



CITY OF TEXARKANA
CITY COUNCIL
AGENDA • NOVEMBER 9, 2020

Council Chambers

Regular Meeting

6:00 PM

220 TEXAS BLVD.
TEXARKANA, TX 75501

Mayor

Bob Bruggeman

Ward 1

Jean H. Matlock

Ward 3

Betty Williams

Ward 5

Bill Harp

Ward 2

Mary Hart

Ward 4

Christie Alcorn

Ward 6

Jay Davis



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

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

- I. CALL TO ORDER, ROLL CALL, ESTABLISHMENT OF QUORUM**
- II. INVOCATION AND PLEDGE LED BY COUNCIL MEMBER MARY HART**
- III. MAYOR'S REMARKS AND ITEMS OF COMMUNITY INTEREST**

Upcoming City Council Meetings:

Monday, November 16, 2020 at 12:00 p.m. (Special Election Canvass)
Monday, November 23, 2020 at 6:00 p.m. (Swearing-In Ceremony for Wards 3 & 5)
Monday, December 14, 2020 at 6:00 p.m.

Parks & Recreation Events:

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.
- V. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES**
- VI. ITEMS FOR CONSIDERATION**

Consent Items

- 1. Consider approval of the minutes of the Regular Meeting of the City Council held on October 26, 2020 at 6:00 PM.

2. Resolution No. 2020-125 recognizing the Texarkana Arts & Historic District Committee and formalizing the entities represented to make strategic marketing decisions for the downtown cultural district and granting authority to function as a creative clearinghouse.

Public Hearing:

Council Vote: November 9, 2020

Action Items

VII. FIRST BRIEFINGS

1. Resolution No. 2020-126 authorizing the City Manager to enter into a contract with Azavar Audit Solutions, Inc. for hotel occupancy tax and short-term rental audits, hotel tax administration services, sales tax audits, and franchise fee audits.

Public Hearing:

Council Vote: November 23, 2020

2. Resolution No. 2020-138 supporting The Texarkanan (former Texarkana National Bank building) redevelopment project, authorizing use of additional EPA cleanup funds to any person or entity allying with Texarkana Renewal Properties, LLC for the project, and authorizing the City Manager to execute any and all loan documents or other documents necessary for the project.

Public Hearing: November 23, 2020

Council Vote: November 23, 2020

VIII. PUBLIC HEARINGS

1. Ordinance No. 2020-114 rezoning a 2.206-acre tract of land in the John A. Talbot HRS, A-564, located in the 5600 block of Richmond Road. Office to Planned Development-General Retail. Kirk Patton, representing PHRMG Developers, owner and Don Robertson, agent.

Public Hearing: November 9, 2020

Council Vote: November 9, 2020

2. Ordinance No. 2020-123 amending PD-20-5(GR) for site plan approval on a 2.206-acre tract of land in the John A. Talbot HRS, A-564, located in the 5600 block of Richmond Road. Kirk Patton, representing PHRMG Developers, owner and Don Robertson, agent.

Public Hearing: November 9, 2020
Council Vote: November 9, 2020

3. Ordinance No. 2020-115 rezoning a 1.500-acre tract of land in the John A. Talbot HRS, A-564, located at 5605 Richmond Road. Office to Planned Development-General Retail. Kirk Patton, representing PHRMG Developers, owner and Richard Reynolds, agent.

Public Hearing: November 9, 2020
Council Vote: November 9, 2020

4. Ordinance No. 2020-124 amending PD-20-6(GR) for site plan approval to allow the location of a convenience store on a 1.500-acre tract of land in the John A. Talbot HRS, A-564 located at 5605 Richmond Road. Kirk Patton, owner and Richard Reynolds, agent.

Public Hearing: November 9, 2020
Council Vote: November 9, 2020

5. Ordinance No. 2020-116 amending PD-96-4(GR) for site plan approval on a 3.94-acre tract of land being part of Lots 10-13, Block 4, Urban Heights Addition, located on Chelf Road (between Pansy and Collom Streets). James Naples, owner and David Williams, MTG Engineers and Surveyors, agent.

Public Hearing: November 9, 2020
Council Vote: November 9, 2020

6. Ordinance No. 2020-117 amending PD-16-1(NS) for site plan approval on a 1.295-acre tract of land in the George Brinlee HRS, A-18, located at 4824 McKnight Road. Aaron Gaylor, dba Gaylor Equities, LLC, owner.

Public Hearing: November 9, 2020
Council Vote: November 9, 2020

7. Ordinance No. 2020-118 amending PD-01-9(GR) for site plan approval on a 1.156-acre tract of land being Lot B Replat, Block 1, Walsh Carter Master Tract, located at 5001 Cowhorn Creek Road. The Saxton Group (McAlister's Deli), owner and Angela Marie Odom, Odom Architects, agent.

Public Hearing: November 9, 2020
Council Vote: November 9, 2020

8. Ordinance No. 2020-121 amending the City's Traffic Register to establish a twenty-five miles per hour (25 mph) school zone speed limit for sections of Galleria Oaks Drive, Christus Drive, and Sam Warren Drive in the vicinity of the Pleasant Grove Margaret Fischer Davis Elementary School on school days.

Public Hearing: November 9, 2020
Council Vote: November 9, 2020

IX. ITEMS FOR DISCUSSION

Staff Updates

X. ADMINISTRATIVE COMMENTS

1. City Council
2. City Staff

XI. ADJOURNMENT



Jennifer Evans
City Secretary

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

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

meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

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

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

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



CITY OF TEXARKANA
CITY COUNCIL
MINUTES • OCTOBER 26, 2020

Council Chambers	Regular Meeting	6:00 PM
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220 TEXAS BLVD.
TEXARKANA, TX 75501

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

Member Name	Title	Status	Arrived
McGee	Mayor	Present	
Matlock	Ward 1	Present	
Ward	Ward 2	Present	
Williams	Ward 3	Present	
Alcorn	Ward 4	Present	
Ward	Ward 5	Present	
Ward	Ward 6	Present	

Staff Present: City Manager Shirley Jaster, Jennifer Evans, David Orr, Jonathan Wade, Lisa Thompson, Karey Parker, Sherry Jackson Hawkins, Dusty Henslee, 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, November 9, 2020 at 6:00 p.m.
 Monday, November 23, 2020 at 6:00 p.m.
 Monday, December 14, 2020 at 6:00 p.m.

Local Events:

October 31st Annual "Bark at the Park" 9 a.m. - 2 p.m at Spring Lake Park

Parks & Recreation Events:

Thursday Night - Movies in the Park - Spring Lake Park

October 29th "The Town that Dreaded Sundown"

Minutes Acceptance: Minutes of Oct 26, 2020 6:00 PM (Consent Items)

****Movie will begin at dusk****

October 31st Drive-thru Trunk or Treat 4 p.m. - 6 p.m. 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.

Mayor Bruggeman provided a COVID-19 update: As of October 23rd, there has been a total of 1,788 cases, resulting in 78 deaths related to the virus. As of this meeting, there are 42 new cases in Bowie County. Citizens were encouraged to wear masks especially while frequenting restaurants and stores.

The Mayor thanked Mike Malone, of the Texarkana Chamber of Commerce, for hosting a Small Business Expo recently on October 15th. Several downtown business owners participated and it was well attended by the public. It was a very fun evening and needless to say, the "pie eating" contest is forever etched in Mayor Bruggeman's memory!

IV. ITEM FOR DISCUSSION

Consider changes to City Recycling Program and/or "Municipal Solid Waste Collection and Transportation Agreement" with Waste Management of Texas, Inc.

Mayor Bruggeman said most of the citizens he spoke with chose option #2. A consensus from council members as to which option their constituents favored was shared as follows:

Ward 1 Jean Matlock - Option #2
 Ward 2 Mary Hart - No comment
 Ward 3 Betty Williams - Option #2
 Ward 4 Christie Alcorn - Option #2
 Ward 5 Bill Harp - Option #1 (60/40 split)
 Ward 6 Jay Davis - Option #2

Opt 1	1x wk Trash	\$20.82/home/month	N/A
	1x wk Yard Waste		
	1x wk Recycle		
	(Cardboard + Mixed Paper to Caraustar)		
	Introduce Pilot Program for		
	Cardboard Recycling for Schools		
Opt 2	1x wk Trash & Bulky Waste	\$24.59/home/month	+ \$3.77/home/month
	1x wk yard waste		
	1x wk Recycle		
	(Single-Stream to Little Rock MRF)		
Opt 3	1x wk Trash	\$17.84/home/month	- \$2.98/home/month
	1x wk Yard Waste		
	No Recycle		

Minutes Acceptance: Minutes of Oct 26, 2020 6:00 PM (Consent Items)

Doug Sims, of Waste Management, was present for questions. City Attorney Lewis made himself available to discuss the solid waste collection and transportation agreement in closed session at council's discretion.

WM Recycle Service Options Summary

RESULT:	CLOSE ACTION
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V. OPEN FORUM: COMMENTS FROM THE PUBLIC

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Ginger Dovell addressed council with comments related to the Confederate Mother's Monument in downtown Texarkana.

VI. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Council made no appointments or reappointments to any board or commission.

VII. ITEMS FOR CONSIDERATION

Consent Items

(6:19 p.m.)

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

1. Consider approval of the minutes of the Regular Meeting of the City Council held on October 12, 2020 at 6:00 PM.
2. Resolution No. 2020-122 approving Bowie Central Appraisal District's 2020 tax roll.

Public Hearing:

Council Vote: October 26, 2020

Action Items

3. Resolution No. 2020-128 suspending the effective date for 90 days in connection with the application to increase rates filed by SWEPCO on or about October 13, 2020; and authorizing participation in Cities Advocating Reasonable Deregulation, participation in related rate proceedings, and retention of special counsel.

Public Hearing:

Council Vote: October 26, 2020

City Attorney Lewis briefed this agenda.

(6:26 p.m.)

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

VIII. FIRST BRIEFINGS

1. Ordinance No. 2020-114 rezoning a 2.206-acre tract of land in the John A. Talbot HRS, A-564, located in the 5600 block of Richmond Road. Office to Planned Development-General Retail. Kirk Patton, representing PHRMG Developers, owner and Don Robertson, agent.

Public Hearing: November 9, 2020

Council Vote: November 9, 2020

Mashell Daniel briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 11/9/2020 6:00 PM
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Public Hearing: November 9, 2020

Council Vote: November 9, 2020

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Public Hearing: November 9, 2020
Council Vote: November 9, 2020

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Public Hearing: November 9, 2020
Council Vote: November 9, 2020

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Public Hearing: November 9, 2020
Council Vote: November 9, 2020

Mashell Daniel briefed this agenda item.

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Public Hearing: November 9, 2020
Council Vote: November 9, 2020

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Public Hearing: November 9, 2020
Council Vote: November 9, 2020

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Public Hearing: November 9, 2020
Council Vote: November 9, 2020

Jonathan Wade briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 11/9/2020 6:00 PM
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9. Resolution No. 2020-125 recognizing the Texarkana Arts & Historic District Committee and formalizing the entities represented to make strategic marketing decisions for the downtown cultural district and granting authority to function as a creative clearinghouse.

Public Hearing:
Council Vote: November 9, 2020

Lisa Thompson briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 11/9/2020 6:00 PM
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IX. PUBLIC HEARINGS - NONE

X. ITEMS FOR DISCUSSION

Staff Updates - None

XI. ADMINISTRATIVE COMMENTS

1. City Council

The Mayor said he accepted an invitation to spend the afternoon with students at Redwater Elementary School. Third grade students were studying and learning about the

inter workings of city government. The Mayor discussed voting, duties of a mayor, and responsibilities of city council members.

2. City Staff

Staff had no administrative comments for council.

XII. CLOSED SESSION

The City Council convened into closed session pursuant to Section 551.071 of the Texas Government Code for a private consultation with the City Attorney and Section 551.074 (Personnel Matters) to discuss or deliberate the City Manager's contract, evaluation, duties, goals, and performance review.

Mayor Bruggeman also announced the closed session would include a private consultation with the City Attorney pursuant to Section 551.071 with regard to the noticed agenda item pertaining to the Waste Management contract.

XIII. RECONVENED INTO OPEN SESSION

1. Ordinance No. 2020-127 extending and amending the City Manager Employment Contract. (NOTE: Materials will be provided at the council meeting.)

Public Hearing:

Council Vote: October 26, 2020

The City Attorney provided Ordinance No. 2020-127 and Exhibit "A" or Amendment #2 to the City Manager's Employment Contract.
(8:21 p.m.)

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

XIV. ADJOURNMENT

A motion was made to adjourn the meeting.
(8:21 p.m.)

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

City of Texarkana, Texas

Version: B

Update Date: 10/20/2020 1:43 PM

Briefing Sheet

Lead Department: Economic Development **Action Officer:** Lisa Thompson, Economic Development/PIO
Subject: Resolution No. 2020-125 recognizing the Texarkana Arts & Historic District Committee and formalizing the entities represented to make strategic marketing decisions for the downtown cultural district and granting authority to function as a creative clearinghouse.

Briefing: 11/9/2020 **Public Hearing:** **Council Vote:** 11/9/2020

Item ScheduleSchedule 3: No briefing required (one week)**Updates/History of Briefing:**

NOT APPLICABLE

Executive Summary and Background Information:

The Texarkana Arts & Historic District Committee is comprised of hotel occupancy tax funded organizations including Main Street Texarkana, the Texarkana Symphony Orchestra, the Texarkana Museums System, the Texarkana Regional Arts and Humanities Council, the Texarkana USA Regional Chamber of Commerce and representatives from both cities. This group has been meeting consistently since 2013, and has completed numerous projects for forward progress in downtown Texarkana, including publishing an economic impact study, installing wayfinding signage and downtown banners, selected and provided stipends of the artists painting the Kress gap murals, organizing downtown bicycle tours, installing Toblowsky sculptures, participating in the two-way street project and bicycle lane striping, curating the Scott Joplin mural, creating and printing downtown brochures, advertising downtown collectively online and in print, and much more.

The Texarkana Arts & Historic District Committee is a group of not-for-profit organizations working together to make downtown Texarkana a tourism destination for the Ark-la-tex region, and works collectively with private partners, such as the Texarkana Auto Museum, the Silvermoon on Broad, restaurant and venue owners and well as retail establishments to highlight events and attractions to the area.

In 2016 the Texarkana Arts & Historic District Committee received designation from the Texas Commission for the Arts for the establishment of a Texarkana Cultural District, with the boundaries of said district mirroring the existing Downtown Main Street District for Texarkana, Texas and Texarkana, Arkansas. The economic impact study that was conducted in 2015 estimated that over the course of a year, event attendees as well as the organizations of the Arts & Historic District Committee, have an economic impact of more than \$7.5 million within the local economy.

Potential Options:

- Approve
- Deny

City of Texarkana, Texas

Fiscal Implications:

N/A

Staff Recommendation:

Staff recommends approval

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

N/A

Advisory Board/Committee Meeting Date and Minutes:

(Insert Minutes Here) or Select, Delete this and all text in this area and say "NOT APPLICABLE"

Attachments

- a. 2020-125 RES Recognizing the Texarkana Arts Historic District (REV) (DOCX)
- b. 2020-125 RES Goals & Perspectives (DOCX)

Staff Coordination

Economic Development		Lisa Thompson	Department Head Review	
	Completed	10/20/2020 1:52 PM		
Planning and Community Development		David Orr	Review	Completed
	10/20/2020 1:45 PM			
City Manager	Jennifer Evans	City Manager Review	Completed	10/21/2020
9:31 AM				
City Council	Jennifer Evans	Meeting	Completed	10/26/2020
6:00 PM				

Meeting History

10/26/20	City Council	MOVED FORWARD	Next: 11/09/20
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RESOLUTION NO. 2020-125**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, RECOGNIZING THE TEXARKANA ARTS & HISTORIC DISTRICT COMMITTEE AND FORMALIZING THE ENTITIES REPRESENTED TO MAKE STRATEGIC MARKETING DECISIONS FOR THE DOWNTOWN CULTURAL DISTRICT AND GRANTING AUTHORITY TO FUNCTION AS A CREATIVE CLEARINGHOUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

WHEREAS, the Texarkana Arts & Historic District Committee is comprised of hotel occupancy tax funded organizations including Main Street Texarkana, the Texarkana Symphony Orchestra, the Texarkana Museums System, the Texarkana Regional Arts and Humanities Council, the Texarkana USA Regional Chamber of Commerce and representatives from both cities; and

WHEREAS, the Texarkana Arts & Historic District Committee is a group of not-for-profit organizations working together to make downtown Texarkana a tourism destination for the Ark-la-tex region; and

WHEREAS, the members of the Texarkana Arts & Historic District Committee work collectively with private partners, such as the Texarkana Auto Museum, the Silvermoon on Broad, restaurant and venue owners and well as retail establishments to highlight events and attractions to the area, and

WHEREAS, in 2016 the Texarkana Arts & Historic District Committee received designation from the Texas Commission for the Arts for the establishment of a Texarkana Cultural District; and

WHEREAS, the cultural district boundaries mirror the existing Downtown Main Street District for Texarkana, Texas and Texarkana, Arkansas; and

WHEREAS, the designation has provided numerous benefits by furthering the redevelopment of downtown and increasing the potential for future funding from the Texas Commission for the Arts; and

WHEREAS, the Texarkana Arts & Historic District Committee has worked for over seven years to create wayfinding signage and banners, publish an economic impact study, host tourism seminars, advertise the district to potential tourists, secure art installments, and establish a website to collaboratively market arts and historic events in downtown Texarkana; and

WHEREAS, an economic impact study was conducted in 2015 and it was estimated that over the course of a year, event attendees as well as the organizations of the Arts & Historic District Committee, have an economic impact of more than \$7.5 million within the local economy; and

WHEREAS, the City of Texarkana, Texas, has a vested interest in seeing downtown Texarkana revitalized and redeveloped; and

WHEREAS, the City partners with the Texarkana USA Regional Chamber of Commerce, Main Street Texarkana, the Texarkana Museum Systems, Texarkana Regional Arts and Humanities Council, the Texarkana Symphony Orchestra, and the City of Texarkana, Arkansas in this joint endeavor; and

WHEREAS, the City trusts these organizations to represent the interests of the City and downtown; and

WHEREAS, the Arts & Historic District Committee pools marketing funding from the Hotel Occupancy Tax Fund to collectively market downtown Texarkana; and

WHEREAS, the Arts & Historic District Committee uses a process of strategic doing which encourages quick collaborations, measurable outcomes, and adjusting along the way.

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

SECTION 1. The City Council hereby recognizes the Texarkana Arts & Historic District Committee as the official advisory body for the downtown Texarkana Cultural District and authorizes the committee to function as the creative clearinghouse for Public Art in the downtown district.

SECTION 2. The City Council hereby declares the Committee shall consist of one representative from each of the following organizations: City of Texarkana, Texas, City of Texarkana, Arkansas, Texarkana USA Regional Chamber of Commerce, Main Street Texarkana, Texarkana Symphony Orchestra, Texarkana Museum Systems and Texarkana Regional Arts and Humanities Council, for as long as each organization is contributing an equal percentage to the collective marketing fund.

SECTION 3. The City Manager shall have additional authority to appoint a staff representative for the City of Texarkana, Texas, to this committee.

SECTION 4: 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 **9th day of November, 2020.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

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

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

Staff time required if item is approved: 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:

City of Texarkana, Texas

Briefing Sheet

Version: A

Update Date: 11/5/2020 4:08 PM

Lead Department: Finance Department **Action Officer:** Kristin Peeples,
Resolution No. 2020-126 authorizing the City Manager to enter into a contract
with Azavar Audit Solutions, Inc. for hotel occupancy tax and short-term rental
audits, hotel tax administration services, sales tax audits, and franchise fee
Subject: audits.

Briefing: 11/9/2020 **Public Hearing:** **Council Vote:** 11/23/2020

Item Schedule

Updates/History of Briefing:

Not Applicable

Executive Summary and Background Information:

The City's contract for hotel tax audit and hotel tax administration services expired on September 30, 2020. City staff reached out to three well-known companies that provide these services along with sales tax audits and franchise fee audits to determine the best all inclusive service package and price for the City. After comparison of all three proposals, Azavar Audit Solutions, Inc. was chosen by staff as the best overall service package and lowest cost for the City. A comparison schedule of the three proposals is included in your packet as ATTH 01 for reference.

Potential Options:

- Approve
- Deny

Fiscal Implications:

The potential fiscal impact is undetermined at this time, but could add revenue based on audit findings.

Staff Recommendation:

Staff recommends approval.

Advisory Board/Committee Review:

None.

Board/Committee Recommendation:

None.

Advisory Board/Committee Meeting Date and Minutes:

None.

City of Texarkana, Texas

Attachments

- a. 2020-126 RES Authorizing Contract with Azavar Audit Solutions (DOC)
- b. 2020-126 EXH 'A' TEXARKANA TEXAS_Azavar Government Solutions_PSA
OCTOBER 19TH (PDF)
- c. 2020-126 ATTH 01 Comparison of Proposals (PDF)
- d. 2020-126 Goals & Perspectives (DOCX)

Staff Coordination

Finance Department	Jennifer Evans	Department Head Review	Skipped
	11/05/2020 9:55 AM		
Public Works Department	Jennifer Evans	Reviewer	Skipped
	11/05/2020 9:55 AM		
City Manager	Shirley Jaster	City Manager Review Completed	11/05/2020
4:44 PM			
City Council	Vicky Coopwood	Meeting	Pending
6:00 PM			11/09/2020

Meeting History

RESOLUTION NO. 2020-126

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH AZAVAR AUDIT SOLUTIONS, INC. TO PROVIDE PROFESSIONAL MANAGEMENT, GOVERNMENT, REVENUE AND TAX, AND COMPUTER CONSULTING SERVICES FOR HOTEL OCCUPANCY TAX AND SHORT-TERM RENTAL AUDITS, HOTEL TAX ADMINISTRATION SERVICES, SALES TAX AUDITS, AND FRANCHISE FEE AUDITS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City obtained three proposals for the following services: hotel occupancy tax and short-term rental audits, hotel tax administration services, sales tax audits, and franchise fee audits; and

WHEREAS, it has been determined that Azavar Audit Solutions, Inc. will provide the required services with the least amount of cost to the City.

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

SECTION 1: That the City Manager is authorized to execute and enter into a contract with Azavar Audit Solutions, Inc. to provide professional management, government, revenue and tax, and computer consulting services for audits pertaining to hotel occupancy tax and short-term rental audits, hotel tax administration services, sales tax audits, and franchise fee audits as stated in EXH 'A'.

SECTION 2: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **9th** day of **November, 2020**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

This Professional Services Agreement (this "Agreement") is made and entered into on the 15th day of October, 2020 by and between Azavar Audit Solutions, Inc. (DBA Azavar Government Solutions), an Illinois corporation having its principal place of business at 55 East Jackson Boulevard, Suite 2100, Chicago, Illinois 60604 ("Azavar"), and the City of Texarkana, Texas, a Texas municipal corporation having its principal place of business at 220 Texas Boulevard, Texarkana, Texas 75501 ("Customer").

1. SCOPE OF SERVICES

1.1 Subject to the following terms and conditions, Azavar shall provide professional management, government, revenue and tax, and computer consulting services ("Services") in accordance with written statements of work agreed to by the parties (each, a "Statement of Work") attached hereto as Exhibit A, which may be subsequently amended by the parties. Each Statement of Work and any subsequent amendments thereto shall be executed on behalf of each of the parties, whereupon it shall be deemed incorporated herein by reference as though fully set forth herein. The parties agree that certain Statements of Work may be delegated by Azavar to different affiliates or entities that shall operate under the terms set forth in this Agreement.

1.2 Azavar shall be responsible for providing the Services in substantial accordance with each Statement of Work. Azavar will render the services provided under this Agreement in a workmanlike manner in accordance with industry standards.

1.3 Customer agrees to provide reasonable facilities and space should Azavar work on Customer's premises as may be reasonably required for the performance of the Services set forth in this Agreement and in any Exhibit hereto.

2. INDEPENDENT CONTRACTOR. Azavar acknowledges and agrees that the relationship of the parties hereunder shall be that of independent contractor and that neither Azavar nor its employees shall be deemed to be an employee of Customer for any reason whatsoever. Neither Azavar nor Azavar's employees shall be entitled to any Customer employment rights or benefits whatsoever.

3. PAYMENT TERMS. Customer shall compensate Azavar the fees set forth in each Statement of Work. Azavar shall be entitled to compensation for time which is actually spent providing the Services set forth in each Statement of Work. Azavar shall submit an invoice to Customer on a monthly or quarterly basis detailing the amounts charged to Customer pursuant to the terms of this Agreement and each Statement of Work hereto. Customer shall remit payment to Azavar within thirty (30) days of the date of

each invoice. If Customer defaults on payment of any invoice that is not disputed in writing by Customer within thirty (30) days after the receipt of such invoice Azavar, at its discretion, may accelerate all payments due under this Agreement, any Statement of Work attached hereto, and seek recovery of all estimated fees due to Azavar. Azavar shall be entitled to recover all costs of collection including, but not limited to, finance charges, interest at the rate of one percent (1%) per month, reasonable attorney's fees, court costs, and collection service fees and costs for any efforts to collect fees from the Customer.

4. CONFIDENTIAL INFORMATION

4.1 Each party acknowledges that in the performance of its obligations hereunder, either party may have access to information belonging to the other which is proprietary, private and highly confidential ("Confidential Information"). Each party, on behalf of itself and its employees, agrees not to disclose to any third party any Confidential Information to which it may have access while performing its obligations hereunder without the written consent of the disclosing party which shall be executed by an officer of such disclosing party. Confidential Information does not include: (i) written information legally acquired by either party prior to the negotiation of this Agreement, (ii) information which is or becomes a matter of public knowledge, (iii) information which is or becomes available to the recipient party from third parties and such third parties have no confidentiality obligations to the disclosing party, and (iv) information subject to disclosure under any state or federal laws.

4.2 Azavar agrees that any work product or any other data or information that is provided by Customer in connection with the Services shall remain the property of Customer, and shall be returned promptly upon demand by Customer, or if not earlier demanded, upon expiration of the Services provided under each Statement of Work hereto.

5. INTELLECTUAL PROPERTY

5.1 No work performed by Azavar or any Consultant with respect to the Services or any supporting or related documentation therefore shall be considered to be a Work Made for Hire (as defined under U.S. copyright law) and, as such, shall be owned by and for the benefit of Azavar. In the event that it should be determined that any of such Services or supporting documentation qualifies as a "Work Made for Hire" under U.S. copyright law, then Customer will and hereby does assign to Azavar, for no additional consideration, all right, title, and interest that it may possess in such Services and related documentation including, but not limited to, all copyright and proprietary rights relating thereto. Upon request, Customer will take

such steps as are reasonably necessary to enable Azavar to record such assignment. Customer will sign, upon request, any documents needed to confirm that the Services or any portion thereof is not a Work Made for Hire and/or to effectuate the assignment of its rights to Azavar.

5.2 Under no circumstance shall Customer have the right to distribute or make public any information or software containing, or based upon, Confidential Information of Azavar to any third party without the prior written consent of Azavar which must be executed by a senior officer of Azavar.

6. DISCLAIMER

EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, AZAVAR DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES RENDERED UNDER THIS AGREEMENT OR THE RESULTS OBTAINED FROM AZAVAR'S WORK, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL AZAVAR BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR INDIRECT DAMAGES, OR FOR ACTS OF NEGLIGENCE THAT ARE NOT INTENTIONAL OR RECKLESS IN NATURE, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CLIENT AGREES THAT AZAVAR'S LIABILITY HEREUNDER FOR DAMAGES, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE TOTAL AMOUNT PAID FOR THE SERVICES GIVING RISE TO THE DAMAGES UNDER THE APPLICABLE ESTIMATE OR IN THE AUTHORIZATION FOR THE PARTICULAR SERVICE IF NO ESTIMATE IS PROVIDED.

7. TERMINATION

7.1 This Agreement shall be effective ("Term") from the date first written above and shall continue thereafter until terminated upon 90 days written notice by Customer or Azavar ("Initial Term") and automatic renewal terms ("Renewal Terms"). The Initial Term shall be for a thirty-six (36) month period, beginning on the first day of the execution of this Agreement. Upon completion of the Initial Term, this Agreement shall automatically renew for the Renewal Terms, as successive thirty-six (36) month periods, unless previously terminated. A Party may terminate one or more of a Statement of Work, without terminating either this Agreement or another Statement of Work.

7.2 Termination for any cause or under any provision of this Agreement shall not

prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either party.

7.3 The provisions set forth above in Section 3 (Payment Terms), Section 4 (Confidential Information), and Section 5 (Intellectual Property) and below in Section 9 (Assignment), Section 10 (Non-Solicitation of Employees), and Section 11 (Use of Customer Name) shall survive termination of this Agreement.

8. NOTICES. Any notice made in accordance with this Agreement shall be sent by certified mail or by overnight express mail:

If to Azavar:
General Counsel
Azavar Audit Solutions, Inc.
55 East Jackson Boulevard
Suite 2100
Chicago, Illinois 60604

If to Customer:
Chief Financial Officer
City of Texarkana
220 Texas Boulevard
Texarkana, Texas 75501

9. ASSIGNMENT. Neither party may assign this Agreement or any of its rights hereunder without the prior written consent of the other party hereto, except Azavar shall be entitled to assign its rights and obligations under this Agreement in connection with a sale of all or substantially all of Azavar's assets.

10. NONSOLICITATION OF EMPLOYEES. During the period in which any Exhibit to this Agreement is in effect and for a period of twelve (12) months thereafter, each party agrees it will not, without the prior written consent of the other party, solicit the employees of the other party for the purpose of offering them employment; provided, however, that good faith solicitations by way of mass media (i.e., newspapers, internet) shall not be deemed to be a violation of this Section 10.

11. USE OF CUSTOMER NAME. Customer hereby consents to Azavar's use of Customer's name in Azavar's marketing materials; provided, however, that Customer's name shall not be so used in such a fashion that could reasonably be deemed to be an endorsement by Customer of Azavar.

COMPLETE AGREEMENT

This Agreement, along with each Statement of Work attached hereto from time to time, contains the entire Agreement between the parties hereto with respect to the matters specified herein. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof.

This Agreement shall not be amended except by a written amendment executed by the parties hereto. No delay, neglect or forbearance on the part of either party in enforcing against the other any term or condition of this Agreement shall either be, or be deemed to be, a waiver or in any way prejudice any right of that party under this Agreement. This Agreement shall be construed in accordance with the laws of the State of Illinois and the parties hereby consent to the jurisdiction of the courts of the State of Illinois.

City of Texarkana, Texas

BY:

NAME:

TITLE:

Azavar Audit Solutions, Inc.

BY:

NAME:

TITLE:

This Statement of Work ("Statement of Work") is made and entered into on this 15th Day of May, 2020 by and between Azavar Audit Solutions, Inc., an Illinois corporation having its principal place of business at 55 East Jackson Boulevard, Suite 2100, Chicago, Illinois 60604 ("Azavar"), and the City of Texarkana, Texas, a Texas municipal corporation having its principal place of business at 220 Texas Boulevard, Texarkana, Texas 75501 ("Customer").

WHEREBY the parties entered into a Professional Services Agreement ("Agreement") by signature by the parties attached hereto on October 15,

1. **COMPLIANCE AUDITS & ONGOING REVENUE MAXIMIZATION AND MONITORING SERVICES:** In addition to the Services work defined in the Agreement, Services shall be provided in substantial accordance with the below statements:

- (a) Azavar, as Customer's authorized agent and third-party administrator ("TPA"), shall undertake a Local Government Revenue Compliance Audit, Maximization, and Monitoring Program ("Revenue TPA Program") on behalf of the Customer. As part of the Revenue TPA Program Azavar shall, on behalf of the Customer, separately review, audit, maximize, and regularly monitor for the Term of this Statement of Work any and all sources of Customer revenue and related expenses ("Audits"), including, but not limited to, each sales, occupation, and use ordinance, license, service fee, contract, franchise agreement, intergovernmental agreement, payment in lieu of taxes, and any and all expenses imposed by or upon the Customer within the Customer's corporate boundaries, and as permitted by the Customers' ordinances and state or federal law, including those revenues, whether levied, imposed, or administered by the Customer, elsewhere locally, by the state or federal government, taxpayers, remitters, or those that should be remitting any funds or savings to the Customer ("Auditee(s)"), revenues and expenditures related to (and where applicable), but not limited to the following:
 - i. Electricity providers and/or consumers
 - ii. Natural gas providers and/or consumers
 - iii. Multichannel video (i.e. cable) franchise fees and service fees and/or consumers
 - iv. Telecommunications (i.e. phone, fiber, wireless, etc.) providers and/or consumers
 - v. Water, sewer, and/or stormwater providers and/or consumers
 - vi. Waste or refuse hauling providers and/or consumers
 - vii. Fuel providers and/or consumers, oil and gas well drilling and production, and oil and gas pipelines in right-of-way
 - viii. Locally imposed, levied, and/or administered charges, fees or fines
 - ix. Locally imposed and/or administered Business Licenses, Registrations, or Occupation Taxes
 - x. Locally imposed and/or administered Residential Rental Licenses
 - xi. Taxpayers subject to Property Taxes and Levies
 - xii. Taxpayers subject to Vehicle Related Fees or Taxes (i.e. Wheel Tax, Rental Tax, etc.)
 - xiii. Taxpayers subject to Local Amusement or Entertainment Taxes
 - xiv. Taxpayers subject to Business License and/or Registration Fees
 - xv. Taxpayers subject to the Food & Beverage, Restaurant, or Places of Eating Tax
 - xvi. Taxpayers subject to Liquor Licenses and/or Taxes
 - xvii. Fixed Location taxpayers subject to Hotel Occupation/Use Taxes
 - xviii. Online travel companies and short-term online rental management platforms taxpayers subject to local occupation/sales/use taxes
 - xix. Taxpayers subject to Real Estate Transfer Taxes
 - xx. A review of revenues distributed to the Customer by the state, including reviewing state distributions and address designations for sales tax, remote sellers sales tax, service taxes, use taxes, and service use taxes.
 - xxi. Should the Customer own or operate its own utilities including, but not limited to, electric, natural gas, water or other utilities, Azavar shall also review and audit the revenues and expenses of those Customer owned or operated utilities
- (b) The purpose of each Audit is to determine past, present, and future taxes, license fees, service fees, or any other recoveries, refunds, monies, or revenue owed to the Customer that were not properly attributed to the Customer or were not properly paid or collected and to determine future taxes, franchise fees, and other monies owed to the Customer not previously counted so that Customer can collect these past, present, and future monies. Federal and state law, the Customer's own local ordinances and databases, any agreements, contracts or bills between Customer and Auditee are used by Azavar to conduct the Audits and Azavar will present to Customer in writing during the course of the Audits reports detailing compliance findings and findings of monies paid, due, or potentially due to the Customer for review by the Customer per Auditee ("Findings"). Where already allowable by existing Customer contracts or agreements or federal, state, or local law ordinances, this Statement of Work authorizes Azavar to correct any prospective errors and make a reasonable effort to collect monies owed to the Customer under such applicable laws, local ordinances, or contracts. Additionally, Azavar shall regularly monitor all revenues and related expenditures monthly during the Term of this Agreement and shall make any corrections accordingly. Azavar shall review Customer ordinances and shall present Findings to Customer to maximize Customer revenues as part of the Audits, and where such Findings require a change into the future, Azavar will only implement such change after Customer has reviewed and agreed to in writing any such change. Customer understands that Findings may include, but are not limited to, changes to technology, organizational processes, process automation, Customer communication practices, Customer governing practices, and/or updates to local ordinances or the codification thereof. Customer agrees that any Findings, whether implemented in whole or in part by Azavar or the Customer, shall be fully compensable under Section 1 of this Statement of Work, including wherein the Findings require any amendments to an ordinance and wherein the ordinance is changed. Customer agrees to review any Findings within thirty (30) days;
- (c) Customer hereby represents that it is not engaged in any Audits as contemplated under this Statement of Work and shall therefore pay Azavar the fees set forth in this Agreement for any Findings made by Azavar. Customer agrees during the Term of this Statement of Work that it shall not initiate or engage in any Audits, changes to any ordinances related to any Audits, or execution or renewal of any contract or agreements related to any Audits as contemplated under this Statement of Work without Azavar's prior written consent;
- (d) In order to perform the Audits, Azavar shall require full access to Customer records and Auditee records. Customer shall use its authority necessary to assist in acquiring information and procure data from Auditees. Customer agrees that it shall cooperate with Azavar, provide any documentation and records requested by Azavar, and provide continued access (prior to, during, and following any Audits) to documentation and records, and shall engage in meetings with Auditees when requested by Azavar. Customer shall notify Azavar of Auditee communications or requested meetings with Customer and shall include Azavar in said communications and meetings. Customer shall also designate one (1) professional staff member to be the Customer's Primary Contact;

- (e) During the course of each Audit, Azavar may find that rather than being owed past due funds, the Customer owes funds error the Customer. In this case, Azavar will immediately terminate its Audit for that specific Auditee and will document the error and provide the Customer with information necessary to correct the error. Azavar shall have no liability to Customer for these errors or actions arising from Azavar's or Customer's knowledge thereof;
- (f) Customer acknowledges that each Auditee is a separate entity that is not controlled by Azavar and therefore Azavar cannot predict all steps or actions that an Auditee will take to limit its responsibility or liability during an Audit. Should Customer negotiate, abate, car amend, delay, or waive by any means all or a portion of funds identified as payable to Customer during an audit, Customer shall pay Azavar expenses and fees for that Audit in addition to any applicable contingency fees for any Findings that were identified by Azavar o its Audits and that would have been compensable under Section 2 of this Statement of Work;
- (g) During the Audits, Azavar will educate fee and taxpayers and provide all necessary support to onboard them to file and remit payment Customer using Azavar software as defined in Exhibit A – Statement of Work 2;
- (h) Audit timelines and processes are set in accordance with Azavar's proprietary audit process and applicable law. The first Audit start da expected to be within no later than thirty (30) days from the date of this Statement of Work unless changed and approved by the Custom Primary Contact;
- (i) Each Audit is expected to last at least six (6) months. Each subsequent Audit will begin after payment terms and obligations have t satisfactorily met from previously completed Audits however overlapping Audit work may take place at the discretion of Azavar. A status meetings will be held regularly via phone, email, or in person throughout the course of the Audits between Azavar and the Custom Primary Contact and will occur approximately every quarter;
- (j) Jason Perry, Local Government Revenue Compliance Audit, Maximization, and Monitoring Program, and Azavar specialists will be audi under this Statement of Work. All Azavar staff or subcontractors shall be supervised by the Azavar Program Manager.

