metropolitan Planning Organization. Prior to that, the last major amendment to the policy was in October of 2018.

Executive Summary and Background Information:

The purchasing policy manual outlines the procedures to follow when making purchases on behalf of the City.

Objectives of the Purchasing Policy Manual:

- To conduct all Purchasing in accordance with Texas Local Government Code Chapter 252, State Law, and the City of Texarkana, Texas City Charter.
- To ensure that public funds are safeguarded.
- To ensure that public spending is not used to enrich elected officials or government employees, or to confer favors on favored constituents.
- To keep Emergency Purchases to a minimum.

Outlined in the Purchasing Policy Manual:

- The steps that should be taken for each purchase made on behalf of the City depending on the dollar amount of the purchase and/or the nature of the work to be performed. This includes when competitive bidding is required verses informal quotes.
- Includes a preference for local businesses and the City's support of Small Business Saturday, the Shop TXK Program and partnership with the Northeast Texas Small Business Development Center (SBCD). Staff are strongly encouraged to seek local sources.
- What qualifies as an emergency purchase and the process to follow when an emergency purchase is needed.
- The process that must be followed to ensure that Historically Underutilized Businesses (HUB's) are contacted per the requirements of the Texas Local Government Code.
- Who has purchasing authority and the corresponding dollar amounts allowed under the authority of each position.
- Setting up a new vendor, creating a purchase order, and processing the purchase from start to finish in the accounting system.

- Rules for purchases made with petty cash.
- Rules for credit card purchases, including card holder responsibilities.
- Disposal of surplus property.
- Procurement policy provided by the Texas Department of Transportation (TxDOT) for transportation projects.

Potential Options:

- Approve Purchasing Manual as presented.
- Deny Purchasing Manual as presented.

Fiscal Implications:

A formal purchasing manual helps to ensure compliance with state and local laws and safeguard public funds.

Staff Recommendation:

Staff recommends approval.

Advisory Board/Committee Review:

Not Applicable.

Board/Committee Recommendation:

Not Applicable.

Advisory Board/Committee Meeting Date and Minutes:

Not Applicable.

Attachments

a. 2022-006 RES Amending the Purchasing Policy Manual for the City of Texarkana, Texas (DOC)
b. 2022-006 EXH 'A' Purchasing Policy Manual Final for Approval 02.28.22 (DOCX)
c. 2022-006 Goals & Perspectives (DOCX)
d. 2022-006 RES Amend. Purchasing Policy Manual signed (PDF)

Staff Coordination

Finance Department	Kristin Peeples 01/19/2022 3:25 PM	Department Head Review	Completed	
Public Works Department		Dusty Henslee 01/19/2022 3:56 PM	Action Completed	
City Manager	David Orr	City Manager Review	Completed	01/19/2022 5:09 PM
City Council	Jennifer Evans	Meeting	Completed	02/14/2022 6:00 PM

Meeting History

City of Texarkana, Texas

RESOLUTION NO. 2022-006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE CITY'S PURCHASING POLICY MANUAL; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Texarkana, Texas, maintains a purchasing policy manual that outlines the procedures to follow when making purchases on behalf of the City; and

WHEREAS, the policy manual is established to conduct all purchasing in accordance with Texas Local Government Code Chapter 252, State Law, and the City Charter; ensure that public funds are safeguarded; ensure that public spending is not used to enrich elected officials or government employees, or confer favors on favored constituents; and to keep emergency purchases to a minimum.

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, approves the amended Purchasing Policy Manual **(Exhibit "A")**.

SECTION 2: 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 **28th day of February, 2022**.

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2022-006 RES Amending the Purchasing Policy Manual for the City of Texarkana, Texas (3622 : 2022-006 RES Amending

City of Texarkana, Texas
Purchasing Policy Manual

Attachment: 2022-006 EXH 'A' Purchasing Policy Manual Final for Approval 02.28.22 (3622 : 2022-006 RES Amending Purchasing Policy

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Objectives

- To conduct all Purchasing in accordance with Texas Local Government Code Chapter 252, State Law, and the City of Texarkana, Texas City Charter.
- To ensure that public funds are safeguarded.
- To ensure that public spending is not used to enrich elected officials or government employees, or to confer favors on favored constituents.
- To keep Emergency Purchases to a minimum.

Invitation for Bids (IFB)

Informal sealed bids are those that are sent out to solicit bids that will be returned and opened at a specified time and place. They will be posted and advertised. Bids may be received electronically if systems are in place that prevent viewing before the specified bid opening date and time.

Substantial Revisions – Materials

"Bidding presupposes that due advertisement, giving opportunity to bid, and contemplates a bidding on the same undertaking upon each of the same material items covered by the Contract, upon the same thing. It requires that all bidders be placed upon the same plan of equality and that they each bid upon the same terms and conditions involved in all the items and parts of the contract, and the proposal specify as to all bids the same or substantially similar specifications" – Attorney General Opinion MW-296

When a substantial revision is needed, notification will be sent to all known participating vendors and posted to the City's website.

Competitive Bidding – Awards

The City of Texarkana, Texas shall award contracts based on best interest and in accordance with State Law. Texas Local Government Code, Section 252.043, states, in part:

- *If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods and services at the best value for the municipality.*
- *Before awarding a contract under this section, a municipality must indicate in the bid specification and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.*

Attachment: 2022-006 EXH 'A' Purchasing Policy Manual Final for Approval 02.28.22 (3622 : 2022-006 RES Amending Purchasing Policy

Preference for Local Business – Buy Local

The City supports small business initiatives throughout the year including Small Business Saturday, the Shop TXK program and partnership with the Northeast Texas Small Business Development Center (SBDC). Keeping purchases local and spending public tax dollars close by helps to stimulate our local economy. **City staff are strongly encouraged to seek local sources for all purchases while considering the best price for public goods and services.**

Bidding Preference

- Tie Bids – Identical bids
  - If two or more bidders submit identical bids; ***and***
  - If only one of the bidders is a business resident of Texarkana, Texas, ***then***
    - that bidder must be selected.
- Tie Bids – Identical Bids – (2) or more City Residents
  - If two or more bidders submit identical bids; ***and***
  - Both bidders are business residents of Texarkana, Texas, ***then***
    - Selection must be made by flip of a coin
- Tie Bids – Non-Resident
  - If two or more bidders submit identical bids; ***and***
  - Neither bidder is a business resident of Texarkana, Texas, ***then***
    - Selection is made by flip of a coin.
- Tie Bids – $50,000.00 or above
  - If two or more bidders submit identical bids; ***and***
  - The contract award amount is $50,000.00 or above, ***then***
    - Selection is made by flip of a coin *in the presence of City Council*

In any of these "tie bids" situations, nothing prohibits the City from rejecting all bids.

Other provisions that allow for the consideration of a bidder's principal place of business when the City awards a contract:

Local Government Code § 271.905

Sec. 271.905. CONSIDERATION OF LOCATION OF BIDDER'S PRINCIPAL PLACE OF BUSINESS.
(a) In this section, "local government" means a municipality, a county, or another political subdivision authorized under this title to purchase real property or personal property that is not affixed to real property. The term does not include a school district.
(b) In purchasing under this title any real property or personal property that is not affixed to real property, if a local government receives one or more bids from a bidder whose principal place of business is in the local government and whose bid is within three percent of the lowest bid price

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received by the local government from a bidder who is not a resident of the local government, the local government may enter into a contract with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government.

(c) This section does not prohibit a local government from rejecting all bids.

Local Government Code § 271.9051

CONSIDERATION OF LOCATION OF BIDDER'S PRINCIPAL PLACE OF BUSINESS IN CERTAIN MUNICIPALITIES.

(a) This section applies only to a municipality that is authorized under this title to purchase real property or personal property that is not affixed to real property.

(b) In purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received by the municipality from a bidder who is not a resident of the municipality, the municipality may enter into a contract for construction services in an amount of less than $100,000 or a contract for other purchases in an amount of less than $500,000 with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

(c) This section does not prohibit a municipality from rejecting all bids.

(d) This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.

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Request for Proposals (RFP)

Formal solicitation used primarily for specified goods or services for which the requirements are not easily determined and may not result in an exact comparison of offers.

Request for Information (RFI)

Sometimes used as the first step in the RFP process. The solicitation is used to extract information concerning the product or services being sought. This process may or may not solicit pricing. If pricing is considered, it would only be of budgetary interest since a IFB or RFP would follow.

Request for Qualifications (RFQ)

Solicitation made to secure professional services within the scope of practice, as defined by state law. Proposals are evaluated based on the vendor's statement of qualifications. After the highest evaluated proposal is determined, the City will enter price negotiations.

Professional Services

Personal and professional services are exempted from the competitive bidding process and are procured through Request for Qualification documents or Request for Proposal.

Texas Local Government Code Chapter 2254.003 States:

A Government entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award on the basis of demonstrated competence of qualifications to perform the service, and for a fair and reasonable price.

(a) The professional fees under the contract may not exceed any maximum provided by law.

Texas Local Government Code § 2254.002 states "Professional Services" means Services:

(a) Within the scope of the practice as defined by state law of:

- *(i) Accounting;*
- *(ii) Architecture;*
- *(iii) Landscape Architecture;*
- *(iv) Land Surveying;*
- *(v) Medicine;*
- *(vi) Optometry;*
- *(vii) Professional engineering;*
- *(viii) Real Estate Appraising; or*
- *(ix) Professional Nursing; or*

(b) Provided in connection with the professional employment or practice of a person who is licensed or registered as:

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(i) A certified public accountant
(ii) An architect;
(iii) A landscape architect;
(iv) A land surveyor;
(v) A physician, including a surgeon;
(vi) An optometrist;
(vii) A professional engineer;
(viii) A state certified or state licensed real estate appraiser; or
(ix) A registered nurse

Emergency Purchases

Texas statutes generally allow the local government to make emergency purchases without competitive bidding as per Texas Local Government Code § 252.022 "General Exemptions". A political subdivision is generally exempted from competitive bidding if:

- In the case of public calamity, the prompt purchase of items is required to provide for the needs of the public or to preserve the property of the political subdivision.
- The item is necessary to preserve or protect the health or safety of residents of the political subdivisions; or
- The item is made necessary by unforeseen damage to public property.

Emergency Purchases During Office Hours

In the event an emergency is of such a nature that there is no time to prepare a purchase order, be prepared to provide the following information to the Purchasing Administrator by phone or email.

- Responding Vendor Name
- Vendor payment arrangement
- Description of the item or service required. (best of knowledge)
- Estimate of costs

Emergency Purchases After Office Hours

If an emergency arises after normal office hours, the department should take whatever action is necessary to make appropriate repairs and notify the Purchasing Administrator the next business day.

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Sole Source Purchase

The legislature also exempted procurement of certain items from sealed bidding in Texas Local Government Code § 252.022(7) that are available from only one source, including:

(A) Items that are available from only one source because of patents, copyrights, secret process, or natural monopolies;

(B) Films, manuscripts or books;

(C) Gas, water, and other utility services;

(D) Captive replacement parts or components for equipment;

(E) Books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and

(F) Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.

Written justification for sole source purchases must be provided in advance for review and approval.

Cooperative Purchases

Occurs when two or more governmental entities coordinate some or all purchasing efforts to reduce cost, take advantage of quantity discounts, share specifications, or create a heightened awareness of legal requirements.

- Inter-local agreement purchases
- State contract purchases
- Piggybacking
- Joint purchases

Annual Supply Contract

The City of Texarkana, Texas often purchases certain items throughout the year. To receive discount prices and provide a coordinated and organized purchase of routine and commonly used items, similar items can be combined and bid as an annual supply contract.

Historically Underutilized Business (HUBS)

A municipality, in making an expenditure of more than $3,000 but less than $50,000 shall contact at least two (2) disadvantaged businesses on a rotating basis, in accordance with Texas Government Code Chapter 2161, 1 TAC § 111.21, and 34 TAC Part 1, Ch. 20, Subchapter B (relating to the Historically Underutilized Business Program). *If the list fails to identify a disadvantaged business in the **county** in which the city is situated, the City is exempt from this section.* A listing for Bowie County is located at G:\Swap Folder\Purchasing.

Attachment: 2022-006 EXH 'A' Purchasing Policy Manual Final for Approval 02.28.22 (3622 : 2022-006 RES Amending Purchasing Policy

Disclosures

Access to bidder-declared trade secrets or confidential information shall be in accordance with the Texas Government Code Chapter 552, the Public Information Act, and the applicable City Policies.

Texas Local Government Code § 252.049(b) states:

If provided in a request for proposals, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

Texas Local Government Code § 2252.908 states:

Disclosure of Interested Parties

(a) in this section:

(1) "Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation.

(2) "Governmental entity" means a municipality, county, public school district, or special-purpose district or authority.

(3) "Interested party" means a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.

(4) "State agency" means a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code.

(b) This section applies only to a contract of a governmental entity or state agency that:

(1) requires an action or vote by the governing body of the entity or agency before the contract may be signed;

(2) has a value of at least $1 million; or

(3) is for services that would require a person to register as a lobbyist under Chapter 305.

(c) Notwithstanding Subsection (b), this section does not apply to:

(1) a sponsored research contract of an institution of higher education;

(2) an interagency contract of a state agency or an institution of higher education;

(3) a contract related to health and human services if:

(A) the value of the contract cannot be determined at the time the contract is executed; and

(B) any qualified vendor is eligible for the contract;

(4) a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;

(5) a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code; or

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(6) a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code.

(d) A governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

(e) The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission that includes:

(1) a list of each interested party for the contract of which the contracting business entity is aware; and

(2) a written, unsworn declaration subscribed by the authorized Administrator of the contracting business entity as true under penalty of perjury that is in substantially the following form:

"My name is _____, my date of birth is _____, and my address is

_____, _____, _____, _____,

(Street) (City) (State) (Zip Code)

_____. I declare under penalty of perjury that the foregoing is true and correct.

(Country)

Executed in _____ County, State of _____, on the _____ day of _____, _____.

(Month) (Year)

_____

Declarant".

(f) Not later than the 30th day after the date the governmental entity or state agency receives a disclosure of interested parties required under this section, the governmental entity or state agency shall submit a copy of the disclosure to the Texas Ethics Commission.

(g) The Texas Ethics Commission shall adopt rules necessary to implement this section, prescribe the disclosure of interested parties form, and post a copy of the form on the commission's Internet website.

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Form 1295

The Texas Ethics Commission has generated a Form 1295 which requires the disclosure of each interested party (as defined by the Ethics Commission Rules). The law applies to a contract of a governmental entity that either:

(1) Requires an action or vote by the governing body of the entity before the contract may be signed (unless delegated – Section 461. TEC Rules)

(2) Has a value of at least $1 million.

Enforcement

Texas Local Government Code

Sec. 252.061. INJUNCTION.

If the contract is made without compliance with this chapter, it is void and the performance of the contract, including the payment of any money under the contract, may be enjoined by:

(1) any property tax paying resident of the municipality; or

(2) a person who submitted a bid for a contract for which the competitive sealed bidding requirement applies, regardless of residency, if the contract is for the construction of Public Works.

Sec. 252.062. CRIMINAL PENALTIES.

(a) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B misdemeanor.

(b) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.

(c) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described by Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

Sec. 252.063. REMOVAL; INELIGIBILITY.

(a) The final conviction of a municipal officer or employee for an offense under Section 252.062(a) or (b) results in the immediate removal from office or employment of that person.

(b) For four years after the date of the final conviction, the removed officer or employee is ineligible:

(1) to be a candidate for or to be appointed or elected to a public office in this state;

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(2) to be employed by the municipality with which the person served when the offense occurred; and

(3) to receive any compensation through a contract with that municipality.

(c) This section does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

New Vendor Set Up

- Prior to issuance of a purchase order, vendor data must be entered into the financial software and a unique vendor number assigned for all new vendors. A completed New Vendor Packet and W-9 must be furnished to the Purchasing Administrator by the requesting department. Established vendors that wish to change banking information must complete a Request to Change Vendor Banking Information Form with the Finance Department. Finance staff must follow a two-step authentication process with final approval of all banking changes by the Assistant CFO or CFO.

Purchasing Authority – Who has it?

- The City Manager shall sign all contracts.
- The Purchasing Administrator shall have signature authority for all purchase orders from $0.01 to $49,999.99.
- The Contracts Administrator shall have signature authority for all purchase orders from $50,000.00 and above.

Monetary Purchasing Guide

- **$0.01 - $2,999.99**
  - Employees should use a department purchasing card or utilize the Purchase Order process.
  - Department Directors have discretion regarding the purchase of goods or services within this range.
  - Competitive quotes are strongly encouraged.
  - Oversight and approval provided by the Department Director.

- **$3,000 - $49,999.99 - Quotes**
  - A formal request for purchase through Springbrook is REQUIRED.

    A record of request originating in the user department, and an approval of encumbered funds issued by the finance department, must be maintained through the Purchase Order Approval module of Springbrook.
  - Must obtain three written quotes.
    - Quotes must contain Vendor Name, Phone Number & Physical Address.

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- Quotes must be itemized by goods or services with the quantity and price of each clearly stated.
- Effective dates of the quote.
- If unable to obtain three quotes, documentation such as email correspondence noting "Unable to Quote" will need to be provided with the Department's backup documentation and a Purchasing Exemption Form will need to be completed.

- Unless an exemption is identified or a HUB is unavailable, two (2) of the three (3) written quotes must be formally requested from a vendor on the HUB list furnished by the Texas Comptroller of Public Accounts and located at G:\Swap Folder\Purchasing.
- The City awards on the lowest quote obtained.
- Once a selection is made; the awarded quote shall be sent first to the Purchasing Administrator, along with backup documentation (other quotes obtained) and a Purchasing Exemption Form, if applicable.
- Purchasing Exemption Forms shall be used in each Department's backup documentation if any of the following apply:
  - Unable to obtain three (3) quotes (along with supporting documentation showing that an attempt was made);
  - co-operative purchasing agreement, established contract, or interlocal agreement;
    - If using a State of Texas Coop Contract; the Coop, Contract Number, and (if applicable) expiration date of Contract will need to be provided in your documentation to the Purchasing Administrator.
  - a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
  - a procurement necessary to preserve or protect the public health or safety of the municipality's residents;
  - a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
  - advertising, other than legal notices;
  - a procurement for personal, professional, or planning services;
  - a procurement for work that is performed and paid for by the day as the work progresses;
  - a purchase of land or a right-of-way;
  - services performed by blind or severely disabled persons;
  - goods purchased by a municipality for subsequent retail sale by the municipality;
  - electricity;
  - a procurement of items that are available from only one source;

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- a purchase of rare books, papers, and other library materials for a public library;
- paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
- a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
- a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;
- personal property sold:
  - at an auction by a state licensed auctioneer;
  - at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;
  - by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or
  - under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

- Once the Purchasing Administrator has approved the Purchase, the requesting department may begin their Purchase Order request through Springbrook.
- After the Department's Director or Designated Person has approved the Purchase Order through Springbrook, it will then flow to the Purchasing Administrator for final approval. A purchase order signed by the Purchasing Administrator gives the requesting department authority to notify the vendor and proceed with the purchase.

- *****If using Buy Board as your Coop Contract, please note there are a few additional steps to complete the buying process.*****
  1.) Quote from vendor will need to reflect Buy Board contract and number.
  2.) After Purchase Order has been created it will need to be submitted to Buy Board through their email at; info@buyboard.com
  3.) Buy Board will send the Purchase Order directly to the Vendor on the City's behalf. *(This is the ONLY way the City will receive the credited discounts on Purchases)*

- **$50,000.00 & Above – Competitive Bidding**
  - Submit your need and budget to the Contracts Administrator.

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- If the permitted budget has received prior approval, an existing City Contract, Coop Contract, etc. may be used if available.
- Development of specifications between Department and Contracts Administrator.
- Specification must be written so that it will not be restrictive to a specific manufacturer or supplier.
- Advertisement for requested Bid for two (2) consecutive weeks prior to Bid closing.
- Post Bid on the City's website for the duration of the Bidding process.
- Receive Bids until a designated future date and time (identified in the specifications).
- Open and review bids for compliance.
- Competitive Bidding process will be awarded on lowest cost for the City and/or highest evaluation on qualifications.
- Bidding Tabulation shall be posted on the City's website and sent out to all participating Vendors and/or Firms.
- Once an award is decided; the awarded Proposal shall be presented before the City Council for final approval.
- Once approval is obtained from the Contracts Administrator and the City Council, the requesting department may begin the Purchase Order request through Springbrook.
- After the Department's Director or Designated Person has approved the Purchase Order through Springbrook, it will then flow to the Contracts Administrator for final approval. A purchase order signed by the Contracts Administrator gives the requesting department authority to notify the vendor and proceed with the purchase.

<u>Exception</u>: Texarkana Metropolitan Planning Organization ("MPO")

The City acts as Fiscal Agent for the MPO pursuant to interlocal agreements. The City's fiscal budget includes estimates of City expenditures relating to anticipated contracts and commitments of the MPO. While the City Council approves the annual budget and any amendments to the budget, the MPO makes contracts in its own name and generally follows and implements the City's purchasing policies. When the MPO Policy Committee approves a specific contract within the fiscal and subject matter limits of the City Council's approved current fiscal year budget, and provided that sufficient funds are available to fund the payment requests, receipt of documentation of the Committee's approval of said contract shall authorize City personnel to prepare and sign documentation consistent with City policy and practices for disbursement of funds, including checks within and up to the contract amount according to the contract terms. (This section is an exception to the general

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purchasing policy requiring the pre-approval of the City Council for expenditures equaling or exceeding $50,000.00.) [Ord. No. 2021-019, eff. 3-22-2021.]

Purchase Order Exemptions

The following expenditures do not require a purchase order to be generated:

- Travel
- Training & Registration
- Payroll Related Liabilities
- Bank Fees and Services.
- Pension Payments
- Reimbursements or Refunds

Purchase Order "Not to Exceed"

If the scope of work cannot be accurately described and quoted prior to beginning services OR a piece of equipment must be dismantled in order to assess repair, only one quote is required; HOWEVER, the requesting department must submit a Purchase Order Approval Request containing a not to exceed clause.

"***This purchase order has been issued to (vendor information) to repair (identify equipment using unique characteristics or property using address). Repair costs are not exact but shall not exceed ($_,___.__) without obtaining prior authorization from Department Directors and the Finance Department."***

Change Order – General

A Change Order is required when:

- Change in plans or specifications are necessary.
- It is necessary to decrease or increase the quantity of work to be performed.
- It is necessary to decrease or increase the quantity of materials, equipment or supplies to be furnished.
- Change orders that are not associated with a contract and are less than $50,000 may be approved by the Purchasing Administrator.

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Change Order – Contracts

A Change Order to a Contract is required when:

- Change in plans or specifications are necessary after the performance of the Contract has begun.
- It is necessary to decrease or increase the quantity of work to be performed.
- It is necessary to decrease or increase the quantity of materials, equipment or supplies to be furnished.
- Original price may not be increased more than 25%
- Original price may not be decreased more than 25% without written consent from the awarded contractor.

Change Orders in the amount of $49,999.99 or less must be requested in writing and executed by the following:

- Contractor
- Department Director
- Public Works Director
- Chief Financial Officer
- City Manager

Change Orders in the amount of $50,000 or more must be pre-approved by City Council prior to authorizing work. Required signatures on written request:

- Contractor
- Department Director
- Public Works Director
- Chief Financial Officer
- City Manager
- Mayor

Executed Change Order requests should be forwarded to the Contracts Administrator within (1) one week of execution.

Receiving and Inspection

- Must be inspected by the requesting department.
    - Verification of correct items and quantities.
    - Check for damaged or defective goods.
    - Must mark all returns on original packing slip.
- Requesting department must electronically receive items in Springbrook.
    Returned or delayed items should not be electronically received.

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Invoices

- Itemized statement of merchandise or a service provided.
- Must contain Invoice Number, Bill Date & Remittance Address.
- Must be attached to an approved Purchase Order and submitted to the Finance Department no later than 10 business days after the invoice is received.

Payment for Goods and Services

- For compliance with the Government Code and to avoid interest and penalties, all approved invoices must be sent to the Finance Department no later than 10 business days after invoice is received.

Government Code § 2251.021 applies to all state agencies and political subdivisions, including counties and cities. This section requires that entities pay all payments owed not later than thirty (30) days after the goods or services have been received, OR the date that the invoice was received, whichever is later.

Petty Cash

- Assigned to authorized department employees annually.
  (Must have an acceptance of petty cash custody form on file in the Finance Department.)
- Must be kept in a locking box in a secured desk, cabinet or safe.
- $50.00 maximum expenditure for unforeseen or unplanned circumstance. Reimbursement request by voucher.
  - Amount of request
  - Date of purchase
  - Description of purchase
  - GL Account Number
  - Signature of requesting employee
  - Signature of department supervisor
  - Present voucher slip and original sales receipt to petty cash custodian.
- Advance Request
  - Amount of Request
  - Date of expected purchase
  - Description of purchase
  - GL Account Number
  - Signature of requesting employee
  - Signature approval of department supervisor
  - Present approved Cash Advance voucher to petty cash custodian.
  - An original sales receipt must be turned into custodian within 72 hours of advance request.

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- All petty cash boxes will be audited on an annual basis.

Due to the unanticipated nature of work conducted in Police CID, Narcotics, SIU & POP TEAM departments, the maximum expenditure stated above does not apply to employees assigned to these units.

Credit Card Purchases

- Assigned to certain approved employees throughout various departments. *(A Cardholder Purchasing Card Agreement must be on file with the Finance Department)*
- May only be used by the authorized user.
- $2,999.99 maximum use.
    - Contact the Purchasing Administrator for an increased temporary transaction limit. Any increase must be approved by the Purchasing Administrator and the Department Director.
- Original detailed sales receipts required.
- Monthly expense report must be completed by cardholder and signed by his/her supervisor each month. Signed expense report and receipts should be scanned into the Credit Card folder on the swap drive. Original paper documentation should then be forwarded to the Finance Department.

Card Holder Responsibilities

- Use the Purchasing Card for legitimate business purposes only.
- Always maintain the Purchasing Card in a secure location.
- Do not allow other individuals to use Purchasing Card.
- Adhere to the purchase limits and restrictions of the Purchasing Card.
- NEVER split purchases to avoid the $2,999.99 threshold.
- Obtain a detailed sales receipt for all purchases.
- Coordinate returns and refunds directly with suppliers.
- Immediately notify the Department Director and Purchasing Administrator of a Lost, Stolen or Compromised card.
- Return the Purchasing Card to the Purchasing Administrator upon terminating employment with the City of Texarkana, Texas.

Tax Exempt Certificate

The City of Texarkana Texas is exempt from paying all local sales tax, state sales tax, and federal excise tax. When it is necessary to provide a vendor with a copy of an exemption certificate, contact the Purchasing Administrator.

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Salvage & Surplus Property

- The transfer of personal property within city departments is allowed. Please fill out an Asset Transfer Form and return to the Purchasing Administrator.
- The sale of personal property, at Fair Market Value or another agreed amount, to another Government Entity is allowed without sealed bids or an auction. Please fill out a Sales Request Form and turn into the Purchasing Administrator.
- The Purchasing Administrator has the authority to declare personal property obsolete or surplus. Council approval is not required. Assets shall be disposed of through public auction, sealed bids or any other method determined to be in the best interest of the City.
- Disposing departments shall make all necessary arrangements for the disposal of surplus items.

Salvage and Surplus property are identified by the following:

Texas Local Government Code 2175.001

(3) "Salvage Property" means personal property that through use, time or accident is so damaged, used or consumed that it has no value for the purpose for which it was originally intended.

(4) "Surplus Property" means personal property that exceed a state agency's needs and is not required for the agency's foreseeable needs. The term includes used or new property that retains some usefulness for the purpose for which it was intended of for another purpose.

Handling & Disposition of 3rd party's personal property

The precise way a City may handle and dispose of a 3rd party's personal property depends on state law, city charter, and local policies or ordinances. Please submit an itemized list to the Purchasing Administrator for research and compliance regulation.

The following is a partial example of State Law Regulations:

- Contraband that has been forfeited – Texas Code of Criminal Procedure, Chapter 59
- Treatment & Disposition of Impounded Animals – Texas Health and Safety Code, Chapter 821
- Abandoned personal property valued at Over $100 – Texas Property Code, Chapter 74
- Abandoned personal property valued at less than $100 – Texas Property Code, Chapter 76
- Abandoned Junk or Motor Vehicles – Texas Transportation Code, Chapter 683.

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Disciplinary Actions

Non-Compliance with any part of this Purchasing Policy Manual may result in disciplinary action, up to and including termination. Misuse and/or abuse, including inappropriate or improper purchases, will be dealt with as follows:

1st Violation – Department Director

The Department Director is responsible for determining if the employee should be individually responsible for non-compliant activity, if the individual should retain purchasing privileges, and if any disciplinary action will be taken.

2nd Violation – Purchasing Administrator and Chief Financial Officer

The Purchasing Administrator, with approval from the Chief Financial Officer, will determine if the individual will continue purchasing privileges, and the employee's department Director will determine disciplinary action.

3rd Violation – Chief Financial Officer and City Manager

The Purchasing Administrator will suspend all employee purchasing privileges and will refer the matter to the Chief Financial Officer and the City Manager's office for disciplinary determination up to and including termination of employment of the employee.

Repeated non-compliance of any part of this Purchasing Policy Manual is a direct result of minimum or no purchasing supervision. On the 3rd violation of the same employee, the Purchasing Administrator, Chief Financial Officer and City Manager will decide if Purchasing Privileges will be revoked ***for a department or division of a department (as applicable).*** This includes signature purchasing authority, department credit cards and payment authorizations. If revoked, these duties will be turned over to the Purchasing Administrator for oversight.

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Procurement Policy for Transportation Projects

Approved by the Texas Department of Transportation (TXDOT) on January 14, 2022

1. Procurement Standards.

   a. The City of Texarkana will use its own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
   b. The City of Texarkana will maintain a contract administration system which ensures that consultants perform in accordance with the terms, conditions, and specifications of its contracts.
   c. The City of Texarkana will maintain a written code of standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer or agent of the provider or sub-provider shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
      i. The employee, officer or agent,
      ii. Any member of his immediate family,
      iii. His or her partner, or
      iv. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

      The provider's or sub-provider's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from consultants, potential consultants, or parties to sub-agreements. 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 or such standards by the provider's or sub-provider's officers, employees, or agents, or by consultants or its agents. The awarding agency may in regulation provide additional prohibitions relative to real apparent or potential conflicts of interest.

   d. To foster greater economy and efficiency, the City will enter into State and local intergovernmental agreements for procurement of services.
   e. The City of Texarkana will make awards only to responsible consultants possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as consultant integrity, compliance with public policy, record of past performance, and financial and technical resources.
   f. The City of Texarkana will maintain records sufficient to detail the significant history of procurement. These records will include but are not necessarily limited to the

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following: rationale for the method of procurement, selection of contract type, consultant selection or rejection, and the basis for the contract cost.

g. The City of Texarkana alone will be responsible, in accordance with good administrative practice and sound business judgement, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the provider or sub-provider of any contractual responsibilities under its contracts. Federal agencies will not substitute its judgement for that of the provider or sub-provider unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

h. The City of Texarkana will have protest procedures to handle and resolve disputes relating to its procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protester must exhaust all administrative remedies with the provider and sub-provider before pursuing a protest with the State/Federal agency. Reviews of protests by the Federal agency will be limited to:
    i. Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
    ii. Violations of the provider's or sub-provider's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the provider or sub-provider.

2. Competition.

a. All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36 (as quoted in this section). Some of the situations considered to be restrictive of competition include but are not limited to:
    i. Placing unreasonable requirements on firms in order for them to qualify to do business,
    ii. Requiring unnecessary experience and excessive bonding,
    iii. Noncompetitive pricing practices between firms or between affiliated companies,
    iv. Noncompetitive awards to consultants that are on retainer contracts,
    v. Organizational conflicts of interest,
    vi. Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and,
    vii. Any arbitrary action in the procurement process.

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b. The City of Texarkana will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws.

c. Providers will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

   i. Incorporate a clear and accurate description of the technical requirements for the service to be procured. Such description shall not, in competitive procurements, contain features, which unduly restrict competition. The description may include a statement of the qualitative nature of the service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.

   ii. Identify all requirements that the offerors must fulfill and all other factors to be used in evaluating proposals.

d. The City of Texarkana will ensure that all prequalified lists of persons, firms, or products which are used in acquiring services are current and include enough qualified sources to ensure maximum open and free competition. Also, the City precludes potential bidders from qualifying during the solicitation period.

3. Methods of procurement to be followed

a. Procurement by **competitive proposals:** The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-cost or cost-reimbursement type contract is awarded. If this method is used, the following requirements apply:

   i. The City issues Notices of Intent/Request for Qualifications (NOI/RFQ) or advertisement.
   ii. The City receives Letters of Interest/Statements of Qualifications (LOI/SOQ).
   iii. The City performs screenings/evaluations of LOIs/SOQs and related correspondence.
   iv. The City issues invitations to providers selected for interviews.
   v. The City conducts evaluations of interviewed providers.
   vi. The City notifies highest-ranked provider and requests scope, manhour and cost proposal.
   vii. The City reviews proposal from highest ranked proposer and negotiates contract.
   viii. All state and federal required contract clauses must be included in contract.
   ix. The City and selected provider execute contract.
   x. The City submits copy of Professional Services Contract to TxDOT.

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xi. The City sends letters/correspondence to provider(s) not selected.
xii. The City retains documentation indicating a qualifications-based procurement process for retention period stated in the project AFA.

b. Procurement by **noncompetitive proposals** is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

i. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies,
   A. The item is available only from a single source,
   B. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation,
   C. The awarding agency authorizes noncompetitive proposals,
   D. After solicitations of a number of sources, competition is determined inadequate.
ii. Cost analysis, i.e., verifying the proposed cost data, the projection of the data, and the evaluation of the specific elements of costs and profits, is required.
iii. The City may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

4. Contracting with DBE/HUB firms.

a. The provider and sub-provider will take all necessary affirmative steps to assure that Disadvantaged Business Enterprise/Historically Utilized Business (DBE/HUB) firms, and labor surplus area firms are used when possible.
b. Affirmative steps shall include:
   i. Placing qualified DBE/HUBs on solicitation lists,
   ii. Assuring that DBE/HUBs are solicited whenever they are potential sources,
   iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBE/HUBs,
   iv. Meet DBE/HUB goal,
   v. Requiring the prime consultant, if subconsultants are to be let, to take the affirmative steps listed in paragraphs (4)(b) (i.) through (v) of this section.

(a) Contract cost.

1. The City of Texarkana must perform a cost analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, providers must make independent estimates before receiving

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bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of their estimates cost, e.g., under professional, consulting, and architectural engineering service contracts. A cost analysis will be necessary when adequate cost competition is lacking, and for sole source cost, including contract modifications.

2. The City of Texarkana will negotiate profit as a separate element of the cost for each contract in which there is no cost competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the consultant, the consultant's investment, the amount or sub consulting, the quality of its record of past performance, and industry profit rates.
3. Costs based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred, or cost estimates included in negotiated costs are consistent with Federal cost principles (see Sec. 85.22). Providers may reference their own principles that comply with the applicable Federal cost principles.

(b) Awarding agency review.

1. The City of Texarkana must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:
   i. A provider's or sub-provider's procurement procedures or operation fails to comply with the procurement standards in this section, or
   ii. The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation, or
   iii. The procurement, which is expected to exceed the simplified acquisition threshold, or
   iv. A proposed contract modification changes the scope of the contract or increases the contract amount by more than the simplified acquisition threshold.
   v. A provider or sub-provider may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(c) Contract Provisions.

State/Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by State/

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Federal Procurement Policies. A provider's and sub-provider's contracts must contain the following provisions:

1. Administrative, contractual, or legal remedies in instances where consultant violate or breach contract terms and provide for such sanctions and penalties as may be appropriate. (contracts more than the simplified acquisition threshold).
2. Termination for cause and for convenience by the provider and sub-provider including the manner by which it will be affected and the basis for settlement. (All contracts in excess of $10,000.)
3. Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 3, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000)
4. Notice of awarding agency requirements and regulations pertaining to reporting.
5. Awarding agency requirements and regulations pertaining to copyrights and rights in data.
6. Access by the provider, the sub-provider, the Federal grantor agency, the Comptroller General of the United States, or any of its duly authorized representatives to any books, documents, papers, and records or the consultants which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
7. Retention of all required recorded for three years after providers or sub-providers make final payments and all other pending matters are closed.
8. Errors and Omissions may arise during the design phase of a project, during construction of a project, or after project completion as a contractor claim. The City will document said error or omission and notify in writing the provider. The consultant will be expected to be available to make requested revisions (at cost to the consultant) to the plans if the error or omissions is identified to be the responsibility of the consultant. If the responsibility is other than the consultant's error or omission, arrangements will be made within the City to handle the design correction with by additional compensation to the consultant or with internal resources.

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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:

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RESOLUTION NO. 2022-006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE CITY'S PURCHASING POLICY MANUAL; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Texarkana, Texas, maintains a purchasing policy manual that outlines the procedures to follow when making purchases on behalf of the City; and

WHEREAS, the policy manual is established to conduct all purchasing in accordance with Texas Local Government Code Chapter 252, State Law, and the City Charter; ensure that public funds are safeguarded; ensure that public spending is not used to enrich elected officials or government employees, or confer favors on favored constituents; and to keep emergency purchases to a minimum.

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, approves the amended Purchasing Policy Manual **(Exhibit "A")**.

SECTION 2: 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 **28th day of February, 2022**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:34 p.m.

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City of Texarkana, Texas
Purchasing Policy Manual

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Objectives

- To conduct all Purchasing in accordance with Texas Local Government Code Chapter 252, State Law, and the City of Texarkana, Texas City Charter.
- To ensure that public funds are safeguarded.
- To ensure that public spending is not used to enrich elected officials or government employees, or to confer favors on favored constituents.
- To keep Emergency Purchases to a minimum.

Invitation for Bids (IFB)

Informal sealed bids are those that are sent out to solicit bids that will be returned and opened at a specified time and place. They will be posted and advertised. Bids may be received electronically if systems are in place that prevent viewing before the specified bid opening date and time.

Substantial Revisions – Materials

"Bidding presupposes that due advertisement, giving opportunity to bid, and contemplates a bidding on the same undertaking upon each of the same material items covered by the Contract, upon the same thing. It requires that all bidders be placed upon the same plan of equality and that they each bid upon the same terms and conditions involved in all the items and parts of the contract, and the proposal specify as to all bids the same or substantially similar specifications" – Attorney General Opinion MW-296

When a substantial revision is needed, notification will be sent to all known participating vendors and posted to the City's website.

Competitive Bidding – Awards

The City of Texarkana, Texas shall award contracts based on best interest and in accordance with State Law. Texas Local Government Code, Section 252.043, states, in part:

- *If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods and services at the best value for the municipality.*
- *Before awarding a contract under this section, a municipality must indicate in the bid specification and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.*

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Preference for Local Business – Buy Local

The City supports small business initiatives throughout the year including Small Business Saturday, the Shop TXK program and partnership with the Northeast Texas Small Business Development Center (SBDC). Keeping purchases local and spending public tax dollars close by helps to stimulate our local economy. **City staff are strongly encouraged to seek local sources for all purchases while considering the best price for public goods and services.**

Bidding Preference

- Tie Bids – Identical bids
  - If two or more bidders submit identical bids; ***and***
  - If only one of the bidders is a business resident of Texarkana, Texas, ***then***
    - that bidder must be selected.
- Tie Bids – Identical Bids – (2) or more City Residents
  - If two or more bidders submit identical bids; ***and***
  - Both bidders are business residents of Texarkana, Texas, ***then***
    - Selection must be made by flip of a coin
- Tie Bids – Non-Resident
  - If two or more bidders submit identical bids; ***and***
  - Neither bidder is a business resident of Texarkana, Texas, ***then***
    - Selection is made by flip of a coin.
- Tie Bids – $50,000.00 or above
  - If two or more bidders submit identical bids; ***and***
  - The contract award amount is $50,000.00 or above, ***then***
    - Selection is made by flip of a coin *in the presence of City Council*

In any of these "tie bids" situations, nothing prohibits the City from rejecting all bids.

Other provisions that allow for the consideration of a bidder's principal place of business when the City awards a contract:

Local Government Code § 271.905

Sec. 271.905. CONSIDERATION OF LOCATION OF BIDDER'S PRINCIPAL PLACE OF BUSINESS.

(a) In this section, "local government" means a municipality, a county, or another political subdivision authorized under this title to purchase real property or personal property that is not affixed to real property. The term does not include a school district.

(b) In purchasing under this title any real property or personal property that is not affixed to real property, if a local government receives one or more bids from a bidder whose principal place of business is in the local government and whose bid is within three percent of the lowest bid price

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received by the local government from a bidder who is not a resident of the local government, the local government may enter into a contract with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government.

(c) This section does not prohibit a local government from rejecting all bids.

Local Government Code § 271.9051

CONSIDERATION OF LOCATION OF BIDDER'S PRINCIPAL PLACE OF BUSINESS IN CERTAIN MUNICIPALITIES.

(a) This section applies only to a municipality that is authorized under this title to purchase real property or personal property that is not affixed to real property.

(b) In purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received by the municipality from a bidder who is not a resident of the municipality, the municipality may enter into a contract for construction services in an amount of less than $100,000 or a contract for other purchases in an amount of less than $500,000 with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

(c) This section does not prohibit a municipality from rejecting all bids.

(d) This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.

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Request for Proposals (RFP)

Formal solicitation used primarily for specified goods or services for which the requirements are not easily determined and may not result in an exact comparison of offers.

Request for Information (RFI)

Sometimes used as the first step in the RFP process. The solicitation is used to extract information concerning the product or services being sought. This process may or may not solicit pricing. If pricing is considered, it would only be of budgetary interest since a IFB or RFP would follow.

Request for Qualifications (RFQ)

Solicitation made to secure professional services within the scope of practice, as defined by state law. Proposals are evaluated based on the vendor's statement of qualifications. After the highest evaluated proposal is determined, the City will enter price negotiations.

Professional Services

Personal and professional services are exempted from the competitive bidding process and are procured through Request for Qualification documents or Request for Proposal.

Texas Local Government Code Chapter 2254.003 States:

A Government entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award on the basis of demonstrated competence of qualifications to perform the service, and for a fair and reasonable price.

(a) The professional fees under the contract may not exceed any maximum provided by law.

Texas Local Government Code § 2254.002 states "Professional Services" means Services:

(a) Within the scope of the practice as defined by state law of:

- *(i) Accounting;*
- *(ii) Architecture;*
- *(iii) Landscape Architecture;*
- *(iv) Land Surveying;*
- *(v) Medicine;*
- *(vi) Optometry;*
- *(vii) Professional engineering;*
- *(viii) Real Estate Appraising; or*
- *(ix) Professional Nursing; or*

(b) Provided in connection with the professional employment or practice of a person who is licensed or registered as:

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(i) A certified public accountant
(ii) An architect;
(iii) A landscape architect;
(iv) A land surveyor;
(v) A physician, including a surgeon;
(vi) An optometrist;
(vii) A professional engineer;
(viii) A state certified or state licensed real estate appraiser; or
(ix) A registered nurse

Emergency Purchases

Texas statutes generally allow the local government to make emergency purchases without competitive bidding as per Texas Local Government Code § 252.022 "General Exemptions". A political subdivision is generally exempted from competitive bidding if:

- In the case of public calamity, the prompt purchase of items is required to provide for the needs of the public or to preserve the property of the political subdivision.
- The item is necessary to preserve or protect the health or safety of residents of the political subdivisions; or
- The item is made necessary by unforeseen damage to public property.

Emergency Purchases During Office Hours

In the event an emergency is of such a nature that there is no time to prepare a purchase order, be prepared to provide the following information to the Purchasing Administrator by phone or email.

- Responding Vendor Name
- Vendor payment arrangement
- Description of the item or service required. (best of knowledge)
- Estimate of costs

Emergency Purchases After Office Hours

If an emergency arises after normal office hours, the department should take whatever action is necessary to make appropriate repairs and notify the Purchasing Administrator the next business day.

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Sole Source Purchase

The legislature also exempted procurement of certain items from sealed bidding in Texas Local Government Code § 252.022(7) that are available from only one source, including:

(A) Items that are available from only one source because of patents, copyrights, secret process, or natural monopolies;

(B) Films, manuscripts or books;

(C) Gas, water, and other utility services;

(D) Captive replacement parts or components for equipment;

(E) Books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and

(F) Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.

Written justification for sole source purchases must be provided in advance for review and approval.

Cooperative Purchases

Occurs when two or more governmental entities coordinate some or all purchasing efforts to reduce cost, take advantage of quantity discounts, share specifications, or create a heightened awareness of legal requirements.

- Inter-local agreement purchases
- State contract purchases
- Piggybacking
- Joint purchases

Annual Supply Contract

The City of Texarkana, Texas often purchases certain items throughout the year. To receive discount prices and provide a coordinated and organized purchase of routine and commonly used items, similar items can be combined and bid as an annual supply contract.

Historically Underutilized Business (HUBS)

A municipality, in making an expenditure of more than $3,000 but less than $50,000 shall contact at least two (2) disadvantaged businesses on a rotating basis, in accordance with Texas Government Code Chapter 2161, 1 TAC § 111.21, and 34 TAC Part 1, Ch. 20, Subchapter B (relating to the Historically Underutilized Business Program). *If the list fails to identify a disadvantaged business in the **county** in which the city is situated, the City is exempt from this section.* A listing for Bowie County is located at G:\Swap Folder\Purchasing.

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Disclosures

Access to bidder-declared trade secrets or confidential information shall be in accordance with the Texas Government Code Chapter 552, the Public Information Act, and the applicable City Policies.

Texas Local Government Code § 252.049(b) states:

If provided in a request for proposals, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

Texas Local Government Code § 2252.908 states:

Disclosure of Interested Parties

(a) in this section:

(1) "Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation.

(2) "Governmental entity" means a municipality, county, public school district, or special-purpose district or authority.

(3) "Interested party" means a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity.

(4) "State agency" means a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code.

(b) This section applies only to a contract of a governmental entity or state agency that:

(1) requires an action or vote by the governing body of the entity or agency before the contract may be signed;

(2) has a value of at least $1 million; or

(3) is for services that would require a person to register as a lobbyist under Chapter 305.

(c) Notwithstanding Subsection (b), this section does not apply to:

(1) a sponsored research contract of an institution of higher education;

(2) an interagency contract of a state agency or an institution of higher education;

(3) a contract related to health and human services if:

(A) the value of the contract cannot be determined at the time the contract is executed; and

(B) any qualified vendor is eligible for the contract;

(4) a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity;

(5) a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code; or

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(6) a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code.

(d) A governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.

(e) The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission that includes:

(1) a list of each interested party for the contract of which the contracting business entity is aware; and

(2) a written, unsworn declaration subscribed by the authorized Administrator of the contracting business entity as true under penalty of perjury that is in substantially the following form:

"My name is _____, my date of birth is _____, and my address is

_____, _____, _____, _____,

(Street) (City) (State) (Zip Code)

_____. I declare under penalty of perjury that the foregoing is true and correct.

(Country)

Executed in _____ County, State of _____, on the _____ day of _____, _____.

(Month) (Year)

_____

Declarant".

(f) Not later than the 30th day after the date the governmental entity or state agency receives a disclosure of interested parties required under this section, the governmental entity or state agency shall submit a copy of the disclosure to the Texas Ethics Commission.

(g) The Texas Ethics Commission shall adopt rules necessary to implement this section, prescribe the disclosure of interested parties form, and post a copy of the form on the commission's Internet website.

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Form 1295

The Texas Ethics Commission has generated a Form 1295 which requires the disclosure of each interested party (as defined by the Ethics Commission Rules). The law applies to a contract of a governmental entity that either:

(1) Requires an action or vote by the governing body of the entity before the contract may be signed (unless delegated – Section 461. TEC Rules)

(2) Has a value of at least $1 million.

Enforcement

Texas Local Government Code

Sec. 252.061. INJUNCTION.

If the contract is made without compliance with this chapter, it is void and the performance of the contract, including the payment of any money under the contract, may be enjoined by:

(1) any property tax paying resident of the municipality; or

(2) a person who submitted a bid for a contract for which the competitive sealed bidding requirement applies, regardless of residency, if the contract is for the construction of Public Works.

Sec. 252.062. CRIMINAL PENALTIES.

(a) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B misdemeanor.

(b) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described by Subsection (a). An offense under this subsection is a Class B misdemeanor.

(c) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described by Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

Sec. 252.063. REMOVAL; INELIGIBILITY.

(a) The final conviction of a municipal officer or employee for an offense under Section 252.062(a) or (b) results in the immediate removal from office or employment of that person.

(b) For four years after the date of the final conviction, the removed officer or employee is ineligible:

(1) to be a candidate for or to be appointed or elected to a public office in this state;

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(2) to be employed by the municipality with which the person served when the offense occurred; and

(3) to receive any compensation through a contract with that municipality.

(c) This section does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

New Vendor Set Up

- Prior to issuance of a purchase order, vendor data must be entered into the financial software and a unique vendor number assigned for all new vendors. A completed New Vendor Packet and W-9 must be furnished to the Purchasing Administrator by the requesting department. Established vendors that wish to change banking information must complete a Request to Change Vendor Banking Information Form with the Finance Department. Finance staff must follow a two-step authentication process with final approval of all banking changes by the Assistant CFO or CFO.

Purchasing Authority – Who has it?

- The City Manager shall sign all contracts.
- The Purchasing Administrator shall have signature authority for all purchase orders from $0.01 to $49,999.99.
- The Contracts Administrator shall have signature authority for all purchase orders from $50,000.00 and above.

Monetary Purchasing Guide

- **$0.01 - $2,999.99**
  - Employees should use a department purchasing card or utilize the Purchase Order process.
  - Department Directors have discretion regarding the purchase of goods or services within this range.
  - Competitive quotes are strongly encouraged.
  - Oversight and approval provided by the Department Director.

- **$3,000 - $49,999.99 - Quotes**
  - A formal request for purchase through Springbrook is REQUIRED.

    A record of request originating in the user department, and an approval of encumbered funds issued by the finance department, must be maintained through the Purchase Order Approval module of Springbrook.
  - Must obtain three written quotes.
    - Quotes must contain Vendor Name, Phone Number & Physical Address.

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- Quotes must be itemized by goods or services with the quantity and price of each clearly stated.
- Effective dates of the quote.
- If unable to obtain three quotes, documentation such as email correspondence noting "Unable to Quote" will need to be provided with the Department's backup documentation and a Purchasing Exemption Form will need to be completed.

- Unless an exemption is identified or a HUB is unavailable, two (2) of the three (3) written quotes must be formally requested from a vendor on the HUB list furnished by the Texas Comptroller of Public Accounts and located at G:\Swap Folder\Purchasing.
- The City awards on the lowest quote obtained.
- Once a selection is made; the awarded quote shall be sent first to the Purchasing Administrator, along with backup documentation (other quotes obtained) and a Purchasing Exemption Form, if applicable.
- Purchasing Exemption Forms shall be used in each Department's backup documentation if any of the following apply:
  - Unable to obtain three (3) quotes (along with supporting documentation showing that an attempt was made);
  - co-operative purchasing agreement, established contract, or interlocal agreement;
    - If using a State of Texas Coop Contract; the Coop, Contract Number, and (if applicable) expiration date of Contract will need to be provided in your documentation to the Purchasing Administrator.
  - a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;
  - a procurement necessary to preserve or protect the public health or safety of the municipality's residents;
  - a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
  - advertising, other than legal notices;
  - a procurement for personal, professional, or planning services;
  - a procurement for work that is performed and paid for by the day as the work progresses;
  - a purchase of land or a right-of-way;
  - services performed by blind or severely disabled persons;
  - goods purchased by a municipality for subsequent retail sale by the municipality;
  - electricity;
  - a procurement of items that are available from only one source;

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- a purchase of rare books, papers, and other library materials for a public library;
- paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
- a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
- a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;
- personal property sold:
  - at an auction by a state licensed auctioneer;
  - at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;
  - by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or
  - under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

- Once the Purchasing Administrator has approved the Purchase, the requesting department may begin their Purchase Order request through Springbrook.
- After the Department's Director or Designated Person has approved the Purchase Order through Springbrook, it will then flow to the Purchasing Administrator for final approval. A purchase order signed by the Purchasing Administrator gives the requesting department authority to notify the vendor and proceed with the purchase.

- *****If using Buy Board as your Coop Contract, please note there are a few additional steps to complete the buying process.*****
  1.) Quote from vendor will need to reflect Buy Board contract and number.
  2.) After Purchase Order has been created it will need to be submitted to Buy Board through their email at; info@buyboard.com
  3.) Buy Board will send the Purchase Order directly to the Vendor on the City's behalf. *(This is the ONLY way the City will receive the credited discounts on Purchases)*

- **$50,000.00 & Above – Competitive Bidding**
  - Submit your need and budget to the Contracts Administrator.

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- If the permitted budget has received prior approval, an existing City Contract, Coop Contract, etc. may be used if available.
- Development of specifications between Department and Contracts Administrator.
- Specification must be written so that it will not be restrictive to a specific manufacturer or supplier.
- Advertisement for requested Bid for two (2) consecutive weeks prior to Bid closing.
- Post Bid on the City's website for the duration of the Bidding process.
- Receive Bids until a designated future date and time (identified in the specifications).
- Open and review bids for compliance.
- Competitive Bidding process will be awarded on lowest cost for the City and/or highest evaluation on qualifications.
- Bidding Tabulation shall be posted on the City's website and sent out to all participating Vendors and/or Firms.
- Once an award is decided; the awarded Proposal shall be presented before the City Council for final approval.
- Once approval is obtained from the Contracts Administrator and the City Council, the requesting department may begin the Purchase Order request through Springbrook.
- After the Department's Director or Designated Person has approved the Purchase Order through Springbrook, it will then flow to the Contracts Administrator for final approval. A purchase order signed by the Contracts Administrator gives the requesting department authority to notify the vendor and proceed with the purchase.

<u>Exception</u>: Texarkana Metropolitan Planning Organization ("MPO")

The City acts as Fiscal Agent for the MPO pursuant to interlocal agreements. The City's fiscal budget includes estimates of City expenditures relating to anticipated contracts and commitments of the MPO. While the City Council approves the annual budget and any amendments to the budget, the MPO makes contracts in its own name and generally follows and implements the City's purchasing policies. When the MPO Policy Committee approves a specific contract within the fiscal and subject matter limits of the City Council's approved current fiscal year budget, and provided that sufficient funds are available to fund the payment requests, receipt of documentation of the Committee's approval of said contract shall authorize City personnel to prepare and sign documentation consistent with City policy and practices for disbursement of funds, including checks within and up to the contract amount according to the contract terms. (This section is an exception to the general

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purchasing policy requiring the pre-approval of the City Council for expenditures equaling or exceeding $50,000.00.) [Ord. No. 2021-019, eff. 3-22-2021.]

Purchase Order Exemptions

The following expenditures do not require a purchase order to be generated:

- Travel
- Training & Registration
- Payroll Related Liabilities
- Bank Fees and Services.
- Pension Payments
- Reimbursements or Refunds

Purchase Order "Not to Exceed"

If the scope of work cannot be accurately described and quoted prior to beginning services OR a piece of equipment must be dismantled in order to assess repair, only one quote is required; HOWEVER, the requesting department must submit a Purchase Order Approval Request containing a not to exceed clause.

"***This purchase order has been issued to (vendor information) to repair (identify equipment using unique characteristics or property using address). Repair costs are not exact but shall not exceed ($_,___.__) without obtaining prior authorization from Department Directors and the Finance Department."***

Change Order – General

A Change Order is required when:

- Change in plans or specifications are necessary.
- It is necessary to decrease or increase the quantity of work to be performed.
- It is necessary to decrease or increase the quantity of materials, equipment or supplies to be furnished.
- Change orders that are not associated with a contract and are less than $50,000 may be approved by the Purchasing Administrator.

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Change Order – Contracts

A Change Order to a Contract is required when:

- Change in plans or specifications are necessary after the performance of the Contract has begun.
- It is necessary to decrease or increase the quantity of work to be performed.
- It is necessary to decrease or increase the quantity of materials, equipment or supplies to be furnished.
- Original price may not be increased more than 25%
- Original price may not be decreased more than 25% without written consent from the awarded contractor.

Change Orders in the amount of $49,999.99 or less must be requested in writing and executed by the following:

- Contractor
- Department Director
- Public Works Director
- Chief Financial Officer
- City Manager

Change Orders in the amount of $50,000 or more must be pre-approved by City Council prior to authorizing work. Required signatures on written request:

- Contractor
- Department Director
- Public Works Director
- Chief Financial Officer
- City Manager
- Mayor

Executed Change Order requests should be forwarded to the Contracts Administrator within (1) one week of execution.

Receiving and Inspection

- Must be inspected by the requesting department.
    - Verification of correct items and quantities.
    - Check for damaged or defective goods.
    - Must mark all returns on original packing slip.
- Requesting department must electronically receive items in Springbrook.
    Returned or delayed items should not be electronically received.

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Invoices

- Itemized statement of merchandise or a service provided.
- Must contain Invoice Number, Bill Date & Remittance Address.
- Must be attached to an approved Purchase Order and submitted to the Finance Department no later than 10 business days after the invoice is received.

Payment for Goods and Services

- For compliance with the Government Code and to avoid interest and penalties, all approved invoices must be sent to the Finance Department no later than 10 business days after invoice is received.

Government Code § 2251.021 applies to all state agencies and political subdivisions, including counties and cities. This section requires that entities pay all payments owed not later than thirty (30) days after the goods or services have been received, OR the date that the invoice was received, whichever is later.

Petty Cash

- Assigned to authorized department employees annually.
  (Must have an acceptance of petty cash custody form on file in the Finance Department.)
- Must be kept in a locking box in a secured desk, cabinet or safe.
- $50.00 maximum expenditure for unforeseen or unplanned circumstance. Reimbursement request by voucher.
  - Amount of request
  - Date of purchase
  - Description of purchase
  - GL Account Number
  - Signature of requesting employee
  - Signature of department supervisor
  - Present voucher slip and original sales receipt to petty cash custodian.
- Advance Request
  - Amount of Request
  - Date of expected purchase
  - Description of purchase
  - GL Account Number
  - Signature of requesting employee
  - Signature approval of department supervisor
  - Present approved Cash Advance voucher to petty cash custodian.
  - An original sales receipt must be turned into custodian within 72 hours of advance request.

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- All petty cash boxes will be audited on an annual basis.

Due to the unanticipated nature of work conducted in Police CID, Narcotics, SIU & POP TEAM departments, the maximum expenditure stated above does not apply to employees assigned to these units.

Credit Card Purchases

- Assigned to certain approved employees throughout various departments. *(A Cardholder Purchasing Card Agreement must be on file with the Finance Department)*
- May only be used by the authorized user.
- $2,999.99 maximum use.
    - Contact the Purchasing Administrator for an increased temporary transaction limit. Any increase must be approved by the Purchasing Administrator and the Department Director.
- Original detailed sales receipts required.
- Monthly expense report must be completed by cardholder and signed by his/her supervisor each month. Signed expense report and receipts should be scanned into the Credit Card folder on the swap drive. Original paper documentation should then be forwarded to the Finance Department.

Card Holder Responsibilities

- Use the Purchasing Card for legitimate business purposes only.
- Always maintain the Purchasing Card in a secure location.
- Do not allow other individuals to use Purchasing Card.
- Adhere to the purchase limits and restrictions of the Purchasing Card.
- NEVER split purchases to avoid the $2,999.99 threshold.
- Obtain a detailed sales receipt for all purchases.
- Coordinate returns and refunds directly with suppliers.
- Immediately notify the Department Director and Purchasing Administrator of a Lost, Stolen or Compromised card.
- Return the Purchasing Card to the Purchasing Administrator upon terminating employment with the City of Texarkana, Texas.

Tax Exempt Certificate

The City of Texarkana Texas is exempt from paying all local sales tax, state sales tax, and federal excise tax. When it is necessary to provide a vendor with a copy of an exemption certificate, contact the Purchasing Administrator.

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Salvage & Surplus Property

- The transfer of personal property within city departments is allowed. Please fill out an Asset Transfer Form and return to the Purchasing Administrator.
- The sale of personal property, at Fair Market Value or another agreed amount, to another Government Entity is allowed without sealed bids or an auction. Please fill out a Sales Request Form and turn into the Purchasing Administrator.
- The Purchasing Administrator has the authority to declare personal property obsolete or surplus. Council approval is not required. Assets shall be disposed of through public auction, sealed bids or any other method determined to be in the best interest of the City.
- Disposing departments shall make all necessary arrangements for the disposal of surplus items.

Salvage and Surplus property are identified by the following:

Texas Local Government Code 2175.001

(3) "Salvage Property" means personal property that through use, time or accident is so damaged, used or consumed that it has no value for the purpose for which it was originally intended.

(4) "Surplus Property" means personal property that exceed a state agency's needs and is not required for the agency's foreseeable needs. The term includes used or new property that retains some usefulness for the purpose for which it was intended of for another purpose.

Handling & Disposition of 3rd party's personal property

The precise way a City may handle and dispose of a 3rd party's personal property depends on state law, city charter, and local policies or ordinances. Please submit an itemized list to the Purchasing Administrator for research and compliance regulation.

The following is a partial example of State Law Regulations:

- Contraband that has been forfeited – Texas Code of Criminal Procedure, Chapter 59
- Treatment & Disposition of Impounded Animals – Texas Health and Safety Code, Chapter 821
- Abandoned personal property valued at Over $100 – Texas Property Code, Chapter 74
- Abandoned personal property valued at less than $100 – Texas Property Code, Chapter 76
- Abandoned Junk or Motor Vehicles – Texas Transportation Code, Chapter 683.

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Disciplinary Actions

Non-Compliance with any part of this Purchasing Policy Manual may result in disciplinary action, up to and including termination. Misuse and/or abuse, including inappropriate or improper purchases, will be dealt with as follows:

1st Violation – Department Director

The Department Director is responsible for determining if the employee should be individually responsible for non-compliant activity, if the individual should retain purchasing privileges, and if any disciplinary action will be taken.

2nd Violation – Purchasing Administrator and Chief Financial Officer

The Purchasing Administrator, with approval from the Chief Financial Officer, will determine if the individual will continue purchasing privileges, and the employee's department Director will determine disciplinary action.

3rd Violation – Chief Financial Officer and City Manager

The Purchasing Administrator will suspend all employee purchasing privileges and will refer the matter to the Chief Financial Officer and the City Manager's office for disciplinary determination up to and including termination of employment of the employee.

Repeated non-compliance of any part of this Purchasing Policy Manual is a direct result of minimum or no purchasing supervision. On the 3rd violation of the same employee, the Purchasing Administrator, Chief Financial Officer and City Manager will decide if Purchasing Privileges will be revoked ***for a department or division of a department (as applicable).*** This includes signature purchasing authority, department credit cards and payment authorizations. If revoked, these duties will be turned over to the Purchasing Administrator for oversight.

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Procurement Policy for Transportation Projects

Approved by the Texas Department of Transportation (TXDOT) on January 14, 2022

1. Procurement Standards.

   a. The City of Texarkana will use its own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
   b. The City of Texarkana will maintain a contract administration system which ensures that consultants perform in accordance with the terms, conditions, and specifications of its contracts.
   c. The City of Texarkana will maintain a written code of standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer or agent of the provider or sub-provider shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
      i. The employee, officer or agent,
      ii. Any member of his immediate family,
      iii. His or her partner, or
      iv. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

      The provider's or sub-provider's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from consultants, potential consultants, or parties to sub-agreements. 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 or such standards by the provider's or sub-provider's officers, employees, or agents, or by consultants or its agents. The awarding agency may in regulation provide additional prohibitions relative to real apparent or potential conflicts of interest.

   d. To foster greater economy and efficiency, the City will enter into State and local intergovernmental agreements for procurement of services.
   e. The City of Texarkana will make awards only to responsible consultants possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as consultant integrity, compliance with public policy, record of past performance, and financial and technical resources.
   f. The City of Texarkana will maintain records sufficient to detail the significant history of procurement. These records will include but are not necessarily limited to the

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following: rationale for the method of procurement, selection of contract type, consultant selection or rejection, and the basis for the contract cost.

g. The City of Texarkana alone will be responsible, in accordance with good administrative practice and sound business judgement, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the provider or sub-provider of any contractual responsibilities under its contracts. Federal agencies will not substitute its judgement for that of the provider or sub-provider unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

h. The City of Texarkana will have protest procedures to handle and resolve disputes relating to its procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protester must exhaust all administrative remedies with the provider and sub-provider before pursuing a protest with the State/Federal agency. Reviews of protests by the Federal agency will be limited to:

   i. Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

   ii. Violations of the provider's or sub-provider's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the provider or sub-provider.

2. Competition.

a. All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 85.36 (as quoted in this section). Some of the situations considered to be restrictive of competition include but are not limited to:

   i. Placing unreasonable requirements on firms in order for them to qualify to do business,

   ii. Requiring unnecessary experience and excessive bonding,

   iii. Noncompetitive pricing practices between firms or between affiliated companies,

   iv. Noncompetitive awards to consultants that are on retainer contracts,

   v. Organizational conflicts of interest,

   vi. Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and,

   vii. Any arbitrary action in the procurement process.

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b. The City of Texarkana will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws.

c. Providers will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

   i. Incorporate a clear and accurate description of the technical requirements for the service to be procured. Such description shall not, in competitive procurements, contain features, which unduly restrict competition. The description may include a statement of the qualitative nature of the service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.

   ii. Identify all requirements that the offerors must fulfill and all other factors to be used in evaluating proposals.

d. The City of Texarkana will ensure that all prequalified lists of persons, firms, or products which are used in acquiring services are current and include enough qualified sources to ensure maximum open and free competition. Also, the City precludes potential bidders from qualifying during the solicitation period.

3. Methods of procurement to be followed

a. Procurement by **competitive proposals:** The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-cost or cost-reimbursement type contract is awarded. If this method is used, the following requirements apply:

   i. The City issues Notices of Intent/Request for Qualifications (NOI/RFQ) or advertisement.
   ii. The City receives Letters of Interest/Statements of Qualifications (LOI/SOQ).
   iii. The City performs screenings/evaluations of LOIs/SOQs and related correspondence.
   iv. The City issues invitations to providers selected for interviews.
   v. The City conducts evaluations of interviewed providers.
   vi. The City notifies highest-ranked provider and requests scope, manhour and cost proposal.
   vii. The City reviews proposal from highest ranked proposer and negotiates contract.
   viii. All state and federal required contract clauses must be included in contract.
   ix. The City and selected provider execute contract.
   x. The City submits copy of Professional Services Contract to TxDOT.

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xi. The City sends letters/correspondence to provider(s) not selected.
xii. The City retains documentation indicating a qualifications-based procurement process for retention period stated in the project AFA.

b. Procurement by **noncompetitive proposals** is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

i. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies,
   A. The item is available only from a single source,
   B. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation,
   C. The awarding agency authorizes noncompetitive proposals,
   D. After solicitations of a number of sources, competition is determined inadequate.
ii. Cost analysis, i.e., verifying the proposed cost data, the projection of the data, and the evaluation of the specific elements of costs and profits, is required.
iii. The City may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

4. Contracting with DBE/HUB firms.

a. The provider and sub-provider will take all necessary affirmative steps to assure that Disadvantaged Business Enterprise/Historically Utilized Business (DBE/HUB) firms, and labor surplus area firms are used when possible.
b. Affirmative steps shall include:
   i. Placing qualified DBE/HUBs on solicitation lists,
   ii. Assuring that DBE/HUBs are solicited whenever they are potential sources,
   iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBE/HUBs,
   iv. Meet DBE/HUB goal,
   v. Requiring the prime consultant, if subconsultants are to be let, to take the affirmative steps listed in paragraphs (4)(b) (i.) through (v) of this section.