7.1.b

2020-126 EXHIBIT 'A'

2.

PAYMENT TERMS.

- 2.1 Customer shall compensate Azavar the fees set forth in this Statement of Work on a contingency basis. If applicable, Azavar shall submit invoice to Customer on a monthly basis detailing the amounts charged to Customer pursuant to the terms of this Statement of Work. Should Customer negotiate, abate, cancel, amend, delay, or waive, without Azavar's written consent, any tax determination or Findings that were identified by Azavar or by its Audits where such Findings were allowed under the law at the time the tax determination or Findings were made, Customer shall pay to Azavar applicable contingency fees for the total said tax determination or Findings at the rates set forth below and for the following thirty-three (33) months. If Customer later implements during the subsequent thirty-three(33) months any Findings Customer initially declined based on Azavar programs or recommendations, Azavar shall be paid by Customer its portion of the savings and/or recoveries over the following thirty-three (33) months at the contingency fee rates set forth below.
- 2.2 For Audits pertaining to Hotel Occupancy Tax (under Paragraph 1.(a).xvii) Customer shall compensate Azavar \$950.00 per Audit of each location occupancy tax Auditee. For the purposes of compensation, the Audit of online travel companies, facilitators, and short-term occupancy rental management platforms (e.g., AirBnB and HomeAway) shall be compensable under Paragraph 2.3. Customer shall pay fifty percent (50%) of the fee per Audit upon Audit initiation and fifty percent (50%) of the fee per Audit upon delivery of Findings for each Audit. Should Customer opt to have Azavar submit reports to the State Comptroller, in accordance with HB 2048, Customer shall compensate Azavar \$250.00 per filing.
- 2.3 For Audits pertaining to prospective short-term online rental management platform, and/or online travel company Findings (under Paragraph 1.(a).xviii and xvii) and sales and use tax, Customer shall pay Azavar an amount equal to twenty-two (22) percent of any new revenues, savings or prospective funds recovered per account or per Auditee for twenty-two (22) months following when funds begin to be properly remitted to Customer. In the event Azavar is able to recover any additional savings or revenue increases for any time period, or any credits at any time, Customer will pay Azavar an amount equal to twenty-two (22) percent of any savings, funds, and fair market value for any other special consideration or compensation recovered for or received by the Customer from any Auditee. All contingency fees paid to Azavar are based on determinations of recovery by Azavar including Auditee data and regulatory filings. All revenue after the subsequent twenty-two (22) month period for each account individually will accrue to the sole benefit of the Customer.
- 2.4 For Audits pertaining to water, sewer, and/or stormwater provider franchise fee Findings (under Paragraph 1.(a).v), Customer shall pay Azavar an amount equal to thirty-three (33) percent of any new revenues, savings, or prospective funds recovered per account or per Auditee for the following thirty-three (33) months following when funds begin to be properly remitted to the Customer. In the event Azavar is able to recover any additional savings or revenue increases for any time period, or any credits at any time, Customer will pay Azavar an amount equal to thirty-three percent of any savings, funds, and fair market value for any other special consideration or compensation recovered for or received by Customer from any Auditee. All contingency fees paid to Azavar are based on determinations of recovery by Azavar including Auditee data and regulatory filings. All revenue after the subsequent thirty-three (33) month period for each account individually will accrue to the sole benefit of the Customer.
- 2.5 For any and all other Audits and/or Findings including Solid Waste(under Section 1), Customer shall pay Azavar an amount equal to thirty-nine (39) percent of any new revenues, savings, or prospective funds recovered per account or per Auditee for thirty-nine (39) months following when funds begin to be properly remitted to the Customer. In the event Azavar is able to recover any additional savings or revenue increases for any time period, or any credits at any time, Customer will pay Azavar an amount equal to thirty-nine (39) percent of any savings, funds, and fair market value for any other special consideration or compensation recovered for or received by the Customer from any Auditee. All contingency fees paid to Azavar are based on determinations of recovery by Azavar including Auditee data and regulatory filings. All revenue after subsequent thirty-nine (39) month period for each account individually will accrue to the sole benefit of the Customer.
- 2.6 Customer shall reimburse Azavar's travel expenses, which shall be preapproved by the Customer, in accordance with Internal Revenue Service guidelines and rules.

Attachment: 2020-126 EXH 'A' TEXARKANA TEXAS_Azavar Government Solutions_PSA OCTOBER 19TH [Revision 1] (2395 : 2020-126 RES

3. **COMPLETE AGREEMENT:** This Statement of Work and the Agreement contains the entire Agreement between the parties hereto and the matters specified herein. The invalidity or unenforceability of any provision of this Statement of Work shall not affect the validity or enforceability of any other provision hereof. This Agreement shall not be amended except by a written amendment executed by the parties hereto. No delay, neglect or forbearance on the part of either party in enforcing against the other any term or condition of this Statement of Work shall either be, or be deemed to be, a waiver or in any way prejudice any right of that party under this Agreement.

7.1.b

2020-126 EXHIBIT 'A'

IN WITNESS WHEREOF, the parties have caused this Statement of Work to be executed in duplicate originals by their duly authorized representatives as of the date set forth below.

AZAVAR AUDIT SOLUTIONS, INC.

CUSTOMER CITY OF TEXARKANA, TEXAS

By _____

By _____

Title _____

Title _____

Attachment: 2020-126 EXH 'A' TEXARKANA TEXAS_Azavar Government Solutions_PSA OCTOBER 19TH [Revision 1] (2395 : 2020-126 RES

This Statement of Work ("Statement of Work") is made and entered into on this 15th Day of October, 2020 by and between Azavar Audit Solutions, Inc.'s affiliate, Azavar Technologies Corporation, an Illinois corporation having its principal place of business at 55 East Jackson Boulevard, Suite 2100, Chicago, Illinois 60604 ("Azavar"), and the City of Texarkana, Texas, a Texas municipal corporation having its principal place of business at 220 Texas Boulevard, Texarkana, Texas 75501 ("Customer").

WHEREBY the parties entered into a Professional Services Agreement ("Agreement") by signature by the parties attached hereto on October 15, 2020.

1. **REVENUE ADMINISTRATION SERVICES:** In addition to the Services and work defined in the Agreement, Services shall be provided in substantial accordance with the below statements:

- i. **Professional Services, Ordinance Review, Analysis, and Modification:** Azavar shall review Customer ordinances and present any recommendations ("Findings") to Customer to maximize Customer revenues as part of the Audits, and where Findings requires a change into the future, Azavar will only implement such change after Customer has reviewed and agreed to writing any such change. Customer understands that Findings may include, but are not limited to, changes to technology, organizational processes, process automation, Customer communication practices, Customer governing practices, and/or updates to local ordinances or the codification thereof. Customer agrees that any Findings, whether implemented in whole or in part by Azavar or the Customer, shall be fully compensable under Section 2 of the Agreement, including wherein the Findings require amendments to an ordinance and wherein the ordinance is changed. Customer agrees to review any Findings within thirty (30) days.
- ii. **Electronic Monitoring and Automated Management of Locally Authorized and Administered Tax/Fee and Any Other Revenues:** Azavar shall provide Customer for an additional fee with Services and software to continuously monitor and manage locally authorized and administered taxes, fees, and any other revenues to ensure compliance with locally authorized taxes and fees. Services to be included by Azavar are as follows: (i) Customer will have a single Azavar point of contact for inquiries or reporting issues; (ii) Regular (weekly, semi-monthly, or monthly) status calls with the assigned Azavar project manager; (iii) Defect/Enhancement reporting and tracking tool; (iv) Project management portal. Additional Services related to the software specifically to be provided to the Customer are as follows: **Tax and Fee Administration Software Module and Services**
 1. 99.7% guaranteed system uptime (including pre-arranged system maintenance schedule);
 2. Cyber liability insurance coverage and NACHA and PCI compliance;
 3. Help Desk support for Customer and Customer End Users Monday through Friday, 9am-5pm CST (excluding state and federal holidays);
 4. One (1) business day response time to support inquiries;
 5. One (1) onsite training on application for Customer staff (onsite location, date, time, and duration to be mutually agreed to by Customer and Azavar);
 6. One (1) onsite demonstration and training for Customer End Users and taxpayers (onsite location, date, time, and duration to be mutually agreed to by Customer and Azavar);
 7. Report generation configured to the Customer's requirements in collaboration between the Customer and Azavar;
 8. Production of marketing material to communicate the Services and software to Customer End Users;
 9. Concierge Customer Service: In the event an individual Customer End User is unable to use the Azavar Software to file and pay Customer Taxes, Azavar shall be responsible for providing manual, individual support to the individual Customer End User;
 10. Delinquency reporting and regular follow up with delinquent taxpayers by Azavar Customer Service; and,
 11. Setup of an on-site kiosk (optional) within Customer facilities.
 12. Dynamic Sales Tax Reporting.

2. **IMPLEMENTATION AND USE OF AZAVAR SOFTWARE**

- 2.1 Customer agrees that it shall use Azavar developed, hosted, managed, and supported software pertaining to local government expenditure management, tax location management, tax filing and payment applications for locally authorized and/or administered taxes, expenses, proceeds, monies owed, or fees, (collectively "Taxes") and revenue monitoring, management, and reporting software ("Azavar Software"). Customer agrees that it shall, within no more than thirty days (30) from the date of execution of this Statement of Work:
 - (a) Provide Azavar full cooperation and information necessary to immediately implement, deploy, and integrate Azavar Software electronic filing, payment, and collection of Taxes with Customer's existing database and/or enterprise resource planning ("ERP") systems, wherein the Azavar Software is accessible on Customer's official website to users of Customer's website ("End Users") in a live and secure production environment. Customer shall identify one (1) staff person to test the Software and provide feedback to Azavar regarding the Azavar Software on a reasonably regular basis, especially during Customer onboarding on to Azavar Software. Azavar is expressly authorized by Customer to contact and work with web, Information Technology, and/or ERP providers of Customer for the purposes of implementing and updating Azavar Software as necessary. Should Customer require additional Services for implementation, configuration, customization, or integration of Azavar Software not set forth in this Statement of Work, Azavar shall provide said professional services to Customer on a time and materials basis (Azavar's blended hourly rate for said service is \$150.00/hour for the 2020 Calendar Year) at Azavar's then current rate schedule; and,
- 2.2 Azavar shall retain all rights, at its sole discretion, to recover service fees or cost(s) from Customer and/or End Users and to set reasonable prices for Customer and/or End Users. This includes, but is not limited to, reclamation of fees for ACH/EFT/eCheck processing electronic payments and shall be included in the fee per filing set forth below or for Credit/Debit Card processing fees. End Users with returned ACH/EFT/eCheck payments shall be assessed a fee of \$25.00 by Azavar and shall be retained by Azavar. Azavar shall assess End Users a service fee of three percent (3%) for any Credit/Debit Card transactions.

3. **END USER LICENSE AGREEMENT**

- 3.1 **Software License.** Azavar hereby grants a non-exclusive license to the Customer to use the Azavar Software for the purpose of payment, filing, and collection of all Taxes, as well as for collection of all additional and ancillary data generated by such collections. The Customer shall not sublet, duplicate, modify, decompile, reverse engineer, disassemble, or attempt to derive the source code of said Software. The license granted hereunder shall not imply ownership by Customer of said Software, rights of the Customer to sell the Software, or rights to use said software for the benefit of others, except as provided below in Section 3.2. Customer shall not create any derivative work or product based on or derived from

the Software or documentation, or modify the Software or documentation without prior written consent of Azavar. Azavar agrees to install and maintain the Software during the Initial Term and for any further term as agreed upon by the parties.

7.1.b

2020-126 EXHIBIT 'A'

3.2 **Sublicense:** The license grant provided to Customer includes a limited right to allow an unlimited number of End Users to the system for purposes of reporting, filing, and paying of all locally authorized and/or administered Taxes and revenue. Each End User shall generate a name and password and will agree to a limited end user license agreement for accessing and using the Azavar Software for the purposes of filing payment, and collection of Taxes and revenue due to Customer.

3.3 **Customer Data:** Azavar acknowledges that the data provided by the Customer ("Customer Data") during the use and implementation of Software is the property of the Customer. Customer authorizes Azavar to access, import, process and generate reports ("Azavar Data") from Customer Data with Azavar's various proprietary systems. No confidential or otherwise sensitive information will be released. Azavar owns rights in and to the Azavar Data, including but not limited to all Intellectual Property rights that may vest in such Azavar Data. The Azavar Data shall be made available to the Customer in a format acceptable to both the Customer and Azavar.

3.4 **Duration, Fee, and Term:**

3.4.1 **Duration:** The grant of the Software License in Section 2.1 above is provided to Customer for the Initial Term and any Renewal Term to use, install, implement and deploy the Azavar Software at the license fee set forth below.

3.4.2 **Fee:** Customer shall pay a one-time onboarding service fee of twenty-five hundred dollars (\$2500.00) upon execution of this Statement of Work. Customer shall pay Azavar a discounted service/license fee of \$8.00 per filing for the distinct and unique locally authorized and/or administered Tax forms listed below and implemented within Azavar Software for the Customer's benefit upon execution of Statement of Work, whether or not such Tax form(s) has yet been deployed to a live production environment. Billing of service/license fee shall start upon deployment of Azavar Software to a live production environment. Customer agrees and authorizes that Azavar shall deploy a distinct and unique license and/or Tax form for filing and collection of each, but not limited to, Customer's Tax and Fee upon execution of this Statement of Work. Azavar Sales Tax Reporting Insights & Analytics shall also be provided for an additional service fee of \$150 per month (invoiced annually). Customer may request at any time, in writing to Azavar, that Azavar implement and deploy any additional module(s). A separate fee may be applicable for additional modules.

3.4.3 **Discount:** Should Customer execute the Agreement and Statements of Work (1 & 2) by November 1, 2020, Azavar shall waive one-time onboarding service fee and shall provide the first year (through September 30, 2021) of Azavar Sales Tax Reporting Insights & Analytics referenced above at no charge to Customer.

4 **LICENSE, PERMITS, AND/OR APPROVALS**

4.1 Azavar and Customer will work together to obtain such licenses, permits, and/or approvals ("Approvals") as necessary and required by law for the performance of the Services and implementation of the Azavar Software as provided in this Statement of Work. Customer shall be responsible for payment of all such fees or licenses necessary for said implementation.

5 **INDEMNITY**

5.1 **For Azavar:** Azavar shall indemnify and hold harmless Customer and its officers, officials, and employees from any liability for damages or claims for personal injury, as well as from claims of breach of confidentiality, which may arise out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of Azavar, its officers, agents and employees under this Statement of Work.

5.2 **For Customer:** Customer shall indemnify and hold harmless Azavar, its officers, agents, and employees from any liability for damages or claims for personal injury, as well as from claims for breach of confidentiality or property damage which may arise from Customer's negligent acts or errors or omissions under this Statement of Work.

6 **INTELLECTUAL PROPERTY**

6.1 **Ownership:** Azavar owns all rights in and to the Azavar Software as well as all modifications and amendments necessary for implementation of the Azavar Software. In the event that it should be determined that any Azavar Software or related documentation qualifies as a "Work Made for Hire" under U.S. copyright law, then Customer will and hereby does assign to Azavar, for no additional consideration, all right, title, and interest that it may possess in such Services and related documentation including, but not limited to, all copyright and proprietary rights relating thereto. Upon request, Customer will take such steps as are reasonably necessary to enable Azavar to record such assignment. Customer shall sign, upon request, any documents needed to confirm that the Services or any portion thereof is not a Work Made for Hire and/or to effectuate assignment of its rights to Azavar.

6.2 **Proprietary Information:** As used herein, the term "Proprietary Information" means any information which relates to Azavar's Software, its processes or related services, techniques, or general business processes. Customer shall hold in confidence and shall not disclose to any other party any Proprietary Information in connection with this Statement of Work, or otherwise learned or obtained by the Customer through implementation of the Azavar Software.

7 **COMPLETE AGREEMENT:** This Statement of Work and the Agreement contains the entire Agreement between the parties hereto with respect to the matters specified herein. The invalidity or unenforceability of any provision of this Statement of Work shall not affect the validity or enforceability of any other provision hereof. This Agreement shall not be amended except by a written amendment executed by the parties hereto. No delay, neglect, or forbearance on the part of either party in enforcing against the other any term or condition of this Statement of Work shall either be, or be deemed to be, a waiver or in any way prejudice any right of that party under this Agreement.

IN WITNESS WHEREOF, the parties have caused this Statement of Work to be executed in duplicate originals by their duly authorized representatives as of the date set forth above.

AZAVAR TECHNOLOGIES CORPORATION

CUSTOMER CITY OF TEXARKANA, TEXAS

By _____

By _____

Title _____

Title _____

Comparison of Proposals

Hotel Occupancy Tax and Short-Term Rental Audits
 Hotel Tax Administration Services
 Sales Tax Audits
 Franchise Fee Audits

		Azavar	Tri-Stem	Avenu
Franchise	Fixed Cost	None	None	\$7,500 per audit
	Contingency Fee	39% contingency fee for any back revenue found during the audit period and going forward for 39 months.	35% contingency fee on any back revenue found and going forward for 12 months.	35% contingency fee for any revenue found going back 48 months. No collections on future periods.
	Additional Info	Lowered to 33% for 33 months (excluding solid waste which would remain at 39%) with complete agreement that includes franchise audits, sales tax reviews, hotel tax audits & administration, and short term rental compliance services	N/A	N/A

Sales Tax	Fixed Cost	None	None	None
	Contingency Fee	22% contingency fee for any back revenue found during the audit period and going forward for 22 months.	35% contingency fee on any back revenue found and going forward for 12 months.	30% contingency fee for any revenue found going back 48 months and also the next 8 quarters going forward.

Hotel Tax Audit	Fixed Cost	\$950 + pre-approved travel expenses. City chooses when to audit and how many hotels to audit each period.	\$1,200 per establishment audited.	\$2,000 per audit, minimum of 2 audits per audit round, plus travel expenses.
Hotel Tax Administration	Fixed Cost	\$8 per tax return filed by taxpayer. Monthly filers = \$96/year; Quarterly filers = \$32/year.	Service not available	\$250 per property or lodging account annually or discounted to \$150-\$200 per property annually if auditing 10% or more of the City's standard properties per year.

Short-Term Rentals	Fixed Cost	None	None	None
	Contingency Fee	22% contingency fee for any back revenue found during the audit period and going forward for 22 months.	35% contingency fee on revenue found and going forward for 12 months.	40% contingency fee to apply to the current tax year, all eligible prior period revenues collected, and any applicable penalties, interest, and late charges, and two forward years or 24 months.

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: Medium

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:

City of Texarkana, Texas

Version: D

Update Date: 11/5/2020 4:30 PM

Briefing Sheet

Lead Department: Planning and Community Development **Action Officer:** Daphnea Ryan,
Resolution No. 2020-138 supporting The Texarkanan (former Texarkana
National Bank building) redevelopment project, authorizing use of additional
EPA cleanup funds to any person or entity allying with Texarkana Renewal
Properties, LLC for the project, and authorizing the City Manager to execute
Subject: any and all loan documents or other documents necessary for the project.

Briefing: 11/9/2020 **Public Hearing:** 11/23/2020 **Council Vote:** 11/23/2020

Item ScheduleSchedule 2: Brief once - vote once (two weeks)**Updates/History of Briefing:**

Previous Resolution 2020-051 approved the Phase I EPA Loan of \$400,000.00 to cover the exterior asbestos abatement and begin interior abatement of the former Texarkana National Bank Building and Parking Garage, focusing first on completing abatement of the bank building. Exterior abatement was necessary during Phase I of the project to enable the borrower to apply for state and/or federal historic designation; thereby, opening more funding streams for the redevelopment of the project. Completion of environmental abatement will encompass two Phases and this second loan an amount up to \$500,000 will help to cover the cost of the second Phase with the end result being the bank building abated and shovel ready for redevelopment, preserving historic elements, improved Downtown air quality and moving our EPA RLF Program in line for additional funding.

Executive Summary and Background Information:

The entire project includes restoration and redevelopment of two sites, the former Texarkana National Bank Building located at 100 W. Broad Street and the Parking Garage Property located on the SW corner of W. 3rd and Pine Street.

The former Texarkana National Bank building was originally constructed in 1914 with additions made in 1924 and 1962. The building contains 56,250 sq. ft, and at eight (8) stories, is the second tallest building downtown.

The goal is to redevelop the building with meeting space and offices on the ground level, apartments throughout the remaining floors with a restaurant included on the fifth floor. Recent developments over the past several years included a Phase 1 EPA Brownfield Site Assessment completed in the Summer of 2011 and updated in December 2019, and Phase II Brownfields Environmental Site Assessment completed in April 2013, making the project eligible for EPA Revolving Loan funds.

The former parking garage property consists of a 0.32-acre parcel of land with a five-story 44,000+ sq. ft. parking garage and associated basement, office, and retail spaces. The parking garage was constructed in 1960.

City of Texarkana, Texas

The goal is to revitalize the parking garage for parking and storage, and to revitalize the retail space maintaining the retail use. The parking facility will be private parking for residents of the redeveloped Texarkanan.

Following City and EPA guidelines, Texarkana Renewal Properties, LLC let bid for the environmental abatement and received five (5) competitive bids. Texarkana Renewal Properties, LLC is still reviewing the bids and expect to award by November 6, 2020. This additional abatement funding will cover the cost to abate the bank building and may begin the parking garage as well.

In addition to this supplemental EPA RLF Loan up to \$500,000 and up to \$80,000 for onsite environmental monitoring, City commitments to date include a \$400,000 EPA RLF Loan to begin abatement on the bank building; two façade loans totaling \$100,000; two façade grants totaling \$10,000. The City's EPA Grant will also cover the cost of the city's Qualified Environmental Professional (QEP) for environmental oversight estimated at \$20,000.

Potential Options:

- Approve
- Deny

Fiscal Implications:

EPA Brownfields Cleanup Loan up to \$500,000; EPA Brownfields Onsite Monitoring Funds \$80,000

Staff Recommendation:

The developer is proposing a multiple phase approach for the redevelopment of this property that includes removal of the exterior façade and beginning interior environmental cleanup as phase one. The phase one work will reveal the original brick façade to qualify for historic tax credits. Phase two will include completing abatement and actual construction work for the redevelopment of the property. Due to the complexity and multiple phasing of the development and financing plan, this loan is considered high risk. However, this development is important to the City's continued support of downtown revitalization efforts and the development is located in a federally qualified Opportunity Zone. Furthermore, the developer has a positive track record with other downtown properties. As a result, staff recommends approval with the following terms and conditions:

1. EPA Brownfields Cleanup loan(s) up to \$500,000.00 for a project involving the formerly Texarkana National Bank building with a 12-year term. No interest for one year with interest only in years 2 and 3 with principle and interest due years 4-12. Interest rate will be set at the 10-year treasury rate plus 1%. EPA loans 1 & 2 total \$900,000 in loan support.
2. Developer will follow all applicable City Building Codes along with all EPA Brownfield Program terms and conditions. Developer will ensure work is protective of human health & the environment including but not limited to adherence to approved EPA cleanup plans, approved EPA closure reports and Davis-Bacon requirements.
3. The lender will withhold ten percent (10%) of each payment requested as a retainage until any **EPA Agency or Lender required closure reports are received and approved by the Agency.**
4. As recommended by the RLF Loan Committee, Borrower will secure a \$20,000 contingency fund in a checking account at Commercial National Bank to be applied to

City of Texarkana, Texas

the last abatement invoice in the event a shortfall exist or will be returned to the borrower if all cost are covered. Borrower may appeal to the RLF Loan Committee to release those funds during the project.

5. Collaterally assign rents and leases at the properties known as former Texarkana National Bank located at 100 W. Broad Street and former Parking Garage/Key Shop located at 217-223 Pine Street.
6. Execute a Personal Guarantee for the Loan and a Guarantee of Completion.
7. Developer provide additional letters of financial commitment and an updated proforma after abatement is complete and prior to redevelopment beginning.

Advisory Board/Committee Review:

EPA Revolving Loan Program (RLF) Committee

Board/Committee Recommendation:

November 2, 2020

EPA Revolving Loan Program RLF Committee recommended approval with staff terms and conditions

Advisory Board/Committee Meeting Date and Minutes:

November 2, 2020

Attachments

- a. 2020-138 RES Auth City Manager to enter into agreements Texarkana National Bank (DOCX)
- b. 2020-138 ATTH 01 RLF Committee Nov 2 2020 Minutes (PDF)
- c. 2020-138 ATTH 02 Texarkana Renewal Properties Agreement v2clean agrmt ExA ExBfinal (PDF)
- d. 2020-138 ATTH 03 ATTACHMENT C Note (PDF)
- e. 2020-138 ATTH 04 ATTACHMENT D Security Agreement (PDF)
- f. 2020-138 ATTH 05 Guaranty(PDF)
- g. 2020-138 ATTH 06 Ex F - H (PDF)
- h. 2020-138 ATTH 07 Guaranty of Completion Developer (PDF)
- i. 2020-138 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review	
Completed	10/30/2020 8:04 AM		
Finance Department	Kristin Peeples	Finance Review	Completed 10/30/2020 8:49 AM
City Manager	Shirley Jaster	City Manager Review	Completed 11/05/2020 4:43 PM
City Council	Vicky Coopwood	Meeting	Pending 11/09/2020 6:00 PM

Meeting History

RESOLUTION NO. 2020-138

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING USE OF ADDITIONAL EPA GRANT FUNDS FOR ENVIRONMENTAL ABATEMENT AND MONITORING AS PART OF THE TEXARKANA RENEWAL PROPERTIES, LLC, REDEVELOPMENT PROJECT FOR THE FORMER TEXARKANA NATIONAL BANK AND PARKING GARAGE PROPERTIES; AUTHORIZING THE CITY MANAGER TO SIGN ANY AND ALL LOAN DOCUMENTS OR OTHER DOCUMENTS NECESSARY FOR THE ENVIRONMENTAL ABATEMENT OF THIS PROJECT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, by Resolution No. 2020-051, the City Council approved and stated its support of the business plan of the Texarkana Renewal Properties, LLC, redevelopment project of the former Texarkana National Bank and Parking Garage properties; and

WHEREAS, supplemental grant funds were received from the United States EPA and are available specifically for environmental abatement on this project; and

WHEREAS, City staff and the RLF Loan Committee approved by unanimous vote EPA Brownfields Revolving Loan Fund loan(s) up to \$500,000 for environmental abatement; and

WHEREAS, City staff and the RLF Loan Committee approved by unanimous vote EPA Brownfields Grant funds to be used for onsite environmental monitoring up to \$80,000; and

WHEREAS, Texarkana Renewal Properties, LLC is preparing applications for tax credit opportunities and PACE loans; and

WHEREAS, the City Council intends by this resolution to approve the use of the supplemental EPA grant funds for environmental abatement and monitoring on the project, with stipulations recommended by Staff and RLF Loan Committee, and to authorize the City Manager to execute any and all additional loan documents or other documents necessary for environmental abatement and monitoring of the project sites to Texarkana Renewal Properties, LLC, and/or any person or entity allying with Texarkana Renewal Properties, LLC for the project.

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

SECTION 1: The City Council approves the use of additional EPA grant funds, as recommended by City staff and the RLF Loan Committee, for environmental abatement and monitoring of the Texarkana Renewal Properties, LLC, redevelopment project of the former Texarkana National Bank and Parking Garage (specifically, utilizing EPA Brownfields Revolving Loan Fund loan(s) up to \$500,000 for environmental abatement and EPA Brownfields Grant funds for onsite environmental monitoring up to \$80,000).

SECTION 2: The City Council authorizes the City Manager to execute any and all loan documents or other documents necessary to Texarkana Renewal Properties, LLC, and/or any person or entity allying with Texarkana Renewal Properties, LLC for the environmental abatement and monitoring of the project sites as approved in Section 1 of this Resolution.

SECTION 3: While this Resolution pertains to the same project approved by the City Council in Resolution No. 2020-051, this Resolution makes no changes to said resolution.

SECTION 4: 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 **23rd day of November, 2020.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

**City of Texarkana, Texas
EPA Revolving Loan Program
RLF Committee Meeting
November 2, 2020, 3:00 p.m.
Via Zoom Meeting 985 1052 5237**

Members Present:

Diane Martin
Philip Mobley
Jerry Sparks
Kayla Wood
Mike Malone

City Representatives:

David Orr
Kristen Peebles
Daphnea Ryan
Jo Thomason
Lisa Thompson

Developer(s) Present:

David Peavy

The City of Texarkana, Texas presented one loan application for EPA Brownfields Revolving Loan Fund from Texarkana Renewal Properties, LLC. The loan is to cover the second phase of environmental cleanup of the former Capital One/Texarkana National Bank Building located at 100 W. Broad Street and the old parking garage and retail space located at 217-223 Pine Street with the initial focus on the bank building. The applicant requested \$456,500 in this second loan application. The City's Brownfields Grant covers environmental oversight and the borrower is also in discussion with the City requesting EPA Brownfields funds cover on site environmental monitoring. Daphnea Ryan, Grant Administration Manager, advised the Committee this could be accomplished by reducing his loan amount to enable the City grant funds to cover all aspects of environmental monitoring and oversight, or increasing his loan amount to offer more funding to bridge that gap. Ms. Ryan advised that more consideration and discussion with the City's environmental consultant is needed to determine the best route to take for the Brownfields Program as well as the project. Ms. Ryan asked the Committee to consider a varying loan amount not to exceed \$500,000.00 to allow both options.

Developer, Texarkana Renewal Properties, LLC, represented by David Peavy provided an overview of the planned project, answered questions, and exited the meeting. The Committee discussed the loan request, interest rate, other funding sources, applicant's proforma, restricting timeline of developers fees, and contingency options. Committee members recognize the hazards of asbestos and lead-based paint and acknowledged the benefit to the community to ensure the completion of environmental abatement. The committee agreed for a successful redevelopment and the ability of the developer to secure additional funding, full assistance with environmental abatement is essential. The Committee also recognized the sources do not cover the uses and discussed requiring a contingency fund as part of the personal guarantee. After full discussion, Dianne Martin made a motion to approve an EPA RLF loan up to \$500,000.00, with developer securing a \$20,000 contingency fund in a checking account at Commercial National Bank that would go toward the last abatement invoice in the event a shortfall exist to complete the abatement and would be returned to developer if a shortfall did not occur; and require a 10% retainage in each invoice, all of which is contingent upon adherence to staff recommendations and terms outlined in Attachment I. The motion was seconded by Mike Malone and passed by unanimous vote.

Meeting adjourned at 4:21 p.m.

ATTACHMENT I

Texarkana Renewal Properties EPA & City RLF Application

Staff Recommendations

The developer is proposing a multiple phase approach for the redevelopment of this property that includes removal of the exterior panels, roof encapsulation, then moving to interior environmental abatement. The phase one work will reveal the original brick façade to qualify for historic tax credits. Environmental abatement will create a segue to actual construction work for the redevelopment of the property. Due to the complexity and multiple phasing of the development and financing plan, this loan is considered high risk. However, this development is important to the City's continued support of downtown revitalization efforts and the development is located in a federally qualified Opportunity Zone. Furthermore, the developer has a positive track record with other downtown properties. As a result, staff recommends approval with the following terms and conditions:

1. EPA Brownfields Cleanup loans up to \$500,000.00 for a project involving the formerly Texarkana National Bank building with a 12-year term. No interest for one year with interest only in years 2 and 3 with principle and interest due years 4-12. Interest rate will be set at the 10-year treasury rate plus 1%.
2. Developer will follow all applicable City Building Codes along with all EPA Brownfield Program terms and conditions. Developer will ensure work is protective of human health & the environment including but not limited to adherence to approved EPA cleanup plans, approved EPA closure reports and Davis-Bacon requirements.
3. The lender will withhold ten percent (10%) of each payment requested as a retainage until any **EPA Agency or Lender required closure reports are received and approved by the Agency.**
4. As recommended by the RLF Committee, borrower will secure a \$20,000 contingency fund in a checking account at Commercial National Bank to be applied to the last abatement invoice in the event a shortfall exist or will be returned to the borrower if all cost are covered. Borrower may appeal to the RLF Loan Committee to release those funds during the project.
5. Collaterally assign rents and leases at the properties known as former Texarkana National Bank located at 100 W. Broad Street and former Parking Garage/Key Shop located at 217-223 Pine Street.
6. Execute a Personal Guarantee for the Loan.
7. Developer provide additional letters of financial commitment and an updated proforma after abatement is complete and prior to redevelopment beginning.

**BROWNFIELD REVOLVING LOAN FUND
LOAN AGREEMENT
BETWEEN THE CITY OF TEXARKANA AND
TEXARKANA RENEWAL PROPERTIES, LLC**

I. PARTIES

THIS AGREEMENT is made and entered into on _____ (LOAN AGREEMENT DATE), by and between Texarkana Renewal Properties, LLC, hereinafter referred to as the "BORROWER," and the City of Texarkana, Texas, hereinafter referred to as "LENDER."

II. DEFINITIONS

Property – Real property located in the City of Texarkana, Texas at 100 W. Broad Street, Texarkana, Bowie County, Texas, the "Former Texarkana National Bank" building and site containing .22 acres more or less, and at 217 – 219 Pine Street, Texarkana, Bowie County, Texas, the former Parking Garage containing .32 acres more or less, both as more specifically set forth in Attachment A, and owned by the Borrower. (The "Former Texarkana National Bank" and "Parking Garage" are collectively referred to herein as the "Properties.")

Project– The remediation of petroleum products and/or hazardous substances, including petroleum and metal contaminants in soil, and asbestos and lead based paint in the buildings, from the Properties in accordance with the selected Cleanup Plan.

Cleanup Plan - Voluntary Cleanup Program Response Action Plan (RAP), Corrective Action Plan (CAP), or another LENDER and Agency approved cleanup plan.

Borrower – Texarkana Renewal Properties, LLC, 105 Olive Street, Apt G, Texarkana, AR 71854.

Agency–The Texas Commission of Environmental Quality (TCEQ) Voluntary Cleanup Program (VCP), the Texas Department of State Health Services, or other State or Federal Agency providing remediation oversight in cooperation with the City of Texarkana.

Contractor – The general contractor for remediation or other contractors hired by the Borrower through a competitive bid process approved by the Lender and EPA.

Consultant – The environmental consultant hired by the Lender.

CERCLA– Comprehensive, Environmental Response Compensation and Liability Act, Brownfields Revitalization Act (CERCLA 42 U.S.C. § 9601–9675).

BRLF– The City of Texarkana Brownfields Revolving Loan Fund (per Cooperative Agreement No BF00F-62501 between the City of Texarkana and the United State Environmental Protection Agency (USEPA)).

Eligible Expenses – Expenses paid or incurred by the Borrower to complete the Project, but only to the extent such expenses are deemed eligible for reimbursement/disbursement from the Revolving Loan Fund under applicable EPA guidance, agreements, rules, and regulations. Eligible Expenses are discussed in Attachment B and Attachment G.

ABCA – Analysis of Brownfields Cleanup Alternatives

QAPP – Quality Assurance Project Plan

III. REPRESENTATIONS AND WARRANTIES

WHEREAS, the LENDER is the recipient of a USEPA grant to establish a Brownfields Revolving Loan Fund (BRLF) and is authorized to make certain loans from these funds (Loan Fund) pursuant to the Small Business Liability Relief and Brownfields Revitalization Act, Section 104(k) of CERCLA, 42 U.S.C. 9604(k), and as a condition of awarding the Grants, the USEPA has placed requirements on the use of the Grants as documented in Cooperative Agreement numbered BF00F-62501; and

WHEREAS, the LENDER is responsible for the proper expenditure of loan funds; and

WHEREAS, BRLF funds are to be used to undertake cleanup of Brownfields sites by making loans to parties willing to undertake cleanup of these sites; and

WHEREAS, the BORROWER will own during the life of this agreement by way of fee simple title to certain real property located in Texarkana, Texas (the Properties), which Properties are more particularly described in Attachment A, attached hereto; and

WHEREAS, the Properties are contaminated with petroleum and/or hazardous substances, including asbestos and lead based paint, as defined by CERCLA; and

WHEREAS, Borrower shall retain the services of a general contractor (Contractor) to perform or subcontract all work to be performed under this Agreement (the "Work"); and

WHEREAS, Borrower shall further retain the services of a qualified Environmental Consultant that shall be on site daily to oversee the work, ensure all Work is in compliance with this Agreement and any applicable laws or requirements, and report to the City's Environmental Consultant as required in this Agreement; and

WHEREAS, the Properties are not listed, or proposed for listing on the National Priorities List of the EPA; are not subject to a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree issues or entered into by parties under CERCLA; is not subject to jurisdiction, custody, or control by the United States government; and

WHEREAS, LENDER has determined in accordance with relevant USEPA grant requirements that the BORROWER is not potentially liable under section 107 of CERCLA for response costs on the site and that the BORROWER has not caused, contributed to, permitted or exacerbated the release of hazardous substances, pollutants or contaminants on, or emanating from the Properties, and continues to meet its continuing obligations and exercise appropriate care with respect to hazardous substances found at the Properties;

WHEREAS, EPA has determined that the Properties are eligible for BRLF funds; and,

WHEREAS, the BORROWER is not and has never been subject to any penalties resulting from environmental non-compliance at or on the Properties nor is the BORROWER, or its Project contractors or subcontractors currently suspended, debarred, or otherwise declared ineligible for participation in this Federal program or from the receipt of these funds.