(a) Contract cost.
1. The City of Texarkana must perform a cost analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, providers must make independent estimates before receiving

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bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of their estimates cost, e.g., under professional, consulting, and architectural engineering service contracts. A cost analysis will be necessary when adequate cost competition is lacking, and for sole source cost, including contract modifications.

2. The City of Texarkana will negotiate profit as a separate element of the cost for each contract in which there is no cost competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the consultant, the consultant's investment, the amount or sub consulting, the quality of its record of past performance, and industry profit rates.
3. Costs based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred, or cost estimates included in negotiated costs are consistent with Federal cost principles (see Sec. 85.22). Providers may reference their own principles that comply with the applicable Federal cost principles.

(b) Awarding agency review.

1. The City of Texarkana must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:
   i. A provider's or sub-provider's procurement procedures or operation fails to comply with the procurement standards in this section, or
   ii. The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation, or
   iii. The procurement, which is expected to exceed the simplified acquisition threshold, or
   iv. A proposed contract modification changes the scope of the contract or increases the contract amount by more than the simplified acquisition threshold.
   v. A provider or sub-provider may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(c) Contract Provisions.

State/Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by State/

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Federal Procurement Policies. A provider's and sub-provider's contracts must contain the following provisions:

1. Administrative, contractual, or legal remedies in instances where consultant violate or breach contract terms and provide for such sanctions and penalties as may be appropriate. (contracts more than the simplified acquisition threshold).
2. Termination for cause and for convenience by the provider and sub-provider including the manner by which it will be affected and the basis for settlement. (All contracts in excess of $10,000.)
3. Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity", as amended by Executive Order 11375 of October 3, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000)
4. Notice of awarding agency requirements and regulations pertaining to reporting.
5. Awarding agency requirements and regulations pertaining to copyrights and rights in data.
6. Access by the provider, the sub-provider, the Federal grantor agency, the Comptroller General of the United States, or any of its duly authorized representatives to any books, documents, papers, and records or the consultants which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
7. Retention of all required recorded for three years after providers or sub-providers make final payments and all other pending matters are closed.
8. Errors and Omissions may arise during the design phase of a project, during construction of a project, or after project completion as a contractor claim. The City will document said error or omission and notify in writing the provider. The consultant will be expected to be available to make requested revisions (at cost to the consultant) to the plans if the error or omissions is identified to be the responsibility of the consultant. If the responsibility is other than the consultant's error or omission, arrangements will be made within the City to handle the design correction with by additional compensation to the consultant or with internal resources.

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City of Texarkana, Texas

Version: B

Briefing Sheet

Update Date: 2/11/2022 10:30 AM

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

Subject: Resolution No. 2022-013 adopting criteria for use in the decennial redistricting process.

Briefing: 2/28/2022 **Public Hearing:** 2/28/2022 **Council Vote:** 2/28/2022

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

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

A review of the 2020 census data reveals that a population imbalance exists requiring redistricting of the City Councilmember wards.

The City Council has certain responsibilities for redistricting City Councilmember wards under federal and state law including but not limited to Amendments 14 and 15 to the United States Constitution, section 2 of the Voting Rights Act, 52 U.S.C. §10301, and Tex. Gov't Code Ann. §§ 2058.001 and 2058.002. The City Council has certain responsibilities for redistricting City Councilmember wards under Article II, Section 1 of the City Charter.

A review of the 2020 census data reveals that a population imbalance exists requiring redistricting of the City Councilmember wards. It is the intent of the City to comply with the Voting Rights Act and with all other relevant law, including *Shaw v. Reno* jurisprudence.

The City Council establishing redistricting criteria will serve as a framework to guide the City in the formulation and consideration of districting plans. Established redistricting criteria will provide the City a means by which to evaluate proposed plans and will assist the City in its efforts to comply with all applicable federal and state laws.

The City of Texarkana, Texas, in its adoption of a redistricting plan for City Councilmember wards, will adhere to the following criteria to the greatest extent possible when establishing new boundaries for Councilmember wards.

A. To the extent practicable:

1. Easily identifiable geographic boundaries should be followed.

2. Communities of interest should be maintained in a single ward, and attempts should be made to avoid splitting neighborhoods.

3. Councilmember wards should be composed of whole voting precincts. Where this is not possible or practicable, wards should be drawn considering county election precincts. Avoid splitting census blocks unless necessary.

4. Although it is recognized that existing wards will have to be altered to reflect new population distribution in the City, any districting plan should be based on existing wards.

5. Wards must be configured so that they are relatively equal in total population according to the 2020 Federal Census. In no event should the total population deviation between the largest and the smallest ward exceed ten percent as compared to the ideal ward size.

6. The wards should be compact and composed of contiguous territory. Compactness may contain a functional, as well as a geographical, dimension.

7. Consideration may be given to the preservation of incumbent-constituency relations by recognition of the residence of incumbents and their history in representing certain areas.

8. The plan should be narrowly tailored to avoid racial gerrymandering in violation of *Shaw v. Reno.*

9. The plan should not fragment a geographically compact minority community or pack minority voters in the presence of polarized voting or otherwise discriminate against protected groups so as to create liability under the Voting Rights Act.

B. The City Council will review all plans considering these criteria and will evaluate how well each plan conforms to the criteria.

C. Any plan submitted to the City Council by a citizen for its consideration should be a complete plan—*i.e.*, it should include all six Councilmember wards and should redistrict the entire City. The City Council may decline to consider any plan that is not a complete plan.

D. All plans submitted by citizens, as well as plans submitted by staff, consultants, and members of the City Council, should conform to these criteria.

Potential Options:

- Approve
- Deny

Fiscal Implications:

None

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. 2022-013 RES Decennial Redistrict Plan Criteria (DOCX)
b. 2022-013 Goals & Perspectives (DOCX)
c. 2022-013 RES Decennial Redistrict Plan Criteria signed (PDF)

Staff Coordination

City Manager	David Orr	Department Head Review	Completed	02/08/2022 8:44 AM
City Manager	David Orr	City Manager Review	Completed	02/08/2022 8:45 AM
City Council	Jennifer Evans	Meeting	Completed	02/14/2022 6:00 PM

Meeting History

RESOLUTION NO. 2022 - 013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ADOPTING CRITERIA FOR USE IN THE DECENNIAL REDISTRICTING PROCESS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has certain responsibilities for redistricting City Councilmember wards under federal and state law including but not limited to Amendments 14 and 15 to the United States Constitution, section 2 of the Voting Rights Act, 52 U.S.C. §10301, and Tex. Gov't Code Ann. §§ 2058.001 and 2058.002; and

WHEREAS, the City Council has certain responsibilities for redistricting City Councilmember wards under Article II, Section 1 of the City Charter; and

WHEREAS, a review of the 2020 census data reveals that a population imbalance exists requiring redistricting of City Councilmember wards; and

WHEREAS, it is the intent of the City to comply with the Voting Rights Act and with all other relevant law, including *Shaw v. Reno* jurisprudence; and

WHEREAS, the City Council establishing redistricting criteria will serve as a framework to guide the City in the formulation and consideration of districting plans; and

WHEREAS, established redistricting criteria will provide the City a means by which to evaluate proposed plans and will assist the City in its efforts to comply with all applicable federal and state laws.

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

SECTION 1: The City of Texarkana, Texas, in its adoption of a redistricting plan for City Councilmember wards, will adhere to the following criteria to the greatest extent possible when establishing new boundaries for Councilmember wards.

A. To the extent practicable:

1. Easily identifiable geographic boundaries should be followed.

2. Communities of interest should be maintained in a single ward, and attempts should be made to avoid splitting neighborhoods.

3. Councilmember wards should be composed of whole voting precincts. Where this is not possible or practicable, wards should be drawn considering county election precincts. Avoid splitting census blocks unless necessary.

Attachment: 2022-013 RES Decennial Redistrict Plan Criteria (3629 : 2022-013 RES Redistricting Criteria Process (2020))

4. Although it is recognized that existing wards will have to be altered to reflect new population distribution in the City, any districting plan should be based on existing wards.

5. Wards must be configured so that they are relatively equal in total population according to the 2020 Federal Census. In no event should the total population deviation between the largest and the smallest ward exceed ten percent as compared to the ideal ward size.

6. The wards should be compact and composed of contiguous territory. Compactness may contain a functional, as well as a geographical, dimension.

7. Consideration may be given to the preservation of incumbent-constituency relations by recognition of the residence of incumbents and their history in representing certain areas.

8. The plan should be narrowly tailored to avoid racial gerrymandering in violation of *Shaw v. Reno.*

9. The plan should not fragment a geographically compact minority community or pack minority voters in the presence of polarized voting or otherwise discriminate against protected groups so as to create liability under the Voting Rights Act.

B. The City Council will review all plans considering these criteria and will evaluate how well each plan conforms to the criteria.

C. Any plan submitted to the City Council by a citizen for its consideration should be a complete plan—*i.e.*, it should include all six Councilmember wards and should redistrict the entire City. The City Council may decline to consider any plan that is not a complete plan.

D. All plans submitted by citizens, as well as plans submitted by staff, consultants, and members of the City Council, should conform to these criteria.

SECTION 2: 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 **28th day of February, 2022.**

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2022-013 RES Decennial Redistrict Plan Criteria (3629 : 2022-013 RES Redistricting Criteria Process (2020))

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: 2022-013 Goals & Perspectives (3629 : 2022-013 RES Redistricting Criteria Process (2020))

RESOLUTION NO. 2022 - 013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ADOPTING CRITERIA FOR USE IN THE DECENNIAL REDISTRICTING PROCESS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has certain responsibilities for redistricting City Councilmember wards under federal and state law including but not limited to Amendments 14 and 15 to the United States Constitution, section 2 of the Voting Rights Act, 52 U.S.C. §10301, and Tex. Gov't Code Ann. §§ 2058.001 and 2058.002; and

WHEREAS, the City Council has certain responsibilities for redistricting City Councilmember wards under Article II, Section 1 of the City Charter; and

WHEREAS, a review of the 2020 census data reveals that a population imbalance exists requiring redistricting of City Councilmember wards; and

WHEREAS, it is the intent of the City to comply with the Voting Rights Act and with all other relevant law, including *Shaw v. Reno* jurisprudence; and

WHEREAS, the City Council establishing redistricting criteria will serve as a framework to guide the City in the formulation and consideration of districting plans; and

WHEREAS, established redistricting criteria will provide the City a means by which to evaluate proposed plans and will assist the City in its efforts to comply with all applicable federal and state laws.

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

SECTION 1: The City of Texarkana, Texas, in its adoption of a redistricting plan for City Councilmember wards, will adhere to the following criteria to the greatest extent possible when establishing new boundaries for Councilmember wards.

A. To the extent practicable:

1. Easily identifiable geographic boundaries should be followed.

2. Communities of interest should be maintained in a single ward, and attempts should be made to avoid splitting neighborhoods.

3. Councilmember wards should be composed of whole voting precincts. Where this is not possible or practicable, wards should be drawn considering county election precincts. Avoid splitting census blocks unless necessary.

Attachment: 2022-013 RES Decennial Redistrict Plan Criteria signed (3629 : 2022-013 RES Redistricting Criteria Process (2020))

4. Although it is recognized that existing wards will have to be altered to reflect new population distribution in the City, any districting plan should be based on existing wards.

5. Wards must be configured so that they are relatively equal in total population according to the 2020 Federal Census. In no event should the total population deviation between the largest and the smallest ward exceed ten percent as compared to the ideal ward size.

6. The wards should be compact and composed of contiguous territory. Compactness may contain a functional, as well as a geographical, dimension.

7. Consideration may be given to the preservation of incumbent-constituency relations by recognition of the residence of incumbents and their history in representing certain areas.

8. The plan should be narrowly tailored to avoid racial gerrymandering in violation of *Shaw v. Reno.*

9. The plan should not fragment a geographically compact minority community or pack minority voters in the presence of polarized voting or otherwise discriminate against protected groups so as to create liability under the Voting Rights Act.

B. The City Council will review all plans considering these criteria and will evaluate how well each plan conforms to the criteria.

C. Any plan submitted to the City Council by a citizen for its consideration should be a complete plan—*i.e.*, it should include all six Councilmember wards and should redistrict the entire City. The City Council may decline to consider any plan that is not a complete plan.

D. All plans submitted by citizens, as well as plans submitted by staff, consultants, and members of the City Council, should conform to these criteria.

SECTION 2: 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 **28th day of February, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:38p.m.

Attachment: 2022-013 RES Decennial Redistrict Plan Criteria signed (3629 : 2022-013 RES Redistricting Criteria Process (2020))

City of Texarkana, Texas

Version: B

Briefing Sheet

Update Date: 2/8/2022 4:47 PM

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

Subject: Resolution No. 2022-012 establishing mandatory guidelines for persons submitting specific redistricting proposals and for requiring written comments.

Briefing: 2/28/2022 **Public Hearing:** 2/28/2022 **Council Vote:** 2/28/2022

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

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

The City Council has certain responsibilities for redistricting City Councilmember wards under federal and state law including but not limited to Amendments 14 and 15 to the United States Constitution, section 2 of the Voting Rights Act, 52 U.S.C. §10301, and Tex. Gov't Code Ann. §§ 2058.001 and 2058.002. Additionally the City Council has certain responsibilities for redistricting City Councilmember wards under Article II, Section 1 of the City Charter.

It is necessary to provide for the orderly consideration and evaluation of redistricting plans which may come before the Council; and these guidelines relate to persons who have specific redistricting plans they wish the Council to consider. The Council also welcomes any comments relevant to the redistricting process.

The City Council, in order to make sure that any comments regarding the redistricting process and any redistricting plan that might be submitted are of maximum assistance to the Council in its decision-making process, hereby proposes the following guidelines to be followed by each person submitting a comment or a redistricting plan for consideration:

1. Proposed plans must be submitted in writing and be legible. If a plan is submitted orally, there is significant opportunity for misunderstanding, and it is possible that errors may be made in analyzing it. The Council wants to be sure that all proposals are fully and accurately considered.

2. Any plan must show the total population and voting age population for African-Americans, Hispanics, Asians, and Anglo/Other for each proposed City Councilmember ward based on the 2020 Census Data. If a plan is submitted without a population breakdown, the Council may not have sufficient information to give it full consideration.

3. Plans should redistrict the entire City of Texarkana, Texas. The City Council will be considering the effect of any plan on the entire City. Any plan is subject to the Voting Rights Act, which protects various racial and language minorities. Thus, as a matter of federal law, the

Council will be required to consider the effect of any proposal on multiple racial and ethnic groups. If a plan does not redistrict the entire City, it may be impossible for the Council to assess its impact on one or more protected minority groups.

4. Plans should conform to the redistricting criteria as established by the City Council in Resolution No. 2022-013, which the Council will be using in drawing the City Councilmember wards.

5. Comments must be submitted in writing and be legible, even if the person also makes the comments orally at a public hearing.

6. Persons providing comments and those submitting proposed plans must identify themselves by full name and home address and provide a phone number and, if available, an email address. The Council may wish to follow up on such comments or obtain additional information about submitted plans.

7. All comments and proposed plans must be submitted to the City Council by the close of the public hearing.

Potential Options:

- Approve
- Deny

Fiscal Implications:

None

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. 2022-012 RES Decennial Redistrict Guidelines Submit Proposals (DOCX)
b. 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (PDF)
c. 2022-012 Goals & Perspectives (DOCX)
d. 2022-012 RES Decennial Redistrct Guidelines signed (PDF)

Staff Coordination

City Manager	David Orr	Department Head Review	Completed	02/08/2022 8:36 AM
City Manager	David Orr	City Manager Review	Completed	02/08/2022 8:36 AM

City of Texarkana, Texas

City Council 6:00 PM	Jennifer Evans	Meeting	Completed	02/14/2022

Meeting History

RESOLUTION NO. 2022 - 012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ESTABLISHING MANDATORY GUIDELINES FOR PERSONS SUBMITTING SPECIFIC REDISTRICTING PROPOSALS AND FOR REQUIRING WRITTEN COMMENTS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has certain responsibilities for redistricting City Councilmember wards under federal and state law including but not limited to Amendments 14 and 15 to the United States Constitution, section 2 of the Voting Rights Act, 52 U.S.C. §10301, and Tex. Gov't Code Ann. §§ 2058.001 and 2058.002; and

WHEREAS, the City Council has certain responsibilities for redistricting City Councilmember wards under Article II, Section 1 of the City Charter; and

WHEREAS, it is necessary to provide for the orderly consideration and evaluation of redistricting plans which may come before the Council; and

WHEREAS, these guidelines relate to persons who have specific redistricting plans they wish the Council to consider; and

WHEREAS, the Council also welcomes any comments relevant to the redistricting process.

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

SECTION 1: The City Council, in order to make sure that any comments regarding the redistricting process and any redistricting plan that might be submitted are of maximum assistance to the Council in its decision-making process, hereby sets the following guidelines to be followed by each person submitting a comment or a redistricting plan for consideration:

1. Proposed plans must be submitted in writing and be legible. If a plan is submitted orally, there is significant opportunity for misunderstanding, and it is possible that errors may be made in analyzing it. The Council wants to be sure that all proposals are fully and accurately considered.

2. Any plan must show the total population and voting age population for African-Americans, Hispanics, Asians, and Anglo/Other for each proposed City Councilmember ward based on the 2020 Census Data. If a plan is submitted without a population breakdown, the Council may not have sufficient information to give it full consideration.

3. Plans should redistrict the entire City of Texarkana, Texas. The City Council will be considering the effect of any plan on the entire City. Any plan is subject to the Voting Rights Act, which protects various racial and language minorities. Thus, as

Attachment: 2022-012 RES Decennial Redistrict Guidelines Submit Proposals (3628 : 2022-012 RES Redistricting Guidelines (2020))

a matter of federal law, the Council will be required to consider the effect of any proposal on multiple racial and ethnic groups. If a plan does not redistrict the entire City, it may be impossible for the Council to assess its impact on one or more protected minority groups.

4. Plans should conform to the redistricting criteria as established by the City Council in Resolution No. 2022-013, which the Council will be using in drawing the City Councilmember wards.

5. Comments must be submitted in writing and be legible, even if the person also makes the comments orally at a public hearing.

6. Persons providing comments and those submitting proposed plans must identify themselves by full name and home address and provide a phone number and, if available, an email address. The Council may wish to follow up on such comments or obtain additional information about submitted plans.

7. All comments and proposed plans must be submitted to the City Council by the close of the public hearing.

SECTION 2: 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 **28th day of February, 2022.**

ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2022-012 RES Decennial Redistrict Guidelines Submit Proposals (3628 : 2022-012 RES Redistricting Guidelines (2020))

Bickerstaff
Heath Delgado Acosta LLP

January 24, 2022

Mayor Bob Bruggeman and City Council Members
City of Texarkana
220 Texas Boulevard
Texarkana, TX 75501

Re: *Initial Assessment considering 2020 Census data*

Dear Mayor Bruggeman and City Council Members:

This is the Initial Assessment letter for the City of Texarkana. Our review of the recently released 2020 Census population and demographic data for the City shows that the City's councilmember districts are sufficiently out of population balance that you should redistrict. We are prepared to meet with the City Council to review the Initial Assessment and to advise the City Council on how to proceed to redistrict the City councilmember districts to bring them into population balance for use in the 2022 election cycle.

This letter presents a brief overview of basic redistricting principles to assist you in preparing for our presentation on the Initial Assessment. We also set out in the attachments (Attachment H) suggested posting language for the meeting at which the Initial Assessment will be presented. Note that this posting language includes agenda items for the adoption of redistricting criteria and guidelines. These are matters that should be addressed early in the redistricting process to enable us to proceed efficiently. We will be working with you to develop the appropriate language for your adoption of redistricting criteria and guidelines.

In redistricting the councilmember districts, the City will need to be aware of the legal standards that apply. We will review these principles in detail with the City Council at the presentation on the Initial Assessment. There are three basic legal principles that govern the redistricting process: (i) the "one person-one vote" (equal population) principle; (ii) the non-discrimination standard of Section 2 of the Voting Rights Act; and (iii) the *Shaw v. Reno* limitations on the use of race as a factor in redistricting. These principles are discussed in detail in the attachments to this letter, which we urge you to read and review carefully.

The process we have outlined for the redistricting process and the policies and procedures that we are recommending the Council adopt will ensure that the City adheres to these important legal principles and that the rights of protected minority voters in the political subdivision are accorded due weight and consideration.

The "One Person – One Vote" Requirement: Why You Should Redistrict

The "one person-one vote" requirement of the United States Constitution requires that members of an elected body be chosen from districts of substantially equal population and applies to city councils. Exact equality of population is not required, but a "total maximum deviation" of no more

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

than ten percent in total population between the most populated and the least populated city councilmember districts based on the most recent census should be achieved. This maximum deviation of ten percent constitutes a rebuttable presumption of compliance with the one-person, one-vote requirement. If a city's councilmember districts do not fall within the ten percent maximum deviation, the city is at substantial risk of being sued for violation of one person-one vote standards.

The population and demographics of all the current City councilmember districts are presented here and in Attachment A.

The tables in Attachment A show that the total population of the City on April 1, 2020, was 36,166 persons. This represents a decrease in population from 36,411 persons on April 1, 2010, or approximately two-thirds of one percent. The ideal City councilmember district should now contain 6,023 persons (total population / 6 single-member districts).

Council Ward 5 has the largest population (6,994), which is approximately 16.12 percent above the size of the ideal district. Ward 1 has the smallest population (5,460), which is approximately 9.34 percent below the size of the ideal district. The total maximum deviation between the six existing councilmember districts for the City, therefore, is 25.47 percent. This total maximum deviation exceeds the standard of ten percent that generally has been recognized by the courts as the maximum permissible deviation. Accordingly, the City should redistrict to bring its City councilmember districts within the ten percent range permitted by law.

Section 2 of the Voting Rights Act: Avoiding discrimination claims

Section 2 of the federal Voting Rights Act prohibits any voting standard, practice, or procedure – including new redistricting plans – that have the effect of discriminating against a protected minority group. The principles of Section 2's nondiscrimination mandate are discussed in Attachment C.

The data in the Population Tables in Attachment A as well as the data in the maps in Attachment B, which show the geographic distribution of the primary minority groups in the City, will also be important in assessing the potential for Voting Rights Act Section 2 liability. (See Attachment C for a discussion of Section 2.)

Shaw v Reno: Additional equal protection considerations

As noted above, in order to comply with Section 2, the City must consider race when drawing districts. The 1993 Supreme Court case *Shaw v. Reno*, however, limits how and when race can be a factor in the districting decisions. Thus, local governments must walk a legal tightrope, where the competing legal standards must all be met. The *Shaw v. Reno* standard requires that there be a showing that (1) the race-based factors were used in furtherance of a "compelling state interest" and (2) their application be "narrowly tailored," that is, they must be used only to the minimum extent necessary to accomplish the compelling state interest. (*Shaw v. Reno* is discussed in Attachment C.) We will guide the City through proper application of this principle.

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

Adoption of redistricting criteria and public participation guidelines

At the presentation of the Initial Assessment we will recommend certain "traditional" redistricting criteria that the City may require all redistricting plans to follow. These criteria generally track the legal principles that the courts and the Department of Justice have found to be appropriate elements in sound redistricting plans. We will also recommend certain public participation guidelines that the City may wish to adopt to ensure fair and adequate public participation in the redistricting process, and that any comments or proposed plans submitted by members of the public are written, clear, and complete, and the submitter provides contact information.

Once redistricting guidelines and criteria are adopted and the City Council gives instructions about how it would like plans to be developed considering this Initial Assessment and the applicable legal standards, we can begin to assist the City in the development of plans for consideration.

We hope this Initial Assessment discussion is helpful to you and that it will guide the City Council as it executes the redistricting process. We look forward to meeting with the Council to review this Initial Assessment and to answer any questions you may have concerning any aspect of that process. Please feel free to call me in the interim as we prepare for the presentation and let me know if there is any additional information you may require.

Sincerely,

C. Robert Heath

Encl.

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

ATTACHMENT A

INITIAL ASSESSMENT POPULATION TABLES

Texarkana City Council Wards - 2022 Initial Assessment

Bickerstaff Heath Delgado Acosta LLP

Demographics Report - Summary 2020 Census Total Population

Plan Last Edited on: 1/21/2022 3:58:07 PM

Ward	Persons	Ideal Size	Deviation	Hispanic % of Total Population	Non-Hispanic White % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	5,460	6,023	-9.34%	11.58%	17.55%	65.02%	0.15%	5.71%
2	5,555	6,023	-7.77%	10.86%	20.74%	63.17%	0.18%	5.04%
3	5,805	6,023	-3.62%	11.39%	45.31%	37.07%	0.65%	5.60%
4	6,261	6,023	3.95%	7.41%	43.11%	41.86%	2.08%	5.54%
5	6,994	6,023	16.12%	5.98%	70.86%	12.77%	5.13%	5.28%
6	6,091	6,023	1.13%	5.20%	72.93%	13.17%	3.10%	5.61%
TOTAL:	36,166			8.56%	46.55%	37.40%	2.03%	5.46%

Ideal Size: 36137 / 6 = 6023

Total Population: 36,166

Overall Deviation: 25.47%

Some percentages may be subject to rounding errors.

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

Texarkana City Council Wards - 2022 Initial Assessment

Bickerstaff Heath Delgado Acosta LLP

Demographics Report - Summary 2020 Census Voting Age Population

Plan Last Edited on: 1/21/2022 3:58:07 PM

Ward	Total VAP*		Hispanic % of Total VAP	Non-Hispanic Anglo % of Total VAP	Non-Hispanic Black % of Total VAP	Non-Hispanic Asian % of Total VAP	Non-Hispanic Other % of Total VAP
1	3,784		10.62%	20.51%	63.82%	0.21%	4.84%
2	3,967		9.73%	23.44%	62.79%	0.20%	3.78%
3	4,482		9.30%	49.67%	35.54%	0.74%	4.77%
4	4,713		6.15%	49.08%	38.49%	2.25%	4.03%
5	5,464		5.34%	73.33%	12.21%	4.85%	4.25%
6	4,760		4.83%	75.82%	11.95%	3.19%	4.20%
	27,170		7.42%	51.02%	35.15%	2.11%	4.30%

* VAP - Voting Age Population

Some percentages may be subject to rounding errors.

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

Bickerstaff Heath Delgado Acosta LLP

Texarkana City Council Wards - 2022 Initial Assessment

Demographics Report - Detailed 2020 Census Total Population

Plan Last Edited on: 1/21/2022 3:58:07 PM

Ward	Persons	Ideal Size	Deviation	Hispanic	Hispanic % of Total Population	ANGLO	Non-Hispanic Anglo % of Total Population	Black	Black % of Total Population	Asian	Asian % of Total Population	AM Indian Native	IND / NAT % TOT Pop.	Haw Pac. Isl.	HAW/ PAC % of Tota Pop.	Other	Other % of Total Pop.	Two or More Races	Two or More Races % Tot Pop
1	5,460	6,023	-9.34%	632	11.58%	958	17.55%	3,550	65.02%	8	0.15%	23	0.42%	2	0.04%	36	0.66%	251	4.60%
2	5,555	6,023	-7.77%	603	10.86%	1,152	20.74%	3,509	63.17%	10	0.18%	20	0.36%	5	0.09%	35	0.63%	220	3.96%
3	5,805	6,023	-3.62%	661	11.39%	2,630	45.31%	2,152	37.07%	38	0.65%	26	0.45%	7	0.12%	24	0.41%	268	4.62%
4	6,261	6,023	3.95%	464	7.41%	2,699	43.11%	2,621	41.86%	130	2.08%	24	0.38%	8	0.13%	26	0.42%	289	4.62%
5	6,994	6,023	16.12%	418	5.98%	4,956	70.86%	893	12.77%	359	5.13%	29	0.41%	3	0.04%	21	0.30%	316	4.52%
6	6,091	6,023	1.13%	317	5.20%	4,442	72.93%	802	13.17%	189	3.10%	42	0.69%	0	0.00%	31	0.51%	269	4.42%
TOTAL:	36,166			3,095	8.56%	16,837	46.55%	13,527	37.40%	734	2.03%	164	0.45%	25	0.07%	173	0.48%	1,613	4.46%

Ideal Size: 36137 / 6 = 6023

Total Population: 36,166

Overall Deviation: 25.47%

Some percentages may be subject to rounding errors.

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting

Texarkana City Council Wards - 2022 Initial Assessment

Demographics Report - Detailed 2020 Census Voting Age Population

Plan Last Edited on: 1/21/2022 3:58:07 PM

Ward	Total VAP	Hispanic VAP	% Hispanic VAP	Anglo VAP	% Anglo VAP	Black VAP	% Black VAP	Asian VAP	% Asian VAP	AM IND NATIVE VAP	% AM IND NATIVE VAP	HAW/PAC VAP	% HAW/PAC VAP	Other VAP	% Other VAP	Two or More Races VAP	% Two or more VAP
1	3,784	402	10.62%	776	20.51%	2,415	63.82%	8	0.21%	21	0.55%	2	0.05%	19	0.50%	141	3.73%
2	3,967	386	9.73%	930	23.44%	2,491	62.79%	8	0.20%	18	0.45%	4	0.10%	23	0.58%	105	2.65%
3	4,482	417	9.30%	2,226	49.67%	1,593	35.54%	33	0.74%	23	0.51%	6	0.13%	13	0.29%	172	3.84%
4	4,713	290	6.15%	2,313	49.08%	1,814	38.49%	106	2.25%	20	0.42%	5	0.11%	13	0.28%	152	3.23%
5	5,464	292	5.34%	4,007	73.33%	667	12.21%	265	4.85%	25	0.46%	3	0.05%	14	0.26%	190	3.48%
6	4,760	230	4.83%	3,609	75.82%	569	11.95%	152	3.19%	32	0.67%	0	0.00%	14	0.29%	154	3.24%
TOTALS:	27,170	2,017	7.42%	13,861	51.02%	9,549	35.15%	572	2.11%	139	0.51%	20	0.07%	96	0.35%	914	3.36%

* VAP - Voting Age Population

Some percentages may be subject to rounding errors.