IV. CERTIFICATIONS

NOW THEREFORE, in consideration of the covenants and promises contained herein, it is mutually agreed by and between the parties as follows:

1. The BORROWER agrees to carry out the Project and shall use Loan Funds only for eligible activities in accordance with all applicable state, local and federal laws, regulations, orders,

Contract No: _____
Properties, LLC

DRAFT 10/29/2020 Texarkana Renewal

writs, judgments, injunctions, decrees or awards, including but not limited to the following, CERCLA § 104 (k); the Uniform Administrative Requirements of Grants and Cooperative Agreements to States and Local Governments (40 CFR Part 31); all applicable cross-cutting requirements, including those federal requirements agreed between the USEPA and the City defined by the Cooperative Agreement Number (B F-00E45801), OSHA Worker Health & Safety Standard 29 C.F.R. 1910.120; the Uniform Relocation Act, Historic Preservation Act, Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327333), the Anti-Kickback Act (40 U.S.C. 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250; including the applicable laws and regulations set forth on the attached Attachment G incorporated herein.

2. The BORROWER shall ensure that the cleanup is protective of human health and the environment in accordance with EPA, TCEQ and all other applicable regulations. The LENDER may change cleanup activities as necessary based on comments from the public or new information acquired.
3. The BORROWER agrees to assist the LENDER in conducting Community Involvement activities, which may include providing documents for the Community Involvement Plan, and attending public meetings at the LENDER's request.
4. The BORROWER understands and agrees that all Loan Funds provided by the LENDER shall be used to clean up the Property identified in Attachment A and that Loan Funds shall not be used for the payment of any cost or expense related to site assessments, except for confirmation testing and sampling in conjunction with cleanup of the site, nor for building demolition, site improvements or infrastructure unless such activities are approved and necessary to conduct the Agency approved Cleanup Plan. See Attachment B of this agreement for a list of eligible and ineligible costs and activities.
5. The BORROWER agrees to enter into and conduct cleanup activities in accordance with the terms of the TCEQ Voluntary Cleanup Program (VCP) or other TCEQ oversight authority as approved and/or required by the LENDER.
6. The BORROWER agrees to perform the Project in accordance with the selected Cleanup Plan after consideration of public comment on an Analysis of Brownfields Cleanup Alternatives (ABCA).
7. The BORROWER agrees to prepare the following Project Documents, as requested: a Cleanup Plan with detailed design and construction activities, a Project Budget and Work Schedule, including any letters of financial commitment and proformas as required by LENDER, a Quality Assurance Project Plan (QAPP) setting forth the manner and method of collecting samples, Project Completion Reports as required, and any other documents requested or required by LENDER and submitted same to the LENDER and the Agency Project Manager, for approval.
8. All changes or modifications to the Project Documents, Work Plan, Budget and/or Work Schedule initiated by the BORROWER shall be approved in writing by the Agency and LENDER and concurred by USEPA as appropriate, prior to such change or modification becoming effective. All additional costs incurred as a result of any such change orders shall be the responsibility of the BORROWER. In the event that unforeseen conditions are discovered during the Project implementation, the LENDER reserves the right to revise the Project Documents.
9. The BORROWER agrees to submit a Health and Safety Plan in accordance with

Contract No: _____
Properties, LLC

DRAFT 10/29/2020 Texarkana Renewal

Occupational Safety and Health Administration (OSHA), 29 CFR 1910.120, to the LENDER for review with the Project Documents.

10. Site security will be provided by the Contractor(s). The BORROWER agrees to allow the LENDER to erect a sign on the Property stating that the Project is being financed in part by U.S. EPA RLF Funds, and providing the appropriate contacts for obtaining information on activities being conducted at the Property and for reporting suspected criminal activities.
11. The BORROWER shall carry out (and cause Contractor and any subcontractor employed in connection with the Project to carry out) the Project in accordance with the Davis Bacon Act of 1931 (CERCLA 104(g) (1), 40 U.S.C. 276a to 276a-5 and 42 U.S.C. 3222 as set forth in CERCLA 104(g)). Compliance with the Davis Bacon Act requires payment of federal prevailing wage rates. Contractor must obtain recent and applicable wage rates from the U.S. Department of Labor and incorporate them into the construction contract.
12. The BORROWER shall document how funds are used. Separate records will be maintained for costs incurred for petroleum-contaminated and hazardous substance-contaminated areas.
13. The BORROWER further understands and agrees that any and all work performed on the Property for which Loan Funds are used and the receipt of any Loan Funds under this Agreement is conditioned upon the BORROWER's full compliance with the Project Documents and this Agreement.
14. The BORROWER agrees to conduct all procurement transactions, to the maximum extent practical, in a manner that provides for open and free competition. The BORROWER agrees to award solicitations that are the most advantageous based on price, quality, and other factors considered in the bid specifications.
15. The BORROWER has supplied the LENDER with a redevelopment plan for the property.
16. The BORROWER confirms that the Loan Application previously delivered by Loan Applicant to the LENDER fairly represents the financial condition of BORROWER; has been prepared by a certified public accountant in accordance with generally accepted accounting principles consistently applied; and, as of the date of such financial statement, and since such date, no materially adverse change in the condition or operation of BORROWER has occurred.
17. The BORROWER acknowledges and agrees that Cooperative Agreement No. BF00F-62501 between the LENDER and the USEPA is the source of BRLF Loan Capital and regulates the use of loan funds. The BORROWER further agrees to comply with the terms and conditions (Attachment G) of the Cooperative Agreement as stipulated in this agreement.

V. LOAN TERMS AND CONDITIONS

18. **Loan Period.** This agreement shall be effective upon the Loan Approval Date of _____ (the "LOAN AGREEMENT DATE"). The Loan Term shall run from the date of the first disbursement of funds for a period of ONE HUNDRED FORTY FOUR (144) MONTHS (12 years) (the "Loan End Date" or the "Loan Term").
19. **Loan Amount.** Subject to the terms and conditions of this Agreement, the LENDER agrees to lend to the BORROWER the principal sum of _____ (\$_____). The BORROWER may elect to repay the loan prior to the loan due date without prepayment penalty. The Loan Term shall begin on the date of the first disbursement of funds.

20. **Repayment.** No interest or principal payments shall be due and payable in the first year of the Loan. Interest only shall be paid annually in years two (2) and three (3) with the payment due and payable on the 1st day of the month following the expiration of 24 months and 36 months of the Loan Term respectively. Thereafter, the principal and interest shall be due and payable in annual installments in years four (4) through twelve (12) based on a 9 year amortization, utilizing the 10-year Treasury Rate (currently 0.73%), plus 1%, adjustable every 5 years, as a non-assumable loan. Payments of _____ (\$_____) will commence on the first day of the month following the expiration of the fourth year of the Loan Term, with a like payment being made annually on the same day of each year, with the balance of all outstanding principal and interest being due and payable on the first day of the month following the Twelfth (12th) year of the Loan Term. Notwithstanding the above, in the event there is a default in this Agreement any amounts due, including principal and interest, shall immediately be due and payable in full.
21. **Origination Fee and Closing Costs.** The BORROWER shall pay origination fees in the amount of zero percent (0%) of the principal amount, not to exceed \$-0-. The BORROWER shall pay all costs necessary to close the loan, including but not limited to, recording fees, title fees, and legal fees.
22. **Promissory Note.** The BORROWER's obligation to repay the Loan Proceeds shall be evidenced by the Loan Promissory Note as included in Attachment C and incorporated herein. The BORROWER shall not exceed any of the costs enumerated in the approved Project Budget without the prior written approval of the LENDER.
23. **Security.** BORROWER agrees to execute a Deed of Trust on the Properties to secure payment of this Loan. Furthermore, the principal owner of BORROWER shall execute a personal guaranty and Guaranty of Completion to secure payment of this Loan and completion of the Texarkana Bank Building project.
24. **Project Cost Share.** The BORROWER agrees that the Project Budget shall reflect at least twenty percent (20%) of Project Costs attributed as cost share funds, which may be in the form of a contribution of money, labor, material, or services from a non-federal source to be spent for eligible project costs. Cost share funds must meet all federal requirements to be considered, including, but not limited to, those requirements set forth in CERCLA Sec. 104(k)(9)(B)(iii) and 2 CFR Sec. 200.306.
25. **Disbursement.** The Loan Funds shall be payable to the BORROWER as reimbursement for eligible activities incurred based upon the progress of the work and in accordance with the approved Project Budget. Any request for reimbursement submitted for payment by the first of each month will be paid by the fifteenth of the following month, assuming the reimbursement request has been reviewed and approved for payment by the LENDER.
26. **Retainage.** The LENDER may withhold up to ten percent (10%) of each payment requested as a retainage until any Agency or Lender required closure reports are received and approved by the Agency.

VI. _CONDITIONS PRECEDENT TO LOAN

27. **Closing.** The Closing of this Loan shall be subject to:

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- A. The LENDER's receipt of a property appraisal from the BORROWER satisfactory to the LENDER.
 - B. Written authorization in the form of a resolution, if a corporation, limited liability company, partnership, or other entity authorizing the loan to the BORROWER and authorizing BORROWER's representative to execute the loan documents on behalf of the BORROWER.
 - C. Evidence by the BORROWER that no outstanding taxes, fees, charges, mortgages, liens, encumbrances or other assessments have been filed or are recorded against the Property, except those liens accepted by the LENDER.
 - D. Evidence of insurance coverage as set forth in Attachment D in addition to environmental insurance such as Contractor Pollution Liability or Pollution Incident and Environmental Response Policies, incorporated herein. (COVERAGE WITH LIMITS OF LIABILITY AS DETERMINED BY LENDER). All insurance coverage required by this section shall remain in full force and effect during the term of this Agreement, and LENDER will be included as an additional insured/payee.
 - E. Identification of the BORROWER's contractor(s) and subcontractor(s) for the Project.
 - F. The LENDER's receipt of Project cost breakdown based upon estimates and prices supplied by the BORROWER's contractor(s) and subcontractor(s).
 - G. Borrower acknowledges and agrees that all funds, under this loan agreement, shall be expended prior to disbursement of any sub-grant funds.
28. **Security.** As security for the BORROWER's indebtedness to the LENDER, the BORROWER shall grant to the LENDER the security as particularly described in the attached Guarantee and/or Security Agreement as attached hereto in Attachment D, incorporated herein:
- A. A Deed of Trust on said Properties that shall be dated prior to, or concurrently herewith this Agreement;
 - B. A Lien or Security Agreement against personal property or equipment of BORROWER that shall be dated prior to, or concurrently herewith this Agreement; and
 - C. A Personal Guarantee by a corporate principal that shall be dated prior to, or concurrently herewith this Agreement.

VII. COVENANTS OF BORROWER

29. **Performance.** All Project work performed pursuant to this Agreement and with LENDER Funds shall be performed by a qualified, contractor consistent with good practices and industry standards, and licensed by applicable federal/state/county/city agencies to perform such services.
30. **Contracts.** The BORROWER shall provide the LENDER with copies of all bids and contracts for all work required under the Cleanup Plan.
31. **Project Changes.** All changes or modification to the Project or the Project Documents initiated by the BORROWER shall be approved in writing by the Agency Project Manager and the LENDER prior to such change or modification becoming effective. All additional

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costs incurred as the result of Change Orders shall be the responsibility of the BORROWER. In the event that unforeseen conditions are discovered during the project implementation, the LENDER reserves the right to revise the Cleanup Plan and Project Documents.

32. **Administrative Cost Prohibition.** BORROWER is prohibited from using Loan Funds for administrative costs. Administrative costs include BORROWER loan administration, overhead, and all indirect costs not directly related to the cleanup, including those in the form of salaries, benefits, contractual costs, supplies, and data processing charges for loan administration, overhead costs, and developer's fees. Prohibited administrative costs are included in this Loan Agreement as described in Attachment G, incorporated herein. (See also applicable OMB Circular A-122 listed in http://www.whitehouse.gov/omb/circulars/a122/a122_2004.html).
33. **Permits, licenses, inspections.** The BORROWER shall be responsible for obtaining all permits, licenses, approvals, certifications and inspections required by Federal, state or local law and to maintain such permits, licenses, approvals, certifications and inspections in current status during the term of this Agreement that may not be an eligible expense for reimbursement under the terms of the BCRLF.
34. **Site Access.** The BORROWER agrees to provide the LENDER or LENDER's representatives and the Agency Project Manager access to the site from date of execution of this Loan Agreement to completion of all cleanup actions. In the event BORROWER does not complete the cleanup, the LENDER will access the site, ensure that the site is secure and poses no immediate threat to human health and the environment, and notify EPA and TCEQ.
35. **Project Completion.** The BORROWER agrees to:
- A. Begin the project within sixty-days (60) of this Loan Agreement and will complete all work in a timely manner in accordance with the Project Documents and Approved Budget unless otherwise approved in writing by the LENDER.
 - B. Provide documents and other technical reports relative to the cleanup to the LENDER and Agency Project Manager to confirm completion of and closeout of the cleanup action. The final closeout report shall document completed cleanup goals in compliance with the work plan, actions taken, institutional controls used (if any), resources committed, problems encountered if any cleanup goals achieved, acreage cleaned up, challenges encountered within two months of project completion
 - C. Perform all of its obligations and agreements under this Loan Agreement, the Note and the Deed of Trust securing same, and any other agreements or instruments to which the BORROWER is a party and which relate to this Loan or to the Project.
 - D. The BORROWER agrees that it shall obtain a "Certification of Completion" from the TCEQ for the Property and submit a copy to the LENDER prior to final closeout of the project.
 - E. The BORROWER agrees to submit annual Financial Status reports to the LENDER during the project, as well as a final Financial Status Report within 90 days of project completion, using such form(s) as designated by LENDER.
36. **Indemnification.** Throughout the term of this Agreement, the BORROWER agrees to

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protect, indemnify, defend and hold harmless, the LENDER, its officers, administrators, agents, servants, employees, Agency Project Manager, local partners and all other persons or legal entities to whom the LENDER may be liable from, for or against any and all claims, demands, suits, losses, damages, judgments, costs and expenses, whether direct, indirect or consequential and including, but not limited to, all fees, expenses and charges of attorneys and other professionals, court costs, and other fees and expenses for bodily injury, including death, personal injury and property damage, arising out of or in connection with the performance of any work or any responsibility or obligation of the BORROWER as provided herein and caused in whole or in part by any act, error, or omission of the BORROWER, its agents, servants, employees or assigns.

37. **Signage.** The BORROWER agrees to erect a sign(s) on the Property stating that the project is being financed in part by a USEPA Brownfields Loan and in cooperation with the City of Texarkana and the TCEQ. Associated required signage must include contact for obtaining information on activities being conducted at the site and for reporting suspected criminal activities, Davis-Bacon Compliance, Health & Safety rules. Any sign(s) erected on the Project Site shall comply with all requirements of the state and local law applicable to on premise outdoor advertising.
38. **Waste.** The BORROWER shall not demolish any part of the buildings or structures located on the Property or commit any waste except as provided in the Project Documents without the prior written consent of the LENDER.
39. **Waivers.** Any forbearance by the LENDER with respect to any of the terms and conditions of this Agreement or the Promissory Note shall in no way constitute a waiver of any of the LENDER's rights or privileges granted hereunder.

VIII. EVENTS OF DEFAULT

40. The BORROWER shall be deemed to be in default under this Loan Agreement upon the occurrence of any or more of the following events:
 - A. **Assignment.** The BORROWER assigns this Agreement, the Note, or any Loan Funds advanced hereunder or any interest herein to a third party, or, if the Property or any interest therein is conveyed, assigned or otherwise transferred without the prior written consent of the LENDER;
 - B. **False Warranty.** Any representation or warranty made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or the Loan Documents shall prove to be false in any material respect;
 - C. **Repayment.** The BORROWER fails to pay any principal amount, fee or interest on the indebtedness to the LENDER after the same shall become due and payable and such failure continues beyond ten (10) business days;
 - D. **Failure to Perform.** The BORROWER defaults by failing to perform a term or condition of the Agreement, and fails to correct the default within a period of time specified in a written default notice sent by certified mail, return receipt requested, from the LENDER to the BORROWER. The LENDER may at its discretion extend the time period for correction of the default;
 - E. **Bankruptcy.** Any proceeding involving the BORROWER or the Property, commenced under any bankruptcy or reorganization arrangement, probate, insolvency, readjustment

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of debt, dissolution or liquidation law of the United States, or any state, but if such proceedings are instituted, no event of default shall be deemed to have occurred hereunder unless the BORROWER either approves, consents to, or acquiesces in such proceedings, or such proceedings are dismissed within sixty (60) days of filing;

Receivership. An order, judgment or decree is entered, without the application, approval or consent of the BORROWER, by any court of competent jurisdiction approving the appointment of a receiver, trustee or liquidator of the BORROWER of all or a substantial part of its assets, and such order, judgment or decree shall continue in effect for a period of sixty (60) days.

In event of default or the BORROWER does not complete the cleanup, the LENDER will access the site, ensure that the site is secure and poses no immediate threat to human health and the environment, and notify the USEPA and the Agency Project Manager. In this event, the LENDER may: (a) terminate the Agreement; (b) increase the interest rate to ten (10) percent and make the entire outstanding principal and interest immediately due and payable; and (c) institute an action to recover damages against the BORROWER to the full extent of the law. The BORROWER hereby expressly waives any presentment, demand, protest, or notice of any kind.

IX. REPORTING, ADMINISTRATIVE RECORDS AND AUDITS

41. **Reporting.** The BORROWER agrees to provide quarterly reports in a form provided by the LENDER beginning the first quarter after the Closing Date, and, by the 15th of the month following the close of the quarter thereafter until the end of the Loan Period. The report shall contain quantitative and qualitative information related to the progress or completion of the Project and the budget; the progress and completion of the associated development, the numbers of jobs created or retained resulting from the development; the amount of property taxes paid on the site, and other information as required by the LENDER.
42. **Records Retention.** The BORROWER agrees to prepare financial and programmatic records pertaining to all matters relative to this Agreement in accordance with generally accepted accounting principles and procedures and to retain all project environmental records and supporting documentation for a minimum of three (3) years following completion of the cleanup, or upon repayment of the loan made through this Agreement, or three (3) years from the making of this record, whichever occurs last. The BORROWER shall obtain written approval from the LENDER prior to destroying any records, except records subject to audit findings shall be retained an additional three (3) years after such findings have been resolved. The LENDER may require in writing that particular records be retained by the BORROWER beyond the above period(s). The Borrower shall allow the Lender to access records relating to the loan to authorized representatives of the Federal Government.
43. **Financial Information Reporting.** The BORROWER's accounting system or financial reporting system shall:
 - A. Track the use of Loan Proceeds by eligible site-specific Project Costs.
 - B. Identify the expenditure of Loan Proceeds and all matching funds for the cleanup portion of the Project and for the associated development project.
 - C. Maintain financial and Project records that segregate expenditures based on federal or non- federal sources of funds.
 - D. Submit annual financial statement information in a form acceptable to the LENDER.

44. **Project Information.** The BORROWER agrees that it shall maintain Project information including properly executed contracts, invoices, correspondence and other documents sufficient to evidence in proper detail the nature and propriety of the cleanup and expenditures of Loan Proceeds.
45. **Monitoring/Audit.** The BORROWER agrees to permit the LENDER or its designated representative(s) to inspect and/or audit its records and books relative to this Agreement at any time during normal business hours and under reasonable circumstances and to copy any information the LENDER desires relevant to this Agreement. Except in the case of an emergency, the LENDER shall endeavor to provide notice to the BORROWER prior to the execution of this provision.

Or, upon request of the LENDER, and at no cost to LENDER, the BORROWER agrees to deliver the records or have the records delivered to the LENDER or its designated representative at an address designated by such party. If the LENDER or its representative finds that the records delivered by the BORROWER are incomplete, the BORROWER agrees to pay the LENDER or its representative's costs (including but not limited to, payment for time expended, payment of copy costs, and reimbursement for travel expenses to the BORROWER'S office or other location where the books or records are located) to audit or retrieve the complete records. In addition, the BORROWER agrees that Loan-related documents are subject to records access provisions of 40 CFR Parts 30 and 31 as applicable. In addition, the USEPA and authorized representatives of the Comptroller General shall have access to all loan-related documents. The LENDER shall provide notice to the BORROWER prior to execution of this provision.

X. MISCELLANEOUS

46. **Assignment.** The BORROWER shall not assign or attempt to assign directly or indirectly any of its rights under this Agreement, or under any instrument referred to herein, without the prior written consent of the LENDER. The BORROWER shall not assign all or any portion of the Property made the subject of this Agreement without the prior written consent of the LENDER.
47. **Parties to Contract.** The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. This Agreement is not intended to create or vest any rights in any third party or to create any third-party beneficiaries.
48. **Amendments.** All amendments to this Agreement shall be in writing and signed by both parties hereto, and may not be supplemented or amended through the introduction of parol evidence.
49. **Performance.** It is expressly understood that a failure or delay on the part of the BORROWER in the performance, in whole or in part, or any of the terms of this Agreement, if such failure is attributable to an act of God, fire, flood, riot, insurrection, embargo, emergency or governmental orders, pandemic, regulations, priority, or other limitations or restrictions, or other similar unforeseen causes beyond the reasonable control of such party, the failure or delay shall not constitute a breach or default under this Agreement however, the BORROWER shall use its best effort to insure that the Project is completed in a reasonable time without unnecessary delay.
50. **Failure of Parties.** No failure of either party to exercise any power or right given it hereunder or to insist on strict compliance by the other party with its obligations hereunder,

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and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of the other party's right to demand at any time exact compliance with the terms hereof.

51. **Representatives.** All notices, requests, instructions or other documents to be given hereunder to either party by the other shall be in writing and delivered personally or sent by certified or registered mail, postage prepaid, to the addresses set forth in this Agreement. Any such notice, request, instruction or other document shall be conclusively deemed to have been received and be effective on the date on which personally delivered or, if sent by certified or registered mail, return receipt requested, on the day mailed to the parties as follows:

TO THE LENDER:

City of Texarkana
 Planning and Community Development
 P.O. Box 1967
 220 Texas Blvd., 4th Floor
 Texarkana, Texas 75504

TO THE BORROWER:

Texarkana Renewal Properties, LLC.
 105 Olive Street, Apt G
 Texarkana, AR 71854

Or, to such other address as a party may subsequently specify in writing to the other party.

52. This Agreement and all covenants, agreements, representations and warranties made herein shall survive the execution of this Agreement and shall continue in full force and effect so long as the Loan Obligation is outstanding and unpaid.
53. If any provision or item of this Agreement is held invalid, such invalidity shall not affect other provisions or items of this Agreement that can be given effect without the invalid provisions or items, and to this end, the provisions of this Agreement are hereby declared severable.
54. Except for any exhibits, attachments, or other documents as may be affixed hereto, made a part hereof, and properly identified herewith, this Agreement constitutes the entire contract between the parties, and shall not be otherwise affected by any other purported undertaking, whether written or oral.
55. The BORROWER understands and agrees that any use of the Property or any activity thereon which is inconsistent with the foregoing provisions is expressly prohibited.
56. Except for applicable provisions of federal law and regulations, this Agreement and any action brought under this Agreement shall be governed by and constructed in accordance with the laws of the State of Texas.

IN WITNESS HEREOF, the undersigned representative of the BORROWER and of the LENDER certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such party to this document, as of the day and year first written above.

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BORROWER:

Texarkana Renewal Properties, LLC

By _____
David Peavy, Sole Member_____
Date

LENDER:

City of Texarkana, Texas

By _____
Shirley Jaster, City Manager_____
Date

APPROVED AS TO FORM:

By: _____

Date: _____

LIST OF ATTACHMENTS

ATTACHMENT A: Property Legal Descriptions

ATTACHMENT B: Eligible and Ineligible Costs and Activities

ATTACHMENT C: Promissory Note

ATTACHMENT D: Security Agreement

ATTACHMENT E: Consent the City of Texarkana To Guarantee

ATTACHMENT F: Collateral

ATTACHMENT G: EPA Revolving Loan Fund (RLF) Terms and Conditions

ATTACHMENT H: Request for Disbursement

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ATTACHMENT A Property Legal Descriptions

Texarkana National Bank Building

Site Address: 100 W. Broad Street, Texarkana, TX

Bowie County Texas Assessor's Office: PIDN: 7939; Long Account Number
03840009700

Property Description: CITY/TRIGGS ADDN LOTS 4-6, 2020-1368 02/10/20, BLK/TRACT 21,
0.22 ACRES

(Attach tax information showing Texarkana Renewal Properties, LLC ownership)

And

Parking Garage Property

Site Address: 217-223 Pine Street, Texarkana, TX

Bowie County Texas Assessor's Office: PIDN: 7937; Long Account Number
03840009300

Property Description: CITY/TRIGGS ADDN LOTS 1 & 2, 2020-1370 02/10/20, BLK/TRACT 21,
0.32 ACRES

(Attach tax information showing Texarkana Renewal Properties, LLC ownership)

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Property Account Report

BOWIE CENTRAL APPRAISAL DISTRICT
Date Updated: Friday, March 27, 2020

Appraisal Year: 2020
Account Number: 03840009700 (7939-1/11950)

Owner Info

Owner Name	TEXARKANA RENEWAL PROPERTIES LLC
Mailing Address	105 OLIVE ST TEXARKANA, AR 71854
Situs Address	100 W BROAD TEXARKANA
Legal Description	CITY/TRIGGS ADDN LOTS 4 5 6 2020-1368 02/10/20 BLK/TRACT 21 0.22 ACRES

Account Info

Deed Date	2/10/2020
Owner Percentage	100.0%
Exemptions	
Deed Vol/Page	2020/1368
Last Date To Protest	5/3/2020

Property Value Information

Land	19,500
Improvements	358,606
Personal	
Mineral	
Market Value	378,106
Ag Market	
Ag Productivity	
Timber Market	
Timber Productivity	
Productivity Loss	
Homesite Cap Loss	
Appraised Value	378,106

Current Year Jurisdiction Values

Code	Jurisdiction Name	Appraised	Exemptions	Taxable
	BOWIE COUNTY T2	378,106		378,106
	TEXARKANA CITY T2	378,106		378,106
	TEXARKANA ISD	378,106		378,106
	TEXARKANA COLLEGE	378,106		378,106
	BOWIE APPRAISAL DIS	378,106		378,106

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Address Correction Pending – should be 217 – 223 Pine

Property Account ReportBOWIE CENTRAL APPRAISAL DISTRICT
Date Updated: Friday, March 27, 2020Appraisal Year: 2020
Account Number: 03840009300 (7937-1/11950)**Owner Info**

Owner Name	TEXARKANA RENEWAL PROPERTIES LLC
Mailing Address	105 OLIVE ST TEXARKANA, AR 71854
Situs Address	201 PINE ST TEXARKANA
Legal Description	CITY/TRIGGS ADDN LOTS 1 2 2020--1370 02/10/20 BLK/TRACT 21 0.32 ACRES

Account Info

Deed Date	2/10/2020
Owner Percentage	100.0%
Exemptions	
Deed Vol/Page	2020/1370
Last Date To Protest	5/3/2020

Property Value Information

Land	14,000
Improvements	68,665
Personal	
Mineral	
Market Value	82,665
Ag Market	
Ag Productivity	
Timber Market	
Timber Productivity	
Productivity Loss	
Homesite Cap Loss	
Appraised Value	82,665

Current Year Jurisdiction Values

Code	Jurisdiction Name	Appraised	Exemptions	Taxable
	BOWIE COUNTY T2	82,665		82,665
	TEXARKANA CITY T2	82,665		82,665
	TEXARKANA ISD	82,665		82,665
	TEXARKANA COLLEGE	82,665		82,665
	BOWIE APPRAISAL DIS	82,665		82,665

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Land Sketch

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Attachment: 2020-138 ATTH 02 Texarkana Renewal Properties Agreement v2clean agrmt ExA ExBfinal [Revision 4] (2407 : 2020-138 RES Auth

ATTACHMENT B

Eligible and Ineligible Costs and Activities

Costs incurred prior to the execution of a loan or subgrant could be eligible costs if they meet all the criteria of eligible costs listed below. These would include eligible costs incurred while conducting pre-award eligible activities necessary to satisfy VCP or RLF requirements. Such eligible costs **could also be counted toward the 20% cost share** required for the loan or subgrant award.

Borrowers may fund the following activities with BRLF cleanup funds:

1. Limited site characterization including confirming the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed
2. Developing a Quality Assurance Project Plan (QAPP) as required by Part 31 and Part 30 regulations. The specific requirement for a QAPP is outlined in U.S. EPA Order 53601.1, April 1984, as amended on May 5, 2000;
3. Using a portion of a loan or subgrant to purchase environmental insurance for the site. The loan or subgrant may not be used to purchase insurance intended to provide coverage for any of the Ineligible Uses under Section C, and;
4. Conducting the voluntary remediation work identified in a Texas Commission on Environmental Quality (TCEQ)-approved Response Action Plan (RAP) or Corrective Action Plan (CAP). The RAP and/or CAP will specify all activities necessary to complete a cleanup protective of human health and the environment, together with a cost estimate for conducting the work.

Following are examples of common eligible project costs if they are part of an approved VCP agreement. Such costs include, but are not limited to:

1. Installation of fences, warning signs, or other security or site control precautions;
2. Installation of drainage controls;
3. Stabilization of berms, dikes or impoundments; or drainage or closing of lagoons;
4. Capping of contaminated soils;
5. Using chemicals and other materials to retard the spread of the release or mitigate its effects;
6. Excavation, consolidation or removal of contaminated soils;
7. Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants or contaminants, including petroleum;
8. Removal of source materials, including free product recovery;
9. Containment, treatment or disposal of hazardous materials and petroleum contamination;
10. Site monitoring activities, including sampling and analysis, that are reasonable and necessary during the cleanup process, including determination of the effectiveness of a cleanup;
11. Limited site characterization activities that are reasonable, necessary and incidental to the cleanup process, such as sampling to confirm the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed; and
12. Costs associated with meeting public participation, worker health and safety, and

programmatic management requirements.

Following are examples of known ineligible project costs. Such costs include, but are not limited to:

1. Environmental assessment activities including Phase I and Phase II Environmental Site Assessments
2. Monitoring and data collection for permit compliance required under other federal and state laws, unless such a permit is required as a component of the cleanup action;
3. Construction, demolition, and development activities that are not integral to the cleanup actions (e.g., marketing of property or construction of a new non-cleanup facility);
4. Job training unrelated to performing a specific cleanup at a site covered by a loan or subgrant;
5. Payment of a penalty or fine;
6. To pay a federal cost share requirement (for example, a cost-share required by another Federal grant) unless there is specific statutory authority;
7. To pay for a response cost at a brownfields site for which the recipient of the grant or loan is potentially liable under CERCLA § 107;
8. To pay a cost of compliance with any federal law, excluding the cost of compliance with laws applicable to the cleanup;
9. Unallowable costs (e.g., lobbying and fund raising) under applicable OMB Circulars; and,
10. Repairing or improving public or private drinking water supplies that have deteriorated through ordinary use.

Under CERCLA § 104(k)(4)(B), administrative costs are prohibited costs under this agreement. Prohibited administrative costs include all indirect costs under applicable OMB Circulars incurred by the CAR and subgrantees.

Prohibited administrative costs for the borrower (including those in the form of salaries, benefits, contractual costs, supplies, and data processing charges) are those incurred for loan administration and overhead costs. Direct costs for loan administration are ineligible even if the borrower is required to carry out the activity under the loan agreement.

Ineligible loan administration costs include expenses for:

1. Preparation of applications for loans and loan agreements;
2. Preparing revisions and changes in the budget, workplans, and other documents required under the loan agreement;
3. Maintaining and operating financial management and personnel systems;
4. Preparing payment requests and handling payments; and
5. Audits.

Overhead costs by the borrower that do not directly clean up brownfields site contamination or comply with laws applicable to the cleanup are ineligible administrative costs. Examples of overhead costs that would be ineligible in loans include expenses for:

1. Salaries, benefits and other compensation for persons who are not directly engaged in the cleanup of the site (e.g., marketing and human resource personnel);
2. Facility costs such as depreciation, utilities, and rent on the borrower's administrative offices;

3. Supplies and equipment not used directly for cleanup at the site;
4. Costs included by the borrower for procurement are eligible only if the procurement contract is for services or products that are direct costs for performing the cleanup, for insurance costs, or for maintenance of institutional controls; and
5. Direct costs by the borrower for progress reporting to the lender are eligible programmatic costs.

DRAFT

Contract No: _____ DRAFT 10/29/2020 Texarkana Renewal Properties, LLC

DRAFT

Attachment: 2020-138 ATTH 02 Texarkana Renewal Properties Agreement v2clean agrmt ExA ExBfinal [Revision 4] (2407 : 2020-138 RES Auth

ATTACHMENT C Promissory Note

Date: _____

The undersigned Texarkana Renewal Properties, LLC ("Borrower") agrees to pay to The City of Texarkana "Lender"), as follows:

1. Promise to Pay

For value received, Borrower promises to pay to LENDER the principal amount of _____ and No/Dollars (\$_____) plus interest on the principal utilizing the 10-year Treasury Rate (currently 0.73%), plus 1%, adjustable every 5 years (1.73%)

2. Payment of Amount Due.

A. Initial Interest Payment

On NA, the Borrower shall pay to LENDER the then accrued interest.

Payment. No interest or principal payments shall be due and payable in the first year of the Loan. Interest only shall be paid annually in years two (2) and three (3) with the payment due and payable on the 1st day of the month following the expiration of 24 months and 36 months of the Loan Term respectively. Thereafter, the principal and interest shall be due and payable in annual installments in years four (4) through twelve (12) based on a 9 year amortization, utilizing the 10-year Treasury Rate (currently 0.73%), plus 1%, adjustable every 5 years, as a non-assumable loan. Payments of _____ (\$_____) will commence on the first day of the month following the expiration of the fourth year of the Loan Term, with a like payment being made annually on the same day of each year, with the balance of all outstanding principal and interest being due and payable on the first day of the month following the Twelfth (12th) year of the Loan Term. Notwithstanding the above, in the event there is a default in this Agreement any amounts due, including principal and interest, shall immediately be due and payable in full.

B. Additional Payments

Borrower may prepay all or any portion of the Amount Due at any time.

C. Payment Procedure

Each payment shall be by check payable to the order of LENDER. Each payment shall be delivered to LENDER on or before 5:00 p.m. (Central time) on the Due Date.

D. Application of Payment

The amount of each payment shall be applied in the following order: (i) to accrued interest; (ii) to any permitted delinquency or late charges; (iii) to Collection Costs; and (iv) the balance, if any, to reduce the principal amount.

3. Loan Agreement and Collateral

This Note is executed in accordance with the closing of a Loan Agreement between the Borrower and LENDER. In addition, this Note is secured by Collateral in accordance with various Related Documents, including the Deed of Trust, Personal Guaranty, and Guaranty of Completion executed of like date, executed by the Borrower or others. Rights and obligations with respect to the Collateral and rights to accelerate the Amount Due under this Note are stated in such Loan Agreement and the Related Documents. The term "Collateral" as used in this Note shall mean any funds, guarantees, or other property or rights of any nature which may have been, are, or subsequently may be, provided as security for the Amount Due. The words "Related Documents" mean and include, without limitation, all other promissory notes, credit agreements, loan agreements, guarantees, security agreements, mortgages, deeds of trust, and all other instruments, agreements, and documents, now or subsequently existing, executed in connection with this Note or the Loan Agreement.

4. Delinquency Charge

If a payment is not paid in full within 15 calendar days of the Due Date, then the payment is delinquent. If a payment is delinquent, then Borrower agrees to pay a delinquency charge equal to the lesser of \$100 or 5% of the unpaid amount of each payment. Delinquency charges shall be immediately due and payable. Each delinquency charge constitutes an advance to Borrower by LENDER and shall be added to the principal amount at the time the delinquency charge is incurred. The Borrower understands that the right of LENDER to assess the delinquency charge set forth in this Section is in addition to, and not exclusive of, any right of LENDER (i) to declare this Note in default, or (ii) to enforce any other right available to LENDER at law, in equity, or by agreement.

5. Default

LENDER, at its option, may declare this Note in default and declare the entire amount of unpaid principal, plus accrued interest, as immediately due and payable if (i) Borrower is in default under any term of this Note; (ii) acceleration is permitted under the terms of the Loan Agreement or any Related Document referred to above; (iii) the Borrower does not pay any payment in full by the Due Date or other charge or expense when due; (iv) the prospect of payment, performance, or realization of Collateral is significantly impaired; or (v) the Borrower transfers, sells or assigns the Collateral or this Note without the prior written consent of Lender.

6. Payment of Costs and Expenses

The Borrower agrees to pay all costs and expenses incurred by LENDER (i) in any suit or proceeding to enforce this Note, (ii) in any suit or proceeding in which LENDER is a party and all or any portion of the Collateral is the subject matter of the suit or proceeding, (iii) in making or attempting to make collection of delinquent payments or curing any default of any debt or obligation described in this Note, (v) in any settlement negotiations, or (vi) in searching or abstracting records ("Collection Costs"). The phrase "costs and expenses" is defined to include, without limitation, attorney fees and fees of experts. The phrase "suit or proceeding" is defined to include, without limitation, administrative, arbitration, negotiation, trial, and appellate proceedings. Collection Costs constitute an advance to Borrower by LENDER and shall be added to the principal amount at the time the Collection Costs are incurred.

7. Waiver

Borrower waives presentment, notice of dishonor, and protest.

8. Governing Law, Jurisdiction, and Venue

This Note shall be construed and interpreted in accordance with the laws of the State of Texas. The courts of Texas shall have exclusive jurisdiction, and Bowie County is the proper venue.

BORROWER:

Texarkana Renewal Properties, LLC

By _____
David Peavy, Sole Member

Date

DRAFT

Deed of Trust – Security Agreement

Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.

Basic Information

Date:

Grantor: Texarkana Renewal Properties, LLC

Grantor's Mailing Address: 105 Olive Street, Apt G., Texarkana, AR 71854

Trustee: Shirley Jaster, City Manager

Trustee's Mailing Address]: P.O. Box 1967, Texarkana, TX 75501-1967

Lender: City of Texarkana, Texas

Lender's Mailing Address: P.O. Box 1967, Texarkana, TX 75501-1967

Obligation

Note

Date:

Original principal amount: \$_____

Borrower: Texarkana Renewal Properties, LLC

Lender: City of Texarkana, Texas

Maturity date: _____

Property (including any improvements): 100 West Broad Street, Texarkana, Bowie County, Texas and 217-219 Pine Street, Texarkana, Bowie County, Texas.

Prior Lien: None.

Other Exceptions to Conveyance and Warranty:

A. Granting Clause

For value received and to secure payment of the Obligation, Grantor conveys the

Property to Trustee in trust. Grantor warrants and agrees to defend the title to the Property, subject to the Other Exceptions to Conveyance and Warranty. On payment of the Obligation and all other amounts secured by this deed of trust, this deed of trust will have no further effect, and Lender will release it at Grantor's expense.

B. Grantor's Obligations

B.1. Grantor agrees to maintain all property and liability insurance coverages with respect to the Property, revenues generated by the Property, and operations on the Property that Lender reasonably requires ("Required Insurance Coverages"), issued by insurers and written on policy forms acceptable to Lender, and as to property loss, that are payable to Lender under policies containing standard mortgagee clauses, and deliver evidence of the Required Insurance Coverages in a form acceptable to Lender before execution of this deed of trust and again at least ten days before the expiration of the Required Insurance Coverages.

B.2. Grantor agrees to—

- a. keep the Property in good repair and condition;
- b. pay all taxes and assessments on the Property before delinquency, not authorize a taxing entity to transfer its tax lien on the Property to anyone other than Lender, and not request a deferral of the collection of taxes pursuant to section 33.06 of the Texas Tax Code;
- c. defend title to the Property subject to the Other Exceptions to Conveyance and Warranty and preserve the lien's priority as it is established in this deed of trust;
- d. obey all laws, ordinances, and restrictive covenants applicable to the Property;
- e. keep any buildings occupied as required by the Required Insurance Coverages;
- f. if the lien of this deed of trust is not a first lien, pay or cause to be paid all prior lien notes and abide by or cause to be abided by all prior lien instruments; and
- g. notify Lender of any change of address.

C. Lender's Rights

C.1. Lender or Lender's mortgage servicer may appoint in writing one or more substitute trustees, succeeding to all rights and responsibilities of Trustee.

C.2. If the proceeds of the Obligation are used to pay any debt secured by prior liens, Lender is subrogated to all the rights and liens of the holders of any debt so paid.

C.3. Lender may apply any proceeds received under the property insurance policies covering the Property either to reduce the Obligation or to repair or replace damaged or destroyed improvements covered by the policy. If the Property is Grantor's primary residence and Lender reasonably determines that repairs to the improvements are economically feasible, Lender will make the property insurance proceeds available to Grantor for repairs.

C.4. Notwithstanding the terms of the Note to the contrary, and unless applicable law prohibits, all payments received by Lender from Grantor with respect to the Obligation or this deed of trust may, at Lender's discretion, be applied first to amounts payable under this deed of trust and then to amounts due and payable to Lender with respect to the Obligation, to be applied to late charges, principal, or interest in the order Lender in its discretion determines.

C.5. If Grantor fails to perform any of Grantor's obligations, Lender may perform those obligations and be reimbursed by Grantor on demand for any amounts so paid, including attorney's fees, plus interest on those amounts from the dates of payment at the rate stated in the Note for matured, unpaid amounts. The amount to be reimbursed will be secured by this deed of trust.

C.6. If a default exists in payment of the Obligation or performance of Grantor's obligations and the default continues after any required notice of the default and the time allowed to cure, Lender may—

- a. declare the unpaid principal balance and earned interest on the Obligation immediately due;
- b. exercise Lender's rights with respect to rent under the Texas Property Code as then in effect;
- c. direct Trustee to foreclose this lien, in which case Lender or Lender's agent will cause notice of the foreclosure sale to be given as provided by the Texas Property Code as then in effect; and
- d. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Obligation.

C.7. Lender may remedy any default without waiving it and may waive any default without waiving any prior or subsequent default.

D. Trustee's Rights and Duties

If directed by Lender to foreclose this lien, Trustee will—

D.1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then in effect;

D.2. sell and convey all or part of the Property "AS IS" to the highest bidder for cash with a general warranty binding Grantor, subject to the Prior Lien and to the Other Exceptions to

Conveyance and Warranty and without representation or warranty, express or implied, by Trustee;

D.3. from the proceeds of the sale, pay, in this order—

- a. expenses of foreclosure, including a reasonable commission to Trustee;
- b. to Lender, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
- c. any amounts required by law to be paid before payment to Grantor; and
- d. to Grantor, any balance; and

D.4. be indemnified, held harmless, and defended by Lender against all costs, expenses, and liabilities incurred by Trustee for acting in the execution or enforcement of the trust created by this deed of trust, which includes all court and other costs, including attorney's fees, incurred by Trustee in defense of any action or proceeding taken against Trustee in that capacity.

E. General Provisions

E.1. If any of the Property is sold under this deed of trust, Grantor must immediately surrender possession to the purchaser. If Grantor does not, Grantor will be a tenant at sufferance of the purchaser, subject to an action for forcible detainer.

E.2. Recitals in any trustee's deed conveying the Property will be presumed to be true.

E.3. Proceeding under this deed of trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.

E.4. This lien will remain superior to liens later created even if the time of payment of all or part of the Obligation is extended or part of the Property is released.

E.5. If any portion of the Obligation cannot be lawfully secured by this deed of trust, payments will be applied first to discharge that portion.

E.6. Grantor assigns to Lender all amounts payable to or received by Grantor from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses incurred, including attorney's fees and court and other costs, Lender will either release any remaining amounts to Grantor or apply such amounts to reduce the Obligation. Lender will not be liable for failure to collect or to exercise diligence in collecting any such amounts. Grantor will immediately give Lender notice of any actual or threatened proceedings for condemnation of all or part of the Property.

E.7. Grantor collaterally assigns to Lender all present and future rent from the Property and its proceeds. Grantor warrants the validity and enforceability of the assignment. Grantor will

apply all rent to payment of the Obligation and performance of this deed of trust, but if the rent exceeds the amount due with respect to the Obligation and the deed of trust, Grantor may retain the excess. If a default exists in payment of the Obligation or performance of this deed of trust, Lender may exercise Lender's rights with respect to rent under the Texas Property Code as then in effect. Lender neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Lender may exercise Lender's rights and remedies under this paragraph without taking possession of the Property. Lender will apply all rent collected under this paragraph as required by the Texas Property Code as then in effect. Lender is not required to act under this paragraph, and acting under this paragraph does not waive any of Lender's other rights or remedies.

E.8. Interest on the debt secured by this deed of trust will not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess will be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides any conflicting provisions in this and all other instruments concerning the debt.

E.9. In no event may this deed of trust secure payment of any debt that may not lawfully be secured by a lien on real estate or create a lien otherwise prohibited by law.

E.10. Grantor may not sell, transfer, or otherwise dispose of any Property, whether voluntarily or by operation of law, without the prior written consent of Lender. If granted, consent may be conditioned upon (a) the grantee's integrity, reputation, character, creditworthiness, and management ability being satisfactory to Lender; and (b) the grantee's executing, before such sale, transfer, or other disposition, a written assumption agreement containing any terms Lender may require, such as a principal pay down on the Obligation, an increase in the rate of interest payable with respect to the Obligation, a transfer fee, or any other modification of the Note, this deed of trust, or any other instruments evidencing or securing the Obligation.

Grantor may not cause or permit any Property to be encumbered by any liens, security interests, or encumbrances other than the liens securing the Obligation and the liens securing ad valorem taxes not yet due and payable without the prior written consent of Lender. If granted, consent may be conditioned upon Grantor's executing, before granting such lien, a written modification agreement containing any terms Lender may require, such as a principal pay down on the Obligation, an increase in the rate of interest payable with respect to the Obligation, an approval fee, or any other modification of the Note, this deed of trust, or any other instruments evidencing or securing the Obligation.

Grantor may not grant any lien, security interest, or other encumbrance (a "Subordinate Instrument") covering the Property that is subordinate to the liens created by this deed of trust without the prior written consent of Lender. If granted, consent may be conditioned upon the Subordinate Instrument's containing express covenants to the effect that—

- a. the Subordinate Instrument is unconditionally subordinate to this deed of trust;
- b. if any action is instituted to foreclose or otherwise enforce the Subordinate Instrument, no action may be taken that would terminate any occupancy or tenancy without the prior written consent of Lender, and that consent, if granted, may be conditioned in any manner Lender determines;
- c. rents, if collected by or for the holder of the Subordinate Instrument, will be applied first to the payment of the Obligation then due and to expenses incurred in the ownership, operation, and maintenance of the Property in any order Lender may determine, before being applied to any indebtedness secured by the Subordinate Instrument;
- d. written notice of default under the Subordinate Instrument and written notice of the commencement of any action to foreclose or otherwise enforce the Subordinate Instrument must be given to Lender concurrently with or immediately after the occurrence of any such default or commencement; and
- e. in the event of the bankruptcy of Grantor, all amounts due on or with respect to the Obligation and this deed of trust will be payable in full before any payments on the indebtedness secured by the Subordinate Instrument.

Grantor may not cause or permit any of the following events to occur without the prior written consent of Lender: if Grantor is (a) a corporation, the termination of the corporation or the sale, pledge, encumbrance, or assignment of any shares of its stock; (b) a limited liability company, the termination of the company or the sale, pledge, encumbrance, or assignment of any of its membership interests; (c) a general partnership or joint venture, the termination of the partnership or venture or the sale, pledge, encumbrance, or assignment of any of its partnership or joint venture interests, or the withdrawal from or admission into it of any general partner or joint venturer; or (d) a limited partnership, (i) the termination of the partnership, (ii) the sale, pledge, encumbrance, or assignment of any of its general partnership interests, or the withdrawal from or admission into it of any general partner, (iii) the sale, pledge, encumbrance, or assignment of a controlling portion of its limited partnership interests, or (iv) the withdrawal from or admission into it of any controlling limited partner or partners. If granted, consent may be conditioned upon (a) the integrity, reputation, character, creditworthiness, and management ability of the person succeeding to the ownership interest in Grantor (or security interest in such ownership) being satisfactory to Lender; and (b) the execution, before such event, by the person succeeding to the interest of Grantor in the Property or ownership interest in Grantor (or security interest in such ownership) of a written modification or assumption agreement containing such terms as Lender may require, such as a principal pay down on the Obligation, an increase in the rate of interest payable with respect to the Obligation, a transfer fee, or any other modification of the Note, this deed of trust, or any other instruments evidencing or securing the Obligation.

E.11. When the context requires, singular nouns and pronouns include the plural.

E.12. The term *Note* includes all extensions, modifications, and renewals of the Note and all amounts secured by this deed of trust.

E.13. This deed of trust binds, benefits, and may be enforced by the successors in interest of all parties.

E.14. If Grantor and Borrower are not the same person, the term *Grantor* includes Borrower.

E.15. Grantor and each surety, endorser, and guarantor of the Obligation waive, to the extent permitted by law, all (a) demand for payment, (b) presentation for payment, (c) notice of intention to accelerate maturity, (d) notice of acceleration of maturity, (e) protest, and (f) notice of protest.

E.16. Grantor agrees to pay reasonable attorney's fees, trustee's fees, and court and other costs of enforcing Lender's rights under this deed of trust if an attorney is retained for its enforcement.

E.17. If any provision of this deed of trust is determined to be invalid or unenforceable, the validity or enforceability of any other provision will not be affected.

E.18. The term *Lender* includes any mortgage servicer for Lender.

E.19. Grantor hereby grants Lender a right of first refusal with respect to Grantor's power to authorize any third party (other than Lender pursuant to its rights as set forth in this instrument) to pay ad valorem taxes on the Property and authorize a taxing entity to transfer its tax lien on the Property to that third party. Grantor's authorization to any third party (other than Lender) to pay the ad valorem taxes and receive transfer of a taxing entity's lien for ad valorem taxes shall be null and void and of no force and effect unless Lender, within ten days after receiving written notice from Grantor, fails to pay the ad valorem taxes pursuant to Lender's rights as set forth in this instrument.

Grantor:

Texarkana Renewal Properties, LLC

By _____
David Peavy, Sole Member

Date

STATE OF TEXAS

COUNTY OF BOWIE

GUARANTY AGREEMENT

FOR VALUE RECEIVED, and in consideration of the City of Texarkana, Texas (hereinafter called LENDER) extending credit to **Texarkana Renewal Properties, LLC.**, hereinafter called BORROWER (whether one or more), this Guaranty is given by the undersigned, hereinafter called GUARANTOR, whether one or more.

1. **Obligation.** GUARANTOR unconditionally, and jointly and severally as principal, guarantees to LENDER and LENDER's successors and assigns, the prompt payment to LENDER at maturity of the following described indebtedness, with all renewals, extensions, modifications, including all obligations related to said indebtedness, described as follows, to-wit:

That certain Brownsfield Revolving Loan Fund Loan Agreement of even date herewith executed by BORROWER payable to the Order of LENDER in the original principal sum of _____ (\$_____) **for property located 100 W. Broad Street and at 217-219 Pine Street, Texarkana, Texas**, with interest thereon, together with all attorneys' fees, costs, and expenses of collection incurred by LENDER in connection with any matter covered by this guaranty, and all attorneys' fees, costs, and expenses incurred by LENDER in connection with the enforcement of any obligation of any GUARANTOR hereunder.

2. **Term.** The joint and several liability of GUARANTOR shall continue until payment is made of every obligation of BORROWER now due or hereafter to become due relative to the above described indebtedness, or any other indebtedness incurred by Borrow with Lender, and until payment is made of any loss or damage incurred by LENDER with respect to any matter covered by this guaranty.

3. **Consent to LENDER's Acts.** GUARANTOR jointly and severally consents, without affecting any of GUARANTOR'S liability to LENDER hereunder, that LENDER may, without notice to or consent of GUARANTOR, upon such terms as it may deem advisable: (a) extend, in whole or in part, by renewal or otherwise, the time of payment of any indebtedness owing by BORROWER to LENDER, or held by LENDER as security for any such indebtedness; (b) release, surrender, exchange, substitute, modify, impair, or extend the period of duration, or the time for performance or payment, of any collateral securing any indebtedness of BORROWER to LENDER; (c) settle or compromise any claim of LENDER against BORROWER, or against any other person, firm or corporation, whose obligation is held by LENDER as collateral security for any indebtedness of BORROWER to LENDER; and (d) release, in whole or in part, any of GUARANTOR'S or any number of GUARANTORS, or reach any settlement, accommodation, or compromise with any one or more (but less than all) of GUARANTORS. GUARANTOR jointly and severally hereby ratifies and affirms any such extension, renewal, release, surrender,

exchange, substitution, modification, impairment, settlement, accommodation, or compromise; and all such actions shall be binding upon GUARANTOR jointly and severally, and GUARANTOR hereby waives all defenses, counterclaims, or offsets which GUARANTOR jointly and severally might have by reason thereof.

4. **Waiver.** GUARANTOR jointly and severally waives: (a) notice of acceptance of this guaranty by LENDER; (b) presentment, notice of presentment, demand for payment, protest, notice of protest, notice of dishonor, notice of intent to accelerate maturity, and notice of acceleration of maturity, of any of BORROWER indebtedness, and of the obligation of any person, firm or corporation, held by LENDER as collateral security for any of BORROWER's indebtedness; (c) notice of the failure of any person, firm, or corporation to pay to LENDER any indebtedness held by LENDER as collateral security for any indebtedness of BORROWER; (d) notice of the death, or termination of the liability hereunder for future indebtedness, of any of the GUARANTORS; and (e) all defenses, offsets, and counterclaims which GUARANTOR may at any time have to any claim of LENDER against BORROWER.

5. **BORROWER Change or Enforceability.** Should the status of BORROWER change (including, without limitation, by the incorporation of an operation owned by a BORROWER, the dissolution of a corporate BORROWER, the adjudication of mental incapacity of a BORROWER and appointment of a guardian therefor, or any other alteration of status, similar or dissimilar to any such listed example), this GUARANTY shall continue and also cover the indebtedness (then existing or thereafter arising) of the successor to such BORROWER in the new status, according to the terms hereof guaranteeing the indebtedness of the BORROWER. If any or all of the indebtedness cannot, for any reason, be enforced or becomes unenforceable, in whole or in part, against BORROWER (or any one of BORROWER), such fact shall not, in any manner, affect the liability GUARANTOR hereunder, but such liability shall remain and continue as to the entire indebtedness as if it had been fully enforceable against BORROWER.

6. **Representations by GUARANTOR.** GUARANTOR represents that, at the time of the execution and delivery of this guaranty, nothing exists to impair the effectiveness of the liability of GUARANTOR to LENDER hereunder, or to stop this GUARANTY from becoming immediately effective as the sole agreement between GUARANTOR and LENDER with respect to guaranteeing BORROWER's indebtedness to LENDER.

7. **Remedies.** LENDER may at its option proceed in the first instance against GUARANTOR, or if more than one guarantor, jointly and severally, or any one or more of them, to collect any indebtedness covered by this guaranty, without first proceeding against BORROWER; or any other person, firm, or corporation, and without first resorting to any property at any time held by LENDER as collateral security.

8. **Modification.** The whole of this guaranty is herein set forth, and there is no verbal or other written agreement, and no understanding or custom affecting the terms hereof. This guaranty can be modified only by a written instrument signed by the party to be charged therewith.

9. **Benefit.** This guaranty is delivered and made in, and shall be construed pursuant to the laws of, the State of Texas, and is binding upon GUARANTOR and her legal representatives, and

shall inure to the benefit of LENDER, its successors and assigns. It is performable in Bowie County, Texas.

IN WITNESS WHEREOF, GUARANTOR has signed this GUARANTY on the _____ day of _____, 2020.

David Peavy, Individually

DRAFT

ATTACHMENT E

Consent of TEXARKANA RENEWAL PROPERTIES, LLC to Guarantee

(1) RESOLVED, that the members of this Limited Liability Corporation named below, or any one of them, or their, or any one of their, duly elected or appointed successors in office, be and they are hereby authorized and empowered in the name and on behalf of this corporation to execute and deliver to the City of Texarkana, Texas (hereinafter called Lender), as the case may be, in the form required by Lender, the following documents: (a) Guaranty for payment of a Note evidencing an indebtedness to said Lender in a sum not to exceed in principle amount _____ (\$_____). maturing upon such date or dates and bearing interest at such rate or rates as may be prescribed by Lender; (b) any other instruments or agreements of this corporation which may be required by Lender in connection with such loans, renewals, and/or extensions.

(2) FURTHER RESOLVED, that the aforesaid members or any one of them, or their duly elected or appointed successors in office, be and they are hereby authorized and empowered to do any acts, including but not limited to the mortgage, pledge, or hypothecation from time to time with Lender of any or all assets of this company to secure such loan or loans, renewals and extensions, and to execute in the name and on behalf of this corporation and under its corporate seal or otherwise, any instruments or agreements deemed necessary or proper by Lender, in respect of the collateral securing any indebtedness of this corporation;

(3) FURTHER RESOLVED, that any indebtedness heretofore contracted and any contracts or agreements heretofore made with Lender on behalf of this corporation, and all acts of officers or agents of this corporation in connection with said indebtedness or said contracts or agreements, are hereby ratified and confirmed;

(4) FURTHER RESOLVED, that the members referred to in the foregoing resolutions are as follows:

Texarkana Renewal Properties, LLC

By _____
David Peavy, Sole Member

Date

Attachment: 2020-138 ATTH 06 Ex F - H [Revision 3] (2407 : 2020-138 RES Auth CM to enter into loan agreements for former TNB)

(5) FURTHER RESOLVED, that Lender is authorized to rely upon the aforesaid resolutions until receipt of written notice of any change.

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution regularly presented to and adopted by the members of the Texarkana Renewal Properties, LLC, at a meeting duly called and held at _____ on the _____ day of _____, at which a quorum was present and voted, and that such resolution is duly recorded in the minutes of this company; that the members named in said resolution have been duly elected or appointed to, and are the present incumbents of, the respective members set after their respective names; and that the signatures set opposite their respective names are their true and genuine signatures.

Texarkana Renewal Properties, LLC

By _____
David Peavy, Sole Member

Date

Attachment: 2020-138 ATTH 06 Ex F - H [Revision 3] (2407 : 2020-138 RES Auth CM to enter into loan agreements for former TNB)

ATTACHMENT F Collateral

The word “collateral” means the following described property of Grantor:

COLLATERAL TO BE DETERMINED AND ADDED

Including all inventory, accounts, general intangibles, equipment, and fixtures, together with the following specifically described property:

1. All attachments, accessions, accessories, tools, parts, supplies, increases, and additions to and all replacements of and substitutions for any property described above.
2. All products and produce of any of the property described in this collateral section.
3. All accounts, general intangibles, instruments, rents, monies, payments, and all other rights, arising out of sale, lease, or other disposition of any of the property described in this collateral section.
4. All proceeds (including insurance proceeds) from the sale, destruction, loss, or other disposition of any of the property described in this collateral section.
5. All records and data relating to any of the property described in this collateral section, whether in the form of a writing, photograph, microfilm, microfiche, or electronic media, together with all of grantor’s right, title, and interest in and to all computer software required to utilize, crate, maintain, and process any such records or data on electronic media.

ATTACHMENT G
EPA Revolving Loan Fund (RLF) Terms and Conditions

DRAFT

Attachment: 2020-138 ATTH 06 Ex F - H [Revision 3] (2407 : 2020-138 RES Auth CM to enter into loan agreements for former TNB)

ATTACHMENT H Request for Disbursement

Brownfields Revolving Loan Fund Request for Disbursement

Instructions: This Disbursement Request Form should be used for all disbursements on RLF Loan projects. It is to be completed by the RLF Loan Recipient and submitted with each payment request, accompanied with the Eligible Expenses Tracking Spreadsheet and supporting information (bill or invoice).

Project Name: _____

Program Site
Number: _____

Loan Recipient: _____

Contact Person: _____

Mailing Address: _____

Phone Number: _____

Email: _____

Loan Recipient's Authorized Representative: _____

Authorized Representative's Phone Number: _____

Invoice Number: _____ Date: _____

Description of work for which claim is being made (service, fees, etc.):

Original Loan Amount: \$ _____

Amount of Request \$ _____

Cumulative Costs Incurred to Date (Including Request) \$ _____

Balance Remaining After Disbursements \$ _____

The undersigned hereby certifies that this Request is true and correct, that the claim underlying this Request is due in accordance with the Participant's Financial Assistance Agreement with the Authority, and that the services contained in such claim were procured in accordance with Indiana's public bidding laws and federal cross-cutting requirements (e.g., Davis-Bacon), if applicable.

AUTHORIZED REPRESENTATIVE SIGNATURE

Date

DRAFT

Attachment: 2020-138 ATTH 06 Ex F - H [Revision 3] (2407 : 2020-138 RES Auth CM to enter into loan agreements for former TNB)

[illegible]

COMPLETION GUARANTY

This Completion Guaranty ("Guaranty") is made as of this _____ day of _____, 2019 by David Peavy ("Guarantors") in favor of Texarkana Grim Housing Partners, LP, as Lessee ("Lessee") and in favor of the City of Texarkana, Texas, the Lender under the Loan Agreement described below, ("Lender"). Terms used but not defined herein shall have the meaning defined for those terms in the Loan Agreement described below.

RECITALS

- A. Pursuant to the Loan Agreement between The City of Texarkana, Texas ("Lender") and Texarkana Renewal Properties, LLC ("Borrower"), City has agreed to loan certain funds under its Brownsfield Revolving Loan fund.
- B. The Loan Agreement provides, as a condition precedent to the City's obligation to loan money to Borrower, that Guarantors shall enter into this Guaranty, and shall guaranty completion of the Texarkana National Bank Building Project, all under the terms and conditions set forth in this Guaranty.
- C. The Loan Agreement contemplates that a portion of the financing for the construction of the Project will be in the form of an EPA funded loan covering the remediation and renovation of the old Texarkana National Bank Building and Parking Garage located in downtown Texarkana, Bowie County, Texas. This guaranty is for the purpose of guaranteeing completion of, at a minimum, the Texarkana National Bank Building.
- D. Guarantors expect to realize direct and indirect benefits as a result of the availability of the aforementioned loan funds.
- E. This Guaranty is one of the Loan Documents described in the Loan Agreement.

AGREEMENT

NOW, THEREFORE, in order to induce City to extend loan funds to Borrower under the Loan Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged,

Guarantor hereby agrees as follows:

1. Completion Guaranty and Agreement.

Guarantor hereby guarantees that:

- a) Guarantor shall complete or cause to be completed, at a minimum, the construction of the Texarkana National Bank Building Project in conformity in all material respects with the Construction Plans, the Construction Budget, the Construction Timetable and the Loan Agreement, free and clear of material defects and, except for Permitted Encumbrances, Liens or claims for Liens for material supplied or labor or services performed in connection therewith.
- (b) If the Construction Budget is insufficient to complete the Project in accordance with the Construction Plans for any reason, including Borrower's bankruptcy, Guarantor shall promptly make or cause to be made cash contributions sufficient to permit such completion.

2. Performance of Guaranty.

In fulfilling the obligations hereunder, Guarantor hereby, irrevocably and unconditionally guarantees, promises and agrees to perform and comply (or cause Borrower to perform and comply) with all provisions and conditions of the Loan Agreement relating to

(a) the construction of the Project within the time and in the manner set forth in Construction Plans and the Construction Timetable,

(b) the payment of all costs and expenses thereof,

(c) the payment, satisfaction or discharge of all Liens (other than Permitted Encumbrances) that are or may be imposed upon or asserted against Borrower, the Project or the Project Property in connection with the construction of the Project, and

(d) the defense and indemnification of Lender against all such Liens (other than Permitted Encumbrances), whether arising from the furnishing of labor, materials, supplies or equipment, from taxes, assessments, fees or other charges, from injuries or damage to

Persons or property, or otherwise in connection with the construction of the Project. Without limiting the generality of the foregoing, Guarantor agrees

- (1) to cause any and all costs of constructing and completing the Project, including, without limitation, the costs of all labor, materials, supplies and equipment related thereto, to be paid and satisfied as the same shall become due, subject to Guarantor's right to remove any Liens arising therefrom by securing bond(s) therefor,
- (2) to cause the net amount of cost overruns to be directly or indirectly funded, paid and satisfied from Guarantor's own resources,
- (3) directly or indirectly to cause the completion of the Project in a timely, good, workmanlike and lien-free manner (except for Permitted Encumbrances), in accordance in all material respects with the terms of the Construction Plans, the Construction Budget and the Construction Timetable and
- (4) to cause all pre-operating and carrying costs of the Project, including, without limitation the payment of taxes, assessments, utilities, insurance and maintenance expenses, to be funded, paid and satisfied as the same shall become due throughout the term of this Guaranty.

3. Procedures for Completion.

- 3.1 In the event that Borrower fails to perform all of its Obligations under the Loan Agreement relating to construction of the Project, then in any such event or at any time thereafter, Lender may give written notice to Guarantor of the occurrence of such event.
- 3.2 Within ten (10) days after the date on which Lender gives any such notice to Guarantor, but subject to confirmation by Lender that any undisbursed Loans will be made pursuant to the Loan Agreement subject to the terms and conditions thereof, Guarantor, at his sole cost (exclusive of undisbursed Loans), shall commence to complete the construction of the Project and diligently

prosecute such construction to completion within the time and in the manner specified in the Construction Timetable, free of Liens (other than Permitted Encumbrances) and fully paid for, and shall defend, indemnify and hold Lender harmless from all losses, costs, liabilities and expenses, including attorneys' fees, incurred in connection with such completion. If at the date of such notice, there are no undisbursed Loans allocated to construction of the Project, Guarantor's obligations under this Section shall be absolute. If on such date there are any such undisbursed Loans, the obligations of Guarantor under this Section shall be that percentage of the remaining costs to complete the Project equal to 100% minus the percentage thereof represented by the undisbursed Loans.

- 3.3 If Guarantor fails to commence to complete the construction of the Project or diligently to prosecute such construction to timely completion as provided above, then in addition to all other rights and remedies that may be available to the Lender under the Loan Agreement and the other Loan Documents, at law or in equity, Lender may proceed as follows:
- (a) Lender may enter the Project Property to complete construction of the Project (either itself or through any agent, contractor or subcontractor of its selection), which option of Lender shall be exercisable whether or not Lender elects to proceed judicially or non-judicially to foreclose on all or any portion of the Collateral.
 - (b) Lender, at its option and in accordance with the Loan Agreement and the other Loan Documents, shall have the right, but shall have no obligation, to proceed judicially or non-judicially to foreclose on or any portion of the Collateral, exercisable whether or not Lender elects to undertake to complete the construction of the Project.
 - (c) If Lender elects to undertake to complete the construction of the Project, and whether or not Lender elects to proceed judicially or non-judicially to foreclose on all or any portion of the Collateral, Lender shall have the right to recover damages from Guarantor in an amount equal to the sum of:
 - (i) the costs reasonably incurred or reasonably estimated to be incurred by Lender to complete the construction of the Project minus any undisbursed Loans allocated to construction of the Project (the "Cost to Complete"), provide that with respect to damages recovered for costs estimated to be incurred by Lender, such funds shall be used for no purpose other than the construction of the Project and provided further that should the total actual costs incurred by Lender to complete the construction of

the Project be less than the Cost to Complete, the amount by which the Cost to Complete recovered by Lender exceeds such actual construction costs shall be remitted to Guarantor; plus

- (ii) All unreimbursed costs and expenses, including attorneys' fees, reasonably incurred by Lender in protecting and preserving the Project and enforcing or defending the interests of Lender under this Guaranty (the "Unreimbursed Expenses").

- (d) In any action or proceeding by Lender to recover damages from Guarantor, Lender may exercise any and all remedies available under applicable Law.

3.4 The remedy of specific performance, the recovery of damages and all other rights and remedies under this Guaranty, under the Loan Agreement and the other Loan Documents, at law or in equity are intended to be non-exclusive and cumulative. The parties recognize that the choice of remedies by Lender will necessarily and properly be a matter of business judgment, which the passage of time and events may or may not prove to have been the best choice to maximize recovery by Lender at the lowest cost to either the Borrower or Guarantor. Nevertheless, the choice of alternatives by Lender shall not be subject to question or challenge by Guarantor or any other Person, nor shall any such choice be asserted as a defense, set-off or basis for any claim of failure to mitigate damages in any action or proceeding arising from this Guaranty.

4. Commencement of Lawsuit by Lender; Measure of Damages.

At any time after the occurrence of an Event of Default under this Guaranty, Lender may commence a lawsuit against Guarantor to compel Guarantor to perform his obligations under this Guaranty and/or to recover damages under this Guaranty. Lender's damages under this Guaranty shall include: (a) the costs of completing the Project and/or correcting any construction defects, minus any undisbursed Loans allocated to construction of the Project, (b) damages arising from any delay in completing the Project, including interest, taxes and insurance premiums, and (c) Lender's attorneys' fees and costs. Lender need not perform any work on the Project before commencing such a lawsuit. GUARANTOR EXPRESSLY ACKNOWLEDGES THAT THE MEASURE OF THE LENDER'S DAMAGES FOR BREACH OF THIS GUARANTY SHALL BE BASED ON THE COSTS OF COMPLETING THE PROJECT, NOT THE EXTENT TO WHICH COMPLETING THE PROJECT WOULD INCREASE THE VALUE OF THE PROJECT PROPERTY.

5. Rights of Lender.

Guarantor authorizes Lender to perform any or all of the following acts at any time in its sole discretion, all without notice to Guarantor and without affecting Guarantor's obligations under this Guaranty:

- (a) Lender may alter any terms of the Loan Documents to which Guarantor is not a party, including renewing, compromising, extending or accelerating, or otherwise changing the time for payment of, or increasing or decreasing the rate of interest on, the Loans or any part of them.
- (b) Lender may take and hold security for the Loans or this Guaranty, accept additional or substituted security for either, and subordinate, exchange, enforce, waive, release, compromise, and sell or otherwise dispose of any such security.
- (c) Lender may direct the order and manner of any sale of all or any part of any security now or later to be held for the Loans or this Guaranty, and may also bid at any such sale.
- (d) Lender may apply any payments or recoveries from Borrower, any Guarantor or any other source, and any proceeds of any security, to Borrower's obligations under the Loan Documents in such manner, order and priority as they may elect, whether or not those obligations are guaranteed by this Guaranty or secured at the time of the application.
- (e) Lender may release Borrower of its liability for the Loans or any portion thereof.
- (f) Lender may substitute, add or release any one or more guarantors or endorsers.
- (g) In addition to the Loans, Lender may extend other credit to Borrower, and may take and hold security for the credit so extended, all without affecting Guarantor's liability under this Guaranty.
- (h) Lender may approve modifications to the Construction Contracts, Construction Budget and/or the Construction Timetable.
- (i) Lender may change the terms or conditions of disbursement of the Loans.
- (j) Lender may advance additional funds to Borrower for purposes related to those of the Loan Documents.

6. Guaranty to be Absolute.

Guarantor expressly agrees that until the Project is fully completed in all material respects in accordance with the Construction Plans, the Construction Budget and the Construction Timetable and each and every term, covenant and condition of this Guaranty is fully performed, Guarantor shall not be released by or because of:

- (a) Any act or event which might otherwise discharge, reduce, limit or modify Guarantor's obligations under this Guaranty;
- (b) Any waiver, extension, modification, forbearance, delay or other act or omission of Lender, or any failure to proceed promptly or otherwise as against Borrower, any Guarantor or any security;
- (c) Any action, omission or circumstance which might increase the likelihood that Guarantor may be called upon to perform under this Guaranty or which might affect the rights or remedies of Guarantor as against Borrower; or
- (d) Any dealings occurring at any time between Borrower or Lender, whether relating to the Loans or otherwise.

Guarantor hereby expressly waives and surrenders any defense to his liability under this Guaranty based upon any of the foregoing acts, omissions, agreements, waivers or matters. It is the purpose and intent of this Guaranty that the obligations of Guarantor under it shall be absolute and unconditional under any and all circumstances.

7. Guarantor's Waivers.

Guarantor waives:

- (a) All statutes of limitations as a defense to any action or proceeding brought against Guarantor by Lender, to the fullest extent permitted by Law;
- (b) Any right they may have to require Lender to proceed against Borrower, proceed against or exhaust any security held from Borrower, or pursue any other remedy in their power to pursue;
- (c) Any defense based on any claim that Guarantor's obligations exceed or are more burdensome than those of Borrower;
- (d) Any defense based on:
 - (i) any legal disability of Borrower,

- (ii) any release, discharge, modification, impairment or limitation of the liability of Borrower under the Loan Documents from any cause, whether consented to by Lender or arising by operation of Law or from any Insolvency Proceeding,
 - (iii) any rejection or disaffirmance of the Loans or any security held for the Loans, in any Insolvency proceeding;
- (e) Any defense based on any action taken or omitted by Lender in any Insolvency Proceeding involving Borrower, including any election to have a claim allowed as being secured, partially secured or unsecured, any extension of credit by Lender to Borrower in any Insolvency Proceeding, and the taking and holding by Lender of any security for any such extension of credit;
- (f) All presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Guaranty and of the existence, creation, or incurring of new or additional indebtedness, and demands and notices of every kind except for any demand or notice expressly provided for in Section 1; and
- (g) Any defense based on or arising out of any defense that Borrower may have to the payment or performance of the Loans or any portion of the Loans.

8. Waivers of Subrogation and Other Rights.

- (a) Upon the occurrence of any Event of Default, Lender in its sole discretion, without prior notice to or consent of Guarantor, may elect to:
- (i) foreclose either judicially or nonjudicially against any real or personal property security for the Loans,
 - (ii) accept a transfer of any such security in lieu of foreclosure,
 - (iii) compromise or adjust the Loans or any part thereof or make any other accommodation with Borrower or any other guarantor, or
 - (iv) exercise any other remedy against Borrower or any security. No such action by Lender shall release or limit the liability of Guarantor, who shall remain liable under this Guaranty after the action, even if the effect of the action is to deprive Guarantor of any subrogation rights, rights of indemnity, or other rights to collect reimbursement from Borrower for any sums paid to Lender, whether contractual or arising by operation of Law or otherwise. Guarantor expressly agrees that under no circumstances shall he be deemed

to have any right, title, interest or claim in or to any real or personal property to be held by Lender or any third party after any foreclosure or transfer in lieu of foreclosure of any security for the Loans.

(b) Regardless of whether Guarantor has made any payments to Lender, Guarantor hereby waives:

(i) all rights of subrogation, all rights of indemnity, and any other rights to collect reimbursement from Borrower for any sums paid to Lender, whether contractual or arising by operation of Law (including the United States Bankruptcy Code or any successor or similar statute) or otherwise,

(ii) all rights to enforce any remedy that Lender may have against Borrower, and

(iii) all rights to participate in any security now or later to be held by Lender for the Loans. The waivers given in this subsection shall be effective until the Loans and all other Obligations have been paid and performed in full and all Commitments have been terminated.

(c) Guarantor understands and acknowledges that if Lender forecloses judicially or nonjudicially against any real property security for the Loans, that foreclosure could impair or destroy any ability that Guarantor may have to seek reimbursement, contribution or indemnification from Borrower or others based on any right Guarantor may have of subrogation, reimbursement, contribution or indemnification for any amounts paid by Guarantor under this Guaranty. Guarantor further understands and acknowledges that in the absence of this Section, such potential impairment or destruction of Guarantor's rights, if any, may entitle Guarantor to assert a defense to this Guaranty. By executing this Guaranty, Guarantor freely, irrevocably and unconditionally:

(i) waives and relinquishes that defense and agrees that Guarantor will be fully liable under this Guaranty even though Lender may foreclose judicially or nonjudicially against any real property security for the Loans;

(ii) agrees that Guarantor will not assert that defense in any action or proceeding which Lender may commence to enforce this Guaranty; and

(iii) acknowledges and agrees that Lender is relying on this waiver in making the Loans, and that this waiver is a material part of the consideration which he is receiving for making the Loans.