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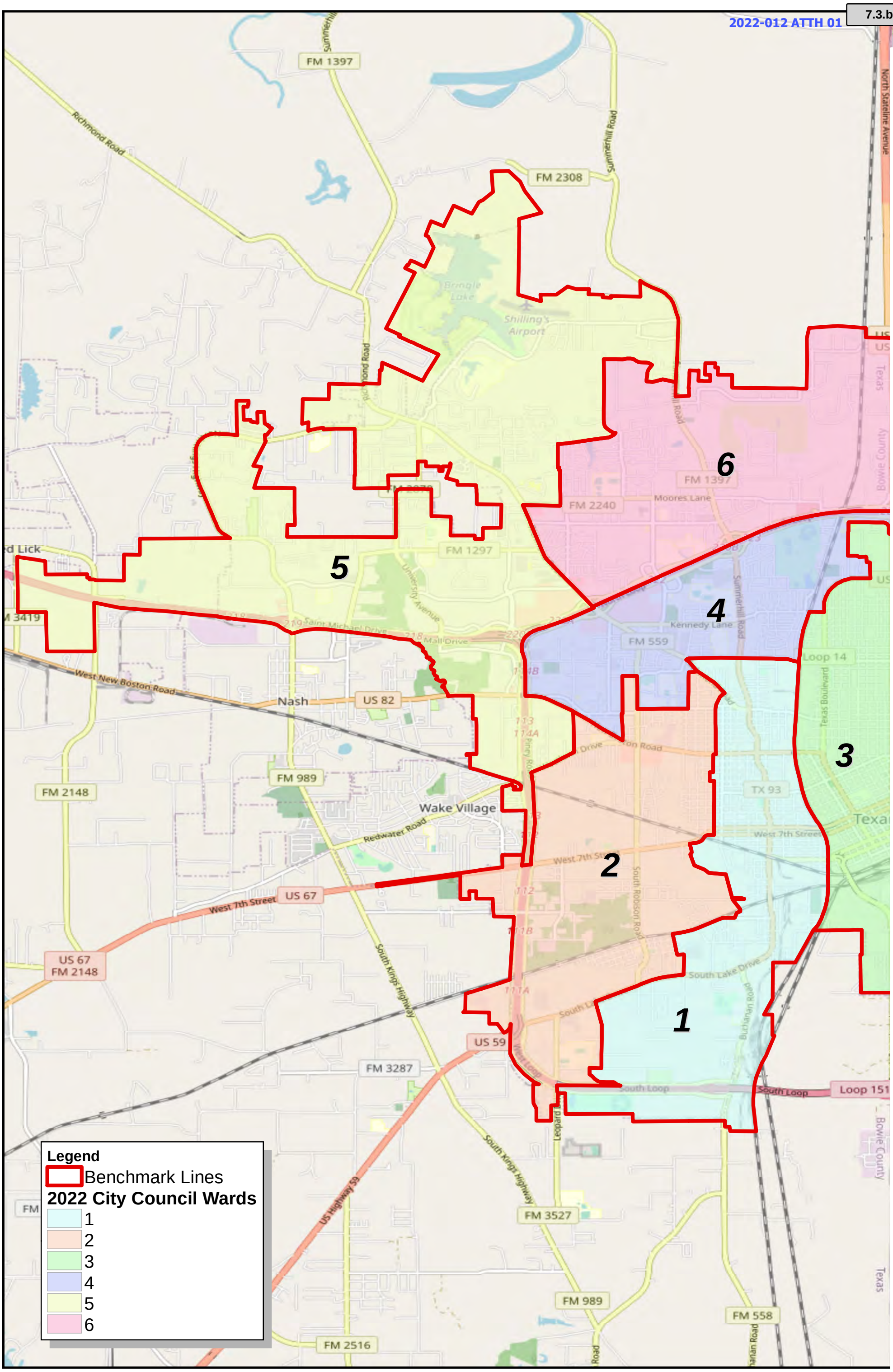
ATTACHMENT B

MAPS



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Created: 1/21/2022

Background Image: ESRI Open Street Map

Texarkana City Council Wards
2022 Initial Assessment

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2022-012 ATTH 01

Texarkana City Council Wards
2022 Initial Assessment

Ward 1

0 130 260 520 Miles

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Texarkana City Council Wards
2022 Initial Assessment

Ward 2

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2022-012 ATTH 01

Texarkana City Council Wards
2022 Initial Assessment

Ward 3

Legend
- Benchmark Lines
- Streets

2022 City Council Wards
- 1
- 2
- 3
- 4
- 5
- 6

0 130 260 520 Miles

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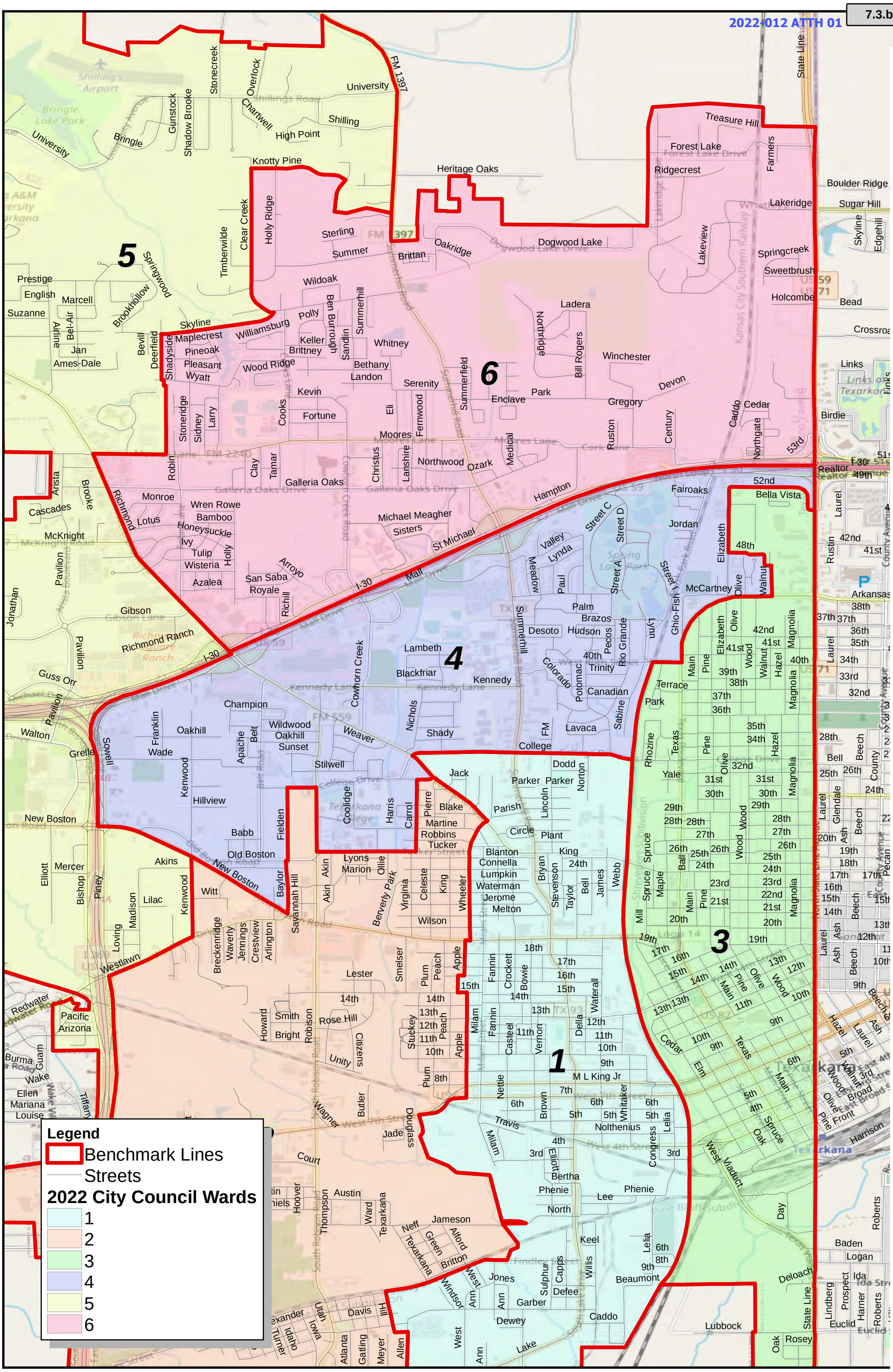

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Texarkana City Council Wards
2022 Initial Assessment

Ward 4

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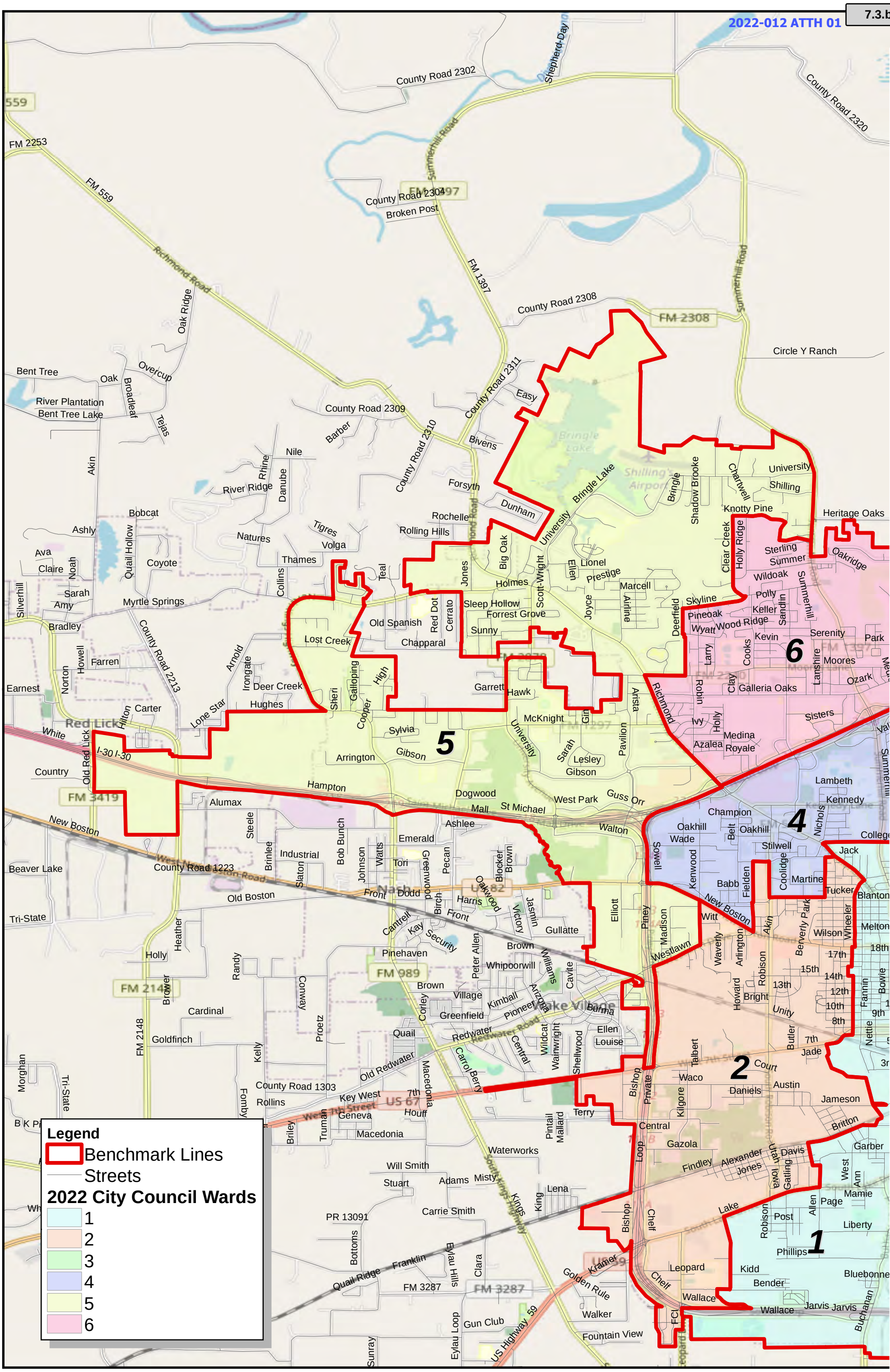

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Texarkana City Council Wards
2022 Initial Assessment

Ward 5

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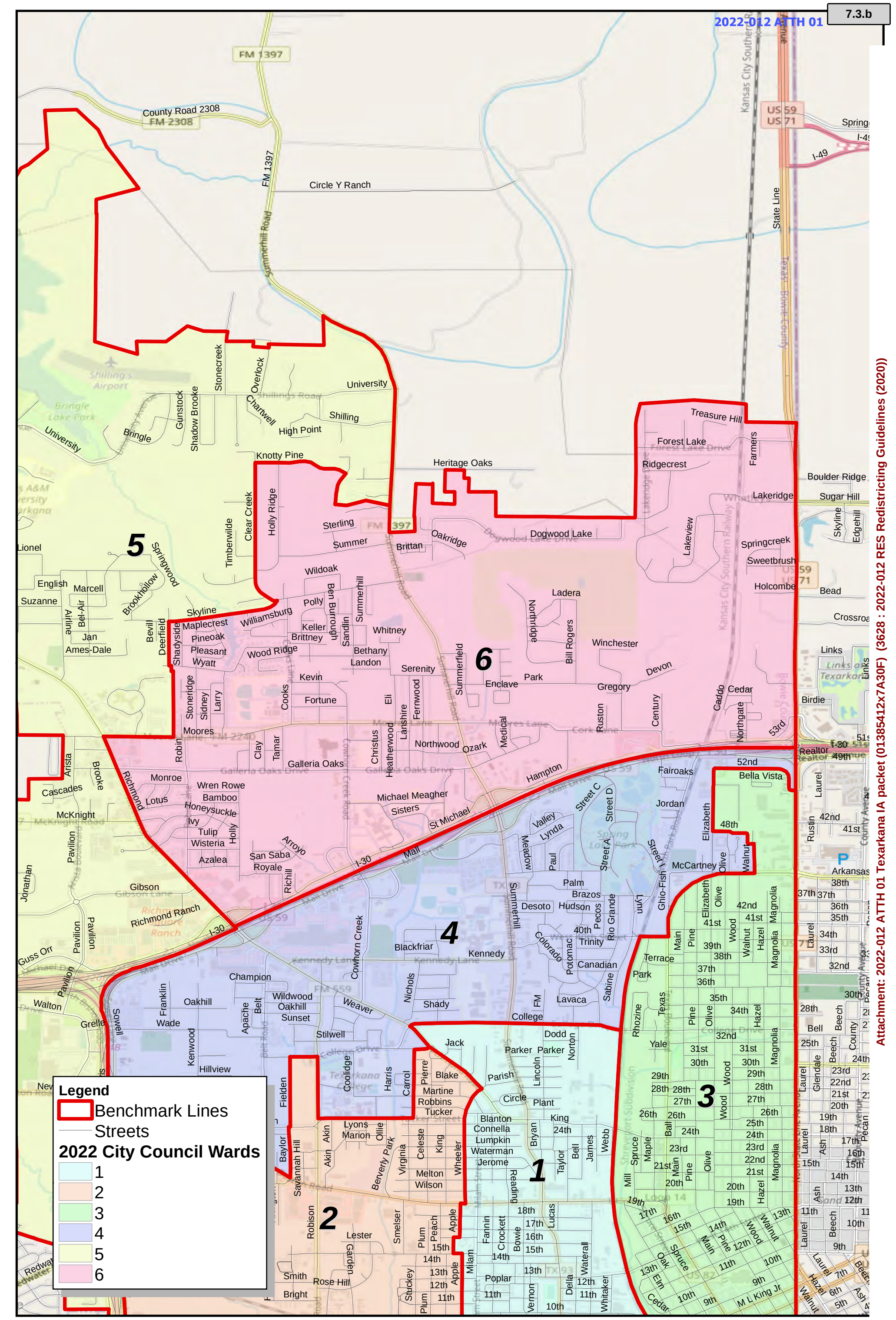
Texarkana City Council Wards
2022 Initial Assessment

Ward 6



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Created: 1/21/2022

Background Image: ESRI Open Street Map

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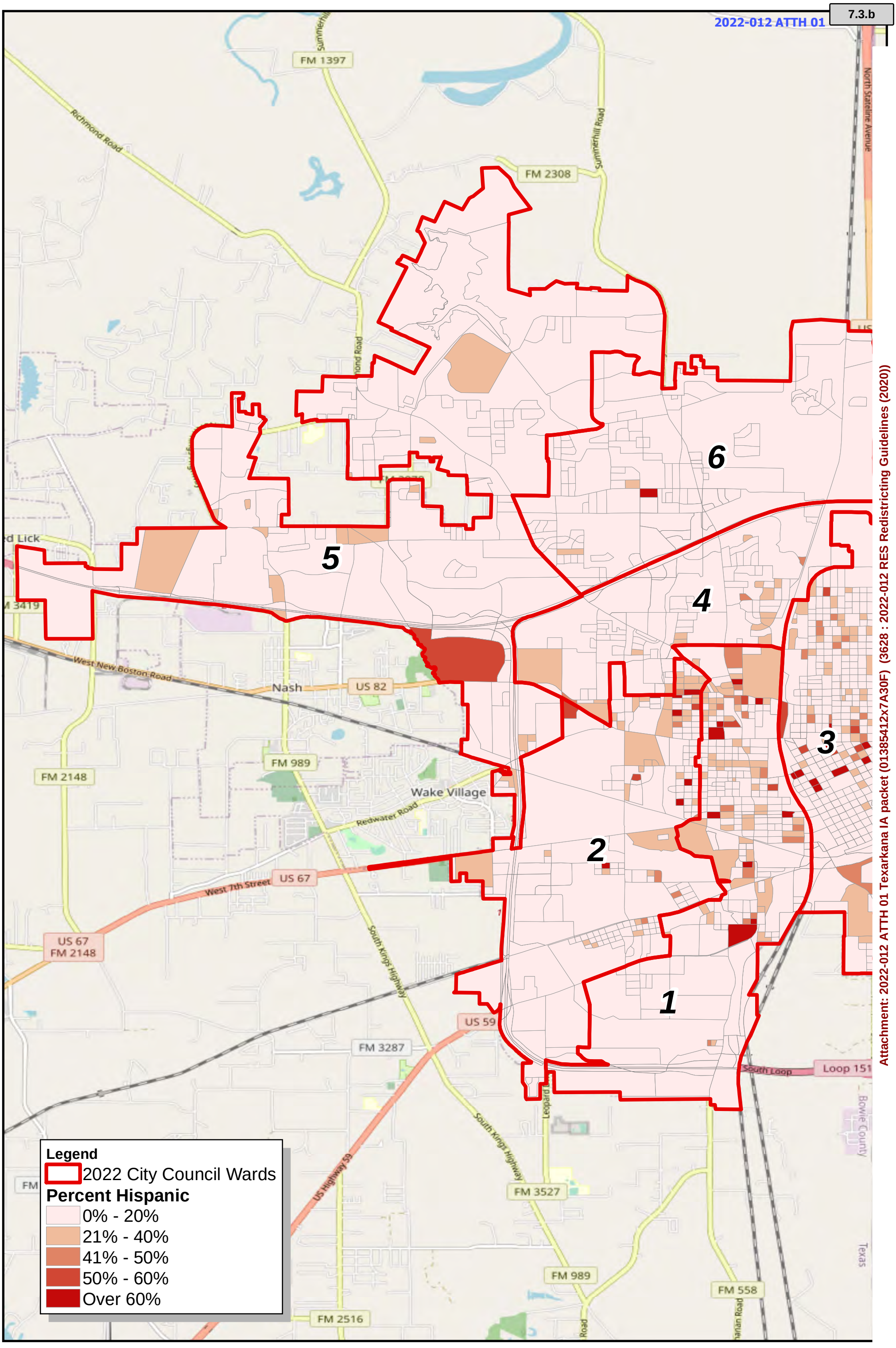

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Background Image: ESRI Open Street Map

Texarkana City Council Wards
2022 Initial Assessment
Percent Hispanic by 2020 Census Block

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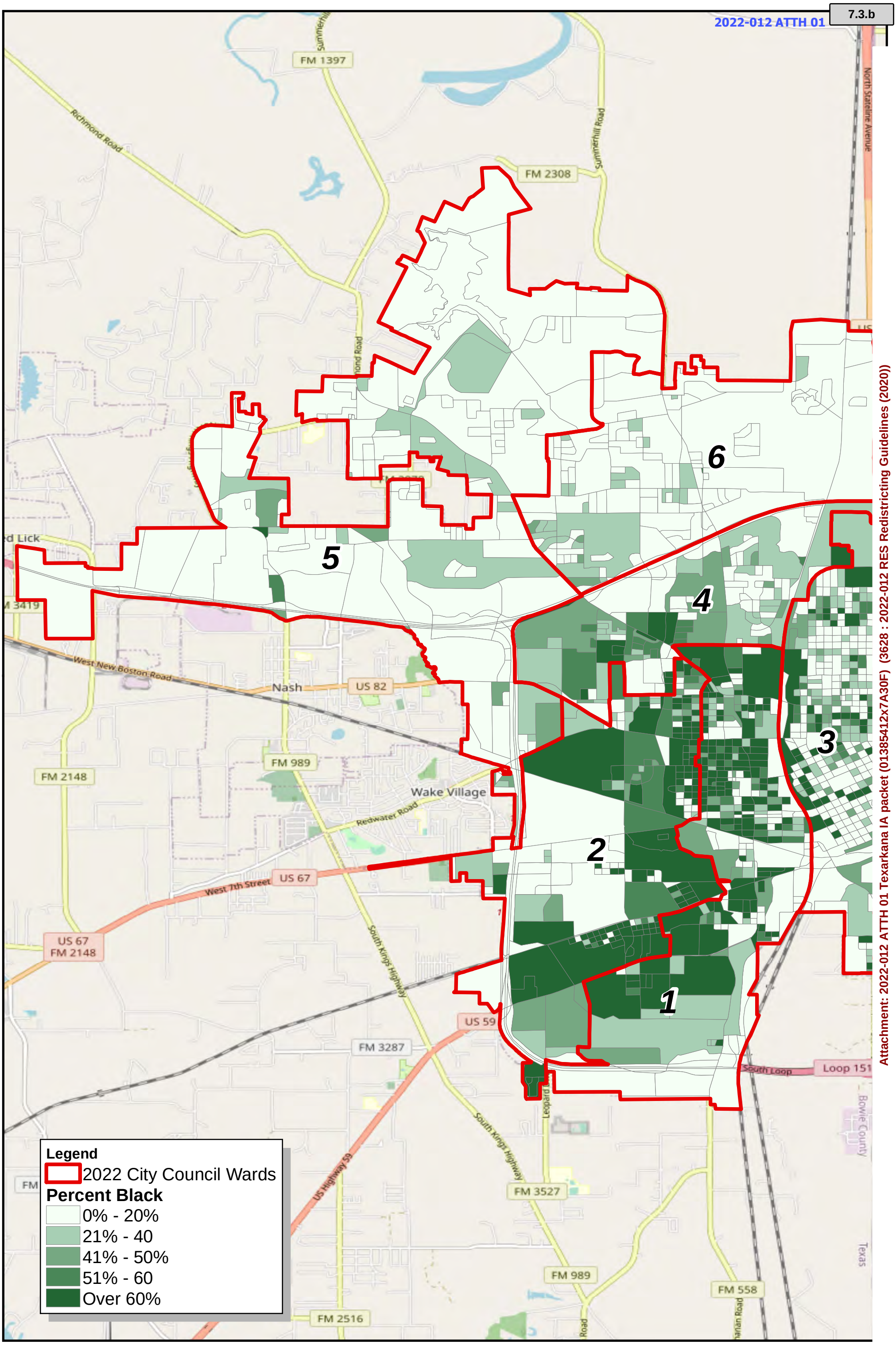

0 130 260 520 Miles

Created: 1/21/2022

Background Image: ESRI Open Street Map

Texarkana City Council Wards
2022 Initial Assessment
Percent Black by 2020 Census Block

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Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

ATTACHMENT C

LEGAL PRINCIPLES

LEGAL PRINCIPLES GOVERNING THE REDISTRICTING PROCESS

There are three basic legal principles that govern the redistricting process: (i) the "one person-one vote" (equal population) principle; (ii) the non-discrimination standard of Section 2 of the Voting Rights Act; and (iii) the *Shaw v. Reno* limitations on the use of race as a factor in redistricting. In addition, although it will not apply to the 2021 redistricting, Section 5 of the Voting Rights Act, which applied a "retrogression" standard to minority group populations in specific districts, may be helpful as a tool to analyze potential Section 2 issues regarding a proposed new plan.

The terminology of redistricting is very specialized and includes terms that may not be familiar, so we have included as Attachment D to this Initial Assessment letter a brief glossary of many of the commonly-used redistricting terms.

The "One Person – One Vote" Requirement: Why You Redistrict

The "one person-one vote" requirement of the United States Constitution requires that members of an elected body be drawn from districts of substantially equal population. This requirement applies to the single-member districts of "legislative" bodies such as commissioners courts and other entities with single-member districts such as school boards or city councils.

Exact equality of population is not required for local political subdivisions. However, they should strive to create districts that have a total population deviation of no more than 10 percent between their most populated district and the least populated district. This 10 percent deviation is usually referred to as the "total maximum deviation." It is measured against the "ideal" or target population for the governmental entity based on the most recent census. The 10 percent standard is a rebuttable presumption of compliance with the one person-one vote requirement.

A governing body is therefore required to determine whether the populations of its single-member districts (including school board trustee districts) are within this 10 percent balance based on 2010 Census population data. If the population deviation among the districts exceeds the permissible 10 percent total maximum deviation, the entity must redistrict, that is, redraw the boundaries of the individual districts so that the total populations of all the new districts are within the permissible 10 percent limit. A hypothetical example of how deviation is calculated is given in Attachment E.

Generally, redistricting will use the Census Bureau's recently released population data for the 2020 Census in drawing new redistricting plans – the so-called "PL 94-171" data. In any legal challenge to a new plan, it is this data that likely would be applied. Although several types of population data are provided in the PL 94-171 files, redistricting typically is based upon total population.

Official Census data should be used unless the governmental entity can show that better data exists. The court cases that have dealt with the question have made it clear that the showing

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required to justify use of data other than Census data is a very high one – impossibly high at a time so close to the release of new Census data. As a practical matter, therefore, we recommend that entities use the 2010 Census data in their redistricting processes. We have based the Initial Assessment on PL 94-171 total population data; the relevant data are summarized in Attachment A.

In the redistricting process, each governmental entity will use a broad spectrum of demographic and administrative information to accomplish the rebalancing of population required by the one person-one vote principle. The charts provided with this report not only show the total population of the entity but also give breakdowns of population by various racial and ethnic categories for the entity as a whole and for each single-member district.

Census geography

These single-member population data are themselves derived from population data based on smaller geographical units. The Census Bureau divides geography into much smaller units called "census blocks." In urban areas, these correspond roughly to city blocks. In more rural areas, census blocks may be quite large. Census blocks are also aggregated into larger sets called "voting tabulation districts" or "VTDs," which often correspond to county election precincts.

For reasons concerning reducing the potential for *Shaw v. Reno*-type liability, discussed below, we recommend using VTDs as the redistricting building blocks where and to the extent feasible. In many counties this may not be feasible.

Census racial and ethnic categories

For the 2020 Census, the Census Bureau recognized multiple combinations of racial and ethnic categories and collected and reported data based on all of them. Many of these categories include very few persons, however, and will not therefore have a significant impact on the redistricting process. The charts that accompany this report include only eight racial and ethnic categories that were consolidated from the larger set. The entire population of the entity is represented in these charts. These eight categories are the ones most likely to be important in the redistricting process.

The 2020 Census listed six racial categories. Individuals were able to choose a single race or any combination of races that might apply. Thus, there are potentially many different racial combinations that might occur. Additionally, the Census asks persons to designate whether they are or are not Hispanic. When the Hispanic status response is overlaid on the different possible racial responses, there are twice as many possible different combinations. The Census tabulates each one separately.

If this information is to be usable, it must be combined into a smaller number of categories (of course, having the same overall population total). For purposes of determining the preclearance retrogression benchmark, discussed below, DOJ indicated in a guidance document issued on January 18, 2001 that it would use the following rules for determining

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Hispanic and race population numbers from the 2010 Census data, for purposes of performing the retrogression analysis:

- persons who selected "Hispanic" are categorized as Hispanic, no matter what race or races they have designated; all others will be classified as non-Hispanic of one or more races; *e.g.*, Hispanic-White and Hispanic-African-American are both classified as Hispanic;

- persons who did not select "Hispanic" and who designated a single race will be classified as members of that race; *e.g.*, White, African-American, Asian, etc.;

- persons who did not select "Hispanic" and who designated themselves as belonging to a single minority race and as White will be classified as members of the minority race; *e.g.*, Asian+White will be classified as Asian; and

- persons who did not select "Hispanic" and who designated themselves as belonging to more than one minority race will be classified as "other multiple race;" *e.g.*, White+Asian+Hawaiian or African-American+Asian. This category is expected to be small.

By collapsing the multiple racial/ethnic responses in this way it results in a more usable arrangement of eight categories.

We will also consider data called "voting age population" (or "VAP") data. It is similarly classified in eight racial and ethnic categories. This information is provided for the limited purpose of addressing some of the specific legal inquires under the Voting Rights Act that are discussed below. Voting age population is the Census Bureau's count of persons who identified themselves as being eighteen years of age or older at the time the census was taken (*i.e.*, as of April 1, 2020).

In addition to this population and demographic data, the entity will have access to additional information that may bear on the redistricting process, such as facility locations, registered voter information, incumbent residence addresses, etc.

Section 2 of the Voting Rights Act – No Discrimination Against Minority Groups

Section 2 of the Voting Rights Act, 52 U.S.C. §10301, forbids a voting standard, practice, or procedure from having the effect of reducing the opportunity of members of a covered minority to participate in the political process and to elect representatives of their choice. In practical terms, this non-discrimination provision prohibits districting practices that, among other things, result in "packing" minorities into a single district in an effort to limit their voting strength. Similarly, "fracturing" or "cracking" minority populations into small groups in a number of districts, so that their overall voting strength is diminished, can be discrimination under Section 2. There is no magic number that designates the threshold of packing or cracking. Each plan must be judged on a case-by-case basis. Failure to adhere to

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such Section 2 standards could invite a challenge in court by a protected minority group or even by the Department of Justice.

In previous redistricting cycles, "preclearance" was required under Section 5 of the Voting Rights Act before a new plan (or any other change of any kind to voting standards, practices or procedures) could be implemented. Section 5 will not apply in the 2021 redistricting cycle, but as we discuss below, the Section 5 "retrogression" standard can be a useful tool to identify potential Section 2 issues with a proposed new plan.

The Supreme Court has defined the minimum requirements for a minority plaintiff to bring a Section 2 lawsuit. There is a three-pronged legal test the minority plaintiff must satisfy – a showing that: (1) the minority group's voting age population is numerically large enough and geographically compact enough so that a district with a numerical majority of the minority group can be drawn (a "majority minority district"); (2) the minority group is politically cohesive, that is, it usually votes and acts politically in concert on major issues; and (3) there is "polarized voting" such that the Anglo majority usually votes to defeat candidates of the minority group's preference. *Thornburg v. Gingles*, 478 U.S. 30 (1986). In the federal appellate Fifth Circuit, which includes Texas, the minority population to be considered is *citizen* voting age population. In certain cases, a minority group may assert that Section 2 requires that the governmental body draw a new majority minority district. The governing body must be sensitive to these Section 2 standards as it redistricts.

In considering changes to existing boundaries, a governmental entity must be aware of the location of protected minority populations within its single-member districts for the purpose of ensuring that changes are not made that may be asserted to have resulted in "packing," or in "fracturing" or "cracking" the minority population for purposes or having effects that are unlawful under Section 2. The thematic maps included in Attachment B depict the locations of Hispanic and African-American population concentrations by census block; they are useful in addressing this issue. Voting age population (VAP) data is useful in measuring potential electoral strength of minority groups in individual districts.

***Shaw v. Reno* Standards – Avoid Using Race as the Predominant Redistricting Factor**

The modern era of redistricting began in the 1960's when the Supreme Court determined that districting plans were subject to judicial review and that they must conform to one-person, one-vote principles. This was followed in short order by the passage of the Voting Rights Act in 1965, which along with the Fourteenth Amendment, required jurisdictions to ensure that districts were not racially discriminatory. Accordingly, to avoid liability in voting rights suits, governments were highly conscious of race when drawing districts and fashioned districts to reflect racial and ethnic housing patterns.

In 1993, the United States Supreme Court decided *Shaw v. Reno,* a case that contained a district that was so extremely irregular on its face that race was the predominant consideration in its creation to the exclusion of traditional districting principles and without sufficiently

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compelling justification. The Court held that the district was a racial gerrymander that violated the Equal Protection Clause of the Fourteenth Amendment.

The *Shaw* opinion subjects governmental bodies undertaking the redistricting process to a delicate balancing act. The governmental body must consider race when drawing districts if it is to comply with the requirements of the Voting Rights Act; however, if race is the predominant consideration in the process, the governmental body may be subject to a racial gerrymandering claim.

Where racial considerations predominate in the redistricting process to the subordination of traditional (non-race-based) factors, the use of race-based factors is subject to the "strict scrutiny" test. To pass this test requires that there be a showing that (1) the race-based factors were used in furtherance of a "compelling state interest" and (2) their application be "narrowly tailored," that is, they must be used only to the minimum extent necessary to accomplish the compelling state interest. Compliance with the anti-discrimination requirements of section 2 of the Voting Rights Act is a compelling state interest.

The following principles have emerged in the post-*Shaw* environment to guide the redistricting process:

- race may be considered;

- but race may not be the predominant factor in the redistricting process to the subordination of traditional redistricting principles;

- bizarrely-shaped districts are not unconstitutional *per se*, but the bizarre shape may be evidence that race was the predominant consideration in the redistricting process;

- if race is the predominant consideration, the plan may still be constitutional if it is "narrowly tailored" to address compelling governmental interest such as compliance with the Voting Rights Act; and

- if a plan is narrowly tailored, it will use race no more than is necessary to address the compelling governmental interest.

While race will almost always be a consideration, the better course, if possible under the circumstances, is that racial considerations not predominate to the subordination of traditional redistricting criteria, so that the difficult strict scrutiny test is avoided.

Adherence to the *Shaw v. Reno* standards will be an important consideration during the redistricting process. One way to minimize the potential for *Shaw v. Reno* liability is to adopt redistricting criteria that include traditional redistricting principles and that do not elevate race-based factors to predominance.

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Section 5 of the Voting Rights Act – Preclearance and Retrogression

Preclearance will not be required

In prior redistricting cycles, Section 5 of the Voting Rights Act, 52 U.S.C. § 10304, required all "covered jurisdictions" identified in the applicable Department of Justice (DOJ) regulations to "preclear" any changes to voting standards, practices, or procedures before they may become legally effective. Texas was a "covered jurisdiction," so all local governments in the state, as well as the State itself, were required to preclear any voting change, including their redistricting plans. This included changes to any single-member district lines (including school board trustee district lines). Section 5 applied not only to changes in single-member district lines, but also to changes in election precincts and in the location of polling places. For counties, Section 5 applied not only to commissioners' precincts, but also to JP and constable precincts, even though these latter are not subject to the one person-one vote requirement (since these are not "representative," *i.e.*, "legislative" officials).

In the 2013 case *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), the U.S. Supreme Court invalidated Section 4 of the Voting Rights Act until Congress corrected some deficiencies. This is the section that, in effect, defines which states and local jurisdictions are subject to Section 5 preclearance requirements. Congress has not made the required corrections, so Section 5 will not apply to any jurisdiction this redistricting cycle. Nonetheless, the legal standard applied to preclearance under Section 5, "retrogression", can be useful to identify potential Section 2 discrimination issues in a proposed new districting plan.

Retrogression standard

In past redistricting cycles, Section 5 review involved considering whether a proposed new districting plan had a retrogressive effect. The issue is whether the net effect of the proposed new plan would be to reduce minority voters' ability to elect their preferred candidates when the plan is compared to the prior benchmark plan. In other words, does the new districting plan result in a reduction of the minority group's ability to elect?

To determine if retrogression exists, it is necessary to compare a proposed plan against a benchmark, typically the *prior* district boundary plan, but considered using the *new* 2020 Census population and demographic data.

Voting age population data ("VAP") – the Census count of persons eighteen years of age or older at the time the Census was taken (*i.e.*, as of April 1, 2020). It is a measure of the number of people old enough to vote if they are otherwise eligible to do so. Since the retrogression inquiry focuses on whether a minority group's overall voting strength has been reduced, and VAP is a more direct measure of voting strength than total population, VAP should be considered in the retrogression analysis, not just total population.

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In combination with a balanced consideration of the other applicable redistricting criteria, the entity's governing body will need to consider the effects of any changes to the benchmark measures that its proposed plan produces. Because of changes in population and the need to comply with one person-one vote principles, sometimes it may be impossible to avoid drawing a retrogressive plan. But if a proposed new plan is retrogressive, careful consideration should be given before adopting it.