9. Revival and Reinstatement.

If Lender is required to pay, return or restore to Borrower or any other person any amounts previously paid on the Loans because of any Insolvency Proceeding of Borrower, any stop notice or any other reason, to the extent that the source of such payment was a Cash Equity Contribution from Guarantor pursuant to this Guaranty, the obligations of Guarantor shall be reinstated and revived and the rights of Lender shall continue with regard to such amounts, all as though they had never been paid.

10. Information Regarding Borrower and the Property.

Before signing this Guaranty, Guarantor investigated the financial condition and business operations of Borrower, the present and former condition, uses and ownership of the Property, and such other matters as Guarantor deemed appropriate to assure himself of Borrower's ability to discharge its obligations under the Loan Documents. Guarantor assumes full responsibility for that due diligence, as well as for keeping informed of all matters which may affect Borrower's ability to pay and perform its obligations to Lender. Lender has no duty to disclose to Guarantor any information which they may have or receive about Borrower's financial condition or business operations, the condition or uses of the Property, or any other circumstances bearing on Borrower's ability to perform.

11. Subordination.

- (a) Any rights of Guarantor, whether now existing or later arising, to receive payment on account of any indebtedness (including interest) owed to him by Borrower or any subsequent owner of the Property, or to withdraw capital invested by him in Borrower, or to receive Distributions from Borrower, shall at all times be subordinate as to lien and time of payment and in all other respects to the full and prior repayment to Lender of the Loans and the other Obligations, except to the extent that such payments or Distributions are expressly contemplated by the Loan Agreement. Guarantor shall not be entitled to enforce or receive payment of any sums hereby subordinated until the Loans and all other Obligations have been paid and performed in full and all Commitments have been terminated and any such sums received in violation of this Guaranty shall be received by Guarantor in trust for Lender.

12. Events of Default.

Lender may declare Guarantor to be in default under this Guaranty upon the occurrence of any of the following events ("Events of Default"):

- (a) Guarantor fails to perform any of their obligations under this Guaranty; or

- (b) Guarantor revokes this Guaranty or dispute the validity or coverage thereof or this Guaranty becomes ineffective for any reason; or
- (c) Any representation or warranty made or given by Guarantor in any Loan Document proves to be false or misleading in any material respect; or
- (d) Guarantor becomes insolvent or the subject of any case or proceeding, voluntary or involuntary, under the Bankruptcy Code, or any similar existing or future law of any jurisdiction, state or federal, relating to bankruptcy, insolvency, reorganization or relief of debtors and, in the case of an involuntary case or proceeding, the same continues undismissed or unstayed for ninety (90) calendar days; or
- (e) Guarantor dissolves or liquidates.

13. Authorization; No Violation.

Guarantor is authorized to execute, deliver and perform under this Guaranty, which is a valid and binding obligation of Guarantor enforceable against Guarantor in accordance with its terms, except as enforcement may be limited by Debtor Relief Laws, or equitable principles relating to the granting of specific performance and other equitable remedies as a matter of judicial discretion. No provision or obligation of Guarantor contained in this Guaranty violates any Requirement of Law applicable to such Guarantor. No such provision or obligation conflicts with, or constitutes a breach or default under, any agreement to which Guarantor is a party.

14. Additional and Independent Obligations.

Guarantor's obligations under this Guaranty are in addition to any obligations under any other existing or future guaranties given in connection with the Loan Agreement, and they shall remain in full force and effect until they are expressly modified or released in a writing signed by Lender. Guarantor's obligations under this Guaranty are independent of those of Borrower under the other Loan Documents. Lender may bring a separate action, or commence a separate reference or arbitration proceeding against any Guarantor without first proceeding against Borrower, any other person or any security that Lender may hold, and without pursuing any other remedy. The rights under this Guaranty shall not be exhausted by any action by Lender until the Loans have been paid and performed in full.

15. No Waiver; Consents; Cumulative Remedies.

Each waiver by Lender must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from Lender's delay in exercising or

failure to exercise any right or remedy against Borrower, Guarantor or any security. Consent by Lender to any act or omission by Borrower or Guarantor shall not be construed as a consent to any other or subsequent act or omission, or as a waiver of the requirement for its consent to be obtained in any future or other instance. All remedies of Lender against Borrower and Guarantor are cumulative.

16. Release.

- a. This Guaranty shall automatically terminate upon satisfaction of the Obligations. Absent such termination, Guarantor shall not be released from his obligations under this Guaranty except by a writing signed by Lender.
- b. Notwithstanding the above, in the event there are no disbursements of funds to Borrower such that Borrower's obligations under the Loans terminate, in that event, this Guaranty shall terminate and Guarantor shall have no further obligations hereunder.

17. Successors and Assigns; Participations.

The terms of this Guaranty shall bind and benefit the legal representatives, successors and assigns of Lender and Guarantor; provided, however, that Guarantor may not assign this Guaranty, or assign or delegate any of its rights or obligations under this Guaranty, without the prior written consent of Lender in each instance.

18. Governing Law.

This Guaranty shall be governed by, and construed in accordance with, the laws of the State of Texas and venue shall be in Bowie County, Texas.

19. Costs and Expenses.

If any lawsuit, reference or arbitration is commenced which arises out of, or which relates to this Guaranty, the prevailing party shall be entitled to recover from each other party such sums as the court or arbitrator may adjudge to be reasonable attorneys' fees in the action or proceeding, in addition to costs and expenses otherwise allowed by Law. In all other situations, including any Insolvency Proceeding, Guarantor agrees to pay all of Lender's reasonable costs and expenses, including attorneys' fees which may be incurred in any effort to collect or enforce this Guaranty. From the time(s) incurred until paid in full, all sums shall bear interest at the Default Rate.

20. Integration; Modifications.

This Guaranty

- (a) integrates all the terms and conditions mentioned in or incidental to this Guaranty,
- (b) supersedes all oral negotiations and prior writings with respect to its subject matter, and
- (c) is intended by Guarantor and Lender as the final expression of the agreement with respect to the terms and conditions set forth in this Guaranty and as the complete and exclusive statement of the terms agreed to by Guarantor and Lender. No representation, understanding, promise or condition shall be enforceable against any party unless it is contained in this Guaranty.

23. Notices.

Any notice, request, demand, consent, confirmation or other communication hereunder shall be in writing and delivered

- (a) in person, by messenger or overnight courier;
- (b) by registered or certified mail, return receipt requested and postage prepaid; or
- (b) by facsimile, to the applicable party at its address or facsimile number set forth below, or at such other address or facsimile number as such party hereafter may designate as its address for communications hereunder by notice so given.

Such notices and communications shall be deemed delivered upon receipt (or refusal to accept delivery); provided that all notices and communications sent by facsimile shall also be evidenced by the facsimile machine's confirmation identifying the recipient's facsimile number and transmission; and provided further that all notices or other communications sent by facsimile shall also be delivered by another means permitted under this Article.

If to Guarantor: David Peavy
105 Olive Street, Apt G
Texarkana, AR 71854

If to Lender: City of Texarkana, Texas
Attn: David Orr, Planning & Community Development
P. O. Box 1967
Texarkana, Texas 75504

With a copy to:

Atchley, Russell, Waldrop & Hlavinka, LLP
Jo Thomason
1710 Moores Lane
Texarkana, Texas 75503

24. Miscellaneous.

The illegality or unenforceability of one or more provisions of this Guaranty shall not affect any other provision.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first written above by its respective duly authorized officers.

GUARANTOR:

David Peavy, Individually

Lender:
CITY OF TEXARKANA, TEXAS

Shirley Jaster, City Manager

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: Medium

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
X	None Required	☐	

Other:

Attachment: 2020-138 Goals & Perspectives (2407 : 2020-138 RES Auth CM to enter into loan agreements for former TNB)

City of Texarkana, Texas

Version:

Update Date: 10/16/2020 3:06 PM

Briefing Sheet

Lead Department: Planning and Community Development **Action Officer:** Laura Puckett, Administrative Coordinator
Subject: Ordinance No. 2020-114 rezoning a 2.206-acre tract of land in the John A. Talbot HRS, A-564, located in the 5600 block of Richmond Road. Office to Planned Development-General Retail. Kirk Patton, representing PHRMG Developers, owner and Don Robertson, agent.

Briefing: 11/9/2020 **Public Hearing:** 11/9/2020 **Council Vote:** 11/9/2020

Item ScheduleSchedule 1: Brief twice - vote once (six weeks)**Updates/History of Briefing:**

Not applicable.

Executive Summary and Background Information:

This is a request by Kirk Patton, representing PHRMG Developers, owner and Don Robertson, agent to rezone a 2.206-acre tract of land in the John A. Talbot HRS, A-564, located in the 5600 Block of Richmond Road from Office to Planned Development-General Retail. The proposed use is a tunnel carwash. This property is currently vacant land.

The adjacent zoning is Single Family-1 to the north, PD-General Retail to the south, General Retail to the east and Office to the west. The adjacent land use is vacant land to the north and west, office to the south and retail and office to the east.

The Future Land use map designated this property as "Neighborhood Retail".

Staff recommended that a planned development designation be added to this request. Staff contacted the applicant and the applicant agreed to amend the application to include the PD designation.

This zoning to General Retail is consistent with other zoning and uses in this area. In addition, the proposed rezoning aligns with the Comprehensive Plan's Future Land Use Map. Therefore, staff recommends for approval from Office to Planned Development-General Retail.

Staff recommends for approval.

The applicant should also be aware that if this zoning change is approved, all other applicable city code/ordinance requirements must be met including but not limited to 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.

City of Texarkana, Texas

Potential Options:

None.

Fiscal Implications:

Not applicable.

Staff Recommendation:

Staff recommends for approval of this request.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of this request.

Advisory Board/Committee Meeting Date and Minutes:

October 5, 2020

Attachments

- a. 2020-114 ORD rezoning 5600 blk. Richmond Rd. (DOCX)
- b. 2020-114 EXH 'A' (legal description and survey) (PDF)
- c. 2020-114 ATTH 01 (maps) (PDF)
- d. 2020-114 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	10/16/2020 3:23 PM	
City Manager	Vicky Coopwood	City Manager Review Skipped
11:40 AM		10/20/2020
City Council	Jennifer Evans	Meeting
6:00 PM		Completed
		10/26/2020

Meeting History

10/26/20	City Council	MOVED FORWARD	Next: 11/09/20
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ORDINANCE NO. 2020-114

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE ZONING ORDINANCE OF THE CITY OF TEXARKANA, TEXAS, BY REZONING A 2.206-ACRE TRACT OF LAND IN THE JOHN A. TALBOT HRS, A-564, LOCATED IN THE 5600 BLOCK OF RICHMOND ROAD IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS, FROM OFFICE TO PLANNED DEVELOPMENT-GENERAL RETAIL; CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed requesting an amendment to the Zoning Ordinance of the City of Texarkana, Texas, to **rezone a 2.206-acre tract of land in the John A. Talbot HRS, A-564 (Exhibit ‘A’), located in the 5600 block of Richmond Road** in the City of Texarkana, Bowie County, Texas, from **Office to 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 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 six (6) to zero (0) to recommend the application for rezoning from Office to Planned Development-General Retail on a 2.206-acre tract of land in the John A. Talbot HRS, A-564 (Exhibit ‘A’), located in the 5600 block of Richmond Road** to the City Council 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 rezoning the property from **Office to Planned Development-General Retail** is in the best interest of the public health, safety, morals and general welfare of the City.

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

SECTION 1: That the Zoning Ordinance of the City of Texarkana, Texas, Ordinance No. 127-70, passed and approved on September 14, 1970, be and is hereby further amended to **rezone a 2.206-acre tract of land in the John A. Talbot HRS, A-564 (Exhibit ‘A’), located in the 5600 block of Richmond Road** in the City of Texarkana, Bowie County, Texas, from **Office to Planned Development-General Retail**.

SECTION 2: It is further provided that in case a section, clause, sentence or part of this ordinance shall be deemed or adjudged by a court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair, or invalidate the remainder of this ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 4: 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 **9th day of November, 2020.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

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. Kennay, 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;

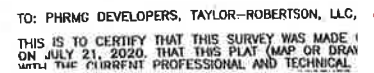
THENCE South 02 degrees 59 minutes 59 seconds East a distance of 213.98 feet across and through the said 3.563 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, lying in the South line of the said 3.563 acre tract, and the North right-of-way line of Moores Lane;

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;

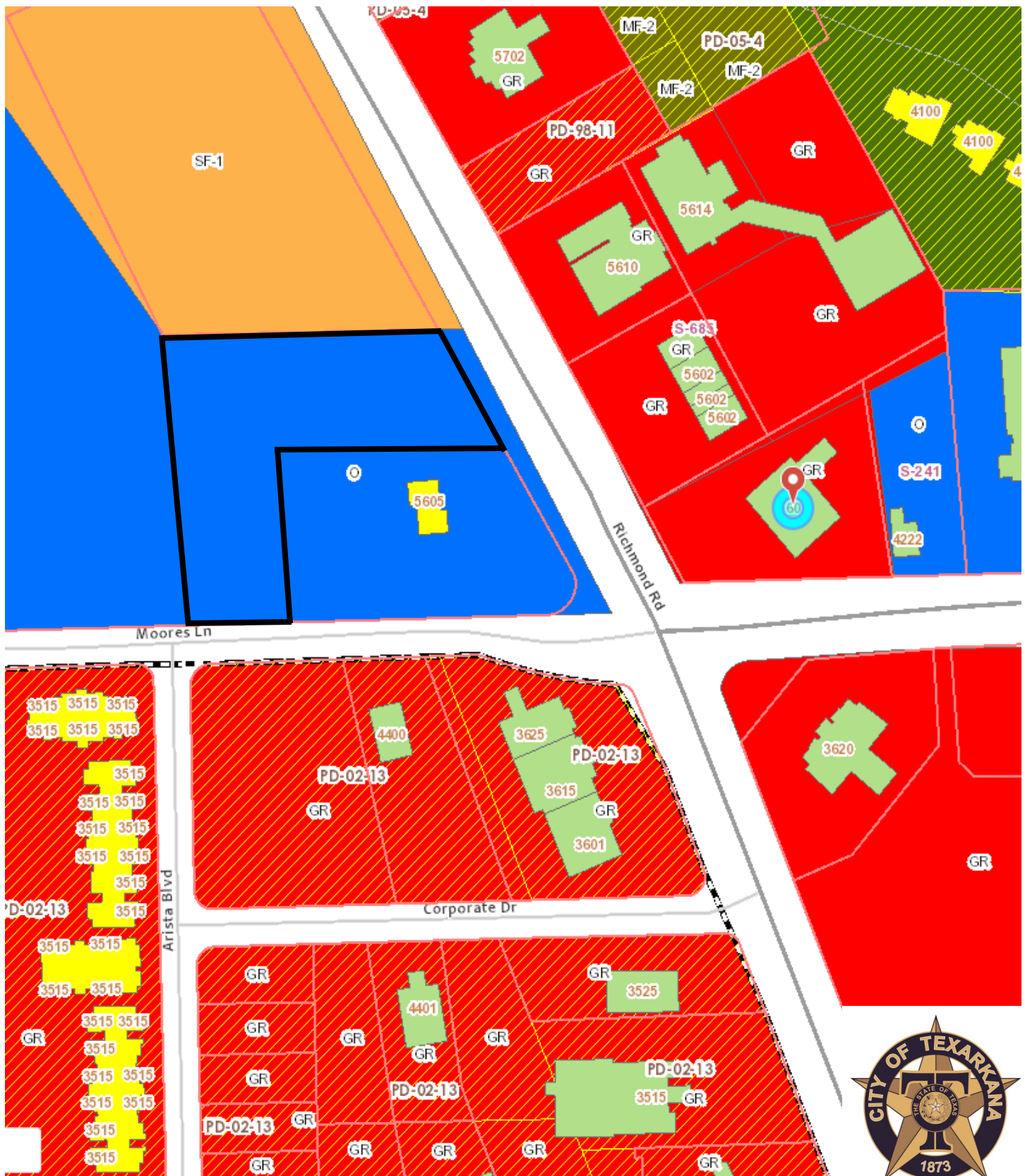
THENCE North 09 degrees 12 minutes 45 seconds West a distance of 406.72 feet along the West line of the said 3.563 acre tract, and the East line of the said 58.95 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, the Northwest corner of the said 3.563 acre tract, and an angle 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.

Z-20-20



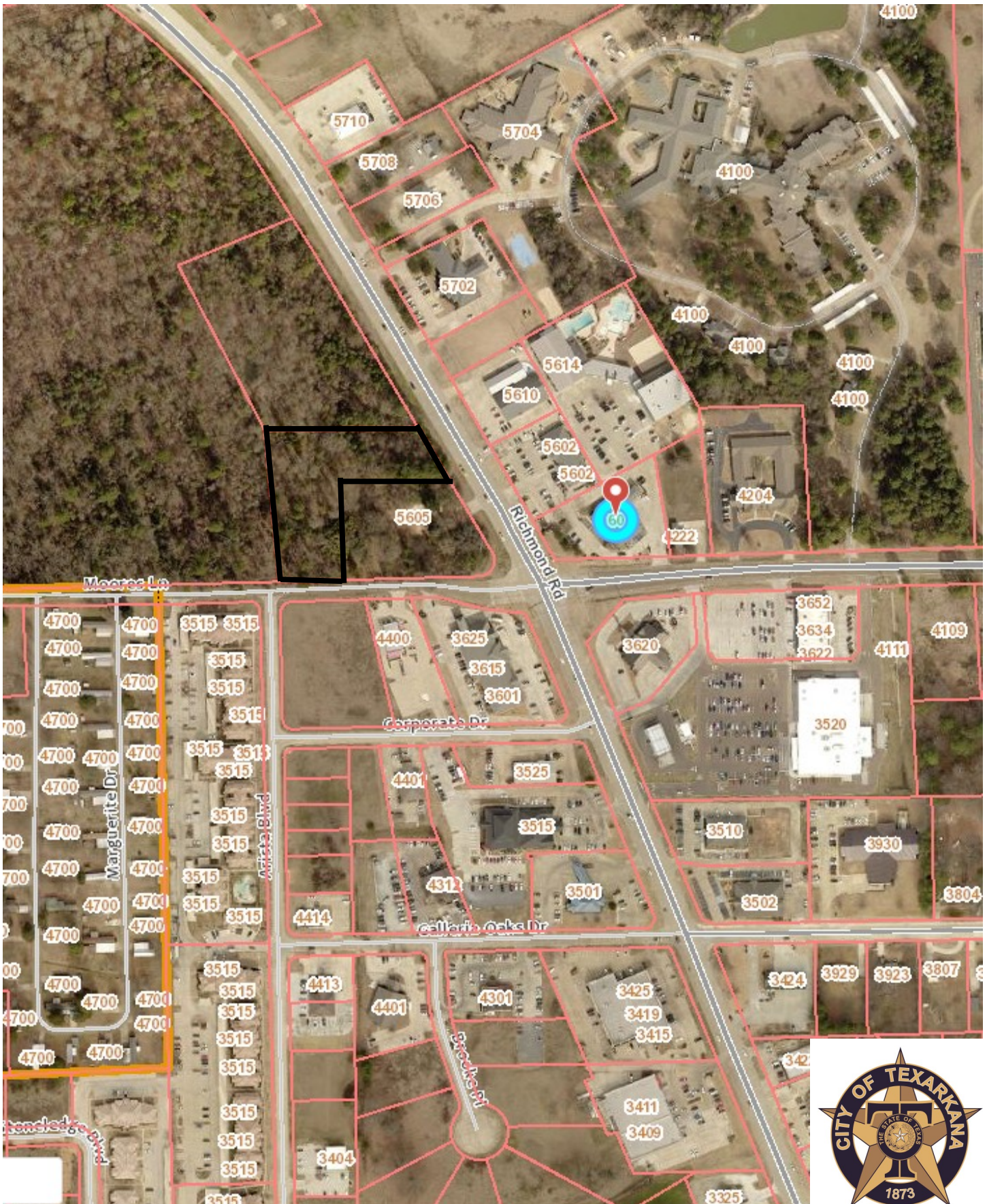
5600 Block of Richmond Rd.



Attachment: 2020-114 ATTH 01 (maps) (2387 : 2020-114 ORD rezoning from O to PD-GR in 5600 Block of Richmond Rd)



5600 Block of Richmond Rd.



Attachment: 2020-114 ATTH 01 (maps) (2387 : 2020-114 ORD rezoning from O to PD-GR in 5600 Block of Richmond Rd)



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:

NA

No Additional

Other Potential Impacts:

NA

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	☒	Sign Posted

Other:

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 10/16/2020 3:08 PM

Lead Department: Planning and Community Development **Action Officer:** Laura Puckett, Administrative Coordinator
Subject: Ordinance No. 2020-123 amending PD-20-5(GR) for site plan approval on a 2.206-acre tract of land in the John A. Talbot HRS, A-564, located in the 5600 block of Richmond Road. Kirk Patton, representing PHRMG Developers, owner and Don Robertson, agent.
Briefing: 11/9/2020 **Public Hearing:** 11/9/2020 **Council Vote:** 11/9/2020

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 for site plan approval by Kirk Patton, representing PHRMG Developers, owner and Don Robertson, agent on a 2.206-acre tract of land in the John A. Talbot HRS, A-564, located in the 5600 Block of Richmond Road. The proposed use is a tunnel carwash. This property is currently vacant land.

The adjacent zoning is Single Family-1 to the north, PD-General Retail to the south, General Retail to the east and Office to the west. The adjacent land use is vacant land to the north and west, office to the south and retail and office to the east.

The site plan consists of 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. 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.

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.

City of Texarkana, Texas

All notification and application requirements have been met to consider this request.

Potential Options:

None

Fiscal Implications:

Not applicable.

Staff Recommendation:

Staff recommends approval of this request.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of this request.

Advisory Board/Committee Meeting Date and Minutes:

October 5, 2020

Attachments

- a. 2020-123 ORD site plan app. 5600 blk. Richmond Rd. (DOCX)
- b. 2020-123 EXH 'A' (site plan) (PDF)
- c. 2020-123 EXH 'B' (legal description and survey) (PDF)
- d. 2020-123 ATTH 01 (maps) (PDF)
- e. 2020-123 ATTH 02 (wall signage) (PDF)
- f. 2020-123 ATTH 03 (photos of carwash) (PDF)
- g. 2020-123 ATTH 04 (floor plan) (PDF)
- h. 2020-123 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	10/16/2020 3:27 PM	
City Manager	Vicky Coopwood	City Manager Review Skipped
11:36 AM		10/20/2020
City Council	Jennifer Evans	Meeting
6:00 PM		Completed
		10/26/2020

Meeting History

10/26/20	City Council	MOVED FORWARD	Next: 11/09/20
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Amendment to
PD-20-5(GR)

ORDINANCE NO. 2020-123

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING PD-20-5(GR) FOR SITE PLAN APPROVAL TO ALLOW THE LOCATION OF A TUNNEL CARWASH ON A 2.206-ACRE TRACT OF LAND IN THE JOHN A. TALBOT HRS, A-564, LOCATED IN THE 5600 BLOCK OF 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’)** to allow the location of tunnel carwash on a 2.206-acre tract of land in the John A. Talbot HRS, A-564 (Exhibit ‘B’) located in the 5600 block of Richmond Road in the City of Texarkana, Bowie County, Texas; and

WHEREAS, the subject property is zoned Planned Development-Office [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 by a vote of six (6) 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: That the site plan (**Exhibit ‘A’**) to allow the location of a tunnel carwash on a 2.206- acre tract of land in the John A. Talbot HRS, A-564 (Exhibit ‘B’), located in the 5600 block of Richmond Road in the City of Texarkana, Texas, Bowie County, Texas, is hereby approved and hereby amends PD-20-5(GR).

Attachment: 2020-123 ORD site plan app. 5600 blk. Richmond Rd. (2392 : 2020-123 ORD Amendment to PD-20-5(GR) in the 5600 block of

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-two 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.

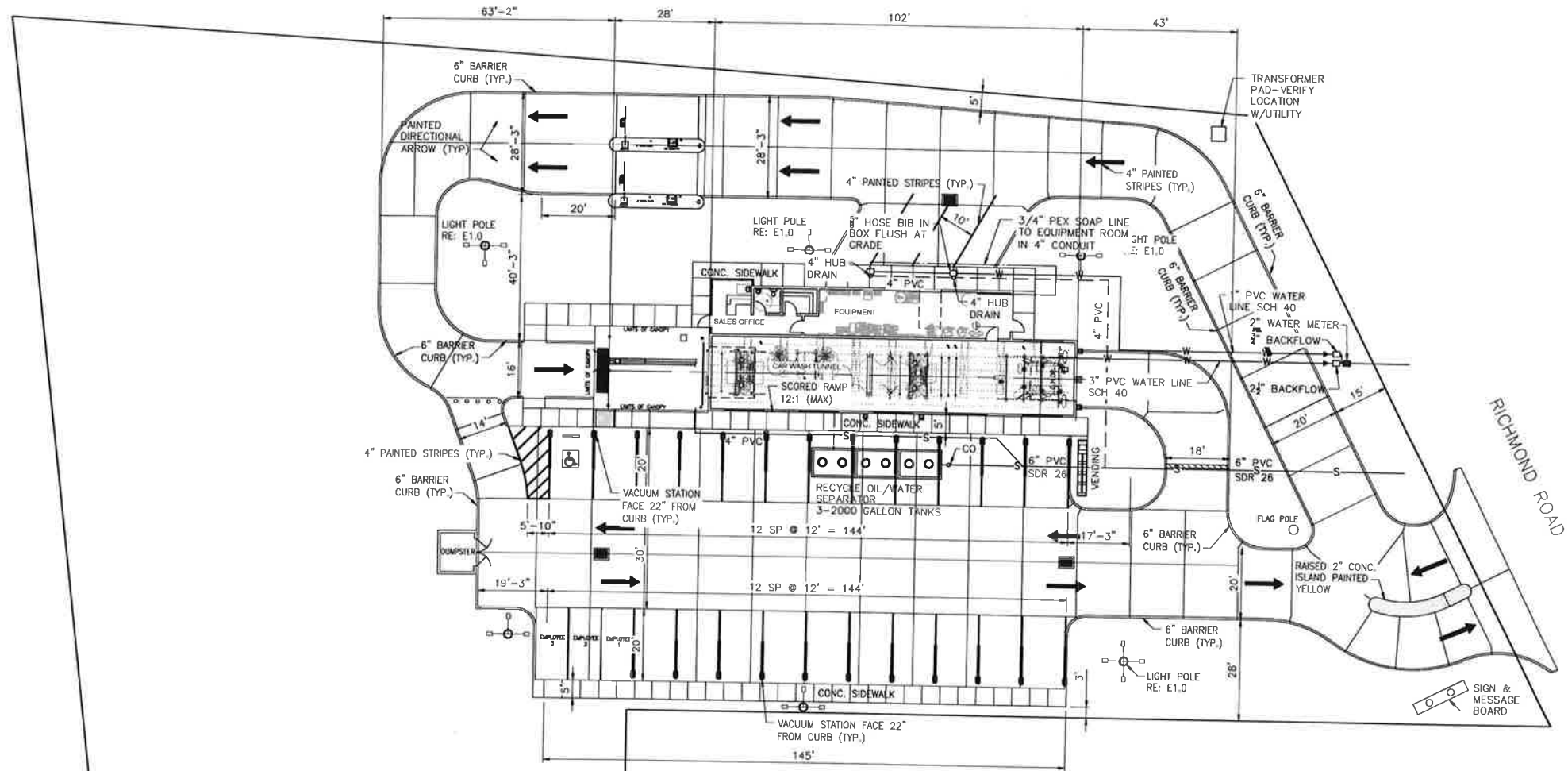
SECTION 5: That this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **9th day of November, 2020.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR



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 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 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).

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 COMPACTION 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 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 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 2 1/2" ASSEMBLY. LOCATE PER THE CITY OF TEXARKANA DEPARTMENT OF PUBLIC WORKS 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.

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	-	ENTERGY
NATURAL GAS	-	NOT REQUIRED
WATER	-	CITY OF TEXARKANA, TEXAS
SANITARY SEWER	-	CITY OF TEXARKANA, TEXAS
TELECOMMUNICATIONS	-	AT&T

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. Kennay, 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;

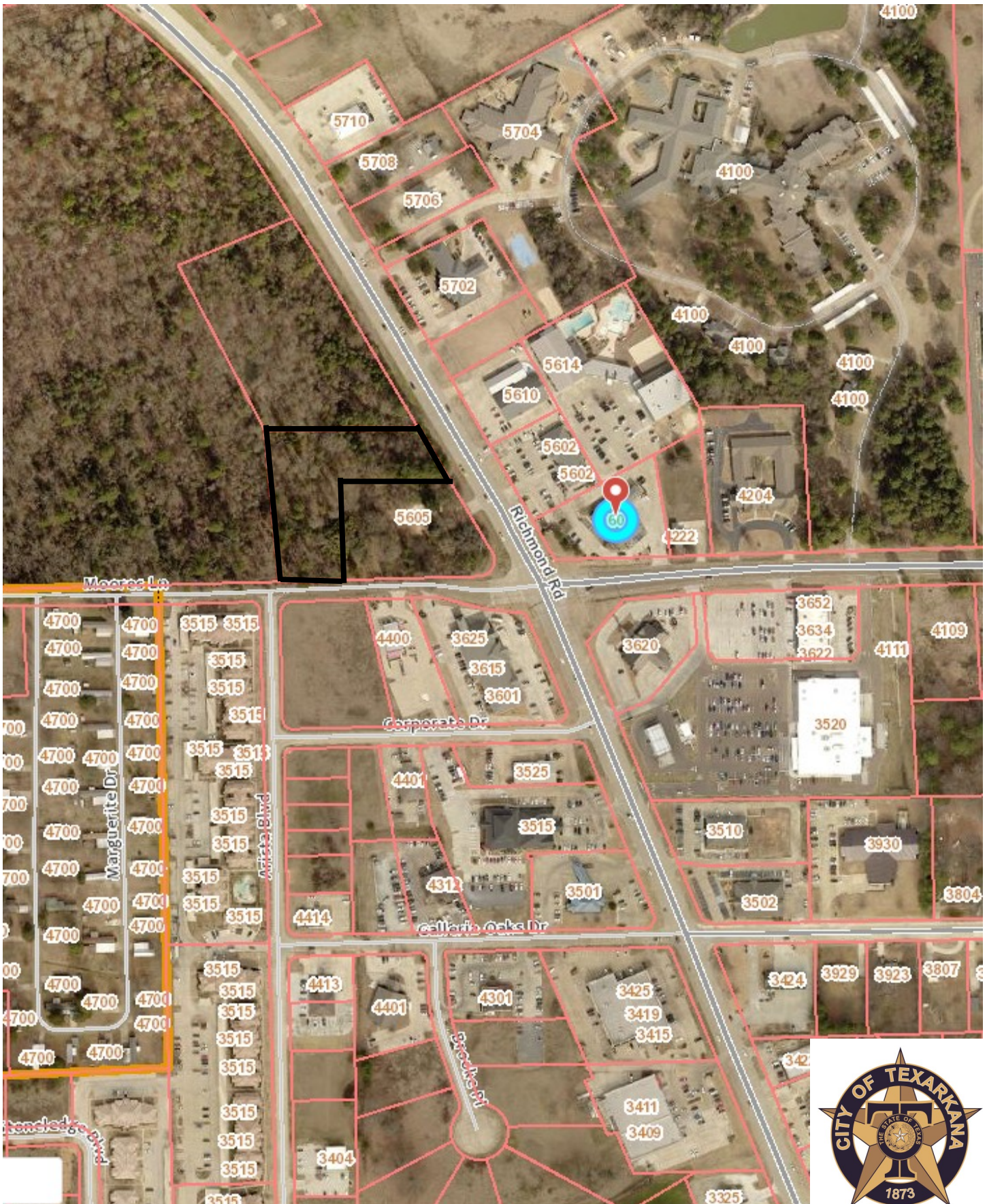
THENCE North 09 degrees 12 minutes 45 seconds West a distance of 406.72 feet along the West line of the said 3.563 acre tract, and the East line of the said 58.95 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, the Northwest corner of the said 3.563 acre tract, and an angle 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.

5600 Block of Richmond Rd.

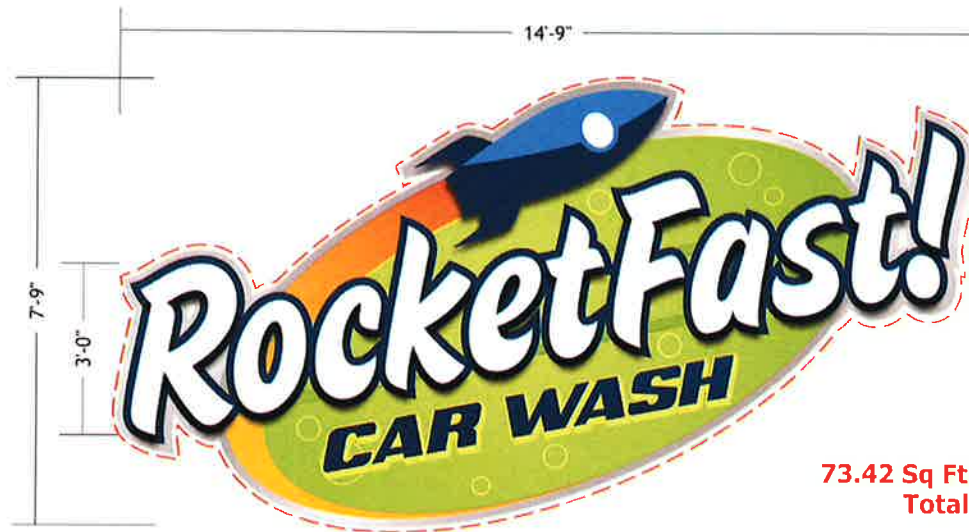


5600 Block of Richmond



Attachment: 2020-123 ATTH 01 (maps) (2392 : 2020-123 ORD Amendment to PD-20-5(GR) in the 5600 block of Richmond Rd)





Mfg & install (1) s/f wall sign as shown above, onto building in customer designated area, as shown in elevation detail right....

Rocket Fast letters & rocket graphic are aluminum fabricated channels w/ Blue returns, White acrylic faces (vinyl decoration on rocket) and internal White LED illumination. Letters are mounted to a Dibond aluminum composite outline and stand-off mounted over sign cabinet w/ an aluminum tube frame.

Oval shaped portion is an aluminum fabricated cabinet w/ a painted Metallic Silver finish, internal lamp illumination and a digitally printed flexible face. This cabinet is flush mounted to wall surface.

Note: Wall construction and finish details will be needed along w/ dimension verification prior to any sign fabrication.



COLORS REPRESENTED 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
(800)869-3804 • (985)649-3804 • f:(985)643-3758

Client
Rocket Fast Carwash
Corner of Pierremont Rd.
& Southern Ave.
Shreveport, LA
Project
S/F Wall Sign

Sales Rep.
B Rountree
Date
05/25/2018
Bid No.

Designer
K Snyder
Drawing No. / Pg No.
05747A
Scale
1/2"=1'-0"

120 v electrical unless noted otherwise
Approved by:
Approval date:

NOTES:
1. STRUCTURAL STEEL WILL BE ASTM-A36.
2. STEEL LESS THAN 1/4" THICK WILL BE GALVANIZED.
3. ALL STRUCTURAL STEEL TO BE PAINTED BY TWO COATS OF RUST INHIBITING PRIMER UNLESS GALVANIZED.
4. ALL CONNECTIONS WILL BE 3/8" THICKER BOLTS UNLESS NOTED.
5. PLASTIC SIGN FACES TO BE FORMED OF BLOW FORMING MATERIALS.
6. COMPLETED SIGN WILL BEAR U.L. LABELS.
7. SIGN WILL BE LOCATED A MINIMUM OF 8" FROM BACK OF CURB.
8. BOTTOM OF SIGN WILL BE LOCATED A MINIMUM OF 4" ABOVE GRADE.
9. SIGN WILL BE FABRICATED & INSTALLED TO WITH STAND A MIN. WIND LOAD OF 120 M.P.H. @ 1 SEC. GUSTS IN ACCORDANCE W/ 2009 IBC.

THESE PLANS AND SPECIFICATIONS HAVE BEEN PREPARED BY ME, OR UNDER MY SUPERVISION, TO THE BEST OF MY KNOWLEDGE AND BELIEF THEY CONFORM TO ALL CITY REQUIREMENTS. I AM NOT GENERALLY ASSUMING THE WORK.

Property of Sign Lite - Do Not 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 is to be returned in full. Any duplication 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.

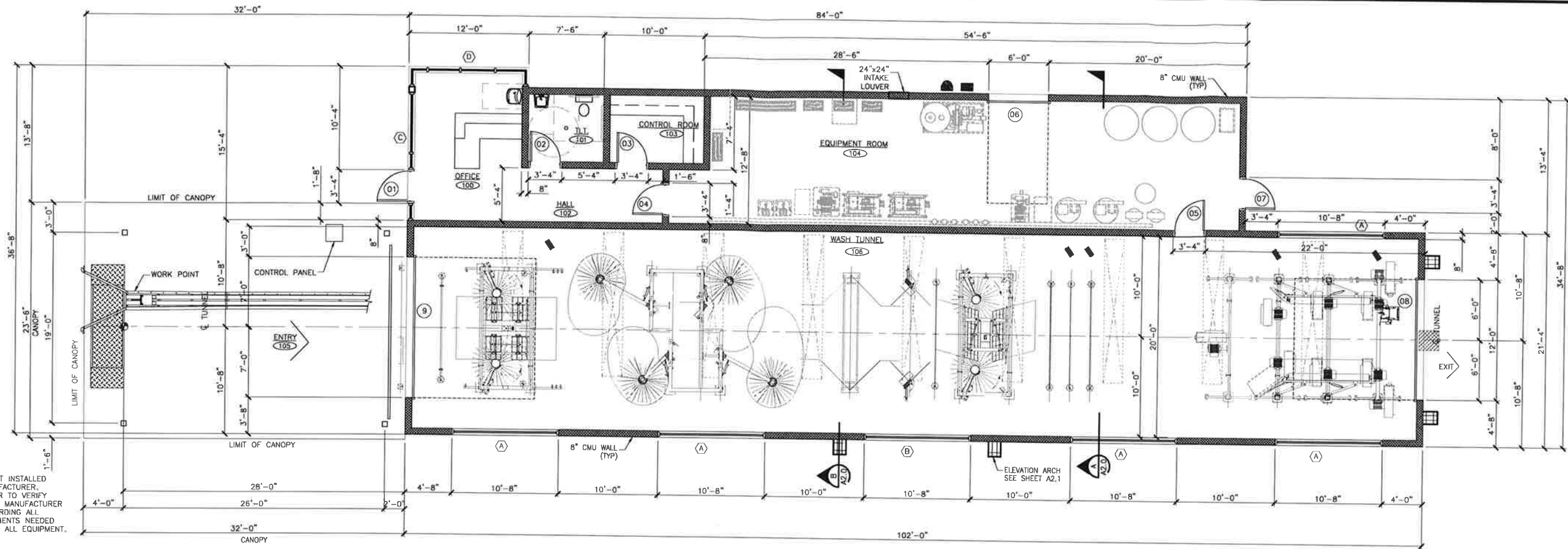
www.signlite.com • info@signlite.com



Attachment: 2020-123 ATTH 03 (photos of carwash) (2392 : 2020-123 ORD Amendment to PD-20-5(GR) in



Attachment: 2020-123 ATTH 03 (photos of carwash) (2392 : 2020-123 ORD Amendment to PD-20-5(GR) in



NOTE:
CAR WASH EQUIPMENT INSTALLED
BY EQUIPMENT MANUFACTURER.
GENERAL CONTRACTOR TO VERIFY
WITH THE EQUIPMENT MANUFACTURER
AND INSTALLER REGARDING ALL
NECESSARY REQUIREMENTS NEEDED
FOR INSTALLATION OF ALL EQUIPMENT.

FLOOR PLAN
SCALE: 3/16"=1'-0"

SQUARE FOOTAGES
TOTAL SQ. FT. = 3,264
CANOPY SQ. FT. = 773

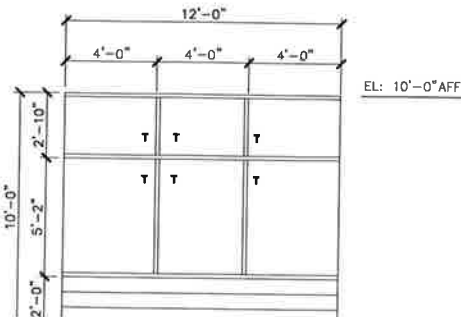
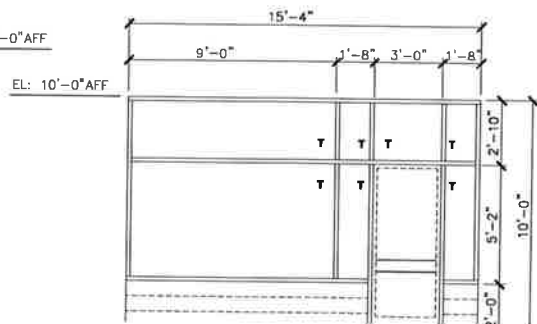
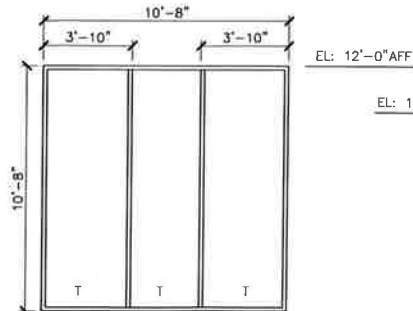
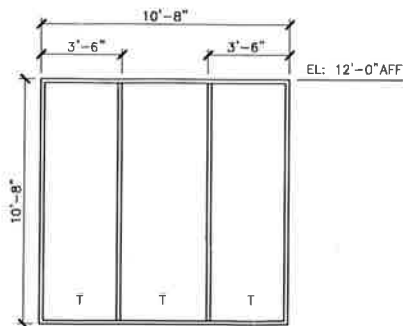
FINISH SCHEDULE

	FLOOR	BASE	WALL	CEILING	CEILING HEIGHT
100 OFFICE	CONCRETE SEALED PAINTED	CMU	CMU PAINT	EXPOSED STRUCTURE	SLOPED
101 TLT.	CAULK WALL TO FLOOR	1X4 PAINTED		PVC VINYL	10'-0"
102 HALL				SKYLIGHT PANELS 2X2 AC TILE	9'-4"
103 CONTROL					
104 EQUIPMENT					
105 ENTRY					
106 WASH					

CEILING TILE-ARMSTRONG FINE FISSURED ITEM #1729
HUMI GUARD, BACK LOADING ALLOWED

DOOR AND WINDOW SCHEDULE
1/4"=1'-0"

01	02	03	04	05	06	09	10



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:

NA

No Additional

Other Potential Impacts:

NA

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	☒	Sign Posted

Other:

City of Texarkana, Texas

Version: B

Update Date: 11/4/2020 2:15 PM

Briefing Sheet

Lead Department: Planning and Community Development **Action Officer:** Laura Puckett, Administrative Coordinator
Subject: Ordinance No. 2020-115 rezoning a 1.500-acre tract of land in the John A. Talbot HRS. A-564, located at 5605 Richmond Road. Office to Planned Development-General Retail. Kirk Patton, representing PHRMG Developers, owner and Richard Reynolds, agent.

Briefing: 11/9/2020 **Public Hearing:** 11/9/2020 **Council Vote:** 11/9/2020

Item ScheduleSchedule 1: Brief twice - vote once (six weeks)**Updates/History of Briefing:**

Not applicable.

Executive Summary and Background Information:

This is a request by Kirk Patton, representing PHRMG Developers, owner and Richard Reynolds, agent, to rezone a 1.500-acre tract of land in the John A. Talbot HRS, A-564, located at 5605 Richmond Road from Office to Planned Development-General Retail. The proposed use is a nation brand convenience store. This property is currently vacant land.

The adjacent zoning is Single Family-1 and Office to the north, PD- General Retail to the south, General Retail to the east and Office to the west. The adjacent land use is vacant land to the north and west office to the south and retail use and offices to the east.

The Future Land use map designated this property as "Neighborhood Retail".

Staff recommended that a planned development designation be added to this request. Staff contacted the applicant and the applicant agreed to amend the application to include the PD designation.

This proposed zoning is consistent with other zoning and uses in this area. In addition, the proposed zoning aligns with the Comprehensive Plan's Future Land Use Map. However, most of the properties in this area of Richmond Road have a Planned Development designation. Therefore, staff recommends for approval to Planned Development General Retail.

The applicant should be aware that a site plan for the proposed development will have to be submitted and approved prior to any construction.

Staff recommends for approval.

Potential Options:

City of Texarkana, Texas

None.

Fiscal Implications:

Not applicable.

Staff Recommendation:

Staff recommends for approval of this request.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of this request.

Advisory Board/Committee Meeting Date and Minutes:

October 5, 2020

Attachments

- a. 2020-115 ORD rezoning 5605 Richmond Rd. (DOCX)
- b. 2020-115 EXH 'A' (legal description and survey) (PDF)
- c. 2020-115 ATTH 01 (maps) (PDF)
- d. 2020-115 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	10/16/2020 3:24 PM	
City Manager	Vicky Coopwood	City Manager Review Skipped
11:39 AM		10/20/2020
City Council	Jennifer Evans	Meeting
6:00 PM		Completed
		10/26/2020

Meeting History

10/26/20	City Council	MOVED FORWARD	Next: 11/09/20
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ORDINANCE NO. 2020-115

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE ZONING ORDINANCE OF THE CITY OF TEXARKANA, TEXAS, BY REZONING A 1.500-ACRE TRACT OF LAND IN THE JOHN A. TALBOT HRS, A-564, LOCATED AT 5605 RICHMOND ROAD IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS, FROM OFFICE TO PLANNED DEVELOPMENT-GENERAL RETAIL; CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed requesting an amendment to the Zoning Ordinance of the City of Texarkana, Texas, to **rezone a 1.500-acre tract of land in the John A. Talbot HRS, A-564 (Exhibit ‘A’), located at 5605 Richmond Road** in the City of Texarkana, Bowie County, Texas, from **Office to 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 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 six (6) to zero (0) to recommend the application for rezoning from Office to Planned Development-General Retail on a 1.500-acre tract of land in the John A. Talbot HRS, A-564 (Exhibit ‘A’), located at 5605 Richmond Road** to the City Council 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 rezoning the property from **Office to Planned Development-General Retail** is in the best interest of the public health, safety, morals and general welfare of the City.

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

SECTION 1: That the Zoning Ordinance of the City of Texarkana, Texas, Ordinance No. 127-70, passed and approved on September 14, 1970, be and is hereby further amended to **rezone a 1.500-acre tract of land in the John A. Talbot HRS, A-564 (Exhibit ‘A’), located at 5605 Richmond Road** in the City of Texarkana, Bowie County, Texas, from **Office to Planned Development-General Retail**.

SECTION 2: It is further provided that in case a section, clause, sentence or part of this ordinance shall be deemed or adjudged by a court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair, or invalidate the remainder of this ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are specifically repealed to the extent of such conflict.

SECTION 4: 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 **9th day of November, 2020.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Property Description
1.500 Acres
Bowie County, Texas

All that certain lot, tract or parcel of land lying and situated in the John A. Talbot Headright Survey, Abstract 584, Bowie County, Texas, being part of that certain tract of land described as 3.563 acres in the deed from Patton, Halkorn, 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 1/2 inch steel rod, capped MTG 10111-00, set for a corner, lying in the East line of the said 3.563 acre tract, and the West right-of-way line of Farm-to-Market Road 559 (Richmond Road), said corner bears North 30 degrees 15 minutes 43 seconds West (basis of bearings) a distance of 188.16 feet to 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, and lying in the West right-of-way line of the said F.M. 559 (Richmond Road);

THENCE South 30 degrees 15 minutes 43 seconds East a distance of 46.62 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, at the beginning of a circular curve to the right;

THENCE in a Southeasterly direction along the arc of the said circular curve a distance of 181.69 feet, with a delta angle of 03 degrees 18 minutes 32 seconds, a radius of 2799.79 feet, a chord bearing of South 28 degrees 36 minutes 27 seconds East and a chord distance of 161.67 feet to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, the Southeast corner of the said 3.563 acre tract, at the intersection of the West right-of-way line of the said Richmond Road and the North right-of-way line of Moores Lane;

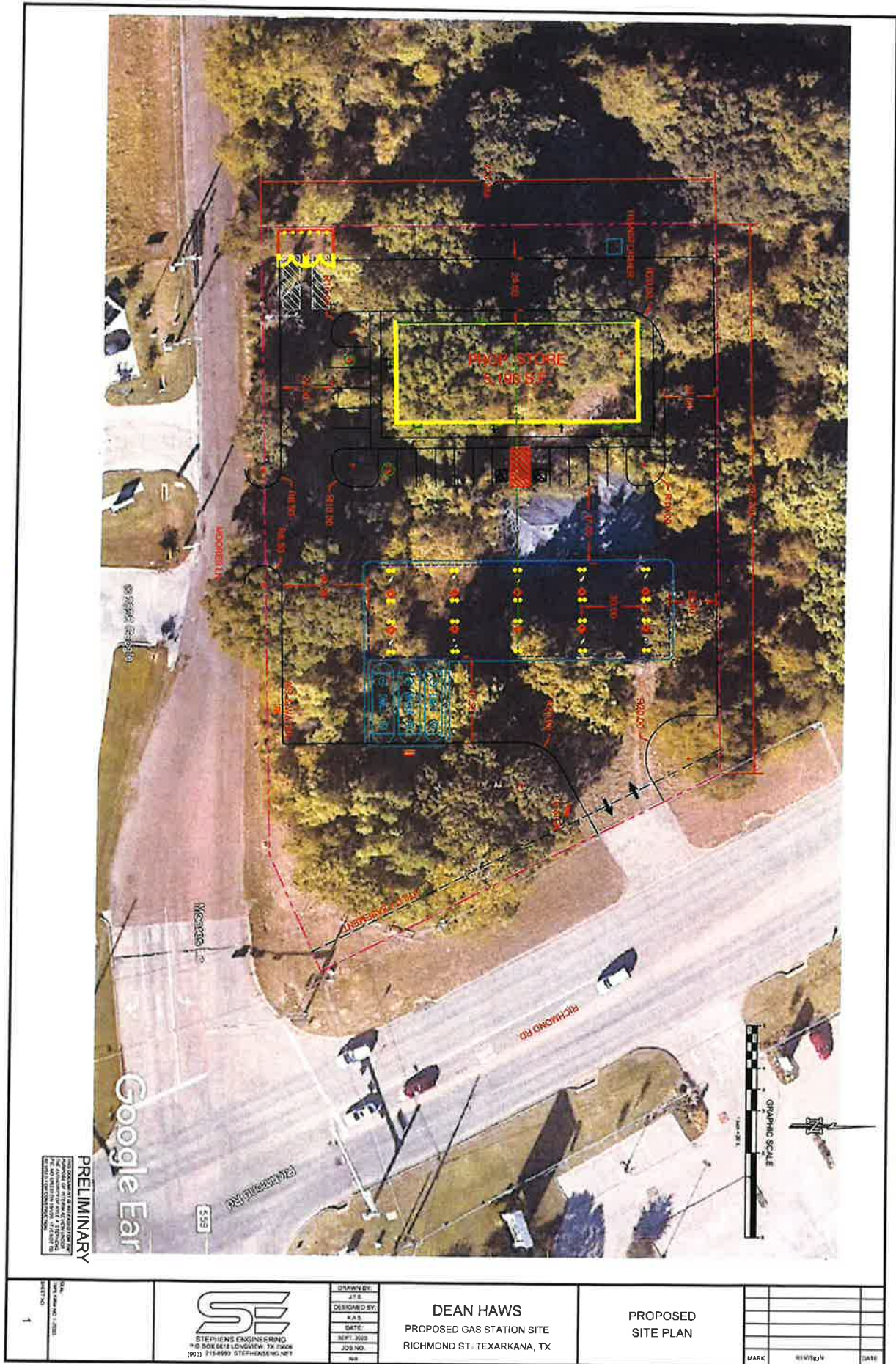
THENCE South 63 degrees 02 minutes 49 seconds West a distance of 60.00 feet along the South line of the said 3.563 acre tract and the North right-of-way line of the said Moores Lane to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, at an angle point

THENCE South 85 degrees 22 minutes 08 seconds West a distance of 83.93 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 1/2 inch steel rod, capped MTG 101011-00, set for a corner, at an angle point;

THENCE South 87 degrees 00 minutes 01 seconds West a distance of 209.70 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 1/2 inch steel rod, capped MTG 101011-00, set for a corner, said corner bears South 87 degrees 00 minutes 01 seconds West a distance of 127.08 feet to a 1 inch steel pipe (control monument) found for a corner, the Southwest corner of the said 3.563 acre tract;

THENCE North 02 degrees 59 minutes 59 seconds West a distance of 213.98 feet across the said 3.563 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner;

THENCE North 87 degrees 00 minutes 01 seconds East a distance of 257.20 feet across and through the said 3.563 acre tract to the point of beginning, and containing 1.500 acres of land at the time of this survey.



5605 Richmond Rd.



Attachment: 2020-115 ATTH 01 (maps) (2388 : 2020-115 ORD rezoning from O to PD-GR at 5605 Richmond Rd.)



5605 Richmond Rd.



Attachment: 2020-115 ATTH 01 (maps) (2388 : 2020-115 ORD rezoning from O to PD-GR at 5605 Richmond Rd.)



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:

NA

No Additional

Other Potential Impacts:

NA

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	☒	Sign Posted

Other:

Attachment: 2020-115 Goals & Perspectives (2388 : 2020-115 ORD rezoning from O to PD-GR at 5605 Richmond Rd.)

City of Texarkana, Texas

Version: E

Update Date: 11/4/2020 2:25 PM

Briefing Sheet

Lead Department: Planning and Community Development **Action Officer:** Laura Puckett, Administrative Coordinator
Subject: Ordinance No. 2020-124 amending PD-20-6(GR) for site plan approval to allow the location of a convenience store on a 1.500-acre tract of land in the John A. Talbot HRS, A-564 located at 5605 Richmond Road. Kirk Patton, owner and Richard Reynolds, agent.

Briefing: 11/9/2020 **Public Hearing:** 11/9/2020 **Council Vote:** 11/9/2020

Item ScheduleSchedule 1: Brief twice - vote once (six weeks)**Updates/History of Briefing:**

NOT APPLICABLE

Executive Summary and Background Information:

This is a request by Kirk Patton, representing PHRMG Developers, owner and Richard Reynolds, agent, for site plan approval on a 1.500-acre tract of land in the John A. Talbot HRS, A-564, located at 5605 Richmond Road. The proposed use is a national brand convenience store. This property is currently vacant land.

The adjacent zoning is Single Family-1 and Office to the north, PD- General Retail to the south, General Retail to the east and Office to the west. The adjacent land use is vacant land to the north and west office to the south and retail use and offices to the east.

The site plan consists of the following:

1. Construction of a new 5,198 sq. ft. building.
2. Masonry type façade.
3. Ten gas pumps with a canopy.
4. Access off Richmond Road and Moores Lane. Richmond Road access will require TXDOT approval.
5. A cross access agreement is required.
6. 18 parking spaces including 2 handicapped spaces.
7. A screened dumpster at the rear.
8. A monument style sign not to exceed 96 sq. ft. in size with price point fuel prices allowed on the sign. No CEVMS.

Staff recommends for approval of the site plan.

Per the Public Works and Engineering Department, the applicant should be aware that a Traffic Impact Study will be required as part of the construction plans.

City of Texarkana, Texas

Per the Fire Department, fire lanes with a 20' width and a 13' 6" overhead clearance will be required. Also, must meet the AASHTO WB40 turn radii.

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:

None

Fiscal Implications:

Not applicable

Staff Recommendation:

Staff recommends for approval of this request.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of this request.

Advisory Board/Committee Meeting Date and Minutes:

October 5, 2020

Attachments

- a. 2020-124 ORD site plan app. 5605 Richmond Rd. (DOCX)
- b. 2020-124 EXH 'A' (site plan) (PDF)
- c. 2020-124 EXH 'B' (legal description)(PDF)
- d. 2020-124 ATTH 01 (maps) (PDF)
- e. 2020-124 ATTH 02 (elevations) (PDF)
- f. 2020-124 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	10/16/2020 3:27 PM	
City Manager	Vicky Coopwood	City Manager Review Skipped
11:35 AM		10/20/2020

City of Texarkana, Texas

City Council
6:00 PM

Jennifer Evans

Meeting

Completed

10/26/2020

Meeting History

10/26/20

City Council

MOVED FORWARD

Next: 11/09/20

Amendment to
PD-20-6(GR)

ORDINANCE NO. 2020-124

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING PD-20-6(GR) FOR SITE PLAN APPROVAL TO ALLOW THE LOCATION OF A CONVENIENCE STORE ON A 1.500-ACRE TRACT OF LAND IN THE JOHN A. TALBOT HRS, A-564, LOCATED AT 5605 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’)** to allow the location of convenience store on a **1.500-acre tract of land in the John A. Talbot HRS, A-564 (Exhibit ‘B’)** located at **5605 Richmond Road** in the City of Texarkana, Bowie County, Texas; and

WHEREAS, the subject property is zoned Planned Development-Office [PD-20-6(GR)], and approval of the site plan (**Exhibit ‘A’**) would constitute an amendment to PD-20-6(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 by a vote of six (6) 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: That the site plan (**Exhibit ‘A’**) to allow the location of a convenience store on a **1.500-acre tract of land in the John A. Talbot HRS, A-564 (Exhibit ‘B’)**, located at **5605 Richmond Road** in the City of Texarkana, Texas, Bowie County, Texas, is hereby approved and hereby amends PD-20-6(GR).

SECTION 2: PD-20-6(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 5,198 sq. ft. building.
2. Masonry type façade.
3. Ten gas pumps with a canopy.
4. Access off Richmond Road and Moores Lane. Richmond Road access will require TxDOT approval.
5. A cross access agreement is required.
6. Eighteen (18) parking spaces including two (2) handicapped spaces.
7. A screened dumpster at the rear.
8. A monument style sign not to exceed 96 sq. ft. in size with price point fuel prices allowed on the sign. No CEVMS.

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.

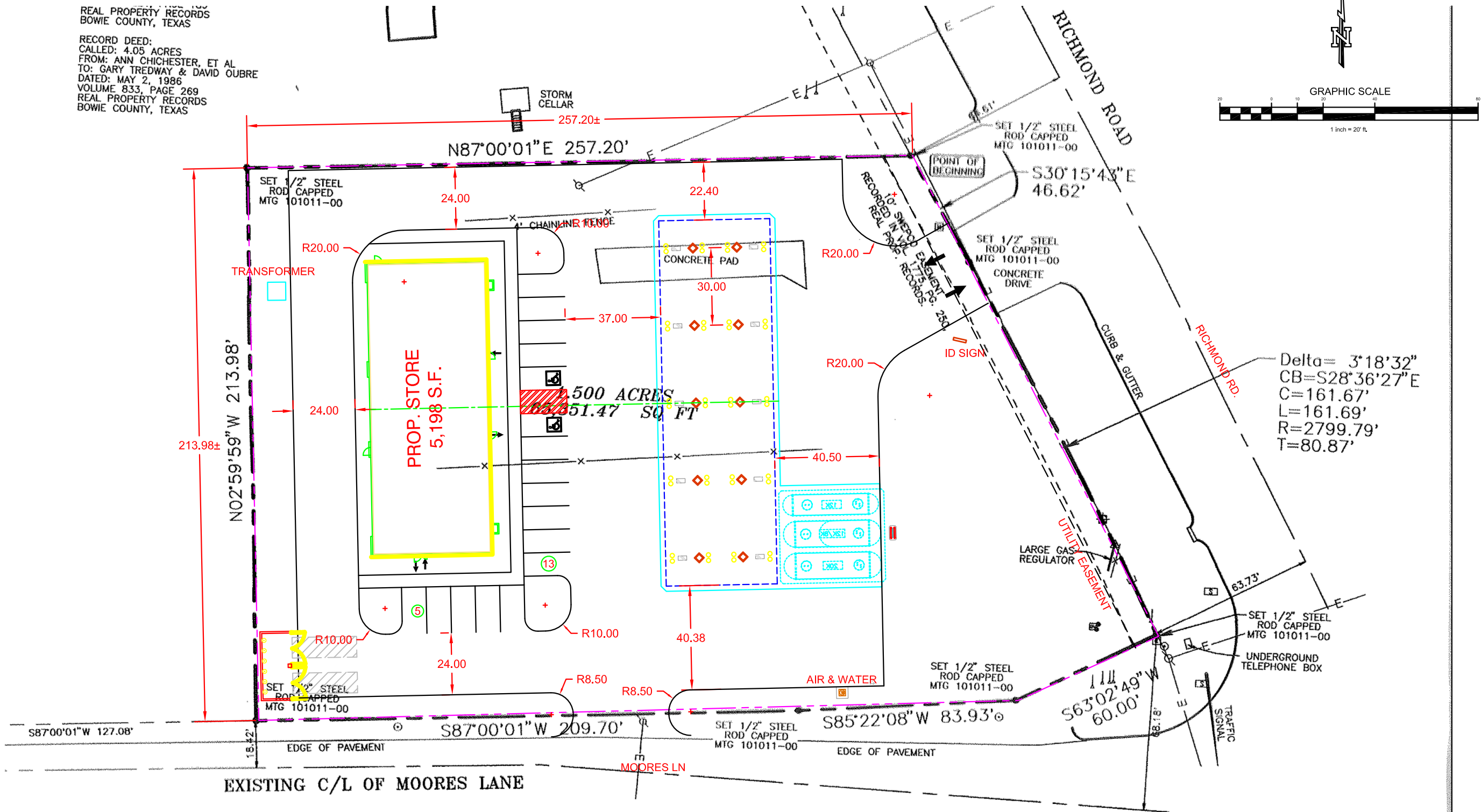
PASSED AND APPROVED in Regular Council Session on this the **9th day of November, 2020.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

REAL PROPERTY RECORDS
BOWIE COUNTY, TEXAS
RECORD DEED:
CALLED: 4.05 ACRES
FROM: ANN CHICHESTER, ET AL
TO: GARY TREDWAY & DAVID OUBRE
DATED: MAY 2, 1986
VOLUME 833, PAGE 269
REAL PROPERTY RECORDS
BOWIE COUNTY, TEXAS



PRELIMINARY

THIS DOCUMENT IS RELEASED FOR THE
PURPOSE OF INTERIM REVIEW UNDER
THE AUTHORITY OF KYLE A. STEPHENS,
P.E. NO 106333 ON 10/1/20. IT IS NOT TO
BE USED FOR CONSTRUCTION.

8.4.b

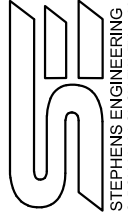
PROPOSED
SITE PLAN

DEAN HAWS
PROPOSED GAS STATION SITE
RICHMOND ST TEXARKANA TX

DRAWN BY:
J.T.S.

DESIGNED BY:
K.A.S.

DATE:
SEPT. 2020



STEPHENS ENGINEERING

SEAL:
TBPE FIRM NO. F-20395
SHEET NO.

Attachment: 2020-124 EXH 'A' (site plan) (2393 : 2020-124 ORD Amendment to PD-20-6(GR) site plan apprvl at 5605 Richmond Rd)

1

Packet Pg. 131

Property Description
1.500 Acres
Bowie County, Texas

All that certain lot, tract or parcel of land lying and situated in the John A. Talbot Headright Survey, Abstract 584, Bowie County, Texas, being part of that certain tract of land described as 3.563 acres in the deed from Patton, Haltom, Roberts, McWilliams & Grear, 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 1/2 inch steel rod, capped MTG 10111-00, set for a corner, lying in the East line of the said 3.563 acre tract, and the West right-of-way line of Farm-to-Market Road 559 (Richmond Road), said corner bears North 30 degrees 15 minutes 43 seconds West (basis of bearings) a distance of 188.18 feet to 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, and lying in the West right-of-way line of the said F.M. 559 (Richmond Road);

THENCE South 30 degrees 15 minutes 43 seconds East a distance of 46.82 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, at the beginning of a circular curve to the right;

THENCE in a Southeasterly direction along the arc of the said circular curve a distance of 161.89 feet, with a delta angle of 03 degrees 18 minutes 32 seconds, a radius of 2799.79 feet, a chord bearing of South 28 degrees 36 minutes 27 seconds East and a chord distance of 161.67 feet to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner, the Southeast corner of the said 3.563 acre tract, at the intersection of the West right-of-way line of the said Richmond Road and the North right-of-way line of Moores Lane;

THENCE South 63 degrees 02 minutes 49 seconds West a distance of 60.00 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 1/2 inch steel rod, capped MTG 101011-00, set for a corner, at an angle point

THENCE South 85 degrees 22 minutes 08 seconds West a distance of 83.93 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 1/2 inch steel rod, capped MTG 101011-00, set for a corner, at an angle point;

THENCE South 87 degrees 00 minutes 01 seconds West a distance of 209.70 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 1/2 inch steel rod, capped MTG 101011-00, set for a corner, said corner bears South 87 degrees 00 minutes 01 seconds West a distance of 127.08 feet to a 1 inch steel pipe (control monument) found for a corner, the Southwest corner of the said 3.563 acre tract;

THENCE North 02 degrees 59 minutes 59 seconds West a distance of 213.98 feet across the said 3.563 acre tract to a 1/2 inch steel rod, capped MTG 101011-00, set for a corner;

THENCE North 87 degrees 00 minutes 01 seconds East a distance of 257.20 feet across and through the said 3.563 acre tract to the point of beginning, and containing 1.500 acres of land at the time of this survey.

5605 Richmond Rd.





FRONT ELEVATION



REAR ELEVATION



LEFT ELEVATION



RIGHT ELEVATION

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:

NA

No Additional

Other Potential Impacts:

NA

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	☒	Sign Posted

Other:

City of Texarkana, Texas

Briefing Sheet

Version:

Update Date: 10/16/2020 3:07 PM

Lead Department: Planning and Community Development **Action Officer:** Laura Puckett, Administrative Coordinator
Subject: Ordinance No. 2020-116 amending PD-96-4(GR) for site plan approval on a 3.94-acre tract of land being part of Lots 10-13, Block 4, Urban Heights Addition, located on Chelf Road (between Pansy and Collom Streets). James Naples, owner and David Williams, MTG Engineers and Surveyors, agent.
Briefing: 11/9/2020 **Public Hearing:** 11/9/2020 **Council Vote:** 11/9/2020

Item Schedule

Schedule 1: Brief twice - vote once (six weeks)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Amendment to PD-96-4(GR): This is a request for site plan approval by James Naples, owner and David Williams, MTG Engineers and Surveyors, agent on a 3.94-acre tract of land being part of Lots 10-13, Block 4, Urban Heights Addition, located on Chelf Road between Pansy and Collom Streets. The proposed use is for an unattended retail/fleet fueling station. This is currently vacant land.

The adjacent zoning is Single Family-2 to the north south, east, and west. The adjacent land use is Jarvis Parkway to the west, vacant and residential land to the north and east.

This request is for site plan approval to allow the location of an unattended retail/fleet fueling station. The fueling station will be available to the general public by credit card/debit card. Fleet payment will be made through a Red River Oil Card issued to fleet user along with a credit card/debit card.

The site plan for phase one consists of the following:

1. A 200 sq ft. rest room and storage building with two parking spaces including one handicapped space with paved access.
2. Fuel pump island with a canopy.
3. Exterior façade of building will be split face block.
4. Proposed entrance off Pansy Street and proposed exit off Collom Street.
5. Proposed pavement widening of Pansy Street and proposed Collom Street extension to allow access to this site.
6. Two above ground fuel tanks that will be screened with a 10' metal fence.

City of Texarkana, Texas

7. A pylon (360 sq. ft.) sign with logo and directional (20 sq. ft.) sign with logo.
8. Additional signage on restroom and storage building.
9. Screening device along the east property line.

The site plan for the future (phase 2) includes the following:

1. A 6,000 sq. ft. office/warehouse building in the northeast corner of the site with appropriate concrete parking in front and a gravel lot in the rear.
2. Two above ground fuel tanks screened with 10' metal fence.
3. Extension of fuel pump island with canopy (to the east).

Staff recommends for approval of this request.

The applicant should also be aware that if this zoning change is approved, all other applicable city code/ordinance requirements must be met including but not limited to 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:

None.

Fiscal Implications:

Not applicable.

Staff Recommendation:

Staff recommends for approval of this request.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of this request.

Advisory Board/Committee Meeting Date and Minutes:

October 5, 2020

Attachments

- a. 2020-116 ORD site plan app. on Chelf Rd (DOCX)
- b. 2020-116 EXH 'A' (site plan) (PDF)
- c. 2020-116 ATTH 01 (maps) (PDF)
- d. 2020-116 ATTH 02 (elevations) (PDF)
- e. 2020-116 ATTH 03 (sample fencing around storage tanks) (PDF)

City of Texarkana, Texas

- f. 2020-116 ATTH 04 (samples photos) (PDF)
- g. 2020-116 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review	
Completed	10/16/2020 3:25 PM		
City Manager	Vicky Coopwood	City Manager Review Skipped	10/20/2020
11:39 AM			
City Council	Jennifer Evans	Meeting	Completed 10/26/2020
6:00 PM			

Meeting History

10/26/20	City Council	MOVED FORWARD	Next: 11/09/20
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ORDINANCE NO. 2020-116

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING PD-96-4(GR) FOR SITE PLAN APPROVAL TO ALLOW THE LOCATION OF AN UNATTENDED RETAIL/FLEET FUELING STATION ON A 3.94-ACRE TRACT OF LAND BEING PART OF LOTS 10-13, BLOCK 4, URBAN HEIGHTS ADDITION, LOCATED ON CHELF ROAD BETWEEN PANSY STREET AND COLLOM 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 requesting the approval of a **site plan (Exhibit ‘A’)** to **allow the location of an unattended retail/fleet fueling station on a 3.94-acre tract of land being part of Lots 10-13, Block 4, Urban Heights Addition, located on Chelf Road between Pansy Street and Collom Street** in the City of Texarkana, Bowie County, Texas; and

WHEREAS, the subject property is zoned Planned Development-General Retail [PD-96-4(GR)] and approval of the site plan **(Exhibit ‘A’)** would constitute an amendment to PD-96-4(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 by a vote of six (6) 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: That the site plan **(Exhibit ‘A’)** to allow **the location of an unattended retail/fleet fueling station on a 3.94-acre tract of land being part of Lots 10-13, Block 4, Urban Heights**

Addition, located on Chelf Road between Pansy Street and Collom Street in the City of Texarkana, Texas, Bowie County, Texas, is hereby approved and hereby amends PD-96-4(GR).

SECTION 2: PD-96-4(GR) is hereby amended by approval of the site plan (**Exhibit ‘A’**), incorporated herein by reference for all purposes and includes the following:

PHASE ONE

1. A 200 sq ft. restroom and storage building with two parking spaces including one handicapped space with paved access.
2. Fuel pump island with a canopy.
3. Exterior façade of building will be split face block.
4. Entrance off Pansy Street and exit off Collom Street.
5. Pavement widening of Pansy Street and Collom Street extension to allow access to this site.
6. Two above ground fuel tanks that will be screened with a 10’ metal fence.
7. A pylon sign (360 sq. ft. in size) with logo to be located 50’ above grade level off Loop 151.
8. Directional signage (20 sq. ft. in size) with logo.
9. Additional signage on restroom and storage building.
10. Screening device along the east property line.

PHASE TWO

1. A 6,000 sq. ft. office/warehouse building in the northeast corner of the site with appropriate concrete parking in front and a gravel lot in the rear.
2. Two above ground fuel tanks screened with 10’ metal fence.
3. Extension of fuel pump island with canopy (to the east).