Since retrogression was the test by which redistricting plans were measured under Section 5 of the Act and that section is no longer operative, retrogression is no longer the standard. Nevertheless, a jurisdiction that draws a plan that is retrogressive may increase the chance that it will be sued under Section 2. Thus, it may be beneficial to avoid retrogression where possible even though the plan will not be required to be submitted to the Department of Justice for Section 5 review under that test.

Adoption of Redistricting Criteria

Adoption of appropriate redistricting criteria – and adherence to them during the redistricting process – is potentially critical to the ultimate defensibility of an adopted redistricting plan. Traditional redistricting criteria that the governing body might wish to consider adopting include, for example:

- use of identifiable boundaries;
- using whole voting precincts, where possible and feasible; or, where not feasible, being sure that the plan lends itself to the creation of reasonable and efficient voting precincts;
- maintaining communities of interest (*e.g.*, traditional neighborhoods);
- basing the new plan on existing districts;
- adopting districts of approximately equal population;
- drawing districts that are compact and contiguous;
- keeping existing representatives in their districts; and
- narrow-tailoring to comply with the Voting Rights Act and *Shaw v. Reno*..

There may be other criteria that are appropriate for an individual entity's situation, but all criteria adopted should be carefully considered and then be followed to the greatest degree possible. A copy of a sample criteria adoption resolution is provided as Attachment F. You may wish to include additional criteria; or determine that one or more on that list are not appropriate. We will discuss with you appropriate criteria for your situation.

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Requirements for Plans Submitted by the Public

You should also consider imposing the following requirements on any plans proposed by the public for your consideration: (1) any plan submitted for consideration must be a complete plan, that is, it must be a plan that includes configurations for all districts and not just a selected one or several. This is important because, although it may be possible to draw a particular district in a particular way if it is considered only by itself, that configuration may have unacceptable consequences on other districts and make it difficult or impossible for an overall plan to comply with the applicable legal standards; and (2) any plan submitted for consideration must follow the adopted redistricting criteria.

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Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

ATTACHMENT D

GLOSSARY

GLOSSARY

Census blocks, census block groups, census VTDs, census tracts – Geographic areas of various sizes recommended by the states and used by the Census Bureau for the collection and presentation of data.

Citizen voting age population (CVAP) – Persons 18 and above who are citizens. This is a better measure of voting strength than VAP; however, the relevant citizenship data will need to be developed.

Compactness – Having the minimum distance between all parts of a constituency.

Contiguity – All parts of a district being connected at some point with the rest of the district.

Cracking – The fragmentation of a minority group among different districts so that it is a majority in none. Also known as "fracturing."

Fracturing – *See* "cracking."

Homogeneous district – A voting district with at least 90 percent population being of one minority group or of Anglo population.

Ideal population – The population that an ideal sized district would have for a given jurisdiction. Numerically, the ideal size is calculated by dividing the total population of the political subdivision by the number of seats in the legislative body.

Majority minority district – Term used by the courts for seats where an ethnic minority constitutes a numerical majority of the population.

One person, one vote – U.S. Constitutional standard articulated by the U.S. Supreme Court requiring that all legislative districts should be approximately equal in size.

Packing – A term used when one particular minority group is consolidated into one or a small number of districts, thus reducing its electoral influence in surrounding districts.

Partisan gerrymandering – The deliberate drawing of district boundaries to secure an advantage for one political party.

PL 94-171 – The Public Law that requires the Census Bureau to release population data for redistricting. The data file, referred to as "PL 94-171", was supposed to be released by April 1, 2021, although due to technical issues it was not released until August, is reported at the block level, and contains information on:

- Total population
- Voting age population
- By Race
- By Hispanic origin

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Racial gerrymandering – The deliberate drawing of district boundaries to secure an advantage for one race.

Retrogression – The Section 5 standard (not applicable in this redistricting cycle) that considered whether a proposed new districting plan made it less likely a protected minority group could elect candidates of the group's choice.

Section 2 of the Voting Rights Act – The part of the federal Voting Rights Act that protects racial and language minorities from discrimination in voting practices by a state or other political subdivision.

Section 5 of the Voting Rights Act – The part of the federal Voting Rights Act that required certain states and localities (called "covered jurisdictions") to preclear all election law changes with the U.S. Department of Justice ("DOJ") or the federal district court for the District of Columbia before those laws may take effect. Not applicable this redistricting cycle.

Shaw v. Reno – The first in a line of federal court cases in which the U.S. Supreme Court held that the use of race as a dominant factor in redistricting was subject to a "strict scrutiny" test under the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. This case and the line of Supreme Court cases that follows it establishes that race should not be used as a predominant redistricting consideration, but if it is, it must be used only to further a "compelling state interest" recognized by the courts and even then must be used only as minimally necessary to give effect to that compelling state interest ("narrow tailoring").

Spanish surnamed registered voters (SSRV) – The Texas Secretary of State publishes voter registration numbers that show the percentage of registered voters who have Spanish surnames. It is helpful to measure Hispanic potential voting strength, although it is not exact.

Total population – The total number of persons in a geographic area. Total population is generally the measure used to determine if districts are balanced for one person, one vote purposes.

Voting age population (VAP) – The number of persons aged 18 and above. DOJ requires this to be shown in section 5 submissions. It is used to measure potential voting strength. For example, a district may have 50 percent Hispanic total population but only 45 percent Hispanic voting age population.

Voter tabulation district (VTD) – A voting precinct drawn using census geography. In most instances, especially in urban areas, VTDs and voting precincts will be the same. In rural areas, it is more likely they will not be identical.

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ATTACHMENT E

HYPOTHETICAL POPULATION DEVIATION CALCULATION

Hypothetical Population Deviation Calculation

Consider a hypothetical political subdivision with four districts and a total population of 40,000. The "ideal district" for this political subdivision would have a population of 10,000 (total population / number of districts). This is the target population for each district. The deviation of each district is measured against this ideal size.

Suppose the latest population data reveals that the largest district, District A, has 11,000 inhabitants. The deviation of District A from the ideal is thus 1000 persons, or 10 percent. Suppose also that the smallest district, District D, has 8000 inhabitants; it is underpopulated by 2000 persons compared to the ideal size. It thus has a deviation of –20 percent compared to the ideal size. The *maximum total deviation* is thus 30 percent. Since this is greater than the 10 percent range typically allowed by the courts for one person-one vote purposes, this hypothetical subdivision must redistrict in order to bring its maximum total deviation to within the legally permissible limits.

The following table illustrates this analysis:

District	Ideal district	District total pop.	Difference	Deviation
A	10,000	11,000	1000	+ 10.0 percent
B	10,000	10,750	750	+ 7.5 percent
C	10,000	10,250	250	+ 2.5 percent
D	10,000	8,000	- 2000	- 20.0 percent
Totals:	40,000	40,000	net= 0	net= 0 percent

Total maximum deviation = difference between most populous and least populous districts = 10 percent + 20 percent = 30 percent.

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

ATTACHMENT F

ILLUSTRATIVE REDISTRICTING CRITERIA RESOLUTION

ILLUSTRATIVE REDISTRICTING CRITERIA RESOLUTION

(Here is an example of what the body of a resolution or ordinance adopting redistricting criteria might contain, but not including the footnotes. They are only included here by way of explanation to you of some of the criteria.)

The City Council will observe the following criteria, to the greatest extent possible, when drawing district boundaries:

1. Easily identifiable geographic boundaries should be followed.

2. Communities of interest should be maintained in a single district, where possible, and attempts should be made to avoid splitting neighborhoods.

3. Districts should be composed of whole voting precincts. Where this is not possible or practicable, districts should be drawn considering county election precincts. Avoid splitting census blocks unless necessary.

4. Although it is recognized that existing districts will have to be altered to reflect new population distribution, any districting plan should, to the extent possible, be based on existing districts.

5. Districts must be configured so that they are relatively equal in total population according to the 2020 federal census. In no event should the total population deviation between the largest and the smallest district exceed ten percent as compared to the ideal district size.

6. Districts should be compact and composed of contiguous territory. Compactness may contain a functional,[1] as well as a geographical, dimension.

7. Consideration may be given to the preservation of incumbent-constituency relations by recognition of the residence of incumbents and their history in representing certain areas.

8. The plan should be narrowly tailored to avoid racial gerrymandering in violation of *Shaw v. Reno.*

[1] Functional compactness is a sometimes-controversial notion that has appeared in some cases. Basically, the concept is that compactness is not simply a matter of geography but can include considerations such as (1) the availability of transportation and communication, (2) the existence of common social and economic interests, (3) the ability of the districts to relate to each other, and (4) the existence of shared interests. We do not anticipate that we will rely heavily on functional compactness, but there may be instances in which it comes into play. For example, we might be able to draw a very geographically compact district by including land on both sides of a river. If, however, the nearest bridge is several miles away, our geographically compact district may not be functionally compact. Saying that compactness has a functional dimension gives us flexibility to address this type of situation.

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

9. The plan should not fragment[2] a geographically compact minority community or pack[3] minority voters in the presence of polarized voting so as to create liability under the Voting Rights Act.

The Council will review all plans considering these criteria and will evaluate how well each plan conforms to the criteria.

Any plan submitted by a citizen to the Council for its consideration should be a complete plan — *i.e.*, it should show the full number of districts and should redistrict the entire city. The Council may decline to consider any plan that is not a complete plan.

All plans submitted by citizens, as well as plans submitted by staff, consultants, and members of the Council should conform to these criteria.

[2] Fragmenting or fracturing occurs when a geographically compact area of minority voters is split into two or more districts when, if the area had been put in a single district, minority voters would have had greater voting strength.

[3] Packing refers to concentrating excessively large numbers of minority voters in a single district. For example, if a district is drawn to be 90 percent African-American, that group's influence may be limited to that single district when, if it had been split, the group might have had an opportunity to elect candidates of their choice in two districts.

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

ATTACHMENT G

ILLUSTRATIVE REDISTRICTING GUIDELINES RESOLUTION

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

ILLUSTRATIVE REDISTRICTING GUIDELINES RESOLUTION

(Here is an example of what the body of a resolution or ordinance adopting redistricting guidelines for public participation might contain.)

The following guidelines are to be followed by each person submitting a redistricting plan for consideration or submitting comments:

1. Proposed plans must be submitted in writing and be legible. If a plan is submitted orally, there is significant opportunity for misunderstanding, and it is possible that errors may be made in analyzing it. The City Council wants to be sure that all proposals are fully and accurately considered.

2. Any plan must show the total population and voting age population for African-Americans, Hispanics, Asians, and Anglo/Other for each proposed district, based on the 2020 Census Data. If a plan is submitted without a population breakdown, the Council may not have sufficient information to give it full consideration.

3. Plans should redistrict the entire entity, so the Council may consider the effect of any plan on the entire city. All plans are subject to the Voting Rights Act, which protects various racial and language minorities. Thus, as a matter of federal law, the Council will be required to consider the effect of any proposal on multiple racial and ethnic groups. If a plan does not redistrict the entire city, it may be impossible for the Council to assess its impact on one or more protected minority groups.

4. Plans should conform to the criteria the Council will be using in drawing the precincts.

5. Comments must be submitted in writing and be legible, even if the person also makes the comments orally at a public hearing.

6. Persons providing comments and those submitting proposed plans must identify themselves by full name and home address and provide a phone number and, if available, an email address. The Council may wish to follow up on such comments or obtain additional information about submitted plans.

7. All comments and proposed plans must be submitted to the City Council [by the close of / no later than __ days before] the public hearing.

This resolution shall be effective upon passage by the City Council.

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

ATTACHMENT H

SUGGESTED INITIAL ASSESSMENT AGENDA ITEM LANGUAGE

SUGGESTED INITIAL ASSESSMENT AGENDA ITEM LANGUAGE

Here is suggested language for the agenda item for receiving the Initial Assessment and for adopting the two suggested resolutions (criteria, guidelines).

Receive Initial Assessment regarding whether redistricting is required considering the new 2020 census data; and, if so, consider adoption of criteria to apply to development of new districting plans, and guidelines for public participation in the redistricting process.

If your practice is to specifically post executive session items, you may wish to use this language:

Executive Session. The City Council may go into executive session pursuant to Texas Government Code section 551.071 to receive advice from legal counsel regarding the City's redistricting obligations.

Attachment: 2022-012 ATTH 01 Texarkana IA packet (01385412x7A30F) (3628 : 2022-012 RES Redistricting Guidelines (2020))

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: 2022-012 Goals & Perspectives (3628 : 2022-012 RES Redistricting Guidelines (2020))

RESOLUTION NO. 2022 – 012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ESTABLISHING MANDATORY GUIDELINES FOR PERSONS SUBMITTING SPECIFIC REDISTRICTING PROPOSALS AND FOR REQUIRING WRITTEN COMMENTS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has certain responsibilities for redistricting City Councilmember wards under federal and state law including but not limited to Amendments 14 and 15 to the United States Constitution, section 2 of the Voting Rights Act, 52 U.S.C. §10301, and Tex. Gov't Code Ann. §§ 2058.001 and 2058.002; and

WHEREAS, the City Council has certain responsibilities for redistricting City Councilmember wards under Article II, Section 1 of the City Charter; and

WHEREAS, it is necessary to provide for the orderly consideration and evaluation of redistricting plans which may come before the Council; and

WHEREAS, these guidelines relate to persons who have specific redistricting plans they wish the Council to consider; and

WHEREAS, the Council also welcomes any comments relevant to the redistricting process.

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

SECTION 1: The City Council, in order to make sure that any comments regarding the redistricting process and any redistricting plan that might be submitted are of maximum assistance to the Council in its decision-making process, hereby sets the following guidelines to be followed by each person submitting a comment or a redistricting plan for consideration:

1. Proposed plans must be submitted in writing and be legible. If a plan is submitted orally, there is significant opportunity for misunderstanding, and it is possible that errors may be made in analyzing it. The Council wants to be sure that all proposals are fully and accurately considered.

2. Any plan must show the total population and voting age population for African-Americans, Hispanics, Asians, and Anglo/Other for each proposed City Councilmember ward based on the 2020 Census Data. If a plan is submitted without a population breakdown, the Council may not have sufficient information to give it full consideration.

3. Plans should redistrict the entire City of Texarkana, Texas. The City Council will be considering the effect of any plan on the entire City. Any plan is subject to the

Attachment: 2022-012 RES Decennial Redistrct Guidelines signed (3628 : 2022-012 RES Redistricting Guidelines (2020))

Voting Rights Act, which protects various racial and language minorities. Thus, as a matter of federal law, the Council will be required to consider the effect of any proposal on multiple racial and ethnic groups. If a plan does not redistrict the entire City, it may be impossible for the Council to assess its impact on one or more protected minority groups.

4. Plans should conform to the redistricting criteria as established by the City Council in Resolution No. 2022-013, which the Council will be using in drawing the City Councilmember wards.

5. Comments must be submitted in writing and be legible, even if the person also makes the comments orally at a public hearing.

6. Persons providing comments and those submitting proposed plans must identify themselves by full name and home address and provide a phone number and, if available, an email address. The Council may wish to follow up on such comments or obtain additional information about submitted plans.

7. All comments and proposed plans must be submitted to the City Council by the close of the public hearing.

SECTION 2: 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 **28th day of February, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

6:39 p.m.

Attachment: 2022-012 RES Decennial Redistrct Guidelines signed (3628 : 2022-012 RES Redistricting Guidelines (2020))

City of Texarkana, Texas

Version:

Briefing Sheet

Update Date: 1/21/2022 9:49 AM

Lead Department:	Planning & Zoning Commission	**Action Officer:**	Laura Puckett, Administrative Coordinator
Subject:	Ordinance No. 2022-008 granting a Specific Use Permit to allow the location of a single-wide HUD code manufactured home on Lot 3, Block 17, Grandview Addition, located at 4007 Findley Street. Franklin D. Coleman, owner.		

Briefing: 2/14/2022 **Public Hearing:** 2/14/2022 **Council Vote:** 2/14/2022

Item Schedule

Schedule 1: Brief twice - vote once (six weeks)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

This is a request by Franklin Coleman, owner, for a Specific Use Permit to allow the location of a single wide HUD code manufactured home as a residence on Lot 3, Block 17, Grandview Addition, located at 4007 Findley Street. The residence shown on the map was demolished and the property is currently vacant land.

The adjacent zoning is Single Family-2 to the north, and Single Family-3 to the south, east, and west. The adjacent land use is vacant land to the north, south and west, and a residence to the east.

The Future Land Use Map designates this property as “Neighborhood Residential”.

The City’s Zoning Ordinance was amended to comply with the state law in 2002, requiring that all manufactured housing be HUD code building standard. This amendment also stipulated that all HUD code manufactured homes inside the city limits be placed in the Single Family-3 zoning district along with the approval of a Specific Use Permit.

Staff recommends for approval of this request with the following stipulations:

1. That one 2020 or newer single wide HUD code manufactured home be allowed on this property.
2. That the single wide HUD code manufactured home be tied down/skirted/underpinned.
3. That the single wide HUD code manufactured home be used for dwelling purposes only, human occupancy only.
4. That the Specific Use Permit be in effect for a period of three (3) years, beginning at the date of this Ordinance. It is the owner’s responsibility to renew this permit.

5. That if the HUD code manufactured home is not placed on the property within the three (3) year period, the Specific Use Permit will automatically be revoked.
6. That all driveways, parking, building codes/setbacks, engineered foundation, platting and flood plain requirements must be in accordance with the City of Texarkana, Texas codes.

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 with stipulations.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of this request with stipulations.

Advisory Board/Committee Meeting Date and Minutes:

January 4, 2022

Attachments

a. 2022-008 ORD SUP at 4007 Findley St (DOCX)
b. 2022-008 ATTH 01 (Maps) (PDF)
c. 2022-008 ATTH 02 (Floor Plan and Photo) (PDF)
d. 2022-008 Goals & Perspectives (DOCX)
e. 2022-008 ORD SUP HUD Manf. Home 4007 Findley signed (PDF)

Staff Coordination

Building Code Administration	Mashell Daniel	Reviewer	Completed	01/21/2022 8:20 AM
City Manager	David Orr	Reviewer	Completed	01/21/2022 1:06 PM
City Council	Jennifer Evans	Meeting	Completed	01/24/2022 6:00 PM

Meeting History

01/24/22	City Council	MOVED FORWARD	Next: 02/14/22

Attachment: 2022-008 ORD SUP at 4007 Findley St (3624 : 2022-008 ORD granting SUP for HUD code manufactured home at 4007 Findley St)

ORDINANCE NO. 2022-008 S-748

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE ZONING MAP SHOWING THE LOCATION, BOUNDARY, AND USE OF CERTAIN PROPERTY BY THE GRANTING OF SPECIFIC USE PERMIT NO. S-748 TO ALLOW THE LOCATION OF A SINGLE-WIDE HUD CODE MANUFACTURED HOME ON LOT 3, BLOCK 17, GRANDVIEW ADDITION, LOCATED AT 4007 FINDLEY STREET, IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS; CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed with the City of Texarkana, Texas, requesting an amendment to the Zoning Ordinance to grant a **Specific Use Permit** to allow the location of a single-wide HUD Code manufactured home on **Lot 3, Block 17, Grandview Addition, located at 4007 Findley Street**, in the City of Texarkana, Bowie County, Texas; 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 **unanimously five (5) to zero (0) to recommend** to the City Council of Texarkana, Texas, that a **Specific Use Permit be granted to allow the location of a single-wide HUD Code manufactured home** on said property; 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 granting the **Specific Use Permit** 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 further amended to grant **Specific Use Permit No. S-748** for the location of a single-wide HUD Code manufactured home on **Lot 3, Block 17, Grandview Addition, located at 4007 Findley Street**, in the City of Texarkana, Bowie County, Texas.

SECTION 2: That the following stipulations are hereby imposed and made a part of this ordinance:

1. That one 2020 or newer single-wide HUD code manufactured home be allowed on this property.
2. That the single-wide HUD code manufactured home be tied down/skirted/underpinned.
3. That the single-wide HUD code manufactured home be used for dwelling purposes only, human occupancy only.
4. That the Specific Use Permit be in effect for a period of three (3) years, beginning at the date of this ordinance. It is the owner's responsibility to renew this permit.
5. That if the HUD code manufactured home is not placed on the property within the three (3) year period, the Specific Use Permit will automatically be revoked.
6. That all driveways, parking, building codes/setbacks, engineered foundation, platting and flood plain requirements must be in accordance with the City of Texarkana, Texas codes.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 4: 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 5: That 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 **14th day of February, 2022.**

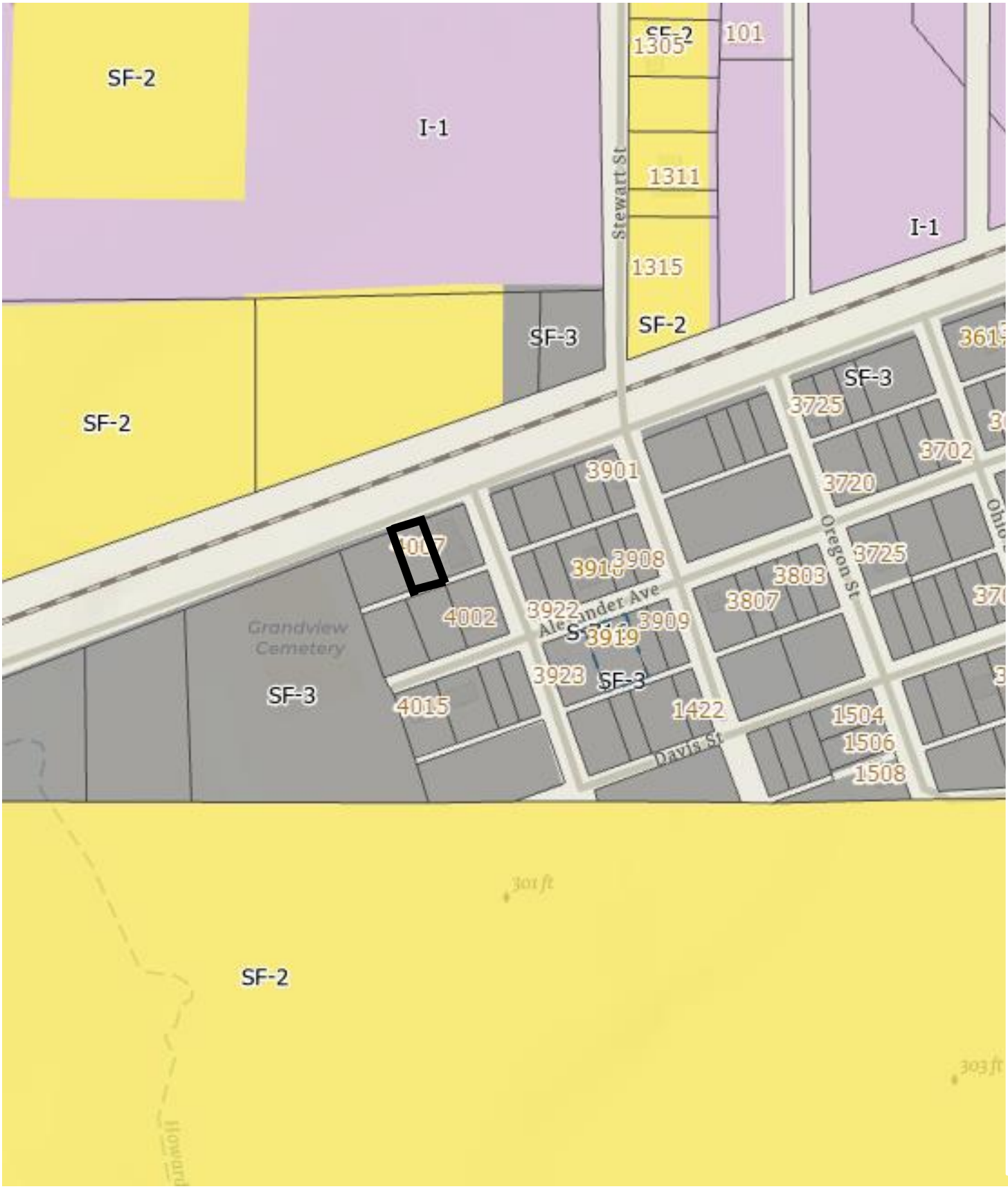
ATTEST:

_____ _____

JENNIFER EVANS, CITY SECRETARY BOB BRUGGEMAN, MAYOR

Attachment: 2022-008 ORD SUP at 4007 Findley St (3624 : 2022-008 ORD granting SUP for HUD code manufactured home at 4007 Findley St)

4007 Findley Street



Attachment: 2022-008 ATTH 01 (Maps) (3624 : 2022-008 ORD granting SUP for HUD code manufactured home at 4007 Findley St)

4007 Findley Street

Attachment: 2022-008 ATTH 01 (Maps) (3624 : 2022-008 ORD granting SUP for HUD code manufactured home at 4007 Findley St)

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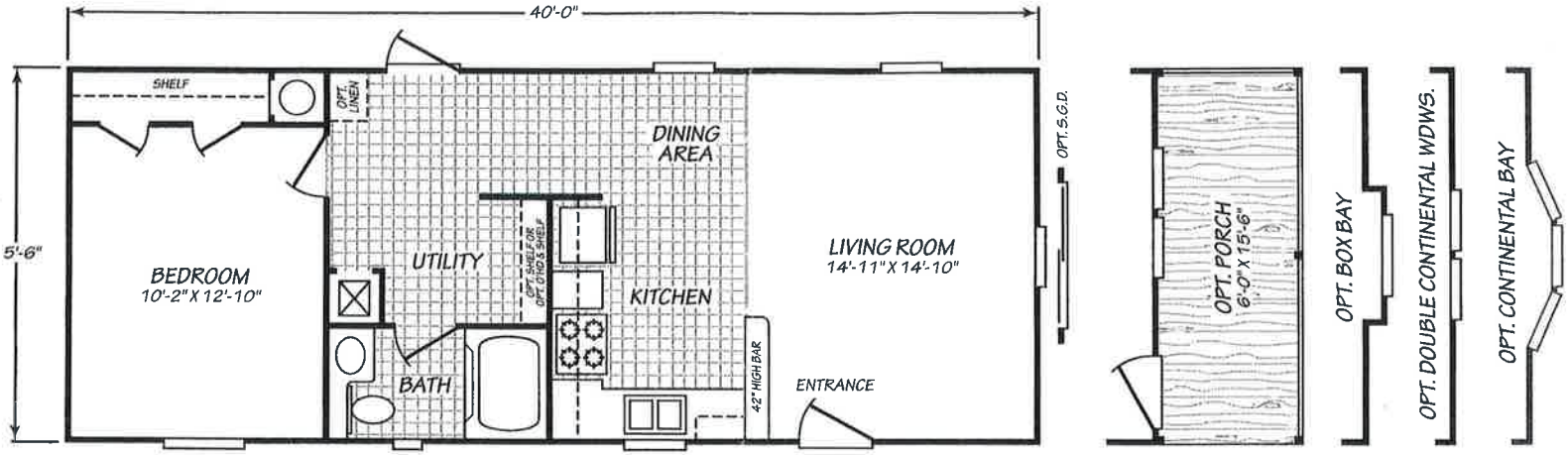
2022-008 ATTH 02

S-748



MODEL 16401X

1 Bedroom • 1 Bath • 620 Square Feet

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MANUFACTURER OF THE YEAR
7 YEARS
2010-2016

WE 240/APR20
PFS APPROVAL 5/16/19

Attachment: 2022-008 ATTH 02 (Floor Plan and Photo) (3624 : 2022-008 ORD granting SUP for HUD code

City of Texarkana, Texas 2022-008

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:	No Additional

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: 2022-008 Goals & Perspectives (3624 : 2022-008 ORD granting SUP for HUD code manufactured home at 4007 Findley St)

ORDINANCE NO. 2022-008 S-748

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE ZONING MAP SHOWING THE LOCATION, BOUNDARY, AND USE OF CERTAIN PROPERTY BY THE GRANTING OF SPECIFIC USE PERMIT NO. S-748 TO ALLOW THE LOCATION OF A SINGLE-WIDE HUD CODE MANUFACTURED HOME ON LOT 3, BLOCK 17, GRANDVIEW ADDITION, LOCATED AT 4007 FINDLEY STREET, IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS; CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed with the City of Texarkana, Texas, requesting an amendment to the Zoning Ordinance to grant a **Specific Use Permit** to allow the location of a single-wide HUD Code manufactured home on **Lot 3, Block 17, Grandview Addition, located at 4007 Findley Street**, in the City of Texarkana, Bowie County, Texas; 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 **unanimously five (5) to zero (0) to recommend** to the City Council of Texarkana, Texas, that a **Specific Use Permit be granted to allow the location of a single-wide HUD Code manufactured home** on said property; 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 granting the **Specific Use Permit** 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 further amended to grant **Specific Use Permit No. S-748** for the location of a single-wide HUD Code manufactured home on **Lot 3, Block 17, Grandview Addition, located at 4007 Findley Street**, in the City of Texarkana, Bowie County, Texas.

Attachment: 2022-008 ORD SUP HUD Manf. Home 4007 Findley signed (3624 : 2022-008 ORD granting SUP for HUD code manufactured home

SECTION 2: That the following stipulations are hereby imposed and made a part of this ordinance:

1. That one 2020 or newer single-wide HUD code manufactured home be allowed on this property.
2. That the single-wide HUD code manufactured home be tied down/skirted/underpinned.
3. That the single-wide HUD code manufactured home be used for dwelling purposes only, human occupancy only.
4. That the Specific Use Permit be in effect for a period of three (3) years, beginning at the date of this ordinance. It is the owner's responsibility to renew this permit.
5. That if the HUD code manufactured home is not placed on the property within the three (3) year period, the Specific Use Permit will automatically be revoked.
6. That all driveways, parking, building codes/setbacks, engineered foundation, platting and flood plain requirements must be in accordance with the City of Texarkana, Texas codes.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 4: 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 5: That 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 **14th day of February, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

7:18 p.m.

Attachment: 2022-008 ORD SUP HUD Manf. Home 4007 Findley signed (3624 : 2022-008 ORD granting SUP for HUD code manufactured home

City of Texarkana, Texas

Version:

Briefing Sheet

Update Date: 1/21/2022 9:50 AM

Lead Department:	Planning & Zoning Commission	**Action Officer:**	Laura Puckett, Administrative Coordinator
Subject:	Ordinance No. 2022-009 approving an amendment to PD-20-5(GR) for site plan approval on a 2.206-acre tract of land (being Tract 65A) in the John A. Talbot HRS, A-564, located at 5609 Richmond Rd. Don Robertson, owner.		

Briefing: 2/14/2022 **Public Hearing:** 2/14/2022 **Council Vote:** 2/14/2022

Item Schedule

Schedule 1: Brief twice - vote once (six weeks)

Updates/History of Briefing:

During the permitting process a different set of plans was provided to the City of Texarkana, Texas Inspections Department. Therefore, a new request for site plan approval was submitted.

Executive Summary and Background Information:

This is a request for site plan approval by Don Robertson, owner, requesting a site plan approval on a 2.206-acre tract of land in the John A. Talbot HRS, A-564, located at 5609 Richmond Road. This property was previously vacant land.

The adjacent zoning is Single Family-1 north, office to the west, Planned Development-General Retail to the south and general retail to the east. The adjacent land use is vacant land to the north and west, office to the south and retail and office to the east.

This application was previously presented before the Planning and Zoning Commission by Kirk Patton and Don Robertson on October 5, 2020 and was approved with the following stipulations as well as the attached site plan:

1. Construction of a new 3,320 sq. ft. building.
2. Façade will be painted CMU block.
3. Access will be from Richmond Road and will require TXDOT approval.
4. A cross access agreement is recommended.
5. 22 vacuuming parking spaces including one (1) handicapped space and 3 employee parking spaces.
6. A monument style sign not to exceed 96 sq. ft. in overall size to be located at the entrance off Richmond Road. No CEVMS.
7. A 73.42 sq. ft. wall sign on the building.

The contractor on behalf of Don Robertson was issued a building permit on May 13, 2021. During the permitting process a different set of plans was provided to the City of Texarkana, Texas Inspections Department. Therefore, a new request for site plan approval has been submitted for approval with the following stipulations:

1. Construction of a new 3,320 sq. ft. building.
2. Façade will be painted CMU block.
3. Access will be from Richmond Road and will require TXDOT approval.
4. A cross access agreement is recommended.
5. 20 vacuuming parking spaces including one (1) handicapped space and 3 employee parking spaces.
6. A monument style sign not to exceed 96 sq. ft. in overall size to be located at the entrance off Richmond Road. No CEVMS.
7. A 73.42 sq. ft. wall sign on the building.

Site plan approvals are attached to City Ordinances for record. Since the building location was moved, approval by the Planning and Zoning Commission is required. Staff recommends for approval of the site plan.

The applicant should also be aware that if this site plan approval item is approved, all other applicable city code/ordinance requirements must be met including but not limited to 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 with stipulations.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of this request with stipulations.

Advisory Board/Committee Meeting Date and Minutes:

January 4, 2022

Attachments

a. 2022-009 ORD Amendment to PD-20-5 (GR) for site plan approval 5609 Richmond (DOCX)
b. 2022-009 EXH 'A' (Site Plan)(PDF)
c. 2022-009 EXH 'B' (Legal Description) (PDF)
d. 2022-009 ATTH 01 (Maps) (PDF)
e. 2022-009 ATTH 02 (Elevations) (PDF)
f. 2022-009 ATTH 03 (Signs) (PDF)
g. 2022-009 Goals & Perspectives (DOCX)
h. 2022-009 ORD SUP 5609 Richmond signed (PDF)

Staff Coordination

Building Code Administration	01/21/2022 8:20 AM	Mashell Daniel	Reviewer	Completed
City Manager	Vicky Coopwood	Reviewer	Completed	01/21/2022 2:52 PM
City Council	Jennifer Evans	Meeting	Completed	01/24/2022 6:00 PM

Meeting History

01/24/22	City Council	MOVED FORWARD	Next: 02/14/22

ORDINANCE NO. 2022-009

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING PD-20-5(GR) FOR SITE PLAN APPROVAL ON AN APPROXIMATE 2.206-ACRE TRACT OF LAND (BEING TRACT 65A), JOHN A. TALBOT HRS, A-564, LOCATED AT 5609 RICHMOND ROAD IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS, CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed requesting the approval of a **site plan (Exhibit 'A') on an approximate 2.206-acre tract of land (being Tract 65A), John A. Talbot HRS, A-564, described and depicted in (Exhibit 'B'), located at 5609 Richmond Road** in the City of Texarkana, Bowie County, Texas; and

WHEREAS, the subject property is zoned Planned Development-General Retail [PD-20-5(GR)], and approval of the site plan **(Exhibit 'A')** would constitute an amendment to PD-20-5(GR); and

WHEREAS, the proposed use is consistent with the listed uses in the Land Development Code for the zoning classification of Planned Development-General Retail; 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 this amendment, 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 **unanimously five (5) to zero (0) to recommend approval of the petition for a site plan (Exhibit 'A')** to the City Council of the City of Texarkana, Texas; 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 the approval of the site plan for the above described property 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: The site plan (**Exhibit 'A') for an approximate 2.206-acre tract of land (being Tract 65A), John A. Talbot HRS, A-564, as described and depicted in (Exhibit 'B'), located**

Attachment: 2022-009 ORD Amendment to PD-20-5 (GR) for site plan approval 5609 Richmond (3625 : 2022-009 ORD approving Amendment to

at 5609 Richmond Road in the City of Texarkana, Texas, Bowie County, Texas, is hereby approved and hereby amends PD-20-5(GR).

SECTION 2: PD-20-5(GR) is hereby amended by approval of the site plan (**Exhibit 'A'**), incorporated herein by reference for all purposes and includes the following:

1. Construction of a new 3,320 sq. ft. building.
2. Façade will be painted CMU block.
3. Access will be from Richmond Road and will require TxDOT approval.
4. A cross access agreement is recommended.
5. Twenty vacuuming parking spaces including one (1) handicapped space and three 3 employee parking spaces.
6. A monument style sign not to exceed 96 sq. ft. in overall size to be located at the entrance off Richmond Road. No CEVMS.
7. A 73.42 sq. ft. wall sign on the building.

SECTION 3: 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 4: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 5: That 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 **14th day of February, 2022.**

ATTEST:

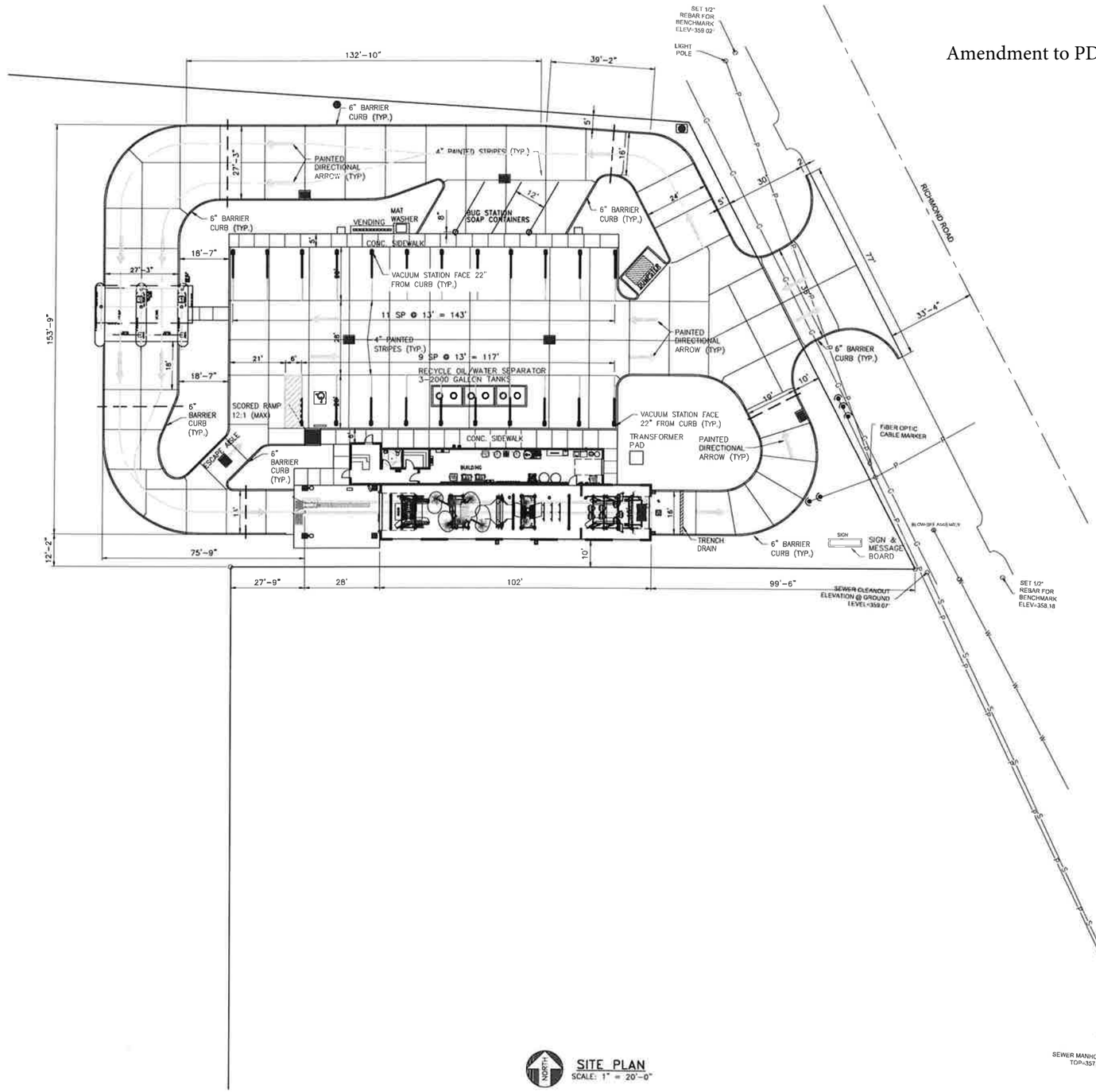
JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Attachment: 2022-009 ORD Amendment to PD-20-5 (GR) for site plan approval 5609 Richmond (3625 : 2022-009 ORD approving Amendment to

2022-009 EXH 'A'

Amendment to PD-20-5 (GR)



NORTH

SITE PLAN
SCALE: 1" = 20'-0"

GENERAL SITE GRADING NOTES:

1. THE FINISHED FLOOR SHALL BE A MINIMUM 2'-0" ABOVE THE EXISTING SITE GRADE AT THE BUILDING.
2. ALL SELECT FILL MATERIAL TO BE FREE OF ORIGINAL MATERIALS AND SHALL BE COMPACTED. SELECT MATERIAL SHALL HAVE A PI < 15 AND SHALL BE COMPACTED TO 95% MODIFIED PROCTOR DENSITY.
3. SITE TO BE GRADED BY CONTRACTOR TO DRAIN AWAY FROM BUILDING.
4. TOP SOIL TO BE STOCKPILED ONSITE AND SPREAD OVER SLOPES UPON COMPLETION OF GRADING.
5. ALL EXCESS EXCAVATED MATERIAL TO BE SPREAD ONSITE IN A MANNER NOT TO BLOCK DRAINAGE PATTERNS AS DIRECT BY THE OWNER'S AUTHORIZED REPRESENTATIVE.
6. ALL DISTURBED AREAS OF THE SITE SHALL BE SEEDED AND FERTILIZED.

FLAG POLE:

THE FLAGPOLE IS TO BE OWNER SUPPLIED AND INSTALLED BY THE GENERAL CONTRACTOR. FIELD LOCATE PER OWNER'S REPRESENTAITVE DIRECTION.

SIGNAGE NOTES:

THE CONTRACTOR SHALL COORDINATE THE ELECTRICAL INSTALLATION FOR ALL SIGNS INCLUDING PROVIDING CONDUITS AND CONDUCTORS TO EACH SIGN LOCATION – DIRECTIONAL AND ADVERTISEMENT SIGNAGE. THE CONTRACTOR SHALL INSTALL ALL DIRECTIONAL SIGNS. ADVERTISEMENT SIGNS SHALL BE INSTALLED BY SIGN COMPANY BY OWNER. THE CONTRACTOR COORDINATE HIS WORK WITH THE SIGN COMPANY AND THE OWNER'S REPRESENTATIVE.

IRRIGATION NOTES:

THE CONTRACTOR SHALL COORDINATE THE IRRIGATION SYSTEM INSTALLATION AND PROVIDE SIX (6) – 3" PVC CONDUITS EXTENDING 2' PAST THE DRIVEWAY WIDTH. WATER SUPPLY TO BE ROUTED TO THE BUILDING AS DIRECTED BY THE OWNER'S REPRESENTATIVE AND IRRIGATION CONTRACTOR.

WATER SUPPLY:

CARWASH WATER SUPPLY SHALL BE 165 GPM @ 40 PSI (MINIMUM).

UTILITY NOTES:

1. CONTRACTOR TO NOTIFY ENGINEER, OWNER'S REPRESENTATIVE, AND THE CITY OF TEXARKANA DEPARTMENT OF PUBLIC WORKS PRIOR TO COMMENCING WORK ON UTILITY INSTALLATION 48 HOURS IN ADVANCE.
2. CONTRACTOR TO LOCATE AND EXPOSE EXISTING UTILITIES FOR INSPECTION. ELEVATIONS ARE TO BE DETERMINED TO INSURE PROPER CONNECTION OF THE NEW FACILITIES.
3. REFER TO ARCHITECTURAL AND EQUIPMENT DRAWINGS FOR UTILITY TIES INSIDE BUILDING, AND COORDINATE ROUTING AS REQUIRED TO INSURE PROPER TIE IN.
4. THE CONTRACTOR SHALL SUPPLY AND INSTALL BACKFLOW PREVENTORS FOR EACH WATER SUPPLY TO THE PROPOSED FACILITY – ONE 1" ASSEMBLY AND ONE 2½" ASSEMBLY, LOCATE PER THE CITY OF TEXARKANA DEPARTMENT OF PUBLIC WORKS 10, AND THE OWNER'S REPRESENTATIVE, EACH SHALL BE A COMPLETE INSTALLATION PER THE TEXAS PLUMBING CODE AND SHALL BE PROVIDED WITH INSULATED FIBERGLASS COVERS TO PREVENT FREEZING.
5. MAINTAIN A MINIMUM OF 36" OF COVER ABOVE ANY EXISTING TEXARKANA WATER UTILITIES MAINS – WATER AND SANITARY SEWER.
6. ALL WATER AND SEWER TAPS ARE TO BE MADE BY A UTILITY CONTRACTOR UNDER THE SUPERVISION OF THE GENERAL CONTRACTOR WITH TWU INSPECTORS ONSITE. ANY MAIN DAMAGED AS THE RESULT OF TAPPING SHALL BE REPAIRED TO THE SATISFACTION OF TEXARKANA WATER UTILITIES AT NO COST TO TWU.

FOUNDATION NOTES:

1. FOUNDATIONS ARE DESIGNED FOR AN ALLOWABLE GROSS BEARING PRESSURE OF 2000 PSF, FOR FOOTING FOUNDED APPROXIMATELY 2 FEET BELOW FINAL GRADE. CONTRACTOR TO VERIFY BEARING CAPACITY OF SOIL.
2. PROTECT PIPES & CONDUITS RUNNING THROUGH WALLS & SLABS WITH 1/2 INCH EXPANSION MATERIAL. LOWER CONTINUOUS FOOTINGS & GRADE BEAMS PERPENDICULAR TO PIPE RUNS TO ALLOW PIPES TO PASS ABOVE THE FOOTINGS OR THROUGH THE GRADE BEAMS. ALTERNATIVELY, PROVIDE A CONCRETE JACKET IF PIPES ARE LOW ENOUGH TO BE PLACED BELOW THE FOOTINGS & GRADE BEAMS. LOWER FOOTINGS & GRADE BEAMS PARALLEL TO PIPE RUNS TO AVOID SURCHARGE ONTO ADJACENT TRENCH EXCAVATIONS.
3. MAINTAIN SUBGRADE & FILL MOISTURE CONTENT UNTIL FOUNDATIONS ARE PLACED PER GEO.
4. ARRANGE FOR OWNER'S INDEPENDENT TESTING AGENCY TO MONITOR CUT & FILL OPERATIONS & PERFORM FIELD DENSITY & MOISTURE CONTENT TESTS TO VERIFY COMPACTION & APPROVE FOOTING SUBGRADES PRIOR TO PLACING CONCRETE.
5. DO NOT PLACE FOOTINGS OR SLABS AGAINST SUBGRADE CONTAINING FREE WATER, FROST, OR ICE.
6. MAINTAIN PROPER SITE DRAINAGE DURING CONSTRUCTION TO ENSURE SURFACE RUNOFF AWAY FROM STRUCTURES & TO PREVENT PONDING OF SURFACE RUNOFF NEAR THE STRUCTURES.
7. KEEP OPEN EXCAVATIONS AROUND BUILDING PERIMETER DRY. BACK FILL AGAINST FOUNDATIONS & GRADE BEAMS AS SOON AS PRACTICAL. PUMP WATER OUT & DRY OPEN EXCAVATIONS, IF FLOODED PRIOR TO BACKFILLING.

BUILDING PAD PREPARATION NOTES:

1. THE AREAS TO RECEIVE SELECT FILL SHALL BE STRIPPED OF ALL VEGETATION, EXISTING FILL, & SOFT OR DISTURBED SOILS. THE EXCAVATED AREA SHALL BE OBSERVED BY THE SOILS ENGINEER PRIOR TO PLACING DENSITY–CONTROLLED SELECT CLAYEY FILL.
2. ENTIRE SITE SHALL BE PROOF ROLLED WITH FULLY LOADED TANDEM AXLE DUMP TRUCK. ALL AREAS THAT ARE OBSERVED TO RUT OR DEFLECT SHALL BE REMOVED, BACKFILLED WITH SELECT MATERIAL WITH A PI ≤15, AND COMPACTED TO 95% DENSITY STD PROCTOR.
3. THE EXPOSED GRADE SHALL BE SCARIFIED TO A DEPTH OF 12 INCHES, MOISTENED TO A CONTENT OF –2 TO +4 PERCENT OF OPTIMUM & RECOMPACTED TO A MINIMUM OF 95% OF THE ASTM D–698.
4. SELECT FILL, CONSISTING OF SOIL APPROVED BY A SOILS ENGINEER, SHALL BE PLACED IN COMPACTED LAYERS WITH SUITABLE COMPACTION EQUIPMENT.
5. ANY TRASH & DEBRIS IN THE EXISTING FILL SHALL BE REMOVED DURING GRADING. ANY IMPORTED FILL SHALL BE OBSERVED BY THE SOILS ENGINEER PRIOR TO USE IN FILL AREAS.
6. PLACE SUBSEQUENT LIFTS OF SELECT FILL IN THIN HORIZONTAL LAYERS NOT EXCEEDING EIGHT INCHES ON LOOSE THICKNESS & COMPACT EACH LIFT TO AT LEAST 95% OF ASTM D–698. MAINTAIN MOISTURE WITHIN TWO PERCENT BELOW TO FOUR PERCENT ABOVE THE THEORETICAL OPTIMUM.
7. FIELD OBSERVATION & TESTING SHALL BE PERFORMED BY THE SOILS ENGINEER DURING GRADING TO ASSIST THE CONTRACTOR IN OBTAINING THE REQUIRED DEGREE OF COMPACTION & THE PROPER MOISTURE CONTENT. WHERE COMPACTION IS LESS THAN REQUIRED, ADDITIONAL COMPACTIVE EFFORT SHALL BE MADE WITH ADJUSTMENT OF THE MOISTURE CONTENT, AS NECESSARY, UNTIL 95% COMPACTION IS OBTAINED.
8. FINE GRAINED, LOW COHESION SOILS OF THE TYPE SPECIFIED FOR SELECT FILL MAY BE COMPACTED USING RUBBER–TIRED, AND/OR PNEUMATIC ROLLERS, & STRICT MOISTURE CONTROL.
9. VEGETATION OR ASSOCIATED ROOT SYSTEM LOCATED WITHIN THE AREA TO BE GRADED SHALL BE REMOVED DURING GRADING. ANY EXISTING OR ABANDONED UTILITIES LOCATED WITHIN THE AREA SHALL BE REMOVED OR RELOCATED. ALL FILL MATERIALS & DISTURBED SOILS RESULTING FROM GRADING OPERATIONS SHOULD BE REMOVED & PROPERLY RECOMPACTED PRIOR TO FOUNDATION EXCAVATION.

SELECT FILL SHALL CONSIST OF HOMOGENOUS SOILS FREE OF ORGANIC MATTER & DEBRIS, OR ROCK LARGER THAN SIX INCHES IN DIAMETER, & POSSESSING A PLASTICITY INDEX BETWEEN FOUR & FIFTEEN WITH A MAXIMUM LIQUID LIMIT OF 36. THE MATERIAL SHALL BE PLACED IN ACCORDANCE WITH THE REQUIREMENTS OF THE GEOTECHNICAL REPORT SUBGRADE PREPARATION & VERIFIED IN THE FOLLOWING MANNER:

CONDUCT IN–PLACE DENSITY TESTS AT THE RATE OF ONE TEST PER 2,500 SQUARE FEET FOR EACH LIFT.

CONFIRM SUITABILITY BY ATTERBURG LIMIT TESTS AT THE RATE OF ONE TEST PER 500 CUBIC YDS.

THE SOURCE OF SELECT FILL IS UNKNOWN. ALLOW AT LEAST THREE DAYS FOR PROPER TESTING OF POTENTIAL BORROW AREAS. VERIFY SUITABILITY PRIOR TO PLACEMENT ON SITE.

UTILITY WARNING:

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR/ENGINEER MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR/ENGINEER FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. THE SURVEYOR/ENGINEER HAS NOT PHYSICALLY LOCATED ALL OF THE UNDERGROUND UTILITIES.

UTILITY PROVIDERS

ELECTRICITY	–	SWEPCO
NATURAL GAS	–	NOT REQUIRED
WATER	–	CITY OF TEXARKANA, TEXAS
SANITARY SEWER	–	CITY OF TEXARKANA, TEXAS
TELECOMMUNICATIONS	–	AT&T

STATE OF TEXAS
89734
LICENSED
PROFESSIONAL ENGINEER

REV 10/20/2021

DAVID LANE BEAIRD & ASSOCIATES, INC.
CIVIL & STRUCTURAL ENGINEERS PLANNING PROJECT MANAGEMENT
105 COMMERCIAL PARKWAY, WEST MONROE, LOUISIANA 71292 (318) 388-3227
DAVIDBEAIRD@BAIRDENGINEERING.COM
TEXAS FIRM NO. 4748

TEXARKANA, TEXAS

ROCKETFAST CARWASH

DON ROBERTSON

SITE PLAN

DATE: 7/27/20

SP1.0

JOB No. 200709

Attachment: 2022-009 EXH 'A' (Site Plan) (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609 Richmond Rd)

Property Description
2.206 Acres
Bowie County, Texas

All that certain lot, tract or parcel of land lying and situated in the John A. Talbot Headright Survey, Abstract 564, Bowie County, Texas, being part of that certain tract of land described as 3.563 acres in the deed from Patton, Haltom, Roberts, McWilliams & Greer, LLP to PHRMG Developers, dated February 21, 2000, recorded in Volume 3221, Page 189 of the Real Property Records of Bowie County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch steel rod (control monument), capped LONNIE PACE – PLS 1573 TX, found for a corner, the Northeast corner of the said 3.563 acre tract, lying in the South line of that certain tract of land described as 58.95 acres in the deed from Regions Bank, f/k/a The State First National Bank of Texarkana, to Martha Louise Arnold Stilwell (1/10th Interest), dated July 27, 2011, recorded in Volume 6120, Page 299 of the Real Property Records of Bowie County, Texas, that certain tract of land described as 58.95 acres in the deed from Thomas H. Arnold, as Independent Executor of the estate of Lewis H. Arnold, to Martha Louise Arnold Stilwell (1/10th interest), dated July 21, 2011, recorded in Volume 6120, Page 302 of the Real Property Records of Bowie County, Texas, that certain tract of land described as Tract No. 5, with 58.95 acres in the deed from Josh R. Morriss, Jr. and Martha W. Morriss, to the Josh R. Morriss, Jr. Family Limited Partnership (4/5th interest), dated December 29, 1997, recorded in Volume 2772, Page 166 of the Real Property Records of Bowie County, Texas, same being that certain tract of land described as 58.95 acres in the deed from L. E. Kenney, et ux, to R. M. Morriss, Sr., et al, dated May 20, 1964, recorded in Volume 440, Page 220 of the Deed Records of Bowie County, Texas, and lying in the West right-of-way line of Farm-to-Market Road 559 (Richmond Road);

THENCE South 30 degrees 15 minutes 43 seconds East (basis of bearings) a distance of 188.16 feet along the East line of the said 3.563 acre tract, and the West right-of-way line of the said Richmond Road to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner;

THENCE South 87 degrees 00 minutes 01 seconds West a distance of 257.20 feet across the said 3.563 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner;

THENCE South 02 degrees 59 minutes 59 seconds East a distance of 213.98 feet across and through the said 3.563 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, lying in the South line of the said 3.563 acre tract, and the North right-of-way line of Moores Lane;

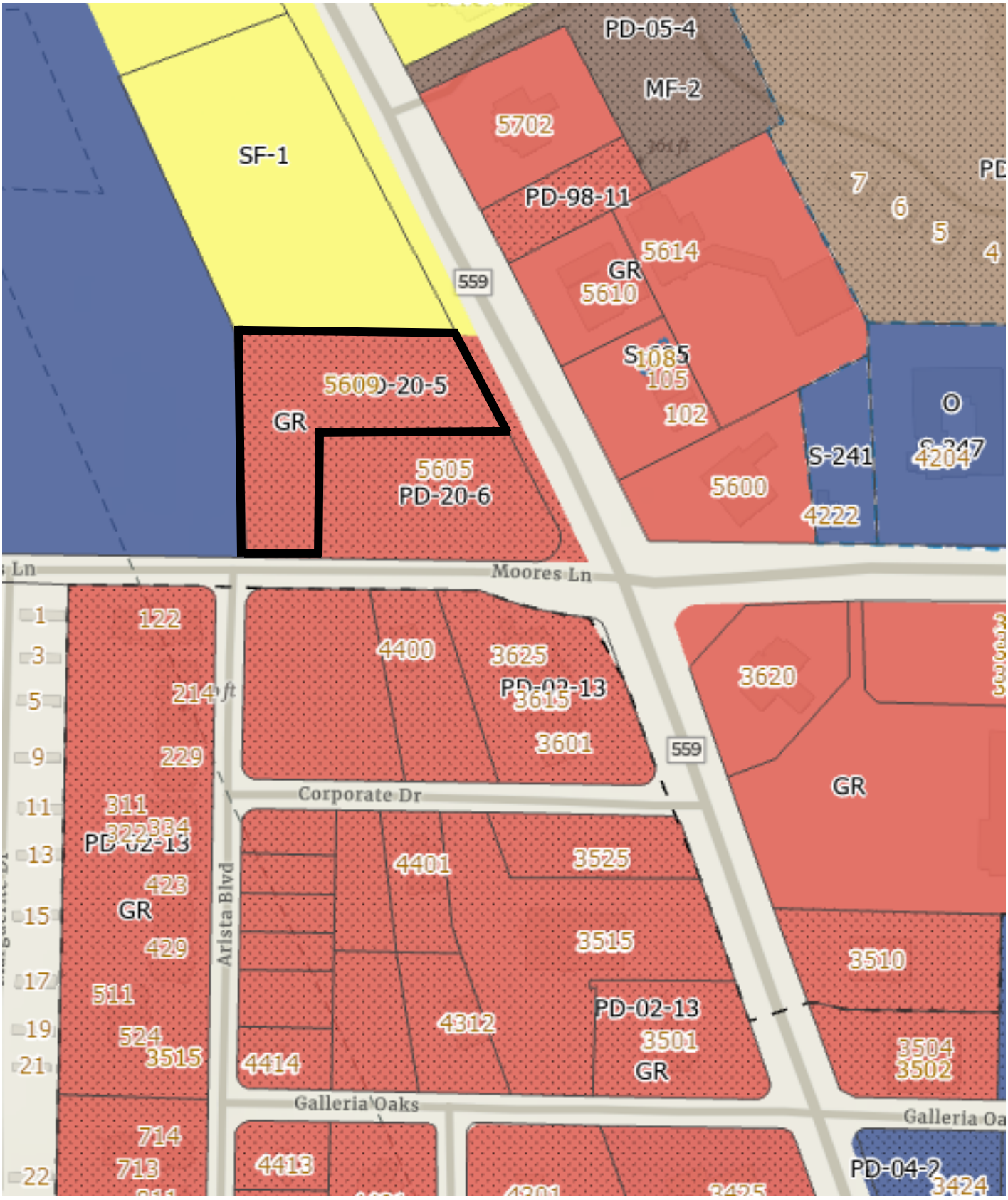
THENCE South 87 degrees 00 minutes 01 seconds West a distance of 127.08 feet along the South line of the said 3.563 acre tract and the North right-of-way line of the said Moores Lane to a 1 inch steel pipe (control monument) found for a corner, the Southwest corner of the said 3.563 acre tract, lying in the East line of the said 58.95 acre tract and the North right-of-way line of the said Moores Lane;

THENCE North 09 degrees 12 minutes 45 seconds West a distance of 406.72 feet along the West line of the said 3.563 acre tract, and the East line of the said 58.95 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, the Northwest corner of the said 3.563 acre tract, and an angle point of the said 58.95 acre tract;

THENCE South 89 degrees 08 minutes 16 seconds East a distance of 342.89 feet along the North line of the said 3.563 acre tract, the South line of the said 58.95 acre tract, and generally along a fence to the point of beginning, and containing 2.206 acres of land at the time of this survey.

Attachment: 2022-009 EXH 'B' (Legal Description) (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609

5609 Richmond Rd.

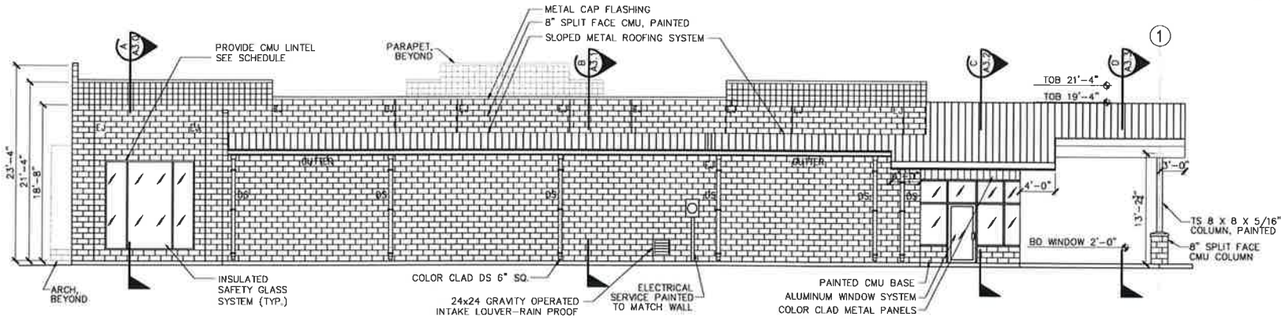


Attachment: 2022-009 ATTH 01 (Maps) (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609 Richmond Rd)

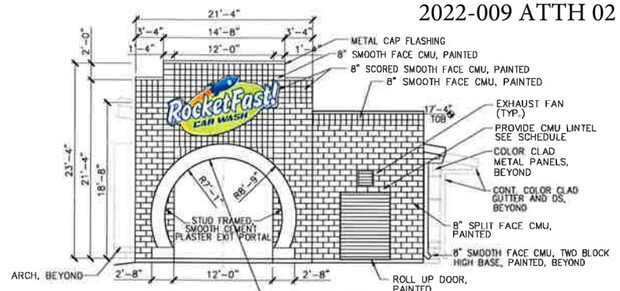
5609 Richmond Rd.

Attachment: 2022-009 ATTH 01 (Maps) (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609 Richmond Rd)

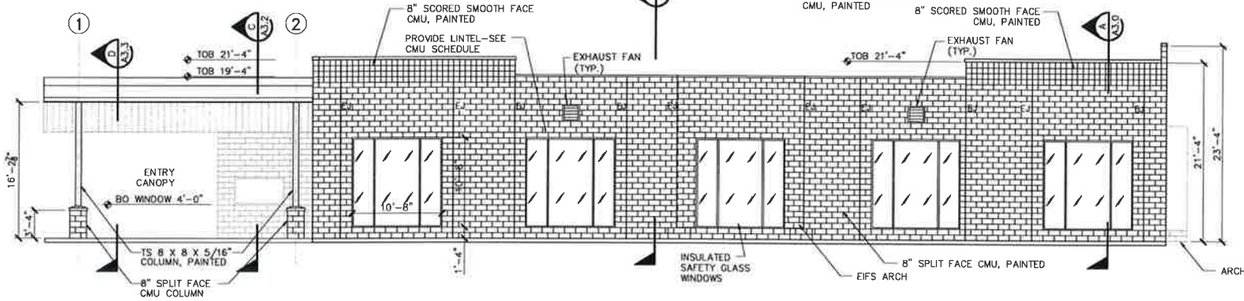
2022-009 ATTH 02



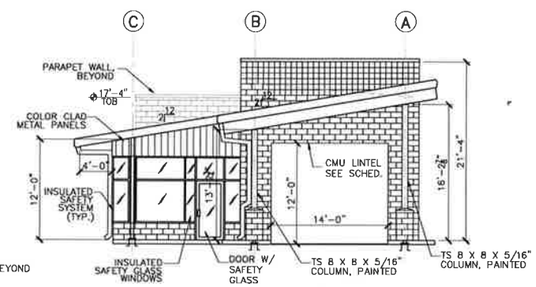
NORTH ELEVATION
SCALE: 1/8"=1'-0"



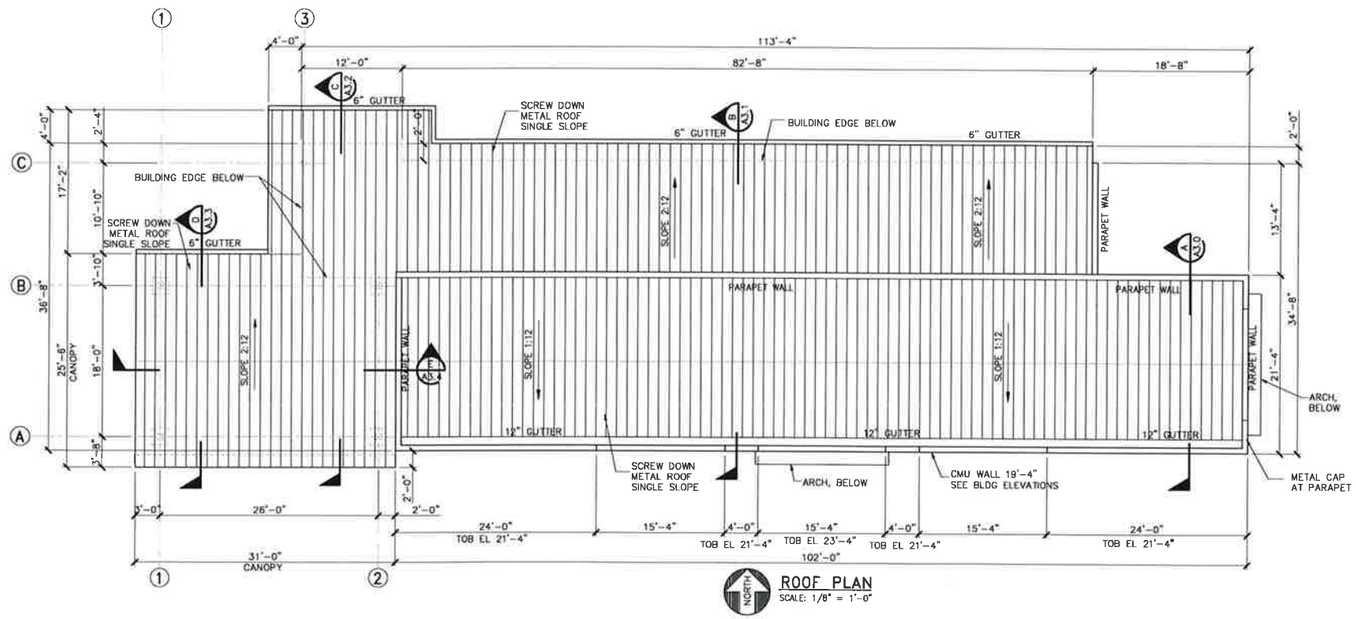
EXIT
EAST ELEVATION
SCALE: 1/8"=1'-0"



SOUTH ELEVATION
SCALE: 1/8"=1'-0"



ENTER
WEST ELEVATION
SCALE: 1/8"=1'-0"



ROOF PLAN
SCALE: 1/8" = 1'-0"

NOTES:
BLOCK FINISHES-

INTERIOR OF WASH BAY: (SEAL ONLY)
BLOCK SEALER TO BE SHERWIN WILLIAMS KEM CATI-COAT HS FULL COVERAGE COAT.

ALL OTHER BLOCK AREAS:

BLOCK FILLER - SHERWIN WILLIAMS PREPRITE BLOCK FILLER, ONE COAT MIN. FULL COVERAGE. APPLY PER MANUFACTURES SPECIFICATIONS.

FINISH PAINT - SHERWIN WILLIAMS - A40D, TWO COAT FULL COVERAGE, APPLY PER MANUFACTURES SPECIFICATIONS.