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 **9th day of November, 2020.**

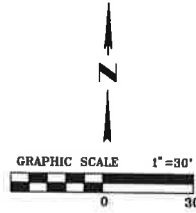
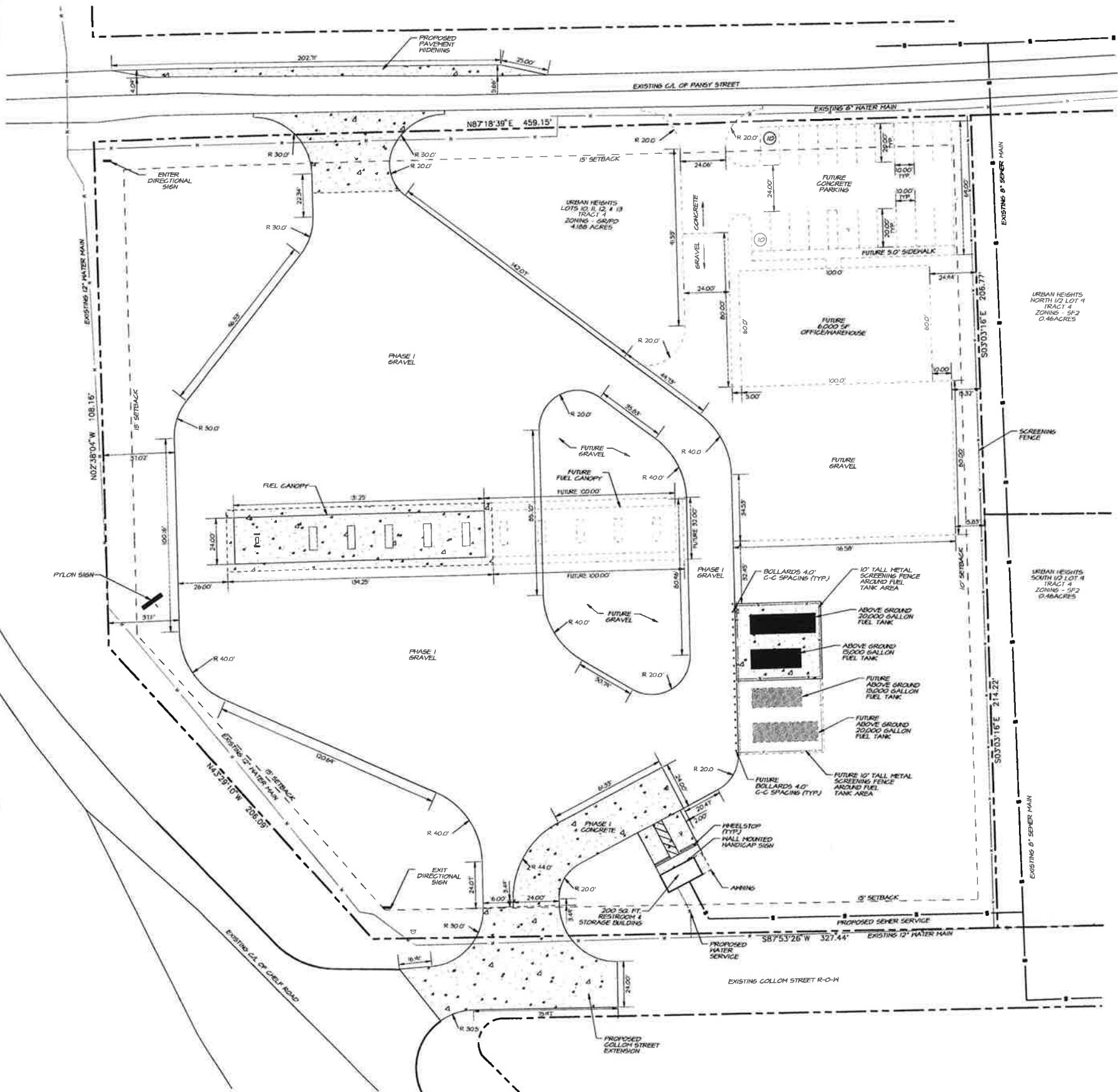
ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR



VICINITY MAP

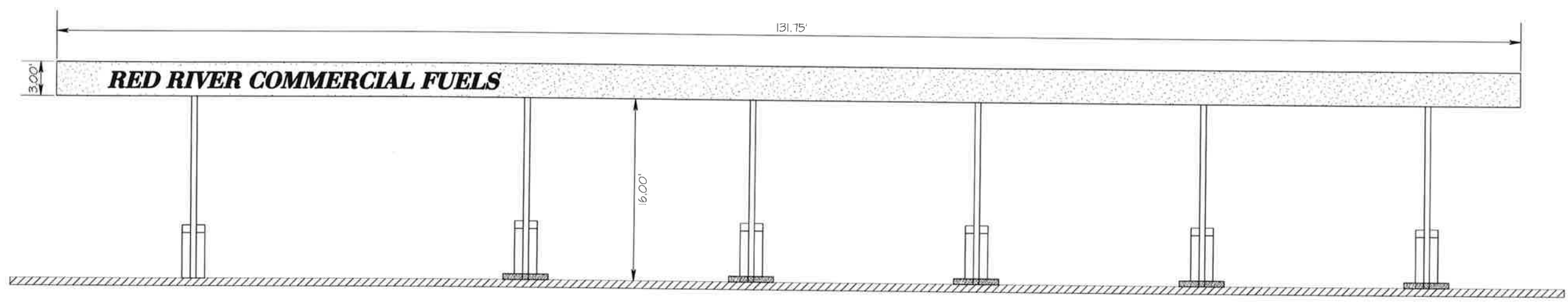


LEGEND	
	PROPERTY LINE
	CURB AND GUTTER
	BUILDING EDGE
	EDGE OF PAVEMENT
	EASEMENT
	BUILDING LINE OFFSET
	TOE OF DITCH/SLOPE
	TOP OF BANK
	OVERHEAD POWER LINE
	WATER MAIN
	SANITARY SEWER MAIN
	TELEPHONE LINE
	PROPOSED CONTOUR INT.
	EXISTING CONTOUR INT.
	SILT FENCE
	STORM DRAIN
	FIRE LANE
	SPOT ELEVATION
	POWER POLE
	WATER METER
	WATER VALVE
	CLEAN OUT
	SANITARY SEWER MANHOLE
	STORM DRAIN MANHOLE
	SIGN (TYPICAL)
	HANDICAP PARKING SYMBOL (PAINTED)
	FIRE HYDRANT
	LIGHT POLE
	GAS REGULATOR
	IRRIGATION CONTROL VALVE
	SPRINKLER HEAD
	ROOF DRAIN
	TELEPHONE JUNCTION BOX
	ELECTRIC JUNCTION BOX
	GUY WIRE
	TREE

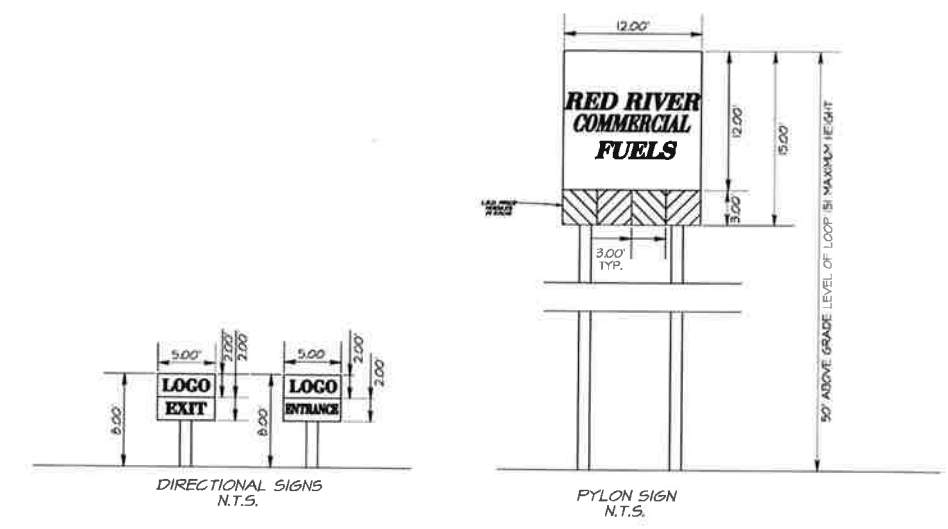
PAVEMENT SURFACE NOTE:
ALL SURFACES NOT SHOWN TO BE CONCRETE WILL BE AN ALL HEATHER GRAVEL SURFACE.

SITE DATA:
LEGAL DESCRIPTION - LOTS NUMBERED TEN (10), ELEVEN (11), TWELVE (12), AND THIRTEEN (13) IN BLOCK 4 OF THE URBAN HEIGHTS, AN ADDITION TO THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 40, PAGE 312 OF THE PLAT RECORDS OF BOWIE COUNTY TEXAS - SAVE AND EXCEPT 0.302 ACRES CONVEYED TO THE STATE OF TEXAS BY DEED OF RECORD IN VOLUME 2335, PAGE 252, REAL PROPERTY RECORDS OF BOWIE COUNTY TEXAS.
CURRENT AND PROPOSED ZONING: PLANNED DEVELOPMENT GENERAL RETAIL.
PROPOSED USE: UNATTENDED RETAIL/FLEET FUELING STATION
ADDITIONAL FUTURE USE: OFFICE/WAREHOUSE
PARKING PROVIDED:
PHASE 1 - 2 SPACES (1 HANDICAPPED)
FUTURE OFFICE/WAREHOUSE - PARKING PROVIDED = 20 SPACES
PARKING REQUIRED: 20 SPACES (1 SPACE/300 SQ FT)
SCREENING: SCREENING IN ACCORDANCE WITH THE CITY OF TEXARKANA ORDINANCES WILL BE PROVIDED FOR ADJACENT RESIDENTIAL PROPERTY ABOVE GROUND FUEL TANKS WILL BE SCREENED WITH A 10' GRAPE VINE

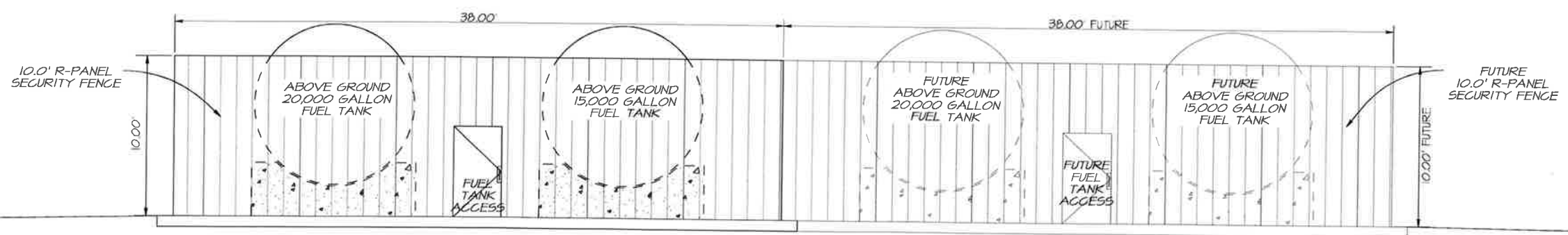
Amend PD-96-4



CANOPY ELEVATION
N.T.S.



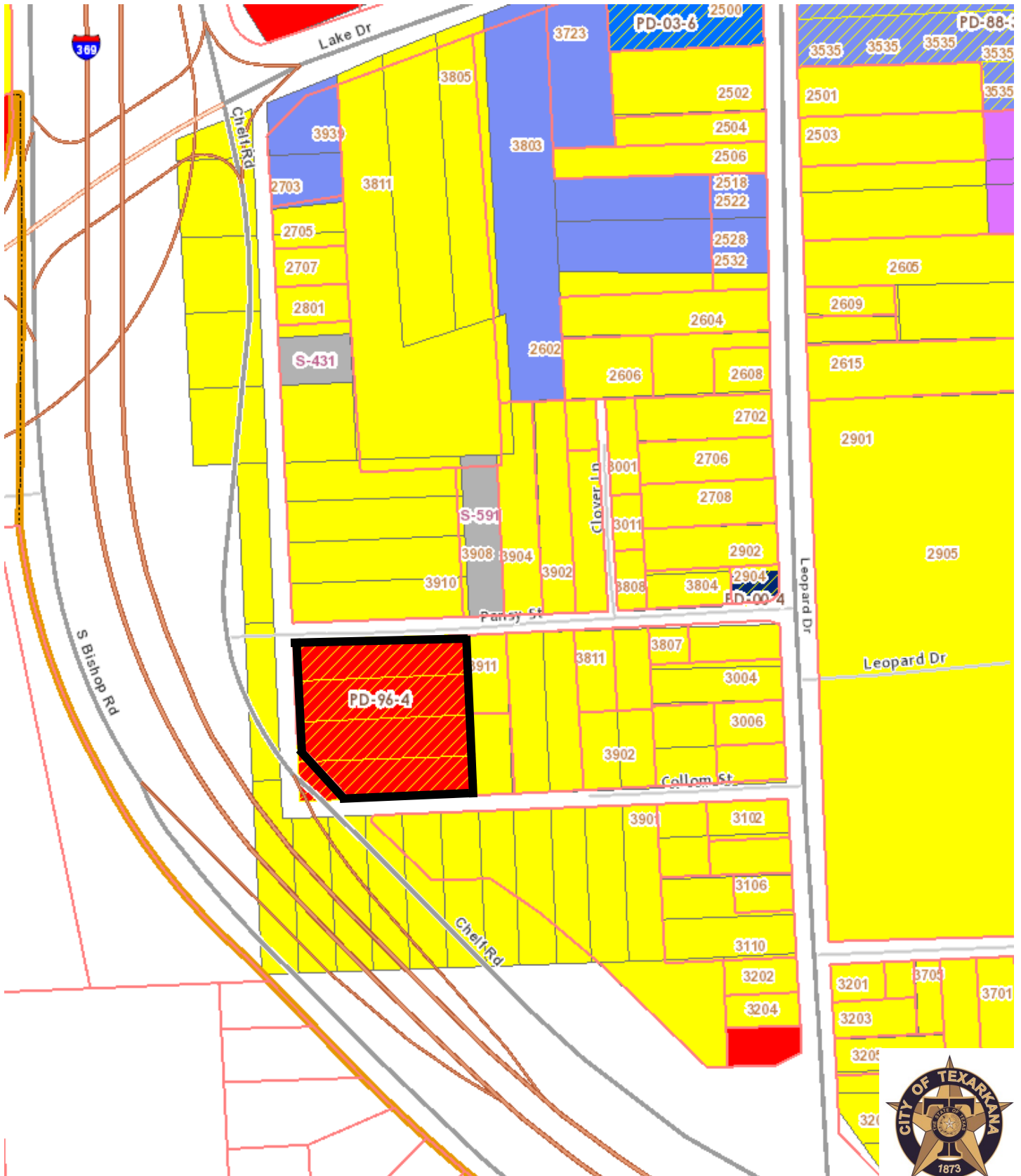
SIGN ELEVATIONS
N.T.S.



Attachment: 2020-116 EXH 'A' (site plan) (2389 : 2020-116 ORD Amendment PD-96-4(GR): on Chelf Road between Pansy & Collom)

2020-116 ATTH 01
Amend PD-96-4

Lots 10-13, Block 4 Chelf Rd.



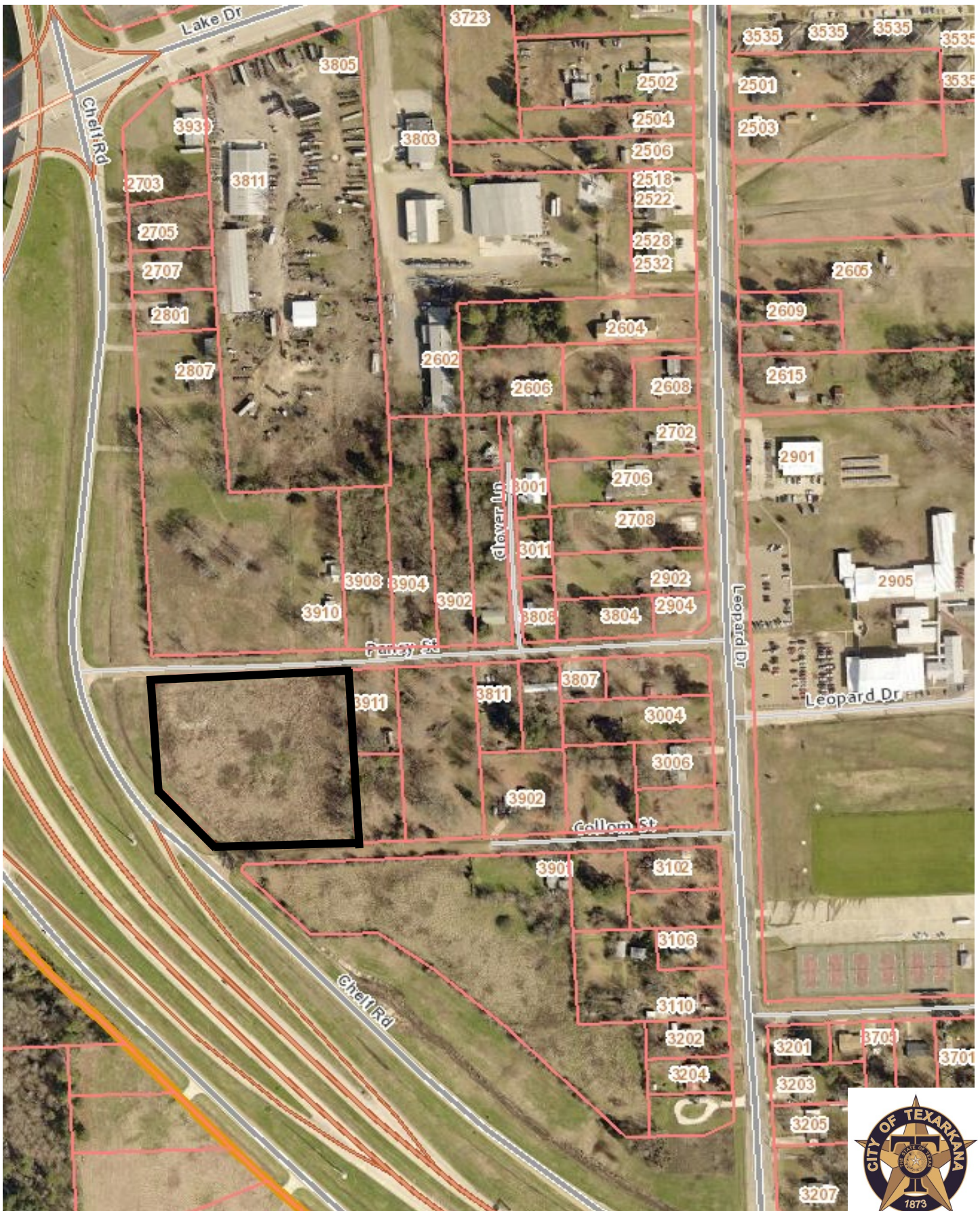
Attachment: 2020-116 ATTH 01 (maps) (2389 : 2020-116 ORD Amendment PD-96-4(GR): on Chelf Road between Pansy & Collom)



Lots 10-13, Block 4 Chelf

2020-116 ATTH 01

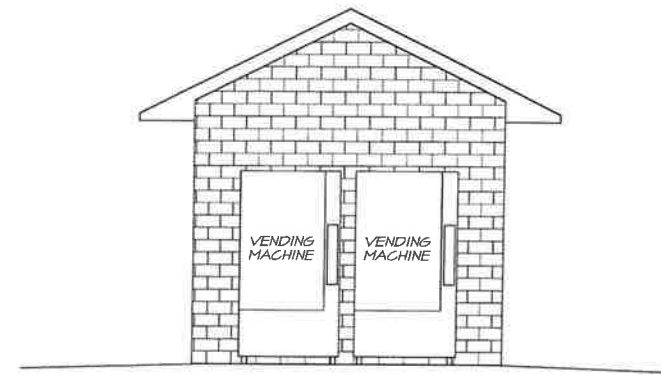
Amend PD-96-4



Attachment: 2020-116 ATTH 01 (maps) (2389 : 2020-116 ORD Amendment PD-96-4(GR): on Chelf Road between Pansy & Collom)

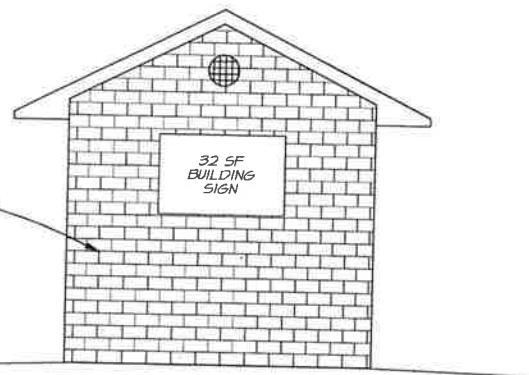


Amend PD-96-4

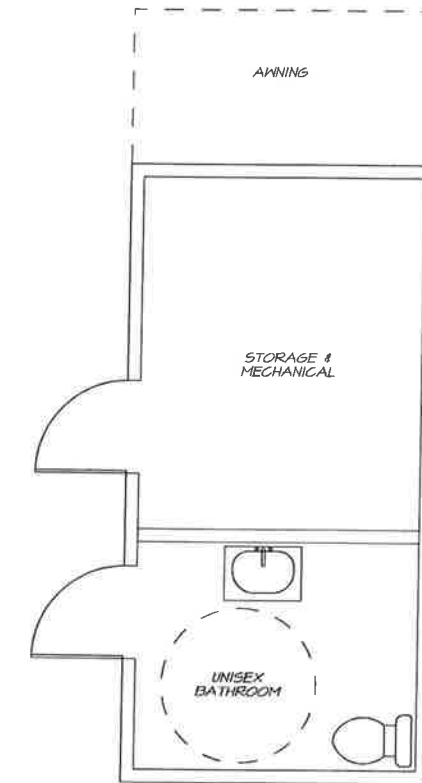


NORTH ELEVATION
N.T.S.

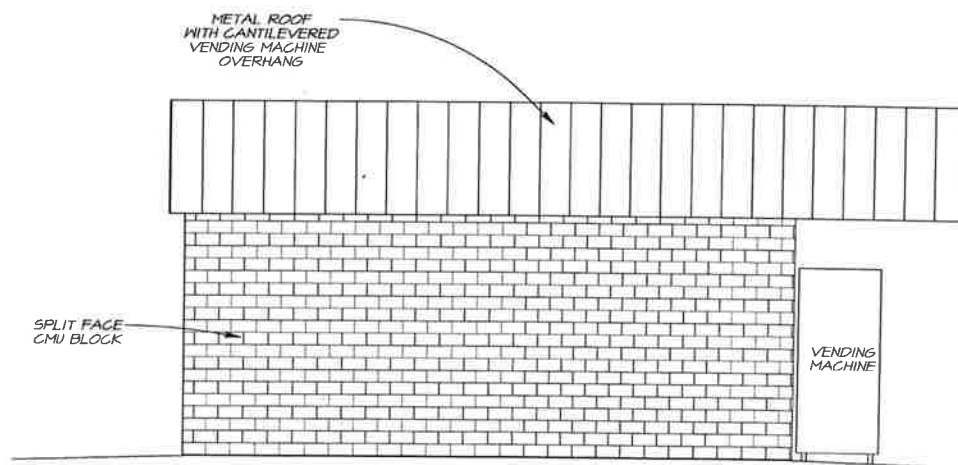
SPLIT FACE
CMU BLOCK



SOUTH ELEVATION
N.T.S.

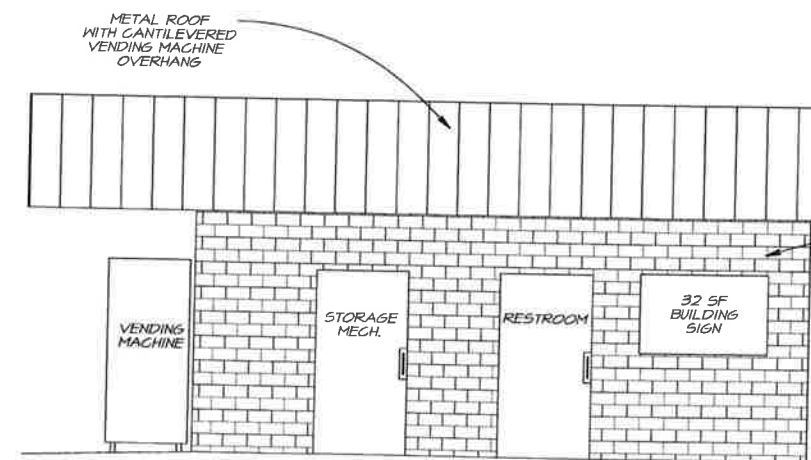


FLOOR PLAN
N.T.S.



EAST ELEVATION
N.T.S.

SPLIT FACE
CMU BLOCK



WEST ELEVATION
N.T.S.

SPLIT FACE
CMU BLOCK

Attachment: 2020-116 ATTH 02 (elevations) (2389 : 2020-116 ORD Amendment PD-96-4(GR): on Chelf Road between Pansy & Collom)





Attachment: 2020-116 ATTH 04 (samples photos) (2389 : 2020-116 ORD Amendment PD-96-4(GR): on Chelf Road between Pansy & Collom)

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:

NA

No Additional

Other Potential Impacts:

NA

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	☒	Sign Posted

Other:

City of Texarkana, Texas

Briefing Sheet

Version:

Update Date: 10/16/2020 3:07 PM

Lead Department: Planning and Community Development **Action Officer:** Laura Puckett, Administrative Coordinator
Subject: Ordinance No. 2020-117 amending PD-16-1(NS) for site plan approval on a 1.295-acre tract of land in the George Brinlee HRS, A-18, located at 4824 McKnight Road. Aaron Gaylor, dba Gaylor Equities, LLC, owner.
Briefing: 11/9/2020 **Public Hearing:** 11/9/2020 **Council Vote:** 11/9/2020

Item Schedule

Schedule 1: Brief twice - vote once (six weeks)

Updates/History of Briefing:

Not applicable.

Executive Summary and Background Information:

Amendment to PD-16-1(NS): This is a request for site plan approval by Aaron Gaylor, dba Gaylor Equities, LLC, owner, on a 1.295-acre tract of land in the George Brinlee HRS, A-18, located at 4824 McKnight Road. This is currently vacant land. The proposed use is building addition.

The adjacent zoning is Single Family-3 to the north, Agriculture to the south, PD-Office to the east, and Single Family-2 to the west. The adjacent land use is residential to the north, south, and west and vacant land to the east.

The Future Land use map designated this property as "Office Institutional".

This request is to amend the existing site plan to allow the construction of an addition behind the existing building.

The site plan consists of the following:

1. Construction of a new 3,667 sq. ft. addition to be located directly behind the existing building and connected by a corridor.
2. Façade will be painted metal wall architectural panels. The colors will match existing building.
3. Access will be from the existing driveway off Gin Road.
4. There are currently 50 parking spaces with 10 handicapped spaces. The proposed parking is 63 parking spaces and 11 handicapped spaces.
5. No additional signage is shown.

City of Texarkana, Texas

Per the fire department – “as long a the new building is no more than 150’ off Gin Road, no fire lane is needed, and if the hose lay from the fire hydrant at Gin Road and McKnight Road is not more than 400’ an additional fire hydrant is not needed.”

Staff recommends for approval of this request.

The applicant should also be aware that if this zoning change is approved, all other applicable city code/ordinance requirements must be met including but not limited to 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:

None.

Fiscal Implications:

Not applicable.

Staff Recommendation:

Staff recommends for approval of this request.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of this request.

Advisory Board/Committee Meeting Date and Minutes:

October 5, 2020

Attachments

- a. 2020-117 ORD site plan app. at 4824 McKnight Rd (DOCX)
- b. 2020-117 EXH 'A' (legal description) (PDF)
- c. 2020-117 EXH 'B' (site plan) (PDF)
- d. 2020-117 ATTH 01 (maps) (PDF)
- e. 2020-117 ATTH 02 (elevations) (PDF)
- f. 2020-117 ATTH 03 (proposed colors to match existing bldg) (PDF)
- g. 2020-117 ATTH 04 (photos of existing building) (PDF)
- h. 2020-117 Goals & Perspectives (DOCX)

City of Texarkana, Texas

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	10/16/2020 3:26 PM	
City Manager	Vicky Coopwood	City Manager Review Skipped
11:38 AM		10/20/2020
City Council	Jennifer Evans	Meeting
6:00 PM		Completed 10/26/2020

Meeting History

10/26/20	City Council	MOVED FORWARD	Next: 11/09/20
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ORDINANCE NO. 2020-117

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING PD-16-1(NS) FOR SITE PLAN APPROVAL TO ALLOW CONSTRUCTION OF A NEW BUILDING ON A 1.295-ACRE TRACT OF LAND IN THE GEORGE BRINLEE HRS, A-18, LOCATED AT 4824 MCKNIGHT 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’)** to **allow construction of a new building on a 1.295-acre tract of land in the George Brinlee HRS, A-18 (Exhibit ‘B’), located at 4824 McKnight Road** in the City of Texarkana, Bowie County, Texas; and

WHEREAS, the subject property is zoned Planned Development-Neighborhood Service [PD-16-1(NS)] and approval of the site plan (**Exhibit ‘A’**) would constitute an amendment to PD-16-1(NS); and

WHEREAS, the proposed use is consistent with the listed uses in the Land Development Code for the zoning classification of Planned Development-Neighborhood Service; 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 by a vote of six (6) 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: That the site plan (**Exhibit ‘A’**) to allow the construction of a **new building on a 1.295-acre tract of land in the George Brinlee HRS, A-18, located at 4824 McKnight Road** in

the City of Texarkana, Texas, Bowie County, Texas, is hereby approved and hereby amends PD-16-1(NS).

SECTION 2: PD-16-1(NS) 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 3,667 sq. ft. building to be located directly behind the existing building and connected by a corridor.
2. Façade will be painted metal wall architectural panels. The colors will match existing building.
3. Access will be from the existing driveway off Gin Road.
4. There are currently 50 parking spaces with 10 handicapped spaces. The proposed parking is 63 parking spaces and 11 handicapped spaces.
5. No additional signage is shown.

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 **9th day of November, 2020.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

DESCRIPTION of all that certain tract or parcel of land being a part of the GEORGE BRINLEE HEADRIGHT SURVEY, Abstract No. 18, Bowie County, Texas, being a part of a 7 acre tract of land conveyed by Helen Lukas to Valentine A. Lukas, and being the same tract of land conveyed to Valentine A. Lukas Revocable Living Trust by Warranty Deed recorded in Volume 3687, Page 8 of the Real Property Records of Bowie County, Texas, and the subject tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a nail found for corner in Gin Road at a point located S 02°28'05" E, 25.00 feet from the Northwest corner of said Lukas 7.00 acre tract of land and also the Northwest corner of a certain 4.603 acre tract of land conveyed to Ralph McDowell and wife, Tammy McDowell, by Warranty Deed recorded in Volume 4121, Page 311 of the Real Property Records of Bowie County, Texas;

THENCE: N 87°40'28" E, 143.11 feet to a 5/8" iron pin found for corner;

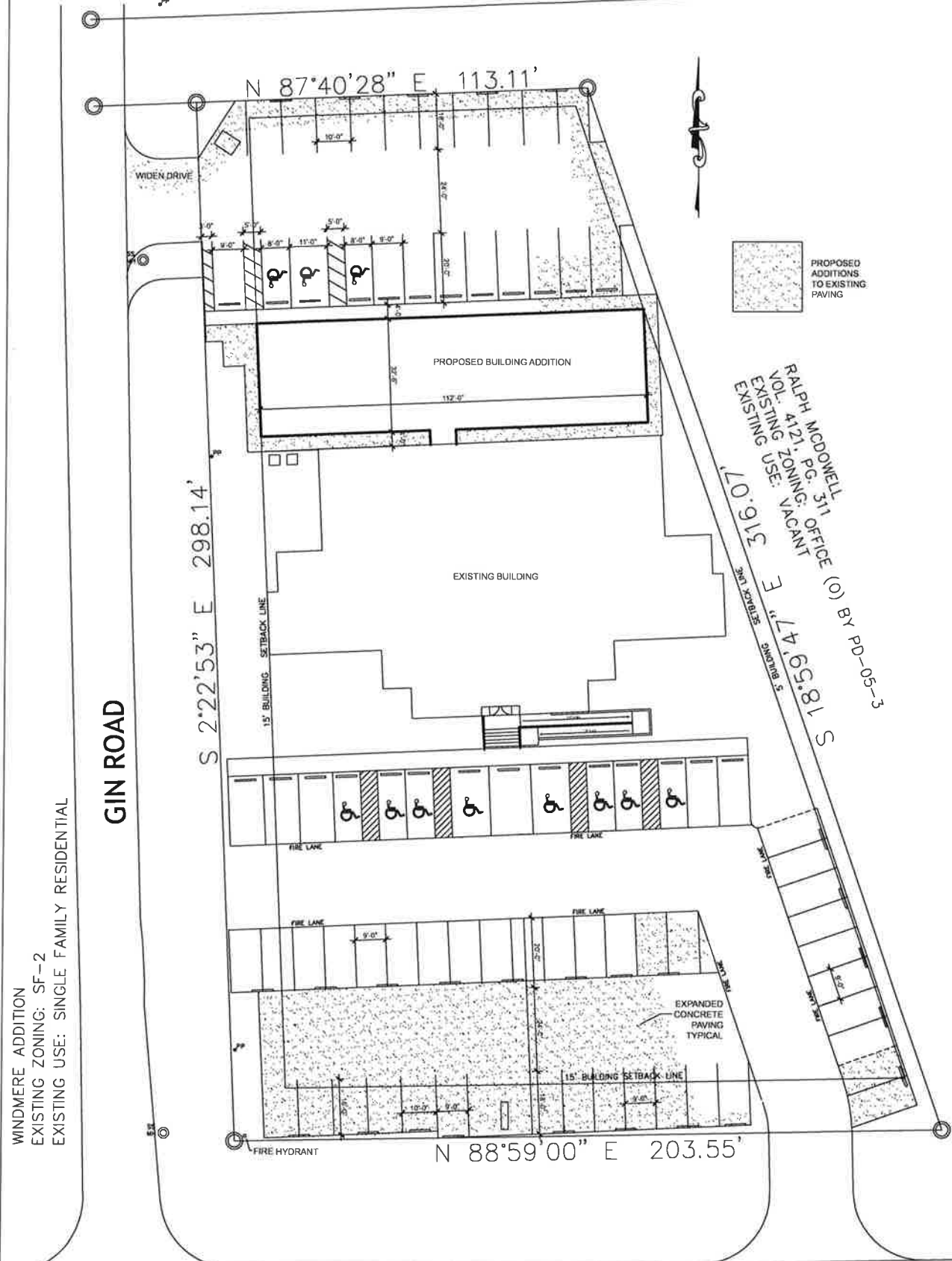
THENCE: S 18°59'47" E, 316.07 feet to a 1/2" iron pin found for corner on the North right-of-way line of F. M. Highway No. 1297 (McKnight Road);

THENCE: S 88°59'00" W, 233.56 feet with the North right-of-way line of F. M. Highway No. 1297 to a point for corner in Gin Road;

THENCE: N 02°22'53" W, 0.49 feet to a nail found for reference and continuing for a total distance of 297.45 feet with the West line of said Lukas tract to the POINT OF BEGINNING;

CONTAINING 1.295 acres of land, more or less.

LESS DEDICATED RIGHT-OF-WAY = 1.09 ACRES



WINDMERE ADDITION
 EXISTING ZONING: SF-2
 EXISTING USE: SINGLE FAMILY RESIDENTIAL

GIN ROAD

N 87°40'28" E 113.11'

WIDEN DRIVE

PROPOSED BUILDING ADDITION

EXISTING BUILDING

15' BUILDING SETBACK LINE

FIRE LANE

FIRE HYDRANT

EXPANDED CONCRETE PAVING TYPICAL

15' BUILDING SETBACK LINE

N 88°59'00" E 203.55'

EXISTING ZONING: VACANT
 EXISTING USE: VACANT

RALPH McDOWELL
 VOL. 4121 P. 311
 OFFICE (O) BY PD-05-3

S 2°22'53" E 298.14'

S 10°36'17" E 174.418

S 18°56'31" E 311

F. M. HIGHWAY NO. 1297 (McKNIGHT ROAD)

913 293 3300
 design build consultants
 Design Build
 Consultants

PROPOSED TEXARKANA THERAPY EXPANSION
 4824 MCKNIGHT ROAD, TEXARKANA TEXAS
 3640 SF ADDITION TO EXISTING 7850 SF

2020-117 ATTH 01

Amend PD-16-1

4824 McKnight



Attachment: 2020-117 ATTH 01 (maps) (2390 : 2020-117 ORD Amendment PD-16-1(NS): at 4824 McKnight Rd)

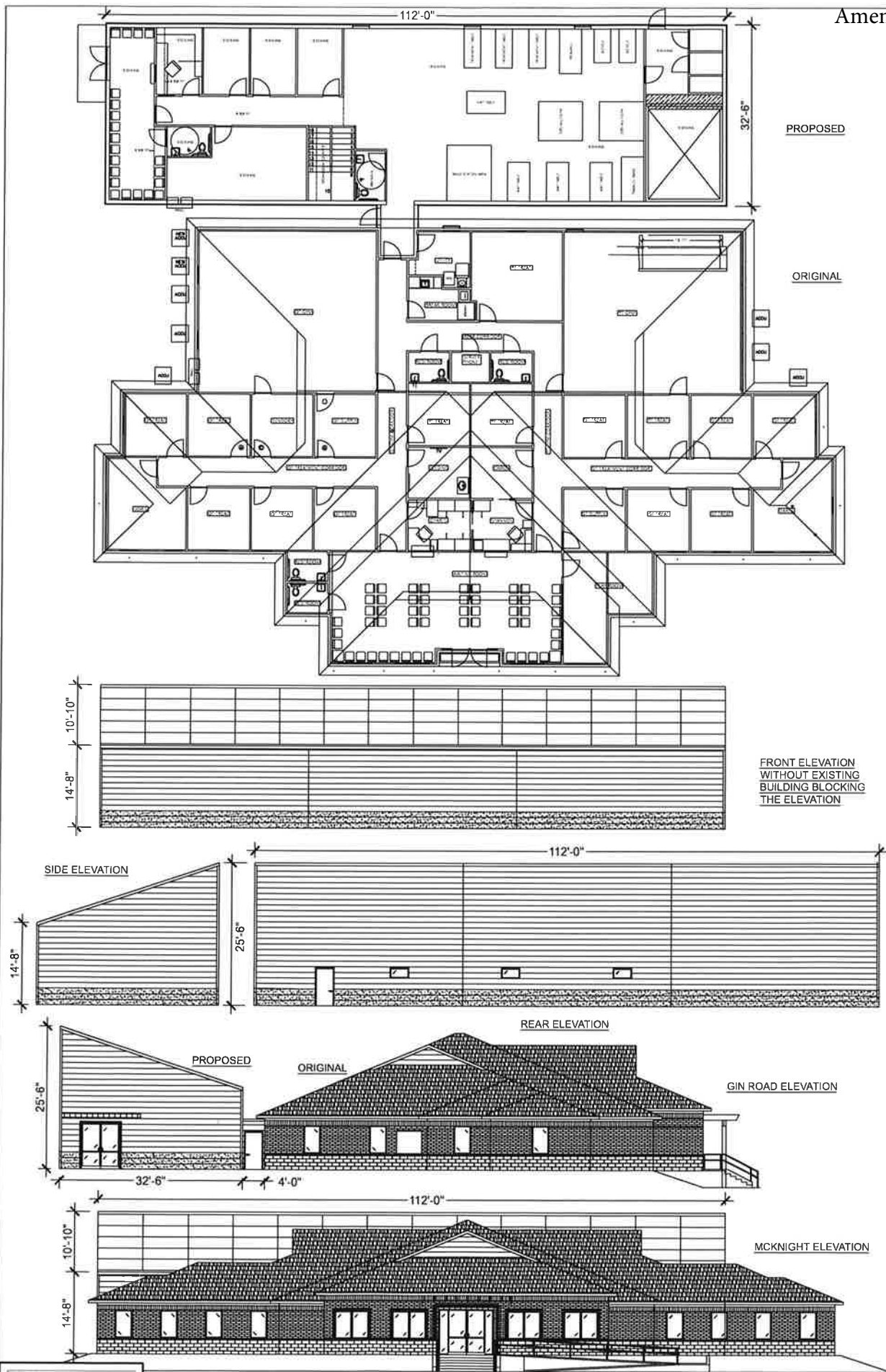


4824 McKnight



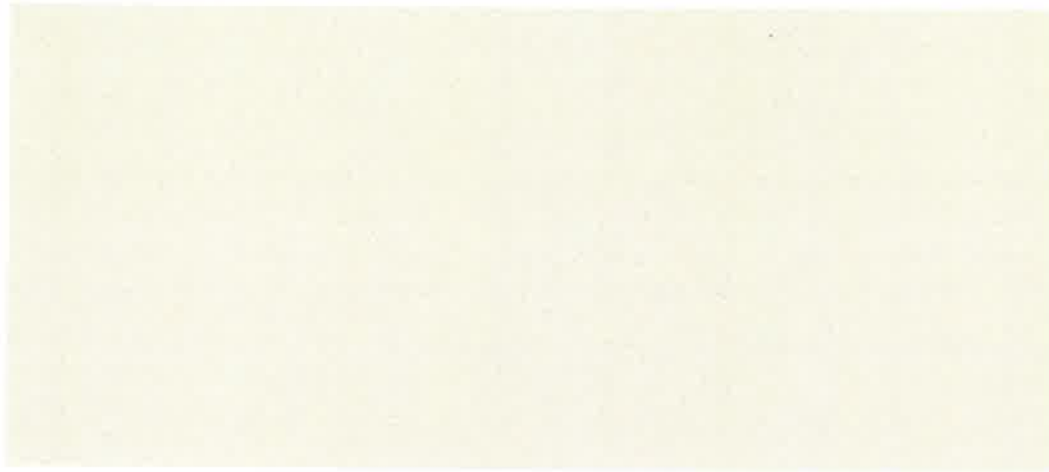
Attachment: 2020-117 ATTH 01 (maps) (2390 : 2020-117 ORD Amendment PD-16-1(NS): at 4824 McKnight Rd)





3020-070-0001
Design Build
Consultants
Texas Permit # 00001-Schaeffer/0000000001

PROPOSED TEXARKANA THERAPY EXPANSION
4824 MCKNIGHT ROAD, TEXARKANA TEXAS
3640 SF ADDITION TO EXISTING 7850 SF



POLAR WHITE★

Proposed colors



SLATE GRAY★



Proposed facade

Aaron Gaylor, P.E.
President
Design Build Consultants

Attachment: 2020-117 ATTH 03 (proposed colors to match existing bldg) (2390 : 2020-117 ORD Amendment PD-16-1(NS): at 4824 McKnight Rd)



Attachment: 2020-117 ATTH 04 (photos of existing building) (2390 : 2020-117 ORD Amendment PD-16-







Attachment: 2020-117 ATTH 04 (photos of existing building) (2390 : 2020-117 ORD Amendment PD-16-



Attachment: 2020-117 ATTH 04 (photos of existing building) (2390 : 2020-117 ORD Amendment PD-16-



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:

NA

No Additional

Other Potential Impacts:

NA

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	☒	Sign Posted

Other:

City of Texarkana, Texas

Version:

Update Date: 10/16/2020 3:08 PM

Briefing Sheet

Lead Department: Planning and Community Development **Action Officer:** Laura Puckett, Administrative Coordinator
Subject: Ordinance No. 2020-118 amending PD-01-9(GR) for site plan approval on a 1.156-acre tract of land being Lot B Replat, Block 1, Walsh Carter Master Tract, located at 5001 Cowhorn Creek Road. The Saxton Group (McAlister's Deli), owner and Angela Marie Odom, Odom Architects, agent.