FIELD BLOCK TO BE SPLIT FACE AND ALL OTHER BLOCK TO BE SMOOTH, PAINTED.

ROOF, TRIM, DS, FLASHING, ETC. TO BE COLOR CLAD, REGAL BLUE.

STORE FRONT SYSTEM - BRIGHT ALUMINUM FINISH

EXIT PORTAL CURVE TO BE SMOOTH CEMENT PLASTER OVER METAL STUD FRAMING. COLOR BY OWNER.

DAVID LANE BEAIRD
& ASSOCIATES, INC.
CIVIL & STRUCTURAL ENGINEERS PLANNING PROJECT MANAGEMENT
100 COMMERCIAL PARK WEST TEXARKANA, TEXAS 75501 (870) 772-7292 (318) 388-3227
email: Beaird@beairdengineering.com
TEXAS FIRM NO 4748

TEXARKANA, TEXAS

ROCKETFAST CARWASH

DON ROBERTSON

EXTERIOR ELEVATIONS

DATE: 7/27/20

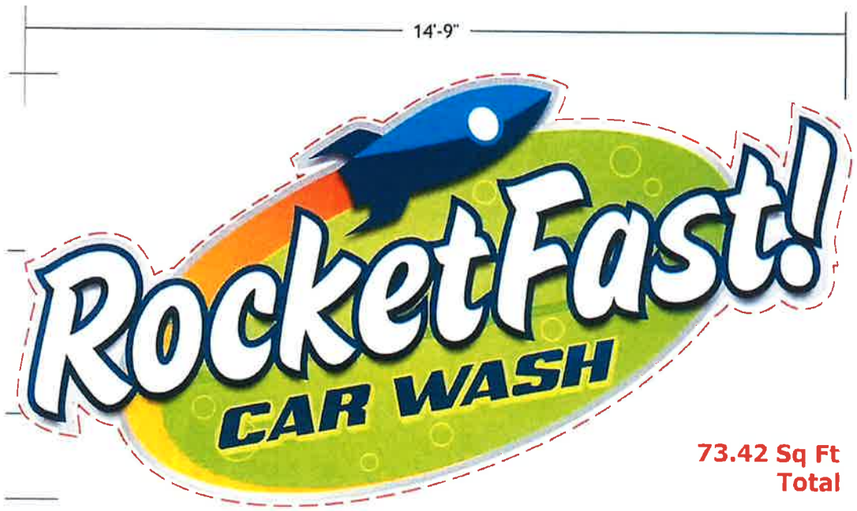
A2.0

JOB No. 200709

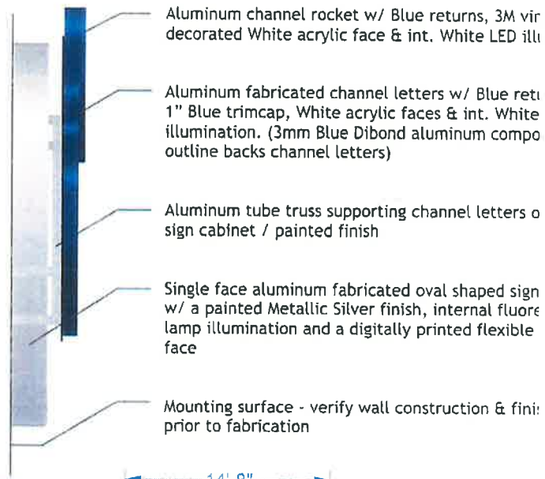
STATE OF TEXAS
89734
LICENSED
PROFESSIONAL ENGINEER

REV 9/30/2021

Attachment: 2022-009 ATTH 02 (Elevations) (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609 Richmond



73.42 Sq Ft Total



tall (1) s/f wall sign as shown above, onto building in customer designated area, as shown in detail right....

ast letters & rocket graphic are aluminum fabricated channels w/ Blue returns, White acrylic ayl decoration on rocket) and internal White LED illumination. Letters are mounted to a Dibond n composite outline and stand-off mounted over sign cabinet w/ an aluminum tube frame.

ped portion is an aluminum fabricated cabinet w/ a painted Metallic Silver finish, internal lamp ion and a digitally printed flexible face. This cabinet is flush mounted to wall surface.

ll construction and finish details will be needed along w/ dimension verification prior to any n fabrication.

1/8"=1'-0"

TED ON THIS PRINT MAY NOT MATCH THE PMS CHIP, VINYL OR PAINT COLORS EXACTLY. It is to be viewed as a color representation only.

SIGN LITE
Lighting the way to success!
1490 I-10 Service Rd. • Slidell, LA 70461
0)869-3804 • (985)649-3804 • f:(985)643-3758

Client: Rocket Fast Carwash, Corner of Pierremont Rd. & Southern Ave., Shreveport, LA	Sales Rep.: B Rountree	Designer: K Snyder	120 v electrical unless noted otherwise
Project: S/F Wall Sign	Date: 05/25/2018	Drawing No. / Pg No.: 05747A	Approved by:
	Bid No.	Scale: 1/2"=1'-0"	Approval date:

NOTES:
1. STRUCTURAL STEEL WILL BE ASTM-36.
2. STEEL LESS THAN 1/4" THICK WILL BE GALVANIZED.
3. ALL STRUCTURAL STEEL TO BE PAINTED W/ TWO COATS OF RUST INHIBITING PAINT UNLESS GALVANIZED.
4. ALL CONNECTIONS WILL BE ¾" DIAMETER BOLTS UNLESS NOTED.
5. PLASTIC SIGN FACES TO BE FORMED OF SLOW BURNING MATERIALS.
6. COMPLETED SIGN WILL BEAR U.L. LABEL.
7. SIGN WILL BE LOCATED A MINIMUM OF 6" FROM BACK OF CURB.
8. BOTTOM OF SIGN WILL BE LOCATED A MINIMUM OF 9' ABOVE GRADE.
9. SIGN WILL BE FABRICATED & INSTALLED TO WITH STAND A MIN. WIND LOAD OF 130 M.P.H. @ 3 SEC. GUSTS IN ACCORDANCE W/ 2009 I.B.C.

THESE PLAN… HAVE BEEN … UNDER MY … BEST OF MY … THEY CO… REQUIREMENT… ADMINIS…

ot Duplicate. This concept and artwork is the exclusive property of Sign Lite, and is for the sole purpose of viewing by recipient. It is not to be released to outside parties. If no contact is initiated with Sign Lite, this concept and artwork luplication and/or copying of these drawings in part or whole is prohibited. Any violation of these terms will result in penalties and prosecution under current copyright laws and/or be subject to full reimbursement of any and all associated design and production fees.

www.signlite.com • i…

Attachment: 2022-009 ATTH 03 (Signs) (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609 Richmond Rd)

RocketFast Carwash

File:	Rocket Fast Texarkana
Date:	7-21-21
Customer:	Rocket Fast
Location:	Texarkana TX

Customer Approval

Change As Noted

Notes:

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© Copyright 2021

All electrical components will be UL approved, all wiring will comply with UL & NEC requirements.

Signs will bear the UL mark.

All signs will be engineered to meet or exceed local wind load requirements.

white sign
Main Office
3501 Stoneledge Dr.
Texarkana, TX 75503
903 280 7849
WHITESIGN.com

Attachment: 2022-009 ATTH 03 (Signs) (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609 Richmond Rd)

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:	No Additional

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: 2022-009 Goals & Perspectives (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609 Richmond

Amendment to
PD-20-5(GR)

ORDINANCE NO. 2022-009

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING PD-20-5(GR) FOR SITE PLAN APPROVAL ON AN APPROXIMATE 2.206-ACRE TRACT OF LAND (BEING TRACT 65A), JOHN A. TALBOT HRS, A-564, LOCATED AT 5609 RICHMOND ROAD IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS, CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed requesting the approval of a **site plan (Exhibit 'A') on an approximate 2.206-acre tract of land (being Tract 65A), John A. Talbot HRS, A-564, described and depicted in (Exhibit 'B'), located at 5609 Richmond Road** in the City of Texarkana, Bowie County, Texas; and

WHEREAS, the subject property is zoned Planned Development-General Retail [PD-20-5(GR)], and approval of the site plan **(Exhibit 'A')** would constitute an amendment to PD-20-5(GR); and

WHEREAS, the proposed use is consistent with the listed uses in the Land Development Code for the zoning classification of Planned Development-General Retail; 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 this amendment, 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 **unanimously five (5) to zero (0) to recommend approval of the petition for a site plan (Exhibit 'A')** to the City Council of the City of Texarkana, Texas; 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 the approval of the site plan for the above described property 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: The site plan (**Exhibit 'A') for an approximate 2.206-acre tract of land (being Tract 65A), John A. Talbot HRS, A-564, as described and depicted in (Exhibit 'B'), located**

Attachment: 2022-009 ORD SUP 5609 Richmond signed (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609

at 5609 Richmond Road in the City of Texarkana, Texas, Bowie County, Texas, is hereby approved and hereby amends PD-20-5(GR).

SECTION 2: PD-20-5(GR) is hereby amended by approval of the site plan (**Exhibit 'A'**), incorporated herein by reference for all purposes and includes the following:

1. Construction of a new 3,320 sq. ft. building.
2. Façade will be painted CMU block.
3. Access will be from Richmond Road and will require TxDOT approval.
4. A cross access agreement is recommended.
5. Twenty vacuuming parking spaces including one (1) handicapped space and three 3 employee parking spaces.
6. A monument style sign not to exceed 96 sq. ft. in overall size to be located at the entrance off Richmond Road. No CEVMS.
7. A 73.42 sq. ft. wall sign on the building.

SECTION 3: 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 4: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 5: That 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 **14th day of February, 2022.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

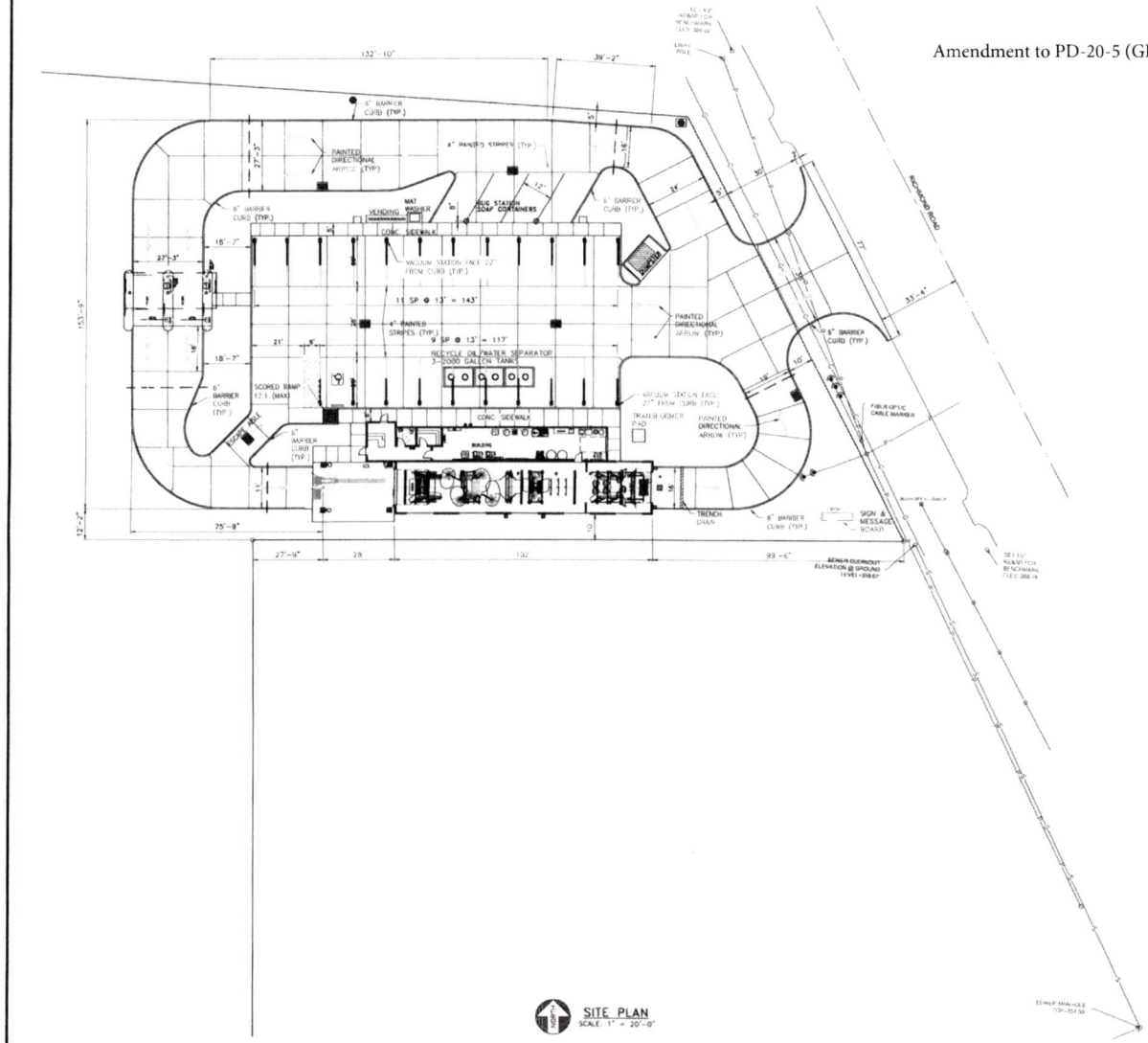
BOB BRUGGEMAN, MAYOR

7:19 p.m.

Attachment: 2022-009 ORD SUP 5609 Richmond signed (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609

2022-009 EXH 'A'

Amendment to PD-20-5 (GR)



GENERAL SITE GRADING NOTES:

1. THE FINISHED FLOOR SHALL BE A MINIMUM 2'-0" ABOVE THE EXISTING SITE GRADE AT THE BUILDING.
2. ALL SELECT FILL MATERIAL TO BE FREE OF ORGANIC MATERIALS AND SHALL BE COMPACTED. SELECT MATERIAL SHALL HAVE A PI < 15 AND SHALL BE COMPACTED TO 95% MODIFIED PROCTOR DENSITY.
3. SITE TO BE GRADED BY CONTRACTOR TO DRAIN AWAY FROM BUILDING.
4. TOP SOIL TO BE STOCKPILED ONSITE AND SPREAD OVER SLOPES UPON COMPLETION OF GRADING.
5. ALL EXCESS EXCAVATED MATERIAL TO BE SPREAD ONSITE IN A MANNER NOT TO INTERFERE DRAINAGE PATTERNS AS DIRECTED BY THE OWNER'S AUTHORIZED REPRESENTATIVE.
6. ALL DISTURBED AREAS OF THE SITE SHALL BE SEEDED AND FERTILIZED.

FLAG POLE:

THE FLAGPOLE IS TO BE OWNER SUPPLIED AND INSTALLED BY THE GENERAL CONTRACTOR. FIELD LOCATE PER OWNER'S REPRESENTATIVE DIRECTION.

SIGNAGE NOTES:

THE CONTRACTOR SHALL COORDINATE THE ELECTRICAL INSTALLATION FOR ALL SIGNS, INCLUDING PROVIDING CONDUITS AND CONDUCTORS TO EACH SIGN LOCATION – DIRECTIONAL AND ADVERTISEMENT SIGNAGE. THE CONTRACTOR SHALL INSTALL ALL DIRECTIONAL SIGNS. ADVERTISEMENT SIGNS SHALL BE INSTALLED BY SIGN COMPANY BY OWNER. THE CONTRACTOR COORDINATE HIS WORK WITH THE SIGN COMPANY AND THE OWNER'S REPRESENTATIVE.

IRRIGATION NOTES:

THE CONTRACTOR SHALL COORDINATE THE IRRIGATION SYSTEM INSTALLATION AND PROVIDE (24 EA) – 2" PVC CONDUITS EXTENDING 2' PAST THE DRIVEWAY WIDTH. WATER SUPPLY TO BE ROUTED TO THE BUILDING AS DIRECTED BY THE OWNER'S REPRESENTATIVE AND IRRIGATION CONTRACTOR.

WATER SUPPLY:

CARWASH: WATER SUPPLY SHALL BE 165 GPM @ 40 PSI (MINIMUM)

UTILITY NOTES:

1. CONTRACTOR TO NOTIFY ENGINEER, OWNER'S REPRESENTATIVE, AND THE CITY OF TEXARKANA DEPARTMENT OF PUBLIC WORKS PRIOR TO COMMENCING WORK ON UTILITY INSTALLATION 48 HOURS IN ADVANCE.
2. CONTRACTOR TO LOCATE AND EXPOSE EXISTING UTILITIES FOR INSPECTION. ELEVATIONS ARE TO BE DETERMINED TO INSURE PROPER CONNECTION OF THE NEW FACILITIES.
3. REFER TO ARCHITECTURAL AND EQUIPMENT DRAWINGS FOR UTILITY TIES INSIDE BUILDING AND COORDINATE ROUTING AS REQUIRED TO INSURE PROPER TIE IN.
4. THE CONTRACTOR SHALL SUPPLY AND INSTALL BACKFLOW PREVENTERS FOR EACH WATER SUPPLY TO THE PROPOSED FACILITY – ONE 1" ASSEMBLY AND ONE 3/4" ASSEMBLY, LOCATE PER THE CITY OF TEXARKANA DEPARTMENT OF PUBLIC WORKS TO AND THE OWNER'S REPRESENTATIVE. EACH SHALL BE A COMPLETE INSTALLATION PER THE TEXAS PLUMBING CODE AND SHALL BE PROVIDED WITH INSULATED FIBERGLASS COVERS TO PREVENT FREEZING.
5. MAINTAIN A MINIMUM OF 36" OF COVER ABOVE ANY EXISTING TEXARKANA WATER UTILITIES MAINS – WATER AND SANITARY SEWER.
6. ALL WATER AND SEWER TAPS ART TO BE MADE BY A UTILITY CONTRACTOR UNDER THE SUPERVISION OF THE GENERAL CONTRACTOR WITH TWO INSPECTORS ONSITE. ANY MAIN DAMAGED AS THE RESULT OF TAPPING SHALL BE REPAIRED TO THE SATISFACTION OF TEXARKANA WATER UTILITIES AT NO COST TO TWU.

FOUNDATION NOTES:

1. FOUNDATIONS ARE DESIGNED FOR AN ALLOWABLE GROSS BEARING PRESSURE OF 2000 PSF, FOR FOOTING FOUNDED APPROXIMATELY 2 FEET BELOW FINAL GRADE. CONTRACTOR TO VERIFY BEARING CAPACITY OF SOIL.
2. PROTECT PIPES & CONDUITS RUNNING THROUGH WALLS & SLABS WITH 1/2 INCH EXPANSION MATERIAL. LOWER CONTINUOUS FOOTINGS & GRADE BEAMS PERPENDICULAR TO PIPE RUNS TO ALLOW PIPES TO PASS ABOVE THE FOOTINGS OR THROUGH THE GRADE BEAMS. ALTERNATIVELY, PROVIDE A CONCRETE JACKET 8" PIPES ARE LOW ENOUGH TO BE PLACED BELOW THE FOOTINGS & GRADE BEAMS. LOWER FOOTINGS & GRADE BEAMS PARALLEL TO PIPE RUNS TO AVOID SURCHARGE LOAD ADJACENT TRENCH EXCAVATIONS.
3. MAINTAIN SUBGRADE & FILL MOISTURE CONTENT UNTIL FOUNDATIONS ARE PLACED PER GEO.
4. ARRANGE FOR OWNER'S INDEPENDENT TESTING AGENCY TO MONITOR CUT & FILL OPERATIONS & PERFORM FIELD DENSITY & MOISTURE CONTENT TESTS TO VERIFY COMPACTION & APPROVE EXISTING SUBGRADES PRIOR TO PLACING CONCRETE.
5. DO NOT PLACE FOOTINGS OR SLABS AGAINST SUBGRADE CONTAINING FREE WATER, FROST, OR ICE.
6. MAINTAIN PROPER SITE DRAINAGE DURING CONSTRUCTION TO ENSURE SURFACE RUNOFF AWAY FROM STRUCTURES & TO PREVENT PONDING OF SURFACE RUNOFF NEAR THE STRUCTURES.
7. KEEP OPEN EXCAVATIONS AROUND BUILDING PERIMETER DRY. BACK FILL AGAINST FOUNDATIONS & GRADE BEAMS AS SOON AS PRACTICAL. PUMP WATER OUT & DRY OPEN EXCAVATIONS, IF FLOODED PRIOR TO BACKFILLING.

BUILDING PAD PREPARATION NOTES:

1. THE AREAS TO RECEIVE SELECT FILL SHALL BE STRIPPED OF ALL VEGETATION. EXISTING FILL & SOFT OR DISTURBED SOILS THE EXCAVATED AREA SHALL BE OBSERVED BY THE SOILS ENGINEER PRIOR TO PLACING DENSITY-CONTROLLED SELECT CLAYEY FILL.
2. ENTIRE SITE SHALL BE PROOF ROLLED WITH FULLY LOADED TANDEM AXLE DUMP TRUCK. ALL AREAS THAT ARE OBSERVED TO RUT OR DEFLECT SHALL BE REMOVED, BACKFILLED WITH SELECT MATERIAL WITH A PI ≤ 15 AND COMPACTED TO 95% DENSITY STD. PROCTOR.
3. THE EXPOSED GRADE SHALL BE SCARIFIED TO A DEPTH OF 12 INCHES, MOISTENED TO A CONTENT OF -2 TO +4 PERCENT OF OPTIMUM & RECOMPACTED TO A MINIMUM OF 95% OF THE ASTM D 698.
4. SELECT FILL, CONSISTING OF SOIL APPROVED BY A SOILS ENGINEER, SHALL BE PLACED IN COMPACTED LAYERS WITH SUITABLE COMPACTION EQUIPMENT.
5. ANY TRASH & DEBRIS IN THE EXISTING FILL SHALL BE REMOVED DURING GRADING. ANY IMPORTED FILL SHALL BE OBSERVED BY THE SOILS ENGINEER PRIOR TO USE IN FILL AREAS.
6. PLACE SUBSEQUENT LIFTS OF SELECT FILL IN THIN HORIZONTAL LAYERS NOT EXCEEDING EIGHT INCHES ON LOOSE THICKNESS & LOOSEN EACH LIFT TO AT LEAST 95% OF ASTM D-698. MAINTAIN MOISTURE WITHIN TWO PERCENT BELOW TO FOUR PERCENT ABOVE THE THEORETICAL OPTIMUM.
7. FIELD OBSERVATION & TESTING SHALL BE PERFORMED BY THE SOILS ENGINEER DURING GRADING TO ASSIST THE CONTRACTOR IN OBTAINING THE REQUIRED DEGREE OF COMPACTION & THE PROPER MOISTURE CONTENT WHERE COMPACTION IS LESS THAN REQUIRED, ADDITIONAL COMPACTIVE EFFORT SHALL BE MADE WITH ADJUSTMENT OF THE MOISTURE CONTENT, AS NECESSARY, UNTIL 95% COMPACTION IS OBTAINED.
8. FINE GRAINED, LOW COHESION SOILS OF THE TYPE SPECIFIED FOR SELECT FILL MAY BE COMPACTED USING RUBBER-TIRED, AND/OR PNEUMATIC ROLLERS & STRICT MOISTURE CONTROL.
9. VEGETATION OR ASSOCIATED ROOT SYSTEM LOCATED WITHIN THE AREA TO BE GRADED SHALL BE REMOVED DURING GRADING. ANY EXISTING OR ABANDONED UTILITIES LOCATED WITHIN THE AREA SHALL BE REMOVED OR RELOCATED. ALL FILL MATERIALS & DISTURBED SOILS RESULTING FROM GRADING OPERATIONS SHOULD BE REMOVED & PROPERLY RECOMPACTED PRIOR TO FOUNDATION EXCAVATION.
10. SELECT FILL SHALL CONSIST OF HOMOGENEOUS SOILS FREE OF ORGANIC MATTER & DEBRIS, OR ROCK LARGER THAN SIX INCHES IN DIAMETER & POSSESSING A PLASTICITY INDEX BETWEEN FOUR & FIFTEEN WITH A MAXIMUM LIQUID LIMIT OF 35. THE MATERIAL SHALL BE PLACED IN ACCORDANCE WITH THE REQUIREMENTS OF THE GEOTECHNICAL REPORT SUBGRADE PREPARATION & VERIFIED IN THE FOLLOWING MANNER.

CONDUCT IN-PLACE DENSITY TESTS AT THE RATE OF ONE TEST PER 2,500 SQUARE FEET FOR EACH LIFT.

CONFIRM SUITABILITY BY ATTERBURG LIMIT TESTS AT THE RATE OF ONE TEST PER 500 CUBIC YDS.

THE SOURCE OF SELECT FILL IS UNKNOWN. ALLOW AT LEAST THREE DAYS FOR PROPER TESTING OF POTENTIAL BORROW AREAS. VERIFY SUITABILITY PRIOR TO PLACEMENT ON SITE.

UTILITY WARNING:

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR/ENGINEER MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR/ENGINEER FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. THE SURVEYOR/ENGINEER HAS NOT PHYSICALLY LOCATED ALL OF THE UNDERGROUND UTILITIES.

UTILITY PROVIDERS

ELECTRICITY	–	SWEPCO
NATURAL GAS	–	NOT REQUIRED
WATER	–	CITY OF TEXARKANA, TEXAS
SANITARY SEWER	–	CITY OF TEXARKANA, TEXAS
TELECOMMUNICATIONS	–	AT&T

STATE OF TEXAS 89734 LICENSED PROFESSIONAL ENGINEER

REV. 10/20/2021

DAVID JANE BEAIRD
CIVIL & STRUCTURAL ENGINEERS
214 E. 7TH STREET, TEXARKANA, TEXAS 75501 (903) 334-1221

DON ROBERTSON
TEXARKANA, TEXAS
ROCKETFAST CARWASH

SITE PLAN

DATE 7/27/20

SP1.0

JOB No. 200709

Attachment: 2022-009 ORD SUP 5609 Richmond signed (3625 : 2022-009 ORD approving Amendment to

2022-009 EXH'B'

PD-20-5 (GR)

Property Description
2.206 Acres
Bowie County, Texas

All that certain lot, tract or parcel of land lying and situated in the John A. Talbot Headright Survey, Abstract 564, Bowie County, Texas, being part of that certain tract of land described as 3.563 acres in the deed from Patton, Haltom, Roberts, McWilliams & Greer, LLP to PHRMG Developers, dated February 21, 2000, recorded in Volume 3221, Page 189 of the Real Property Records of Bowie County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch steel rod (control monument), capped LONNIE PACE – PLS 1573 TX, found for a corner, the Northeast corner of the said 3.563 acre tract, lying in the South line of that certain tract of land described as 58.95 acres in the deed from Regions Bank, f/k/a The State First National Bank of Texarkana, to Martha Louise Arnold Stilwell (1/10th interest), dated July 27, 2011, recorded in Volume 6120, Page 299 of the Real Property Records of Bowie County, Texas, that certain tract of land described as 58.95 acres in the deed from Thomas H. Arnold, as Independent Executor of the estate of Lewis H. Arnold, to Martha Louise Arnold Stilwell (1/10th interest), dated July 21, 2011, recorded in Volume 6120, Page 302 of the Real Property Records of Bowie County, Texas, that certain tract of land described as Tract No. 5, with 58.95 acres in the deed from Josh R. Morriss, Jr. and Martha W. Morriss, to the Josh R. Morriss, Jr. Family Limited Partnership (4/5th interest), dated December 29, 1997, recorded in Volume 2772, Page 166 of the Real Property Records of Bowie County, Texas, same being that certain tract of land described as 58.95 acres in the deed from L. E. Kenney, et ux, to R. M. Morriss, Sr., et al, dated May 20, 1964, recorded in Volume 440, Page 220 of the Deed Records of Bowie County, Texas, and lying in the West right-of-way line of Farm-to-Market Road 559 (Richmond Road);

THENCE South 30 degrees 15 minutes 43 seconds East (basis of bearings) a distance of 188.16 feet along the East line of the said 3.563 acre tract, and the West right-of-way line of the said Richmond Road to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner;

THENCE South 87 degrees 00 minutes 01 seconds West a distance of 257.20 feet across the said 3.563 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner;

THENCE South 02 degrees 59 minutes 59 seconds East a distance of 213.98 feet across and through the said 3.563 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, lying in the South line of the said 3.563 acre tract, and the North right-of-way line of Moores Lane;

THENCE South 87 degrees 00 minutes 01 seconds West a distance of 127.08 feet along the South line of the said 3.563 acre tract and the North right-of-way line of the said Moores Lane to a 1 inch steel pipe (control monument) found for a corner, the Southwest corner of the said 3.563 acre tract, lying in the East line of the said 58.95 acre tract and the North right-of-way line of the said Moores Lane;

THENCE North 09 degrees 12 minutes 45 seconds West a distance of 406.72 feet along the West line of the said 3.563 acre tract, and the East line of the said 58.95 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, the Northwest corner of the said 3.563 acre tract, and an angle point of the said 58.95 acre tract;

THENCE South 89 degrees 08 minutes 16 seconds East a distance of 342.89 feet along the North line of the said 3.563 acre tract, the South line of the said 58.95 acre tract, and generally along a fence to the point of beginning, and containing 2.206 acres of land at the time of this survey.

Attachment: 2022-009 ORD SUP 5609 Richmond signed (3625 : 2022-009 ORD approving Amendment to PD-20-5(GR) site plan approval at 5609

City of Texarkana, Texas

Version:

Briefing Sheet

Update Date: 1/21/2022 9:51 AM

Lead Department: Building Code Administration **Action Officer:** Mashell Daniel,

Subject: Resolution No. 2022-010 authorizing a written services agreement for provisions of city services to Deaton Place Subdivision in the event the city council adopts an ordinance annexing the tract.

Briefing: 2/14/2022 **Public Hearing:** 2/14/2022 **Council Vote:** 2/14/2022

Item Schedule

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

Updates/History of Briefing:

Not Applicable

Executive Summary and Background Information:

Attached is a service agreement for the annexation of Deaton Place – 11.36 Acres located at J.S. Warsden HRS A-745, George Brinlee HRS A-18 & J.A.Talbot HRS A-564 located off of Gin Road in Texarkana, Texas. The property is currently platted for development as a 37-lot subdivision. This property is currently in the ETJ and the proposed zoning is SF-2.

Amendments to the Texas Local Government Code require the governing body of a city to first negotiate a written agreement with the owners of the land requested for annexation for services the city will provide on the date of the annexation, and a schedule of the time period in which the city will provide services that are not provided on the date of the annexation.

After this agreement is in place and the public notification processes have been followed, the city council may then adopt an ordinance for the requested annexation.

The city is in favor of this request because this development provides more residential housing, future growth, economic development, and additional property taxes will be collected

Potential Options:

- Approve service agreement.
- Disapprove service agreement.

Fiscal Implications:

None. All departments have reviewed this agreement and can provide services within budgeted funds.

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. 2022-010 RES voluntary annexatrion of Deaton Place (DOCX)
b. 2022-010 EXH 'A' Deaton Place Recorded Final Plat (PDF)
c. 2022-010 EXH 'B' TEMPLATE - Municipal Services Agreement v2 clean (DOCX)
d. 2022-010 EXH to Services Agreement _Deaton Place (jcl rev) (DOCX)
e. 2022-010 ATTH 01 Request for Annexation (PDF)
f. 2021-010 Goals & Perspectives (DOCX)
g. 2022-010 RES Vol. Annexation Deaton Pl Subdivision signed (PDF)

Staff Coordination

Building Code Administration	Mashell Daniel	Department Head Review	Completed	01/20/2022 11:23 AM
City Attorney	Jeffery C. Lewis	Review	Completed	01/20/2022 11:33 AM
City Manager	David Orr	City Manager Review	Completed	01/20/2022 11:35 AM
City Council	Jennifer Evans	Meeting	Completed	01/24/2022 6:00 PM

Meeting History

01/24/22	City Council	MOVED FORWARD	Next: 02/14/22

RESOLUTION NO. 2022 - 010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ELECTING TO BEGIN THE PROCESS OF CONSIDERING THE VOLUNTARY ANNEXTION OF A 11.376 ACRE TRACT — J. S. WARSDEN HRS A-745, J. A. TALBOT HRS A-564, AND GEORGE BRINLEE HRS A-18 —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; DIRECTING THE PREPARATION OF A FORM ANNEXATION ORDINANCE AND A PUBLIC HEARING BEFORE INSTITUTING ANY ANNEXATION PROCEEDINGS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the owner of a 11.376-acre tract lying and situated in the J. S. Warsden HRS, Abstract 745, J. A. Talbot HRS, Abstract 564, and the George Brinlee HRS, Abstract 18, described and depicted in **Exhibit 'A'** to this resolution, has requested that the City of Texarkana, Texas, annex the acreage into the city limits. The tract is within an area previously identified by City staff for inward fill of the city limits or otherwise that inclusion allows for future growth and economic development; and

WHEREAS, amendments to the Texas Local Government Code provide for a process new to the City for annexing an area of land upon owner request; and

WHEREAS, before consideration of any annexation ordinance, 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, 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 **Exhibit 'A'** tract by first authorizing the City Manager to negotiate and execute, with the owner of the subject tract, a written services agreement in the form attached as **Exhibit 'B'** to this resolution pertaining to provision of 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:

Attachment: 2022-010 RES voluntary annexatrion of Deaton Place (3623 : 2022-010 RES Services Agreement for Volumtary Annexation of

SECTION 1: The City Council elects to begin the process of considering the voluntary annexation of the 11.376-acre tract, described and depicted in **Exhibit 'A'**, by authorizing the City Manager to negotiate and execute a written services agreement in the form attached as **Exhibit 'B'** to this resolution.

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: Upon negotiation and execution of the written services agreement described in Section 1 of this resolution, the City Council directs the City Manager to prepare a proposed annexation ordinance for the 11.376-acre tract, described and depicted in **Exhibit 'A'**. At an appropriate time consistent with Texas law and 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 11.376 acre tract described and depicted in **Exhibit 'A'**.

SECTION 4: 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 5: This resolution shall be in full force and effect from and after its passage and approval.

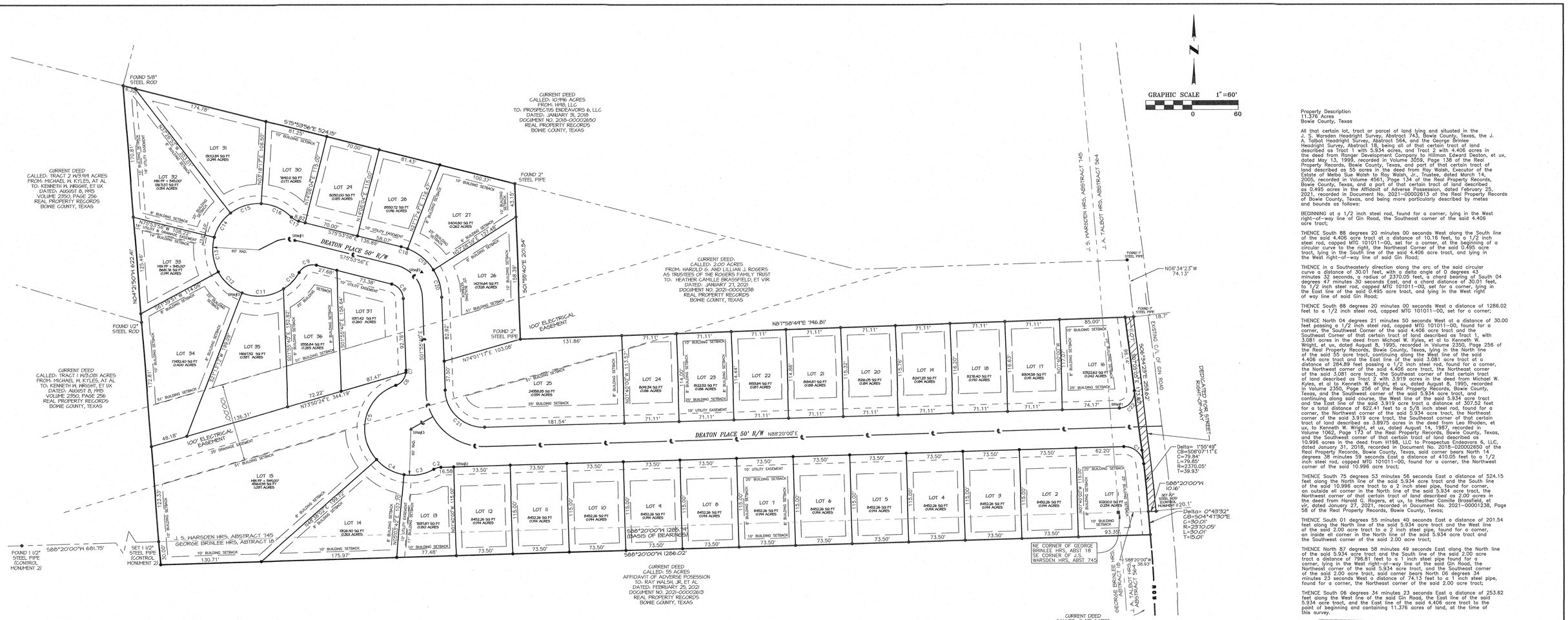
PASSED AND APPROVED in Regular Council Session on this the 14th **day of February, 2022**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Attachment: 2022-010 RES voluntary annexatrion of Deaton Place (3623 : 2022-010 RES Services Agreement for Volumtary Annexation of



Property Description
11.376 Acres
Bowie County, Texas

All that certain lot, tract or parcel of land lying and situated in the J. S. Worsden Headright Survey, Abstract 743, Bowie County, Texas, the J. A. Talbot Headright Survey, Abstract 564, and the George Brinlee Headright Survey, Abstract 18, being all of that certain tract of land described as Tract 1 with 5.934 acres, and Tract 2 with 4.406 acres in the deed from Ranger Development Company to Hillman Edward Deaton, et ux, dated May 13, 1999, recorded in Volume 3059, Page 138 of the Real Property Records, Bowie County, Texas, and part of that certain tract of land described as 55 acres in the deed from Ray Walsh, Executor of the Estate of Melba Sue Walsh to Ray Walsh, Jr., Trustee, dated March 14, 2005, recorded in Volume 4561, Page 134 of the Real Property Records, Bowie County, Texas, and a part of that certain tract of land described as 0.495 acres in the Affidavit of Adverse Possession, dated February 25, 2021, recorded in Document No. 2021-00002613 of the Real Property Records of Bowie County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch steel rod, found for a corner, lying in the West right-of-way line of Gin Road, the Southeast corner of the said 4.406 acre tract;

THENCE South 88 degrees 20 minutes 00 seconds West along the South line of the said 4.406 acre tract at a distance of 10.16 feet, to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, at the beginning of a circular curve to the right, the Northeast Corner of the said 0.495 acre tract, lying in the South line of the said 4.406 acre tract, and lying in the West right-of-way line of said Gin Road;

THENCE in a Southeasterly direction along the arc of the said circular curve a distance of 30.01 feet, with a delta angle of 0 degrees 43 minutes 32 seconds, a radius of 2370.05 feet, a chord bearing of South 04 degrees 47 minutes 30 seconds East, and a chord distance of 30.01 feet, to 1/2 inch steel rod, capped MTG 101011-00, set for a corner, lying in the East line of the said 0.495 acre tract, and lying in the West right of way line of said Gin Road;

THENCE South 88 degrees 20 minutes 00 seconds West a distance of 1286.02 feet to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner;

THENCE North 04 degrees 21 minutes 50 seconds West at a distance of 30.00 feet passing a 1/2 inch steel rod, capped MTG 101011-00, found for a corner, the Southwest Corner of the said 4.406 acre tract and the Southeast Corner of that certain tract of land described as Tract 1, with 3.081 acres in the deed from Michael W. Kyles, et al to Kenneth W. Wright, et ux, dated August 8, 1995, recorded in Volume 2350, Page 256 of the Real Property Records, Bowie County, Texas, lying in the North line of the said 55 acre tract, continuing along the West line of the said 4.406 acre tract and the East line of the said 3.081 acre tract at a distance of 284.89 feet passing a 1/2 inch steel rod, found for a corner, the Northwest corner of the said 4.406 acre tract, the Northeast corner of the said 3.081 acre tract, the Southeast corner of that certain tract of land described as Tract 2 with 3.919 acres in the deed from Michael W. Kyles, et al to Kenneth W. Wright, et ux, dated August 8, 1995, recorded in Volume 2350, Page 256 of the Real Property Records, Bowie County, Texas, and the Southwest corner of the said 5.934 acre tract, and continuing along said course, the West line of the said 5.934 acre tract and the East line of the said 3.919 acre tract, a distance of 307.52 feet for a total distance of 622.41 feet to a 5/8 inch steel rod, found for a corner, the Northwest corner of the said 5.934 acre tract, the Northeast corner of the said 3.919 acre tract, the Southeast corner of that certain tract of land described as 3.8975 acres in the deed from Leo Rhoden, et ux, to Kenneth W. Wright, et ux, dated August 14, 1987, recorded in Volume 1062, Page 173 of the Real Property Records, Bowie County, Texas, and the Southwest corner of that certain tract of land described as 10.996 acres in the deed from H198, LLC to Prospectus Endeavors 6, LLC, dated January 31, 2018, recorded in Document No. 2018-020002650 of the Real Property Records, Bowie County, Texas, said corner bears North 14 degrees 38 minutes 59 seconds East a distance of 410.05 feet to a 1/2 inch steel rod, capped MTG 101011-00, found for a corner, the Northwest corner of the said 10.996 acre tract;

THENCE South 75 degrees 53 minutes 56 seconds East a distance of 524.15 feet along the North line of the said 5.934 acre tract and the South line of the said 10.996 acre tract to a 2 inch steel pipe, found for corner, an outside ell corner in the North line of the said 5.934 acre tract, the Northwest corner of that certain tract of land described as 2.00 acres in the deed from Harold G. Rogers, et ux, to Heather Camille Brassfield, et vir, dated January 27, 2021, recorded in Document No. 2021-00001238, Page 58 of the Real Property Records, Bowie County, Texas;

THENCE South 01 degrees 55 minutes 40 seconds East a distance of 201.54 feet along the North line of the said 5.934 acre tract and the West line of the said 2.00 acre tract to a 2 inch steel pipe, found for a corner, an inside ell corner in the North line of the said 5.934 acre tract and the Southwest corner of the said 2.00 acre tract;

THENCE North 87 degrees 58 minutes 49 seconds East along the North line of the said 5.934 acre tract and the South line of the said 2.00 acre tract a distance of 796.81 feet to a 1 inch steel pipe found for a corner, lying in the West right-of-way line of the said Gin Road, the Northeast corner of the said 5.934 acre tract, and the Southeast corner of the said 2.00 acre tract, said corner bears North 06 degrees 34 minutes 23 seconds West a distance of 74.13 feet to a 1 inch steel pipe, found for a corner, the Northeast corner of the said 2.00 acre tract;

THENCE South 06 degrees 34 minutes 23 seconds East a distance of 253.62 feet along the West line of the said Gin Road, the East line of the said 5.934 acre tract, and the East line of the said 4.406 acre tract to the point of beginning and containing 11.376 acres of land, at the time of this survey.

2021-00015064 PLAT Total Pages: 1

THE STATE OF TEXAS
COUNTY OF BOWIE

I hereby certify that this instrument was FILED on the date and the time stamped hereon by me and was duly RECORDED in the Records of Bowie County, Texas.

2021-00015064 PLAT
12/16/2021 10:58:37 AM Total Fees: $71.00

Tina Petty, County Clerk
Bowie County, Texas

Plat Cabinet O, Sleeve 109

CERTIFICATE OF DEDICATION BY OWNER

I, Aven Williamson, being the Owner of a tract of land as shown on the attached map or plat have caused the same to be surveyed, platted and subdivided as shown, and which subdivision shall hereafter be known as Deaton Place, a part of the J. S. Worsden Headright Survey, Abstract 743, and a part of George Brinlee Headright Survey, Abstract 18, Bowie County, Texas, and by these presents, I hereby dedicate to the public in fee simple, the streets, as shown on this plat, and by this instrument, I hereby dedicate the easments shown on this plat for utility purposes.

By: Aven Williamson

NOTARY ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF BOWIE

Before me, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Aven Williamson, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 6th day of December, 2021.

Commission Expires: 9-15-23

Notary Public
Bowie County, Texas

Kaysi King
Notary Public, State of Texas
Comm. Expires 09-15-2023
Notary ID 130365548

CERTIFICATE OF ENGINEER OR SURVEYOR

I, Jeffrey A. Wood, do hereby certify that I am a Registered Professional Land Surveyor in the State of Texas, and that the Plat of the heron described subdivision correctly reflects the results of a survey made by me on the ground March 19, 2021, that the corner monuments are in place at points on the boundaries as shown on the attached map, that there are no visible encroachments (other than shown on the map) or discrepancies, and that the subdivision is to be known as Deaton Place, being a part of the George Brinlee Headright Survey, Abstract 18, and a part of the J. S. Warsden Headright Survey, Abstract 743, Bowie County, Texas.

Jeffrey A. Wood
Registered Professional Land Surveyor
No. 6220, State of Texas
Firm Certificate No. 101011-00
Date: August 18, 2021

STATE OF TEXAS
JEFFREY A. WOOD
#6220
REGISTERED PROFESSIONAL LAND SURVEYOR

CERTIFICATE OF APPROVAL BY PLANNING COMMISSION

We, the undersigned, do hereby certify that the plat of Deaton Place, a part of the J. S. Worsden Headright Survey, Abstract 743, and a part of George Brinlee Headright Survey, Abstract 18, Bowie County, Texas, together with the Owner's Certificate and Surveyor's Certificate of same were presented to the Planning Commission of the City of Texarkana, Texas, for its approval, and that said plat, Owner's Certificate, and Surveyor's Certificate being found to conform to the requirements in all respects, are in all things approved on this the 13th day of December, 2021.

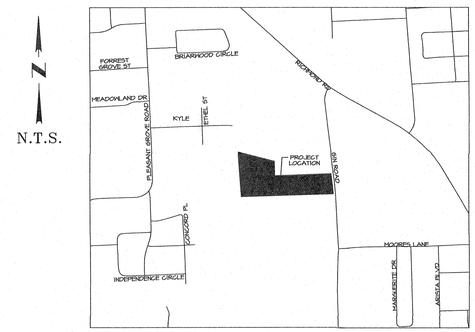
Planning Commission Approval
Expires on January 5th, 2022.

Chairman

Secretary

DEVELOPER: AVEN WILLIAMSON
5705 GIN ROAD
TEXARKANA, TEXAS 75503
EXISTING ZONING: ETJ
PROPOSED ZONING: SF2
PROPOSED LAND USE: SINGLE FAMILY RESIDENTIAL

V I C I N I T Y M A P



LINE	DELTA	LENGTH	RADIUS	CHD BEAR	CHORD
C1	85°00'15"	37.09'	25.00'	S49°09'52"E	33.78'
C2	27°35'16"	9.63'	20.00'	S74°32'22"E	9.54'
C3	38°23'03"	40.20'	60.00'	S79°56'16"W	39.45'
C4	39°30'16"	41.37'	60.00'	N61°07'05"W	40.55'
C5	111°59'47"	117.28'	60.00'	N14°37'56"E	99.48'
C6	64°13'11"	22.42'	20.00'	N38°31'14"E	21.26'
C7	8°20'19"	2.91'	20.00'	N02°14'29"E	2.91'
C8	73°58'16"	25.82'	20.00'	N38°54'48"W	24.06'
C9	74°26'56"	25.99'	20.00'	S66°52'36"W	24.20'
C10	28°06'38"	29.44'	60.00'	S43°42'27"W	29.14'
C11	53°27'26"	55.98'	60.00'	S84°29'29"W	53.97'
C12	40°26'39"	42.35'	60.00'	N48°33'28"W	41.48'
C13	43°55'09"	45.99'	60.00'	N06°22'35"W	44.87'
C14	36°58'09"	38.71'	60.00'	N34°04'04"E	38.05'
C15	40°45'09"	42.68'	60.00'	N72°55'43"E	41.78'
C16	13°26'40"	14.08'	60.00'	S51°35'29"E	14.05'
C17	31°01'47"	10.83'	20.00'	S60°23'03"E	10.70'
C18	7°11'43"	8.79'	70.00'	S72°18'05"E	8.78'
C19	11°55'34"	14.57'	70.00'	S38°28'48"E	14.54'
C20	30°35'20"	37.37'	70.00'	S17°13'21"E	36.93'
C21	89°44'19"	78.31'	50.00'	S46°47'50"E	70.55'
C22	95°25'06"	33.31'	20.00'	N40°37'28"E	29.59'

SURVEY REFERNCE MONUMENTS			
#	NORTHING	EASTING	DESCRIPTION
SRM#1	7248282.6770	3307867.4294	MAG NAIL
SRM#2	7248241.3439	3308031.9705	1/2" REBAR
SRM#3	7248037.7822	3308017.7895	MAG NAIL

BOUNDARY REFERNCE MONUMENTS			
#	NORTHING	EASTING	DESCRIPTION
BRM#1	7248063.6461	3308937.8226	1/2" REBAR
BRM#2	7247988.4591	3308072.8725	1/2" REBAR
BRM#3	7248214.2247	3307788.8842	1/2" REBAR

FLOOD STATEMENT:

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE "X" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 48037C0355E, WHICH BEARS AN EFFECTIVE DATE OF DECEMBER 21, 2017, AND IS NOT IN A SPECIAL FLOOD HAZARD AREA. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATION MAY BE NEEDED TO VERIFY THIS DETERMINATION OR APPLY FOR VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY. ZONE "X" DENOTES AREAS OUTSIDE OF THE 500 YEAR FLOOD ZONE.

THE BEARINGS ARE BASED ON GRID NORTH WITHIN THE "TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE", NAD83 (CORS96, EPOCH 2002.0), AT THE SURFACE, WITH A BEARING OF SOUTH 88 DEGREES 20 MINUTES 00 SECONDS WEST. THE COMBINED SCALE FACTOR TO GO FROM SURFACE TO GRID IS 0.99988001439B. THE FOLLOWING CONTROL MONUMENTS WERE USED TO ESTABLISH THE BASIS OF BEARINGS:

CONTROL MONUMENT #1	CONTROL MONUMENT #2
N=7247929.9412	N=7247872.4243
E=3308985.3306	E=3307008.4714

NOTE:
In providing this boundary survey, no attempt has been made to obtain or show data concerning existence, size, depth, condition, capacity or location of any utility existing on the site, whether private, municipal or public owned. Subsurface and environmental conditions were not surveyed or examined or statement is made concerning the existence of underground or overhead conditions, containers or facilities that may affect the use or development of this property. Easement research was not done for this property by the surveyor, nor was a current title policy provided prior to this survey.

NOTE:
1.) ALL MONUMENTS ARE FOUND 1/2" STEEL ROD'S CAPPED MTG 101011-00, UNLESS OTHERWISE NOTED.

2.) ALL BEARINGS AND DISTANCES ARE MEASURED AND RECORD.

3.) PERMANENT SURVEY REFERENCE MARKERS AND INTERIOR LOT CORNERS WILL BE PUT IN PLACE WITHIN 30 DAYS OF ROAD COMPLETION.

DEATON PLACE FINAL PLAT

11.376 ACRES IN THE J. S. WARSDEN HEADRIGHT SURVEY, ABSTRACT 743, A PART OF THE GEORGE BRINLEE HEADRIGHT SURVEY, ABTRACT 18, AND A PART OF THE J.A. TALBOT HEADRIGHT SURVEY, ABSTRACT 564
BOWIE COUNTY, TEXAS

Date	Revision/Description

Drawn By	Checked By	Project No.	Dwg. Date	File No.	Sheet No.
DC	JW	206062	7/13/2021		

MTG engineers & surveyors
5930 SUMMERHILL RD.
TEXARKANA TEXAS 75503
P 903.838.8533 | F 903.832.4700
www.mtgengineers.com

© MTG 2021 TBPE NO. 354

X:\2020 Projects\206062 Gin Road - Aven\02 Surveying\PRELIM PLAT 7-13-21.pro
Mon Dec 6, 2021 10:17AM

Attachment: 2022-010 EXH 'A' Deaton Place Recorded Final Plat (3623 : 2022-010 RES Services Agreement for Voluntary Annexation of Deaton Place Subdivision)

Municipal Services Agreement / Owner-Petition 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 _____ ("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, Owner owns a certain parcel of land situated in Bowie County, Texas, adjacent to the boundaries of the City and within the City's extraterritorial jurisdiction, more particularly described and set forth in Exhibit "A" attached hereto and incorporated herein by reference for all purposes (hereinafter, "the Property"); and

WHEREAS, Owner has filed a written request with the City for annexation of the Property; and

WHEREAS, subject to City Council consideration and approval of annexation of the Property, City and Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation.

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

1. **PROPERTY and INTENT.** This Agreement is only applicable to the Property as set forth in Exhibit "A". The 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.

2. **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 "B", attached hereto and incorporated herein by reference for all purposes (hereinafter, "Services"), at the times, events, or conditions specified therein for each of the Services.

3. **DEVELOPMENT INCENTIVE.** To incentivize prompt housing development of the Property, City agrees to suspend only fees for building permits within the time period of thirty (30)

Attachment: 2022-010 EXH 'B' TEMPLATE - Municipal Services Agreement v2 clean (3623 : 2022-010 RES Services Agreement for Voluntary

months following the Effective Date of this Agreement. This incentive does not suspend the requirement to obtain permits as required in the City's extraterritorial jurisdiction, nor does this incentive suspend any other permit fees (including but not limited to mechanical permit fees).

4. **CONDITION PRECEDENT.** Owner acknowledges and the parties agree to the following: annexation of the Property is a condition precedent for the provision of Services pursuant to this Agreement; City Council approval of the resolution authorizing execution of this Agreement does not bind the City Council to approve annexation of the Property; and nothing in this Agreement promises or guarantees a favorable vote by the City Council to approve annexation of the Property.

5. **SEVERABILITY.** 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 4, 8, 9, 10, and 13 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 acknowledge that the terms, provisions, and execution of this Agreement, together with the provision of Services, constitute 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.

Attachment: 2022-010 EXH 'B' TEMPLATE - Municipal Services Agreement v2 clean (3623 : 2022-010 RES Services Agreement for Voluntary

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. **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.

12. **EFFECTIVE DATE.** This Agreement shall be effective on the business day immediately following the date of annexation of the Property.

13. **FEES.** Owner agrees to pay the voluntary annexation fee set by the City Council and reimburse the City for the cost of publication and advertising as required by law, including but not limited to notices and publication required by Texas law for annexation of the Property, and publication of the proposed annexation ordinance for the Property in the form in which it may be finally passed as required by Article I, Section 5 of the City Charter of the City of Texarkana, Texas.

14. **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. This Agreement shall not be amended unless approved by the City Council and executed in writing by both parties.

City of Texarkana, Texas

By: _____ Date: January _____, 2022
David Orr, PhD
City Manager

Owner:

By: _____ Date: January _____, 2022
* * * * *

Attachment: 2022-010 EXH 'B' TEMPLATE - Municipal Services Agreement v2 clean (3623 : 2022-010 RES Services Agreement for Voluntary

Exhibit B to Municipal Services Agreement

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. 3, located at 5706 Richmond Rd. 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: 2022-010 EXH to Services Agreement _Deaton Place (jcl rev) (3623 : 2022-010 RES Services Agreement for Voluntary Annexation

Attachment: 2022-010 EXH to Services Agreement _Deaton Place (jcl rev) (3623 : 2022-010 RES Services Agreement for Voluntary Annexation

F. Health Department

The Texarkana-Bowie County Health Department will provide health services 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.

II. Services to be Provided to the Property Upon Specific Conditions or Events Following Annexation.

A. Drainage and Stormwater Management

Owner or Developers must provide stormwater drainage at their 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: 2022-010 EXH to Services Agreement _Deaton Place (jcl rev) (3623 : 2022-010 RES Services Agreement for Voluntary Annexation

B. Street

The new street (Deaton Place) will be maintained by the City only after the improvements have been dedicated to the City and the City accepts the dedication; provided, however, that nothing herein should be construed as requiring the City to accept such dedication; and further provided that even if City accepts the dedication, Owner or Developer will be responsible for street repairs for one year after date of the City's acceptance. Approximately 250 feet of Gin Road will be added for the City to maintain.

C. Street Lighting

The Property, as a new subdivision, will require the addition of five (5) new street lights, and the City will pay for the installation of each pole and light; provided that the Owner or Developer bears responsibility for and shall pay for the cost to run power to each pole and light.

D. Solid Waste Services

Beginning with occupancy of residential structures, Solid Waste Collection shall be provided to the Property in accordance with City ordinance and policies.

III. Existing Services to Property

A. **Water and Sewer Service**

Owner acknowledges that water and sanitary sewer service is currently provided to the Property. The parties do not intend for provision of this service to change upon annexation. Owner acknowledges and agrees that new residential structures shall be required to connect to the City's water and sewer system at Owner's expense.

IV. 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.

REQUEST FOR VOLUNTARY ANNEXATION

David Orr, City Manager
City of Texarkana, Texas
220 Texas Boulevard
Texarkana, TX 75501

Re: Deaton Place – 11.376 Acres
J. S. Warsden HRS A-745, George Brinlee HRS A-18 & J. A. Talbot HRS A-564
Located Off Gin Road in Texarkana, Texas

Dear Mr. Orr:

As the Owner of the above-referenced property, I would like the City Council to consider my request for voluntary annexation. The property in question is located off Gin Road between Richmond Road and Moores Lane. The property is currently platted for development as a 37 Lot Subdivision, designated as Single Family Residential. It is currently zoned ETJ with a proposed zoning of SF2. The tract is 11.376 acres total and it is contiguous to the city limits.

Enclosed, please find the Copy of Plat (suitable for recording) and Legal Description of Property.

Any additional information may be obtained by contacting Kayla Wood at MTG Engineers & Surveyors, at 903-838-8533 or by email, kwood@mtgengineers.com.

Sincerely,

Aven Williamson

Attachment: 2022-010 ATTH 01 Request for Annexation (3623 : 2022-010 RES Services Agreement for Volumtary Annexation of Deaton Place

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:

All departments have reviewed this request and can provide services within budgeted funds.

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: 2021-010 Goals & Perspectives (3623 : 2022-010 RES Services Agreement for Voluntary Annexation of Deaton Place Subdivision)

RESOLUTION NO. 2022 - 010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ELECTING TO BEGIN THE PROCESS OF CONSIDERING THE VOLUNTARY ANNEXTION OF A 11.376 ACRE TRACT — J. S. WARSDEN HRS A-745, J. A. TALBOT HRS A-564, AND GEORGE BRINLEE HRS A-18 —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; DIRECTING THE PREPARATION OF A FORM ANNEXATION ORDINANCE AND A PUBLIC HEARING BEFORE INSTITUTING ANY ANNEXATION PROCEEDINGS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the owner of a 11.376-acre tract lying and situated in the J. S. Warsden HRS, Abstract 745, J. A. Talbot HRS, Abstract 564, and the George Brinlee HRS, Abstract 18, described and depicted in **Exhibit 'A'** to this resolution, has requested that the City of Texarkana, Texas, annex the acreage into the city limits. The tract is within an area previously identified by City staff for inward fill of the city limits or otherwise that inclusion allows for future growth and economic development; and

WHEREAS, amendments to the Texas Local Government Code provide for a process new to the City for annexing an area of land upon owner request; and

WHEREAS, before consideration of any annexation ordinance, 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, 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 **Exhibit 'A'** tract by first authorizing the City Manager to negotiate and execute, with the owner of the subject tract, a written services agreement in the form attached as **Exhibit 'B'** to this resolution pertaining to provision of 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:

Attachment: 2022-010 RES Vol. Annexation Deaton Pl Subdivision signed (3623 : 2022-010 RES Services Agreement for Volumtary Annexation

SECTION 1: The City Council elects to begin the process of considering the voluntary annexation of the 11.376-acre tract, described and depicted in **Exhibit 'A'**, by authorizing the City Manager to negotiate and execute a written services agreement in the form attached as **Exhibit 'B'** to this resolution.

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: Upon negotiation and execution of the written services agreement described in Section 1 of this resolution, the City Council directs the City Manager to prepare a proposed annexation ordinance for the 11.376-acre tract, described and depicted in **Exhibit 'A'**. At an appropriate time consistent with Texas law and 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 11.376 acre tract described and depicted in **Exhibit 'A'**.

SECTION 4: 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 5: 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 14th **day of February, 2022**.

ATTEST:

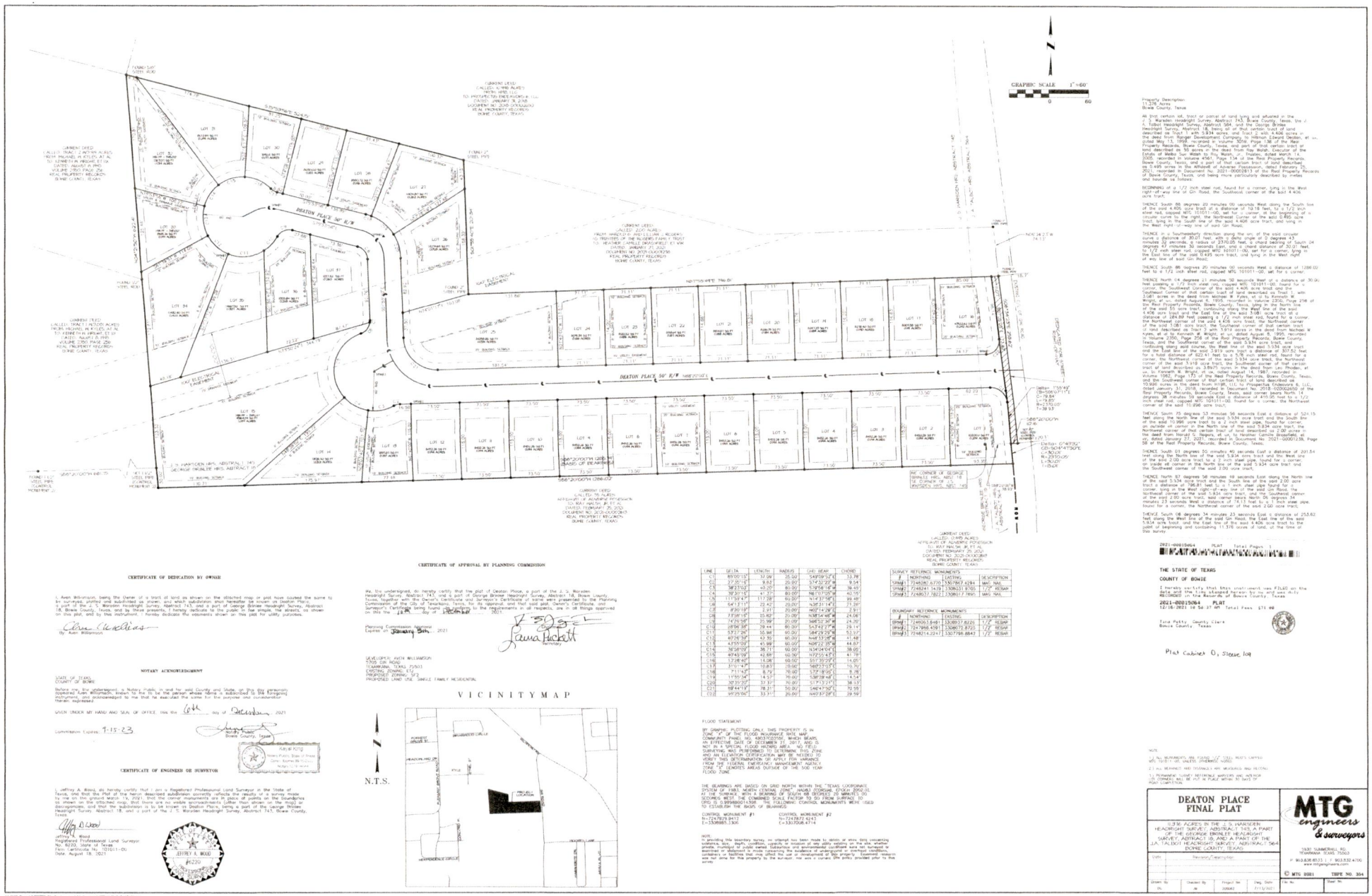
JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

4:20p.m.

Attachment: 2022-010 RES Vol. Annexation Deaton Pl Subdivision signed (3623 : 2022-010 RES Services Agreement for Volumtary Annexation

2022-010 EXH 'A'



Attachment: 2022-010 RES Vol. Annexation Deaton Pl Subdivision signed (3623 : 2022-010 RES Services

Attachment: 2022-010 RES Vol. Annexation Deaton Pl Subdivision signed (3623 : 2022-010 RES Services Agreement for Volumtary Annexation

Municipal Services Agreement / Owner-Petition 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 Aven C. Williamson ("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, Owner owns a certain parcel of land situated in Bowie County, Texas, adjacent to the boundaries of the City and within the City's extraterritorial jurisdiction, more particularly described and set forth in Exhibit "A" attached hereto and incorporated herein by reference for all purposes (hereinafter, "the Property"); and

WHEREAS, Owner has filed a written request with the City for annexation of the Property; and

WHEREAS, subject to City Council consideration and approval of annexation of the Property, City and Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation.

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

1. **PROPERTY and INTENT.** This Agreement is only applicable to the Property as set forth in Exhibit "A". The 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.

2. **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 "B", attached hereto and incorporated herein by reference for all purposes (hereinafter, "Services"), at the times, events, or conditions specified therein for each of the Services.

3. **DEVELOPMENT INCENTIVE.** To incentivize prompt housing development of the Property, City agrees to suspend only fees for building permits within the time period of thirty (30)

months following the Effective Date of this Agreement. This incentive does not suspend the requirement to obtain permits as required in the City's extraterritorial jurisdiction, nor does this incentive suspend any other permit fees (including but not limited to mechanical permit fees).

4. **CONDITION PRECEDENT.** Owner acknowledges and the parties agree to the following: annexation of the Property is a condition precedent for the provision of Services pursuant to this Agreement; City Council approval of the resolution authorizing execution of this Agreement does not bind the City Council to approve annexation of the Property; and nothing in this Agreement promises or guarantees a favorable vote by the City Council to approve annexation of the Property.

5. **SEVERABILITY.** 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 4, 8, 9, 10, and 13 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 acknowledge that the terms, provisions, and execution of this Agreement, together with the provision of Services, constitute 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.

Attachment: 2022-010 RES Vol. Annexation Deaton Pl Subdivision signed (3623 : 2022-010 RES Services Agreement for Volumtary Annexation

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. **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.

12. **EFFECTIVE DATE.** This Agreement shall be effective on the business day immediately following the date of annexation of the Property.

13. **FEES.** Owner agrees to pay the voluntary annexation fee set by the City Council and reimburse the City for the cost of publication and advertising as required by law, including but not limited to notices and publication required by Texas law for annexation of the Property, and publication of the proposed annexation ordinance for the Property in the form in which it may be finally passed as required by Article I, Section 5 of the City Charter of the City of Texarkana, Texas.

14. **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. This Agreement shall not be amended unless approved by the City Council and executed in writing by both parties.

City of Texarkana, Texas

By: _____ Date: ~~January~~ Feb 15th, 2022
David Orr, PhD
City Manager

Owner:

By: _____ Date: January 31st, 2022
Aven C. Williamson
Owner

Attachment: 2022-010 RES Vol. Annexation Deaton Pl Subdivision signed (3623 : 2022-010 RES Services Agreement for Volumtary Annexation