Briefing: 11/9/2020 **Public Hearing:** 11/9/2020 **Council Vote:** 11/9/2020

Item ScheduleSchedule 1: Brief twice - vote once (six weeks)**Updates/History of Briefing:**

Not applicable.

Executive Summary and Background Information:

Amendment to PD-01-9(GR): This is a request for site plan approval by The Saxton Group (McAlister's Deli), owner and Angela Marie Odom, Odom Architects, agent on a 1.156-acre tract of land being Lot B Replat, Block 1, Walsh Carter Master Tract, located at 5001 Cowhorn Creek Road. The proposed use is a pick up/drive thru window.

The adjacent zoning is Agriculture to the north and west, and PD-Commercial to the south and east. The adjacent land use is vacant land to the north and west, office to the east, and hotel to the south.

The Future Land use map designated this property as "Regional Commercial".

This request is to amend the existing site plan to allow construction of a new pick-up/drive-thru window on the rear side of the existing building.

The site plan consists of the following:

1. Removing an existing storage/refrigeration building located at the rear of the building.
2. Constructing a new 684 sq. ft. addition at the rear of the existing building.
3. Façade of addition will be EIFS (stucco).
4. Adding a pick-up/drive-thru lane along north side of the building. Pick-up/drive-thru lane will remove 7 existing parking spaces.
5. The proposed new parking is 73 parking spaces and 4 handicapped spaces. This meets code parking requirements.

City of Texarkana, Texas

6. Access will be the existing driveway off Cowhorn Creek Road and North Cowhorn Creek Loop.
7. Wall signage will be provided on pick-up/drive-thru building.

Staff recommends for approval of this request.

The applicant should also be aware that if this zoning change is approved, all other applicable city code/ordinance requirements must be met including but not limited to 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:

None.

Fiscal Implications:

Not applicable.

Staff Recommendation:

Staff recommends for approval of this request.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of this request.

Advisory Board/Committee Meeting Date and Minutes:

October 5, 2020

Attachments

- a. 2020-118 ORD site plan app. at 5001 Cowhorn Creek (DOCX)
- b. 2020-118 EXH 'A' (site plan) (PDF)
- c. 2020-118 ATTH 01 (maps) (PDF)
- d. 2020-118 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development
Completed

David Orr
10/16/2020 3:26 PM

Department Head Review

City of Texarkana, Texas

City Manager 11:37 AM	Vicky Coopwood	City Manager Review Skipped	10/20/2020
City Council 6:00 PM	Jennifer Evans	Meeting Completed	10/26/2020

Meeting History

10/26/20	City Council	MOVED FORWARD	Next: 11/09/20
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ORDINANCE NO. 2020-118

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING PD-01-9(GR) FOR SITE PLAN APPROVAL TO THE ALLOW THE CONSTRUCTION OF PICK-UP/DRIVE-THRU WINDOW ON A 1.156-ACRE TRACT OF LAND BEING LOT B REPLAT, BLOCK 1, WALSH CARTER MASTER TRACT, LOCATED AT 5001 COWHORN CREEK 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’)** to **allow the construction of a pick-up/drive-thru window on a 1.156-acre tract of land being Lot B Replat, Block 1, Walsh Carter Master Tract, located at 5001 Cowhorn Creek Road** in the City of Texarkana, Bowie County, Texas; and

WHEREAS, the subject property is zoned Planned Development-General Retail [PD-01-9(GR)] and approval of the site plan **(Exhibit ‘A’)** would constitute an amendment to PD-01-9(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 by a vote of six (6) 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: That the site plan **(Exhibit ‘A’)** to allow the construction of a **pick-up/drive-thru window on a 1.156-acre tract of land being Lot B Replat, Block 1, Walsh Carter Master**

Tract, located at 5001 Cowhorn Creek Road in the City of Texarkana, Texas, Bowie County, Texas, is hereby approved and hereby amends PD-01-9(GR).

SECTION 2: PD-01-9(GR) is hereby amended by approval of the site plan (**Exhibit ‘A’**), incorporated herein by reference for all purposes and includes the following:

1. Removing an existing storage/refrigeration building located at the rear of the building.
2. Constructing a new 684 sq. ft. addition at the rear of the existing building.
3. Façade of addition will be EIFS (stucco).
4. Adding a pick-up/drive-thru lane along north side of the building. Pick-up/drive-thru lane will remove 7 existing parking spaces.
5. The proposed new parking is 73 parking spaces and 4 handicapped spaces.
6. Access will be the existing driveways off Cowhorn Creek Road and North Cowhorn Creek Loop.
7. Wall signage will be provided on pick-up/drive-thru 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.

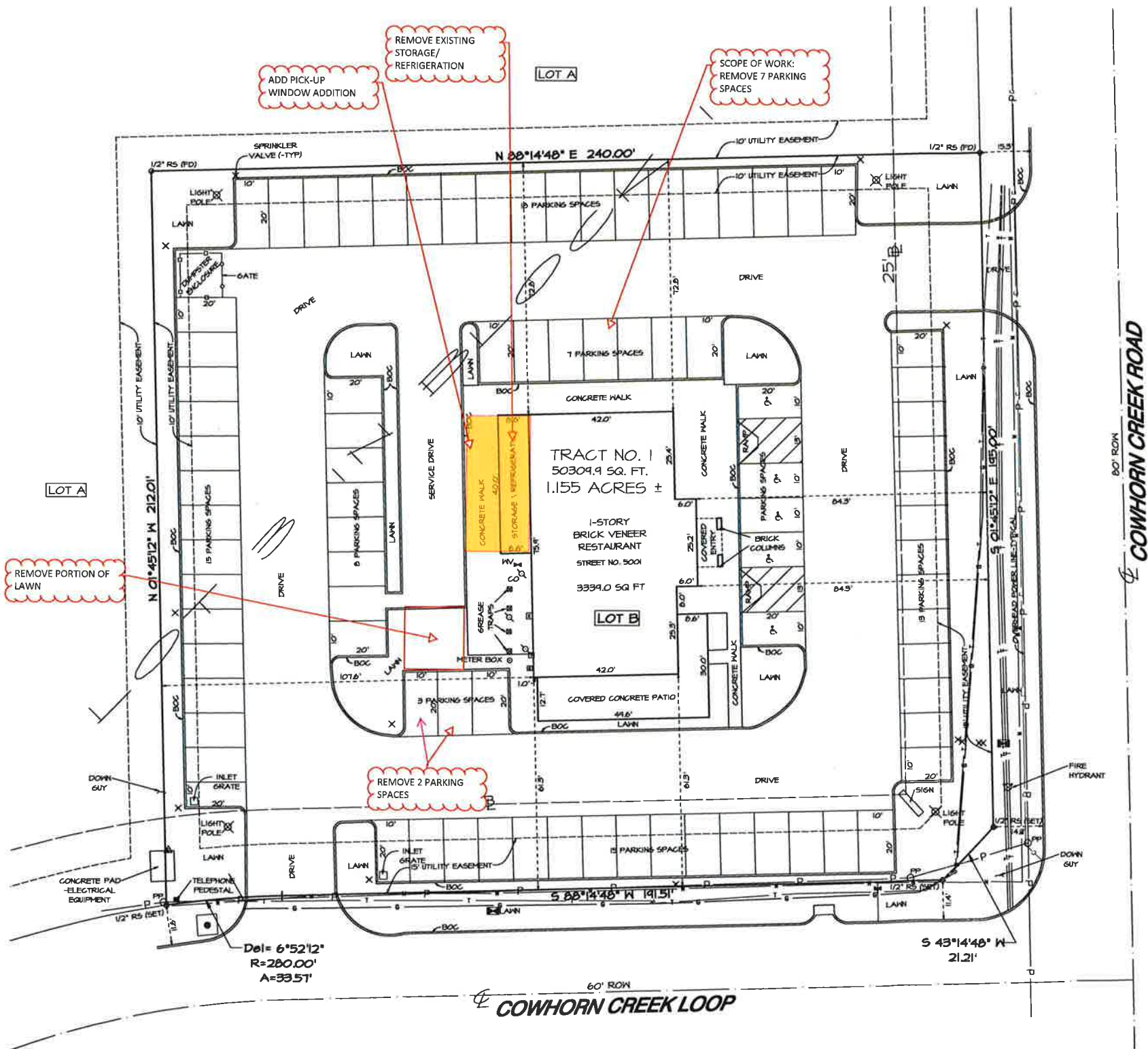
SECTION 5: That this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this the **9th day of November, 2020.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR



LEGEND

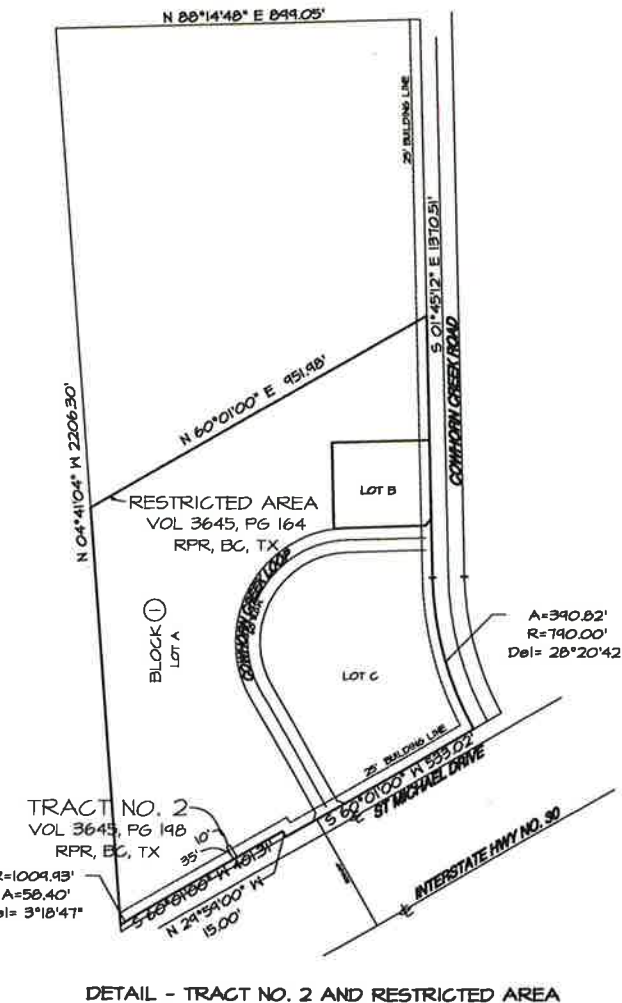
X	EXISTING WATERLINE
P	EXISTING OVERHEAD ELECTRIC POWER
T	EXISTING TELEPHONE LINES
C	EXISTING OVERHEAD CABLE TELEVISION
G	EXISTING GAS
—	CENTER LINE
⊠	EXISTING GAS METER
⊠	EXISTING FIRE HYDRANT
⊠	EXISTING WATER VALVE
⊠	SET MONUMENT (1/2" REIN. STEEL-24" LONG)
⊠	FOUND IN PLACE
⊠	LIGHT POLE
⊠	TELEPHONE PEDESTAL
⊠	ELECTRIC PEDESTAL
⊠	EXISTING DOWNSGUY WIRES
⊠	MANHOLE/SANITARY SEWER
⊠	POWER POLE
⊠	MANHOLE/STORM SEWER
⊠	TELEPHONE SERVICE BOX
⊠	WATER METER



DESCRIPTION OF PROPERTY:

TRACT NO. 1:
Lot "B" of the REPLAT OF LOT 3, BLOCK 1, WALSH-CARTER MASTER TRACT as shown on plat recorded in Volume 3630 Property Records of Bowie County, Texas.

TRACT NO. 2:
Non-exclusive Easement as created in Easement Agreement by Rayfield Nash, Jr. and Pauline Marie Carter Group, LLC, dated February 15, 2007, recorded, Page 190, Real Property Records, Bowie County, Texas, across a portion of Lot A of the REPLAT OF LOT 3, BLOCK 1, WALSH-CARTER MASTER TRACT as shown on plat recorded, Page 29, Real Property Records of Bowie County, Texas, described in said instrument.



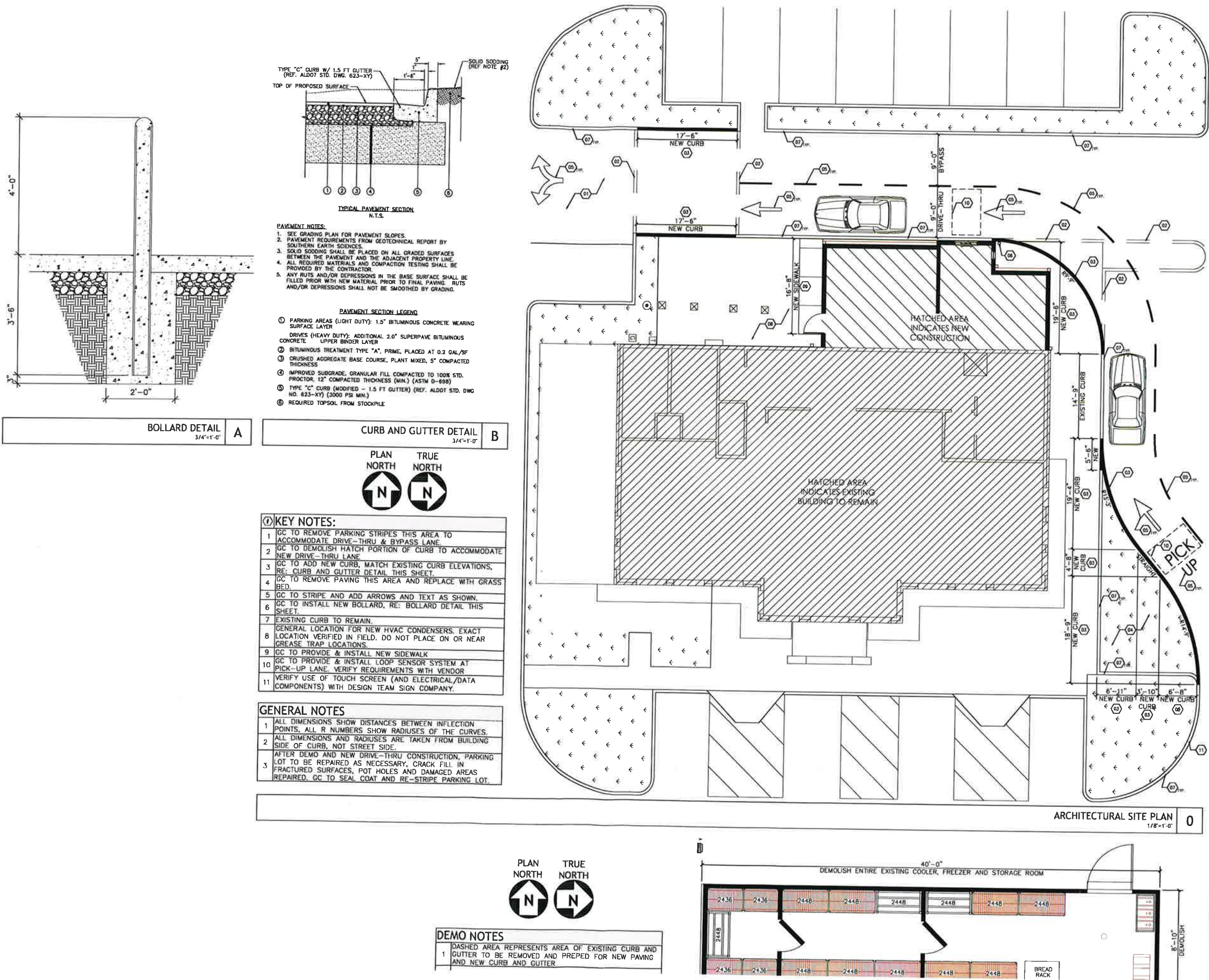
THIS DRAWING IS AN UNOFFICIAL COPY OF A PRIOR SURVEY FOR REFERENCE PURPOSES ONLY. IT IS NOT TO BE RELIED UPON AS A LEGAL SURVEY AS CONFIDENTIAL INFORMATION IS AN INSTRUMENT OF SERVICE AND THE PROPERTY OF THE SURVEYOR. IT WILL NOT BE USED ON OTHER PROJECTS, FOR THE EXTENSION OF THIS PROJECT, OR FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN APPROVAL OF THE SURVEYOR.

Richard V. Hall, Jr.
Texas Registered Land Surveyor #2003
April 19, 2007

NOTES:

1. BY GRAPHIC PLOTTING ONLY, TRACT NO. 1 APPEARS TO BE WITHIN ZONE X OF FIRM COMMUNITY PANEL NUMBER 480060 00050 WITH A REVISION DATE OF SEPTEMBER 3, 1992.
2. THERE IS NO OBSERVABLE EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS WITHIN RECENT MONTHS.
3. AS PER THE CITY OF TEXARKANA, TEXAS PUBLIC WORKS DEPARTMENT ON 04/19/07, THEY ARE NOT AWARE OF ANY PROPOSED CHANGES IN STREET RIGHT-OF-WAY LINES FOR COWHORN CREEK ROAD OR COWHORN CREEK LOOP.
4. THERE IS NO OBSERVABLE EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.

THIS DRAWING IS AN UNOFFICIAL COPY OF A PRIOR SURVEY FOR REFERENCE PURPOSES ONLY. IT IS NOT TO BE RELIED UPON AS A LEGAL SURVEY AS CONFIDENTIAL INFORMATION IS AN INSTRUMENT OF SERVICE AND THE PROPERTY OF THE SURVEYOR. IT WILL NOT BE USED ON OTHER PROJECTS, FOR THE EXTENSION OF THIS PROJECT, OR FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN APPROVAL OF THE SURVEYOR.



MCALISTER'S DELI

5001 Cowhorn Creek Road

PROJECT 08/3.06.20

CONSTRUCTION DOCUMENTS

REGISTERED ARCHITECT
ANGELA M. ODOM
STATE OF TEXAS
25130
09.04.2020

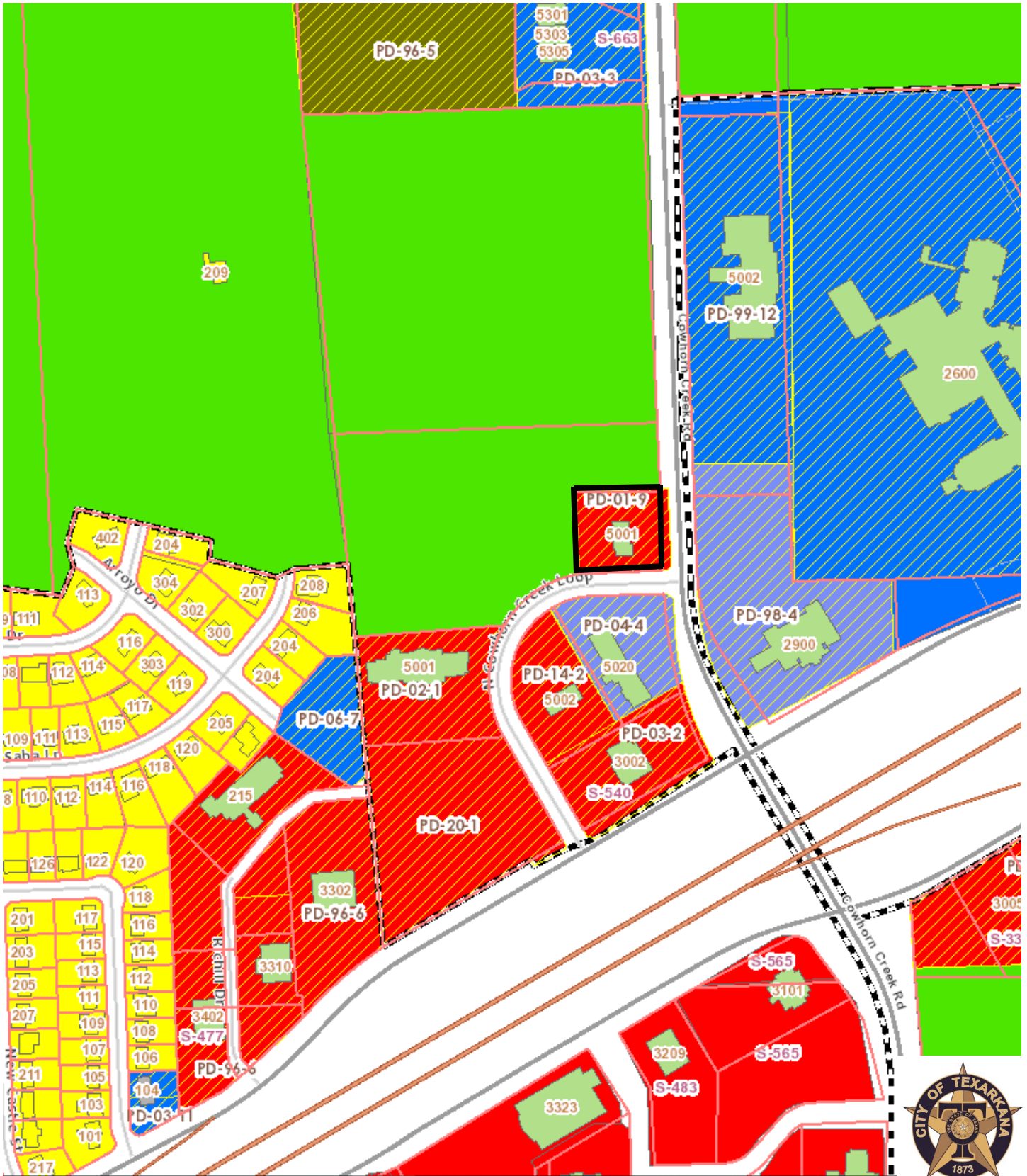
Angela M. Odom
Architect
4877 Pecan Ridge E, Mobile, AL 36688

Packet Pg. 174

2020-118 EXH 'A' (site plan) (2391 : 2020-118 ORD Amendment PD-01-9(GR) at 5001 Cowhorn Creek Rd)

2020 ALL RIGHTS RESERVED BY ODOM ARCHITECTS, P.C. UNAUTHORIZED USE OR REPRODUCTION IS PROHIBITED WITHOUT WRITTEN CONSENT FROM ODOM ARCHITECTS, P.C.

5001 Cowhorn Creek Rd.



Attachment: 2020-118 ATTH 01 (maps) (2391 : 2020-118 ORD Amendment PD-01-9(GR) at 5001 Cowhorn Creek Rd)



5001 Cowhorn Creek Rd.



Attachment: 2020-118 ATTH 01 (maps) (2391 : 2020-118 ORD Amendment PD-01-9(GR) at 5001 Cowhorn Creek Rd)



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:

NA

No Additional

Other Potential Impacts:

NA

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	☒	Sign Posted

Other:

City of Texarkana, Texas

Version: A

Update Date: 11/2/2020 8:53 AM

Briefing Sheet

Lead Department: Public Works Department **Action Officer:** Dusty Henslee,
Ordinance No. 2020-121 amending the City's Traffic Register to establish a
twenty-five miles per hour (25 mph) school zone speed limit for sections of
Galleria Oaks Drive, Christus Drive, and Sam Warren Drive in the vicinity of
Subject: the Pleasant Grove Margaret Fischer Davis Elementary School on school days.

Briefing: 11/9/2020 **Public Hearing:** 11/9/2020 **Council Vote:** 11/9/2020

Item Schedule

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

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Pleasant Grove ISD is currently constructing the new elementary school on Galleria Oaks Drive. As part of the approved construction plans, the City required the design engineer to establish the proposed school zones. The proposed school zones will be 25 mph typically between 7:15 a.m. to 8:15 a.m. and 2:30 p.m. to 3:30 p.m. when school is in session. The proposed locations are shown in Exhibit 'A' and listed below:

- a. The section of Galleria Oaks Drive from approximately 140' east of the intersection of Cowhorn Creek Road to approximately 150' east of the intersection with Christus Drive on school days when children are present, or when the school zone flashing beacons are operational, typically between 7:15 a.m. - 8:15 a.m. and 2:30 p.m. - 3:30 p.m.
- b. The section of Christus Drive between from Galleria Oaks Drive to a point approximately 150' north of the intersection with Sam Warren Drive on school days when children are present, or when the school zone flashing beacons are operational, typically between 7:15 a.m. - 8:15 a.m. and 2:30 p.m. - 3:30 p.m.
- c. The section of Sam Warren Drive from Christus Drive to a point approximately 100' east of the intersection with Cowhorn Creek Road on school days when children are present, or when the school zone flashing beacons are operational, typically between 7:15 a.m. - 8:15 a.m. and 2:30 p.m. - 3:30 p.m.

If approved these changes will be added and kept in the City's Traffic Register.

Potential Options:

- Approve school zones
- Not approve school zones

Fiscal Implications:

City of Texarkana, Texas

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. 2020-121 ORD School Zone for PG Elementary School (DOC)
- b. 2020-121 EXH 'A' PG Elem School Zone Map (PDF)
- c. 2020-121 Goals & Perspectives (DOCX)

Staff Coordination

Public Works Department	Jonathan Wade	Review	Completed
10/13/2020 10:36 AM			
Public Works Department	Dusty Henslee	Department Head Review	
Completed	10/13/2020 10:54 AM		
Police	Kevin Schutte	Review	Completed 10/20/2020
9:10 AM			
Planning and Community Development	David Orr	Review	Completed
10/20/2020 10:40 AM			
City Manager	Vicky Coopwood	City Manager Review Skipped	10/20/2020
11:42 AM			
City Council	Jennifer Evans	Meeting	Completed 10/26/2020
6:00 PM			

Meeting History

10/26/20	City Council	MOVED FORWARD	Next: 11/09/20
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ORDINANCE NO. 2020-121

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE CITY'S TRAFFIC REGISTER TO ESTABLISH A TWENTY-FIVE MILES PER HOUR (25 MPH) SCHOOL ZONE SPEED LIMIT FOR SECTIONS OF GALLERIA OAKS DRIVE, CHRISTUS DRIVE, AND SAM WARREN DRIVE IN THE VICINITY OF THE PLEASANT GROVE MARGARET FISCHER DAVIS ELEMENTARY SCHOOL ON SCHOOL DAYS WHEN CHILDREN ARE PRESENT, OR WHEN THE SCHOOL ZONE FLASHING BEACONS ARE OPERATIONAL, TYPICALLY BETWEEN 7:15 A.M. - 8:15 A.M. AND 2:30 P.M. - 3:30 P.M. — ON GALLERIA OAKS DRIVE FROM APPROXIMATELY 140 FEET EAST OF THE INTERSECTION OF COWHORN CREEK ROAD TO APPROXIMATELY 150 FEET EAST OF THE INTERSECTION WITH CHRISTUS DRIVE, ON CHRISTUS DRIVE FROM GALLERIA OAKS TO A POINT APPROXIMATELY 150 FEET NORTH OF THE INTERSECTION WITH SAM WARREN DRIVE, AND ON SAM WARREN DRIVE FROM CHRISTUS DRIVE TO A POINT APPROXIMATELY 100 FEET EAST OF THE INTERSECTION WITH COWHORN CREEK ROAD; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Pleasant Grove Independent School District has constructed a new elementary school on property in the vicinity of Galleria Oaks Drive, Christus Drive, and Sam Warren Drive; and

WHEREAS, the present and posted speed limits (a) for Galleria Oaks Drive between Summerhill Road and Cowhorn Creek Road is established at maximum speed of forty miles per hour (40 mph), (b) for Christus Drive between Galleria Oaks Drive and Moore's Lane is established at maximum speed of thirty-five miles per hour (35 mph), and (c) for Sam Warren Drive between Cowhorn Creek Road and Christus Drive is established at maximum speed of thirty-five miles per hour (35 mph); and

WHEREAS, City staff recommends establishing the following school zone speed limit for the roadways in the vicinity of the school district's new elementary school — on school days, when children are present, or when the school zone flashing beacons are operational, typically between 7:15 a.m. - 8:15 a.m. and 2:30 p.m. - 3:30 p.m., set the speed limit at **twenty-five miles per hour (25 mph)** for Galleria Oaks Drive from approximately 140' east of the intersection of Cowhorn Creek Road to approximately 150' east of the intersection with Christus Drive, for Christus Drive from Galleria Oaks Drive to a point approximately 150' north of the intersection with Sam Warren Drive, and for Sam Warren Drive from Christus Drive to a point approximately 100' east of the intersection with Cowhorn Creek Road — and City staff submits that establishing this school zone speed limit would be in the best interest and safety of the citizens of the City of Texarkana, Texas.

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

SECTION 1: The City's Traffic Register is hereby amended to create and define a school zone speed limit for sections of Galleria Oaks Drive, Christus Drive, and Sam Warren Drive in the vicinity of the Pleasant Grove Margaret Fischer Davis Elementary School as follows and as shown on "**EXHIBIT A**" incorporated herein by reference for all purposes:

Pleasant Grove Margaret Fischer Davis Elementary School zone speed limit – sections of streets; penalty.

- (a) The section of Galleria Oaks Drive from approximately 140' east of the intersection of Cowhorn Creek Road to approximately 150' east of the intersection with Christus Drive on school days when children are present, or when the school zone flashing beacons are operational, typically between 7:15 a.m. - 8:15 a.m. and 2:30 p.m. - 3:30 p.m., is regulated as to the speed of motor vehicles traveling thereon, and it shall be unlawful for the driver of any motor vehicle to drive said vehicle within said section, in each direction, at a speed in excess of twenty-five miles per hour (25 mph).
- (b) The section of Christus Drive between from Galleria Oaks Drive to a point approximately 150' north of the intersection with Sam Warren Drive on school days when children are present, or when the school zone flashing beacons are operational, typically between 7:15 a.m. - 8:15 a.m. and 2:30 p.m. - 3:30 p.m., is regulated as to the speed of motor vehicles traveling thereon, and it shall be unlawful for the driver of any motor vehicle to drive said vehicle within said section, in each direction, at a speed in excess of twenty-five miles per hour (25 mph).
- (c) The section of Sam Warren Drive from Christus Drive to a point approximately 100' east of the intersection with Cowhorn Creek Road on school days when children are present, or when the school zone flashing beacons are operational, typically between 7:15 a.m. - 8:15 a.m. and 2:30 p.m. - 3:30 p.m., is regulated as to the speed of motor vehicles traveling thereon, and it shall be unlawful for the driver of any motor vehicle to drive said vehicle within said section, in each direction, at a speed in excess of twenty-five miles per hour (25 mph).
- (c) The hereinabove speed for vehicular traffic traveling upon the designated street in each direction is hereby found to be a reasonable and safe prima facie speed limit therefor.
- (d) The Director of Public Works is hereby authorized and directed to require the erection of appropriate signs indicating the prima facie speed limit herein established.
- (e) Any person violating any provision of this section shall upon conviction be deemed guilty of a misdemeanor and shall be fined in a sum not to

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exceed Two Hundred Dollars (\$200.00).

SECTION 2: The City Council finds and determines that the speed limit changes for each and every section of the roadways as described in Section 1, above, are reasonable and safe, and are in the best interest and safety of the citizens of the City of Texarkana, Texas; and that any speed in excess of the twenty-five miles per hour (25 MPH) limit for the sections of the roadways described in Section 1, above, shall be prima facie evidence that the speed is not reasonable, not prudent, and unlawful.

SECTION 3: The City Secretary shall give notice of the passage of this ordinance as provided in Article XI, Section 3 of the Charter of the City of Texarkana, Texas.

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

PASSED AND APPROVED in Regular Council Session on this the **9th day of November, 2020.**

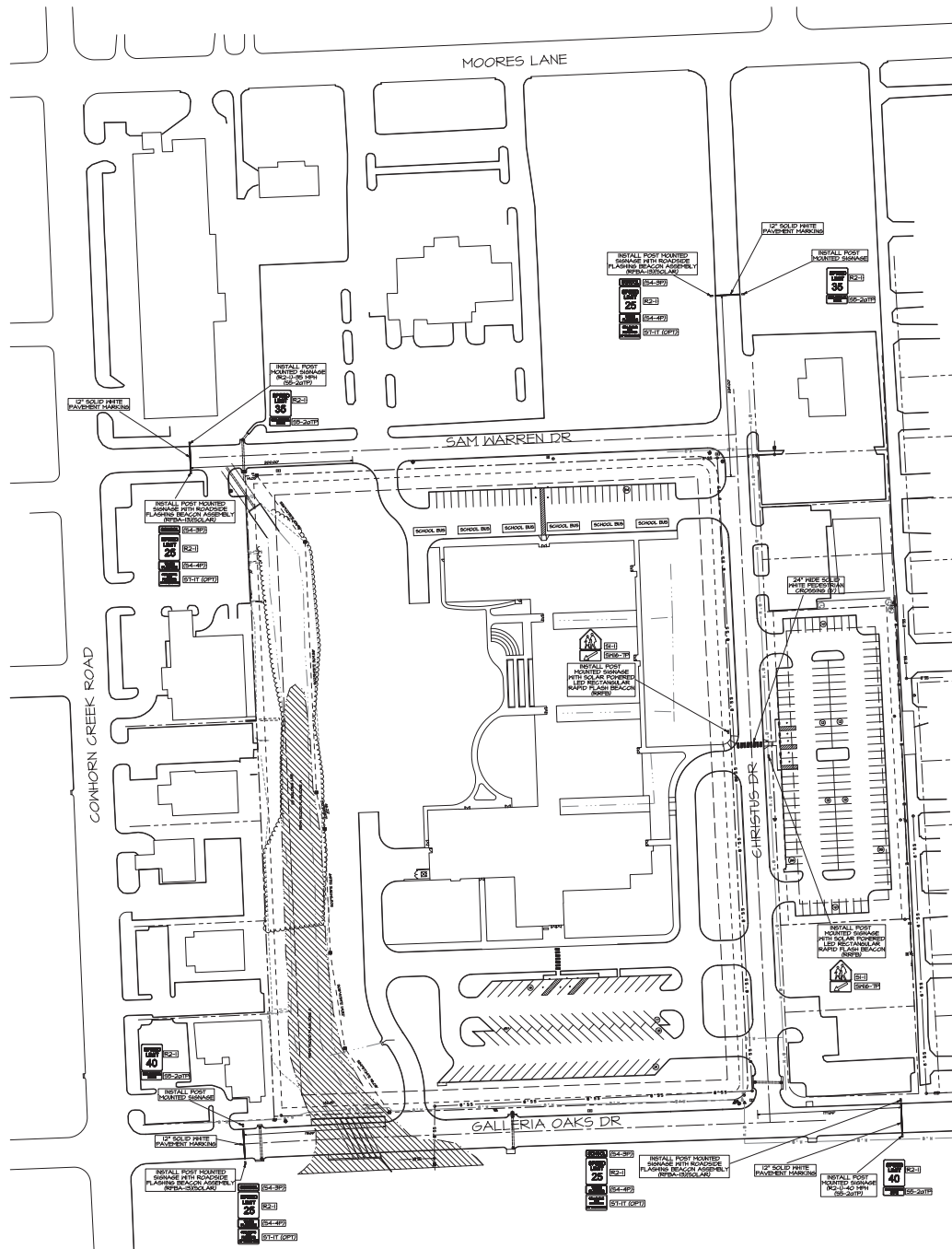
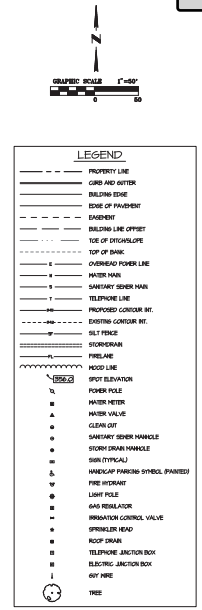
ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Attachment: 2020-121 EXH 'A' PG Elem School Zone Map (2384 : 2020-121 ORD Establishing school zones

2 SHEET ADDED PER CITY COMMENTS DATED 8-26-18



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: