



CITY OF TEXARKANA

CITY COUNCIL

AGENDA • DECEMBER 10, 2018

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

Josh 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 BY COUNCIL MEMBER BETTY WILLIAMS**
- III. MAYOR'S REMARKS AND ITEMS OF COMMUNITY INTEREST**

Upcoming City Council Meetings:

Monday, January 14, 2019 at 6:00 p.m.

Monday, January 28, 2019 at 6:00 p.m.

Parks & Recreation Events:

December 12th Senior Day Out Christmas Celebration Southwest Center

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

Appointments to Boards & Commissions

Council Members Annual Board Appointments Review

- IV. ITEMS FOR CONSIDERATION**

Consent Items

1. Consider approval of the minutes of the Regular Meeting of the City Council held on November 13, 2018 at 6:00 PM.
2. Consider approval of the minutes of the Joint City Committee Special Meeting of the City Council held on November 20, 2018 at 3:00 PM.

3. Consider approval of the minutes of the Regular Meeting of the City Council held on November 26, 2018 at 6:00 PM.
4. Resolution No. 2018-137 authorizing the City Manager to enter into a contract with Francis Excavation of Nash, Texas, utilizing CDBG funds for an amount not to exceed \$73,366.19, for the Robison Road and Norris Cooley sidewalk project.

Public Hearing:

Council Vote: December 10, 2018

5. Resolution No. 2018-138 authorizing the City Manager to enter into a contract with Texarkana Concrete Construction, Inc. of Texarkana, Texas, utilizing CDBG funds for an amount not to exceed \$120,694.04 for the New Boston Road Rosehill sidewalk project.

Public Hearing:

Council Vote: December 10, 2018

6. Resolution No. 2018-148 authorizing the City Manager to enter into a contract with Bazan Painting Company of St. Louis, Missouri, for the Millwood WTP - Settling Basin Interior Repairs/Liner Project, utilizing Millwood Water Treatment Plant Depreciation funds, in an amount with the Texas portion not to exceed \$186,700.21 and the total amount not to exceed \$297,246.00.

Public Hearing:

Council Vote: December 10, 2018

Open Forum: Comments from the public (Limit 5 minutes each)

Per Council rules adopted April 9, 2018, agenda items scheduled for a public hearing or which have already had a public hearing are not to be addressed at the "Open Forum".

Action Items

7. Resolution No. 2018-139 adopting recommended revisions to the Employee Handbook.

Public Hearing:

Council Vote: December 10, 2018

8. Resolution No. 2018-140 approving and authorizing the City Manager to execute the agreement between the City and Valley View Consulting, L.L.C. to provide professional investment advisory services for the City's investable funds for a period of two (2) years.

Public Hearing:

Council Vote: December 10, 2018

9. Resolution No. 2018-149 approving a settlement agreement benefiting the City in the Liquid Aluminum Sulfate Antitrust Litigation and delegating authority to the City Manager or designee to approve the agreement on behalf of the City.

Public Hearing:

Council Vote: December 10, 2018

V. FIRST BRIEFINGS

VI. PUBLIC HEARINGS

1. Ordinance No. 2018-128 rezoning a 1.13 acre tract of land in the Thomas Price HRS, A-466, located at 3303 New Boston Road. Single Family-2 to Planned Development-General Retail. Virgilio Martinez, applicant.

Public Hearing: December 10, 2018

Council Vote: December 10, 2018

2. Ordinance No. 2018-129 granting a Specific Use Permit to allow an outdoor automobile sales business on a 1.13 acre tract of land in the Thomas Price HRS, A-466, located at 3303 New Boston Road. Virgilio Martinez, applicant.

Public Hearing: December 10, 2018

Council Vote: December 10, 2018

3. Ordinance No. 2018-130 granting a Specific Use Permit to allow a tattoo studio on a 2.41 acre tract of land in the Willis Oldham HRS, A-458, located at 4501 State Line Avenue (tenant space 120), Hayco Realty, LTD, applicant. Brian A. Harris, agent.

Public Hearing: December 10, 2018

Council Vote: December 10, 2018

4. Ordinance No. 2018-131 rezoning a 0.784 acre tract of land in the George Brinlee HRS, A-18, located at 4602 McKnight Road. Single Family-2 to Office. Teresa Liepman, applicant.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

5. Ordinance No. 2018-133 amending the Code of Ordinances by adding Section 100-6. - "Certificate of Occupancy" to the Land Development Code.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

6. Resolution No. 2018-142 approving the Community Development Block Grant (CDBG) Comprehensive Assessment Performance Evaluation Report.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

7. Ordinance No. 2018-145 amending Chapter 18 of the Code of Ordinances to allow for residential outdoor burning by permit and amending the master fee list to include a residential outdoor burning fee.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

8. Resolution No. 2018-143 considering a Texas Department of Housing and Community Affairs (TDHCA) housing tax credit development application for the Reserve at Cowhorn.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

9. Resolution No. 2018-144 considering a Texas Department of Housing and Community Affairs (TDHCA) housing tax credit development application for the Reserve at Summerhill.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

VII. ITEMS FOR DISCUSSION

Staff Updates

VIII. ADMINISTRATIVE COMMENTS

1. City Council
2. City Staff

IX. 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).

Briefing Sheet

Version:
Update Date: 10/16/2018 3:55 PM

Lead Department: City Manager

Action Officer: Jennifer Evans, City Secretary

Subject: Council Members Annual Board Appointments Review

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Potential Options:

- None
-

Fiscal Implications:

None

Staff Recommendation:

Staff recommends annual council review of boards and commissions for council member appointments.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. Council Member Appointments Sheet 2018 (PDF)

ARK-TEX COG

ARK-TEX COG	1	Bill Harp	11-Dec-17	2.0	10-Nov-19	CC
ARK-TEX COG	2	Mary Hart	27-Nov-18	2.0	26-Nov-20	CC
ARK-TEX COG	3	Jean Matlock	27-Nov-17	2.0	27-Nov-19	CC

BI-STATE IAC

BI-STATE IAC	1	Bob Bruggeman	27-Nov-17	1.0	27-Nov-18	CC
BI-STATE IAC	2	Betty Williams	13-Mar-17	1.0	13-Mar-18	CC

BOWIE CENTRAL APPRAISAL DIST

BOWIE CENTRAL APPRAISAL DIST	TXK	Josh Davis	13-Nov-17	2.0	13-Nov-19	CC
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ELECTRICAL APPEALS&ADV BOARD

ELECTRICAL APPEALS&ADV BOARD	CM	Christie Alcorn	27-Nov-17	3.0	26-Nov-20	M-CC
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MPO POLICY BOARD

MPO POLICY BOARD	1	Mary Hart	27-Nov-17	5.0	26-Nov-22	CC
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TEXARKANA URBAN TRANSIT DIST.

TEXARKANA URBAN TRANSIT DIST.	CM	Bob Bruggeman	27-Nov-17	2.0	27-Nov-19	CC
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(TUTD bylaw: Chief Elected Official or his designee)

MAYOR PRO TEM - By Resolution

MAYOR PRO TEM	1	Josh Davis	27-Nov-17	1.0	26-Nov-18	CC
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** Council Members have the option to be appointed to a board, continue serving on a current board, request to serve on another board or discontinue service on a present board.



CITY OF TEXARKANA
CITY COUNCIL
MINUTES • NOVEMBER 13, 2018

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

220 TEXAS BLVD.
TEXARKANA, TX 75501

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

Member Name	Title	Status	Arrived
Aggeman	Mayor	Present	
Matlock	Ward 1	Present	
Hart	Ward 2	Present	
Williams	Ward 3	Present	
Alcorn	Ward 4	Present	
Peoples	Ward 5	Present	
Sparks	Ward 6	Present	

City Staff: City Manager Shirley Jaster, Jennifer Evans, Kyle Dooley, Kristin Peeples, Eric Schlotter, Dusty Henslee, Sherry Jackson Hawkins, Karey Parker, Mashell Daniel, and Jerry Sparks.

Legal Counsel: Jeff Lewis.

II. INVOCATION AND PLEDGE BY COUNCIL MEMBER MARY HART

III. MAYOR'S OPENING REMARKS AND ITEMS OF COMMUNITY INTEREST

Upcoming City Council Meetings:

Monday, November 26, 2018 at 6:00 p.m. - Council Members Swearing-In Ceremony
 Monday, December 10, 2018 at 6:00 p.m. - Last meeting of the year

Upcoming Joint City Meeting:

The Texarkana Chamber of Commerce will host a "Joint Texarkana Community Committee" meeting with the City of Texarkana, Arkansas, on Tuesday, November 20, 2018, at 3:00 p.m. The topic of the meeting is "REDI - Regional Economic Development Inc.". The meeting is open to the public and will be held at the Ark-Tex Council of Governments building located at 4808 Elizabeth Street, Texarkana, Texas.

Other City Events:

Minutes Acceptance: Minutes of Nov 13, 2018 6:00 PM (Consent Items)

Farmers' Market Christmas Market - Monday, December 3rd from 5:00 p.m. - 7:00 p.m. at 305 Texas Boulevard.

Annual Downtown Christmas Parade - Monday, December 3rd starting at 7:00 p.m.

Shop With a Cop or Firefighter - Tuesday, December 4th at 9:00 a.m. at Target Department Store, 102 Richmond Ranch Road.

Parks & Recreation Events:

November 22 nd	Turkey Trot 5K	Spring Lake Park
December 6 th	Bramlett Beans & Cornbread	Southwest Center

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

Mayor Bruggeman welcomed four Texas A&M - Texarkana students to the meeting. He also welcomed Texarkana, Arkansas' Mayor-elect Allen Brown.

Proclamation Presentation

Small Business Saturday - November 24, 2018

The Mayor read the proclamation and encouraged all to shop locally in support of business owners on Saturday, November 24th during the holiday season.

RESULT:	CLOSE ACTION
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Appointments to Boards & Commissions

Council Member Matlock recommended the reappointment of Steve Matlock to the Building Code Revision Committee.

1. Motion to make a reappointment to the Building Code Revision Committee.

(6:16 p.m.)

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

2. Mayoral Appointment to the Housing Authority Board.

Mayor Bruggeman appointed Linda Nolan as a Resident Commissioner to the Housing Authority Board.

IV. ITEMS FOR CONSIDERATION

Consent Items

(6:17 p.m.)

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

1. Consider approval of the minutes of the Regular Meeting of the City Council held on October 22, 2018 at 6:00 PM.
2. Consider approval of the minutes of the Called Special Meeting of the City Council held on November 7, 2018 at 5:30 PM.

Open Forum: Comments from the public (Limit 5 minutes each)

Cylestine Thornton addressed the council concerning restoration efforts on a property located at 3rd and Oak Streets.

Action Items

3. Resolution No. 2018-126 approving the amendment to the TIRZ #1 project list for funding or partial funding of infrastructure improvements to property on South Cowhorn Loop in an amount not to exceed \$310,000 and authorizing the City Manager to enter into an amended contract for the reimbursement of said amount from funds in the Tax Increment Reinvestment Zone #1 Fund.

Public Hearing: November 13, 2018

Council Vote: November 13, 2018

Jerry Sparks briefed this agenda item. David Williams, of MTG Engineers & Surveyors, also made comments.

(6:30 p.m.)

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

4. Resolution No. 2018-134 authorizing the expenditure of Community Relations funds in support of the Live United Bowl Team's Banquet.

Public Hearing:

Council Vote: November 13, 2018

Allen Brown provided information about the upcoming activities related to the December 1, 2018 Live United Bowl football game. Bess Gamble-Williams asked a few questions concerning this event.

(6:42 p.m.)

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

V. FIRST BRIEFINGS - NONE

VI. PUBLIC HEARINGS

1. Ordinance No. 2018-116 rezoning a 15-acre tract of land located in the L.T. King HRS, A-327, located on East Wallace Drive approximately 0.9 miles from Leopard Drive, Agriculture to Commercial. Clint Blakey, Big Horn Properties, II, owner. Vance Liles, MTG Engineers & Surveyors, agent.

Public Hearing: November 13, 2018

Council Vote: November 13, 2018

Vance Liles, of MTG Engineers & Surveyors, addressed the council at this hearing.
(6:48 p.m.)

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

VII. ITEMS FOR DISCUSSION

Staff Updates - Texarkana Public Library - by Jennifer Strayhorn

Ms. Strayhorn shared a presentation highlighting the library's growth, progress, and benefit to the community. During fiscal year 2017-18, 314,244 patrons visited the library. The library made available to those visitors 113,976 checkout materials.

The library houses 83,000 books, 7,600 DVDs and 4,000 audio books in its general collection. The current children's program is well-supported by both children and parents. The library also offers an eCard with access to a host of digital resources.

On behalf of the City Council, Mayor Bruggeman thanked Ms. Strayhorn for her informative report.

VIII. ADMINISTRATIVE COMMENTS

1. City Council

Council had no administrative comments for staff.

2. City Staff

Staff had no administrative comments for council.

IX. ADJOURNMENT

A motion was made to adjourn the meeting.
(7:03 p.m.)

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

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 11/27/2018 2:32 PM

Lead Department: City Manager **Action Officer:** Jennifer Evans, City Secretary
Subject: Consider approval of the minutes of the Joint City Committee Special Meeting of the City Council held on November 20, 2018 at 3:00 PM.

Attachments

- a. MINUTES - Joint City Committee 112018 (mm) (DOCX)



MINUTES

Joint Texarkana Community Committee

City Council of the City of Texarkana, Texas
Board of Directors of the City of Texarkana, Arkansas

Ark-Tex Council of Governments
4808 Elizabeth Street
Texarkana, TX 75503

November 20, 2018

3:00 p.m.

Meeting Attendees:

Elected Officials on the Panel – **Texarkana, Texas** - Mayor Bob Bruggeman, Ward 2 Council Member Mary Hart, Ward 5 Council Member Bill Harp. **Texarkana, Arkansas** - Mayor Ruth Penney Bell, Ward 1 Board Director Linda Teeters, Ward 4 Board Director Travis Odom, Ward 5 Board Director Barbara Miner, and Ward 6 Board Director Terri Peavy.

City Staff & Support – **Texarkana, Texas** – City Manager Shirley Jaster, Jennifer Evans, Kyle Dooley, Charles Kreidler, Rea Donna Jones, Jennifer Strayhorn, Lisa Thompson. **Texarkana, Arkansas** – City Manager Dr. Kenny Haskin.

- **Welcome by Michael Malone** – Mr. Malone welcomed everyone to the meeting and explained that the members of REDI would present their information to the panel.
- **Introduction of Attendees** – Each mayor introduced the respective members on the panel.
- **Explanation and purpose of the committee** – The committee allows the opportunity for both cities to meet and discuss issues of joint interests for the benefit of the community. It provides a forum for each side to share ideas and common challenges. The joint committee is not for the purpose of making decisions or taking action.
- **Topic of Discussion: AR-TX REDI – Regional Economic Development Inc.**

Summary Remarks to Panel – The initial AR-TX REDI board consists of the following members:

Dean Barry	Leslie Ledwell	James Henry Russell
Emily Cutrer	Steve Ledwell	
Sonja Yates Hubbard	Cary Patterson	

REDI's goal is to increase jobs and the economy by expanding the regional economic base to attract new businesses and industries to southwest Arkansas and northeast Texas. There is concern that the future of Texarkana may not be as strong as the past due to the lack of economic development.

The quality of education plays a part in enhancing economic development efforts. Prospective investors need to be assured that skilled and trained labor is available in the local region. Cooperation and teamwork between both city and county entities is crucial to the progress and sustainability of economic growth. Texarkana has great resources and offers many opportunities that can be marketed for future development. Texarkana is also situated in a great location to support heavy interstate transportation headed eastbound and westbound.

Use of the convention centers has made a great first impression of Texarkana. It was acknowledged that, within the last two years, goals can be accomplished with the cooperation of both cities as seen in the high speed internet and Texarkana Regional Airport projects. Focus must be on the region for all to benefit.

Within the next 90 days, REDI proposes to continue and finalize its search for an Executive Director. REDI will also focus on a marketing plan and an assessment of the local skilled workforce currently available. Texarkana needs to be ready now for future potential growth opportunities. Support from all the regional partners will provide the momentum needed to move this effort forward.

- **Closing Remarks** – Thanks was expressed to the private citizens for their diligence and vision to make REDI a success. Thanks was also given to the Chamber's role in helping both cities come together to discuss issues of mutual interest. Panel members are proud of the progress seen city-wide and are anxious to see Texarkana move forward.

Mr. Malone thanked all in attendance and the REDI board members who shared exciting initiatives and goals proposed for regional economic development efforts.

- **Next Meeting Date:** Tentative: February 12, 2019 at 3:00 p.m. Topic: TBD.
- **Adjournment** – The meeting was adjourned at 3:56 p.m.

Jennifer Evans, City Secretary

Bob Bruggeman, Mayor



CITY OF TEXARKANA
CITY COUNCIL
MINUTES • NOVEMBER 26, 2018

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

220 TEXAS BLVD.
TEXARKANA, TX 75501

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

Member Name	Title	Status	Arrived
Bruggeman	Mayor	Present	
Matlock	Ward 1	Present	
Cart	Ward 2	Present	
Williams	Ward 3	Present	
Alcorn	Ward 4	Present	
p	Ward 5	Present	
vis	Ward 6	Present	

Staff Present: City Manager Shirley Jaster, Jennifer Evans, Kyle Dooley, Kristin Peeples, Vicky Coopwood, Dan Shiner, Dusty Henslee, Eric Schlotter, David Orr, Erin Rogers, Jim Powell, Rea Donna Jones, Daphnea Ryan, Sherry Jackson Hawkins, Debbie Burk, Sharon Moore, J.D. Phillips, Karey Parker, Robby Robertson, and Lisa Thompson.

Legal Counsel: Jeff Lewis.

II. INVOCATION BY MAYOR BOB BRUGGEMAN AND PLEDGE LED BY BOY SCOUTS TROOP 3 - SACRED HEART CATHOLIC CHURCH

III. SWEARING-IN CEREMONY & DRAWING FOR TERMS

Candidates were sworn in by Judge Sherry Jackson Hawkins. After the candidates signed documents, Mayor Bruggeman conducted the drawing for Council Members Matlock, Alcorn, and Davis.

Council Member Matlock drew the slip for a three-year term and Council Members Alcorn and Davis drew the remaining slips and will each serve four-year terms. The Mayor will serve a three-year term.

Swearing-In Ceremony & Drawing for Terms

Minutes Acceptance: Minutes of Nov 26, 2018 6:00 PM (Consent Items)

RESULT:	CLOSE ACTION
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IV. MAYOR'S OPENING REMARKS AND ITEMS OF COMMUNITY INTEREST

Upcoming City Council Meetings:

Monday, December 10, 2018 at 6:00 p.m.

Monday, January 14, 2019 at 6:00 p.m.

Monday, January 28, 2019 at 6:00 p.m.

Other City Events:

Farmers' Market Christmas Market - Monday, December 3rd from 5:00 p.m. - 7:00 p.m. at 305 Texas Boulevard.

Annual Downtown Christmas Parade - Monday, December 3rd starting at 7:00 p.m.

Shop With a Cop or Firefighter - Tuesday, December 4th at 9:00 a.m. at Target Department Store, 102 Richmond Ranch Road.

Parks & Recreation Events:

December 6th Bramlett Beans & Cornbread 11:00 a.m. - 1:00 p.m. Southwest Center

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

Mayor Bruggeman welcomed Texarkana Arkansas' Mayor Ruth Penney Bell to the meeting.

The Mayor gave special recognition to the dedicated career and service of Police Chief Dan Shiner. Chief Shiner announced his retirement effective December 31, 2018. He has been with the City for 11 years and has honorably served in law enforcement for the last 51 years. Under his command, his leadership provided the department the ability to make great strides, improvements and accomplishments for the benefit of Texarkana citizens.

Chief Shiner was also praised for his professionalism in working with neighboring law enforcement jurisdictions at the county and state level. From his early beginnings in law enforcement and throughout, he has set a fine example of dedicated service.

The Chief said it's been an honor and a privilege to serve the citizens of Texarkana. He said the department has well trained and qualified people to continue the excellence of service.

Special Presentations

Eagle Scout Presentation - by Mayor Bruggeman

Mayor Bruggeman presented Certificates of Achievement and city lapel pins to four Eagle Scouts: Matthew Meinzer, Joseph Du Pree, John Henry Thomas, and Matthew Desjarlias.

Texas APA 2018 Comprehensive Plan Award - by Christina Sebastian, American Planning Association

Ms. Sebastian presented the City Council with the 2018 Honorable Mention Award for the *Renew Texarkana* Comprehensive Plan. Texarkana received one of the only three awards presented in this category across the state. The City was recognized for its cohesive vision to guide future growth in a sustainable manner.

Appointments to Boards & Commissions

The Mayor asked council members to review current council member appointments on the various boards and commissions to see if any member would like to make any changes. This item was moved for consideration and discussion at the next council meeting.

There were no new appointments or reappointments made to any board or commission.

Council Members Annual Board Appointments Review

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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V. ITEMS FOR CONSIDERATION

Consent Items

(6:42 p.m.)

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

1. Resolution No. 2018-120 setting the 2019 City Council meeting dates and official City Holiday closings.

Public Hearing:

Council Vote: November 26, 2018

2. Resolution No. 2018-135 authorizing the City Manager to enter into a contract with Francis Excavation of Nash, Texas, for an amount not to exceed \$95,917.25, for the University Avenue and Bringle Lake Road sidewalk project.

Public Hearing:

Council Vote: November 26, 2018

3. Ordinance No. 2018-141 amending the Fund 220 Metropolitan Planning Organization budget for the carryover of Texas PL funds and Arkansas PL funds.

Public Hearing:

Council Vote: November 26, 2018

4. Resolution No. 2018-147 accepting additional funding in the amount of \$95,000 from the Texas Department of Transportation (TxDOT) Supplemental Planning & Research Funds.

Public Hearing:

Council Vote: November 26, 2018

Open Forum: Comments from the public (Limit 5 minutes each)

Julie Ray Harrison, on behalf of Partnership for the Pathway, thanked council for voting in favor of the Bringle Lake Road sidewalk project on the consent agenda.

Action Items

5. Resolution No. 2018-122 appointing a Mayor Pro Tem for the term beginning December 1, 2018 and ending on November 30, 2020 or until superseded by new council member appointments.

Public Hearing:

Council Vote: November 26, 2018

Council Member Josh Davis was nominated for appointment as Mayor Pro Tem.
(6:47 p.m.)

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

VI. FIRST BRIEFINGS

1. Ordinance No. 2018-128 rezoning a 1.13 acre tract of land in the Thomas Price HRS, A-466, located at 3303 New Boston Road. Single Family-2 to Planned Development-General Retail. Virgilio Martinez, applicant.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

David Orr briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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2. Ordinance No. 2018-129 granting a Specific Use Permit to allow an outdoor automobile sales business on a 1.13 acre tract of land in the Thomas Price HRS, A-466, located at 3303 New Boston Road. Virgilio Martinez, applicant.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

David Orr briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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3. Ordinance No. 2018-130 granting a Specific Use Permit to allow a tattoo studio on a 2.41 acre tract of land in the Willis Oldham HRS, A-458, located at 4501 State Line Avenue (tenant space 120), Hayco Realty, LTD, applicant. Brian A. Harris, agent.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

David Orr briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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4. Ordinance No. 2018-131 rezoning a 0.784 acre tract of land in the George Brinlee HRS, A-18, located at 4602 McKnight Road. Single Family-2 to Office. Teresa Liepman, applicant.

Public Hearing: December 10, 2018
 Council Vote: December 10, 2018

David Orr briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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5. Ordinance No. 2018-133 amending the Code of Ordinances by adding Section 100-6. - "Certificate of Occupancy" to the Land Development Code.

Public Hearing: December 10, 2018
 Council Vote: December 10, 2018

Mashell Daniel briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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6. Resolution No. 2018-139 adopting recommended revisions to the Employee Handbook.

Public Hearing:
 Council Vote: December 10, 2018

Jim Powell briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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7. Resolution No. 2018-140 approving and authorizing the City Manager to execute the agreement between the City and Valley View Consulting, L.L.C. to provide professional investment advisory services for the City's investable funds for a period of two (2) years.

Public Hearing:
 Council Vote: December 10, 2018

Kristin Peebles briefed this agenda item. Bill Koch, of Valley View Consulting, L.L.C., said it has been a pleasure working with the City and the company would like to continue its relationship with the City.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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8. Resolution No. 2018-142 approving the Community Development Block Grant (CDBG) Comprehensive Assessment Performance Evaluation Report.

Public Hearing: December 10, 2018
 Council Vote: December 10, 2018

David Orr briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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9. Resolution No. 2018-143 considering a Texas Department of Housing and Community Affairs (TDHCA) housing tax credit development application for the Reserve at Cowhorn.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

David Orr briefed this agenda item. Darren Smith, of MVAH Partners, provided information related to the development of the housing proposal. Richard Reynolds, of Reynolds Realty, made additional comments concerning the proposed project.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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10. Resolution No. 2018-144 considering a Texas Department of Housing and Community Affairs (TDHCA) housing tax credit development application for the Reserve at Summerhill.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

David Orr briefed this agenda item. Darren Smith, of MVAH Partners, provided information related to the development of the housing proposal.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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11. Ordinance No. 2018-145 amending Chapter 18 of the Code of Ordinances to allow for residential outdoor burning by permit and amending the master fee list to include a residential outdoor burning fee.

Public Hearing: December 10, 2018
Council Vote: December 10, 2018

Eric Schlotter briefed this agenda item.

RESULT:	MOVED FORWARD	Next: 12/10/2018 6:00 PM
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VII. PUBLIC HEARINGS - NONE

VIII. ITEMS FOR DISCUSSION

Staff Updates

City Manager Jaster said she provided council an update with information related to comments made at a previous council meeting concerning the Jameson building on the corner of West 3rd and Oak Streets.

Ms. Jaster said that at the last council meeting, Council Member Matlock recommended the reappointment of Steve Matlock to the Building Code Revision Committee. At the time of the reappointment, staff was not aware that by council ordinance, passed in 2007, reappointments to this committee are not allowed. Therefore, the reappointment must be voided. The City Secretary will correct the member and term information maintained for boards and commissions.

IX. ADMINISTRATIVE COMMENTS

1. City Council

Council Member Davis expressed a "Job Well Done!" to Mashell Daniel and her staff for hosting an outstanding Bark at the Park event held last month on November 3rd.

Mayor Bruggeman thanked Texas A&M - Texarkana student Philip Derouen for attending the meeting.

2. City Staff

Staff had no administrative comments for council.

X. ADJOURNMENT

A motion was made to adjourn the meeting.
(8:10 p.m.)

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

City of Texarkana, Texas

Briefing Sheet

Version:

Update Date: 12/4/2018 3:57 PM

Lead Department: Purchasing and Contracting **Action Officer:** Sharon Moore, Purchasing Manager
Resolution No. 2018-137 authorizing the City Manager to enter into a contract with Francis Excavation of Nash, Texas, utilizing CDBG funds for an amount not to exceed \$73,366.19, for the Robison Road and Norris Cooley sidewalk project.

Subject: project.

Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

Item Schedule

Schedule 3: No briefing required (one week)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Invitation for Bid was published on City Website October 26, 2018 and Texarkana Gazette October 28 and November 4, 2018

A mandatory pre-bid conference was held on November 6, 2018

Bids were opened November 13, 2018

Bids received were Francis Excavation, LLC., J.R. Pope Company, Contech Contractors, D4 Construction and Texarkana Concrete Construction, Inc.

Although D4 Construction was the lowest bid, they failed to fill out the portion of the bid which names subcontractors and/or states that there will be no subcontractors. Therefore, the City chose the next lowest bid which is Francis Excavation, LLC.

Contractors past performance with the city is excellent.

There are no policy exceptions.

Funds are available through the 2018 CDBG Annual Action Plan.

The Scope of Work: Install sidewalk, handicap ramps and replace crosswalk. The sidewalk will begin at South Robison Road and Davis Street continuing down South Robison turning at Norris Cooley. This phase ends at Norris Cooley and Allen Street.

Potential Options:

- To approve resolution for the Robison Road and Norris Cooley Sidewalk Project.
- To not approve resolution for the Robison Road and Norris Cooley Sidewalk Project.

Fiscal Implications:

Funds available in the 2018 CDBG Annual Action Plan Fund

Staff Recommendation:

Staff recommends approval

City of Texarkana, Texas

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. 2018-137 EXH 'A' Bid Tab (XLSX)
- b. 2018-137 Goals & Perspectives (DOCX)
- c. 2018-137 RES Robison Rd Sidewalk Project(DOCX)

Staff Coordination

Purchasing and Contracting	Sharon Moore	Department Head Review	
Completed	11/26/2018 3:20 PM		
Finance Department Kristin Peeples	Finance Review	Completed	11/26/2018
3:23 PM			
Planning and Community Development	David Orr	Review	Completed
11/28/2018 5:07 PM			
Finance Department Sharon Moore	Finance Review	Skipped	11/26/2018
3:19 PM			
Purchasing and Contracting	Sharon Moore	Purchasing Review	
Skipped	11/26/2018 3:19 PM		
Finance Department Sharon Moore	Finance Review	Skipped	11/26/2018
3:20 PM			
Deputy City Manager - Kyle Dooley	Kyle Dooley	Deputy City Manager	
Review Completed	11/29/2018 11:15 AM		
City Manager Kyle Dooley	City Manager Review	Completed	11/29/2018
11:20 AM			
City Council Vicky Coopwood	Meeting	Pending	12/10/2018
6:00 PM			

Meeting History

IFB#19-2001-02 Robison Road and Norris Cooley Sidewalk Project

2018-137 EXH 'A'				Texarkana Concrete Texarkana, Texas		Contech Contractors Texarkana, Texas		JR Pope Co. Texarkana, Texas		D4 Construction Texarkana, Texas		Francis Excavation Texarkana, Texas	
Item	Description	Unit	QTY	Price	Total	Price	Total	Price	Total	Price	Total	Price	Total
1	Mobilization	LS	1	\$4,245.80	\$4,245.80	\$7,584.50	\$7,584.50	\$3,000.00	\$3,000.00	\$3,403.59	\$3,403.59	\$3,581.00	\$3,581.00
2	Prep ROW	STA	7.5	\$150.00	\$1,125.00	\$513.34	\$3,850.05	\$1,000.00	\$7,500.00	\$725.00	\$5,437.50	\$700.00	\$5,250.00
3	Barricade Sign and Traffic Handling	MO	1	\$2,000.00	\$2,000.00	\$1,210.00	\$1,210.00	\$2,500.00	\$2,500.00	\$2,750.00	\$2,750.00	\$2,500.00	\$2,500.00
4	Relocate Signs	EA	2	\$130.00	\$260.00	\$110.00	\$220.00	\$100.00	\$200.00	\$165.00	\$330.00	\$176.00	\$352.00
5	Remove/Replace Crosswalk Signs	EA	2	\$250.00	\$500.00	\$275.00	\$550.00	\$315.00	\$630.00	\$275.00	\$550.00	\$302.50	\$605.00
6	Install 36" 4:1 Safety End Treatment	LF	1	\$2,600.00	\$2,600.00	\$3,025.00	\$3,025.00	\$2,750.00	\$2,750.00	\$2,136.38	\$2,136.38	\$2,450.00	\$2,450.00
7	Common Embankment	CY	80	\$30.84	\$2,467.20	\$23.10	\$1,848.00	\$25.00	\$2,000.00	\$25.00	\$2,000.00	\$22.00	\$1,760.00
8	Install Prefab Pav MRK Type C 24" SLD	LF	12	\$25.00	\$300.00	\$25.30	\$303.60	\$28.75	\$345.00	\$25.30	\$303.60	\$29.70	\$356.40
9	Install Bus Stop Bench	EA	1	\$350.00	\$350.00	\$1,622.50	\$1,622.50	\$2,000.00	\$2,000.00	\$1,950.00	\$1,950.00	\$22.50	\$22.50
10	Extend 36" RCP	LF	7	\$231.00	\$1,617.00	\$128.70	\$900.90	\$220.00	\$1,540.00	\$214.85	\$1,503.95	\$257.82	\$1,804.74
11	Remove Curb & Gutter	LF	109	\$30.30	\$3,302.70	\$46.20	\$5,035.80	\$10.00	\$1,090.00	\$25.00	\$2,725.00	\$30.00	\$3,270.00
12	Reshape Ditch	LF	60	\$20.47	\$1,228.20	\$7.70	\$462.00	\$5.00	\$300.00	\$8.50	\$510.00	\$9.20	\$552.00
13	Remove Untreated Base	SY	34	\$8.83	\$300.22	\$11.00	\$374.00	\$15.00	\$510.00	\$9.00	\$306.00	\$7.50	\$255.00
14	Remove Concrete	SY	6	\$75.00	\$450.00	\$165.00	\$990.00	\$20.00	\$120.00	\$42.00	\$252.00	\$47.00	\$282.00
15	Concrete Driveways 5"	SY	34	\$67.95	\$2,310.30	\$59.40	\$2,019.60	\$75.00	\$2,550.00	\$58.05	\$1,973.70	\$63.96	\$2,174.64
16	Concrete curb ramps (Type C)	EA	1	\$1,520.00	\$1,520.00	\$1,980.00	\$1,980.00	\$1,500.00	\$1,500.00	\$3,225.00	\$3,225.00	\$3,466.88	\$3,466.88

				Texarkana Concrete Texarkana, Texas		Contech Contractors Texarkana, Texas		JR Pope Co. Texarkana, Texas		D4 Construction Texarkana, Texas		Francis Excavation Texarkana, Texas	
17	Concrete curb ramps (Type A & B)	EA	4	\$1,100.00	\$4,400.00	\$660.00	\$2,640.00	\$1,500.00	\$6,000.00	\$1,075.00	\$4,300.00	\$1,290.00	\$5,160.00
18	Concrete Sidewalks 4"	SY	426	\$66.82	\$28,465.32	\$59.40	\$25,304.40	\$54.50	\$23,217.00	\$53.21	\$22,667.46	\$56.28	\$23,975.28
19	Adjust water valve cover to finish grade	EA	1	\$80.00	\$80.00	\$330.00	\$330.00	\$500.00	\$500.00	\$100.00	\$100.00	\$125.00	\$125.00
20	Install rock filter dams	LF	20	\$48.78	\$975.60	\$55.00	\$1,100.00	\$45.00	\$900.00	\$50.00	\$1,000.00	\$70.00	\$1,400.00
21	Install Erosion Control Logs	EA	4	\$106.00	\$424.00	\$110.00	\$440.00	\$45.00	\$180.00	\$150.00	\$600.00	\$120.00	\$480.00
22	Silt fence erosion control	LF	663	\$4.07	\$2,698.41	\$3.74	\$2,479.62	\$3.00	\$1,989.00	\$4.00	\$2,652.00	\$4.25	\$2,817.75
23	Revegetation - Sod	SY	1101	\$3.94	\$4,337.94	\$3.58	\$3,941.58	\$1.50	\$1,651.50	\$4.25	\$4,679.25	\$6.00	\$6,606.00
				TOTAL	\$65,957.69	TOTAL	\$68,211.55	TOTAL	\$62,972.50	TOTAL	\$65,355.43	TOTAL	\$69,246.19
ALTERNATE ONE													
1	Install TXDOT Railing Type D	LF	40	\$286.00	\$11,440.00	\$165.00	\$6,600.00	\$363.75	\$14,550.00	\$120.00	\$4,800.00	\$103.00	\$4,120.00

\$77,397.69

\$74,811.55

\$77,522.50

\$70,155.43

\$73,366.19

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:

RESOLUTION NO. 2018 - 137

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH FRANCIS EXCAVATION, LLC OF NASH, TEXAS, FOR AN AMOUNT NOT TO EXCEED \$73,366.19, FOR THE ROBISON ROAD AND NORRIS COOLEY SIDEWALK PROJECT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Texarkana, Texas, issued invitations for bid for the Robison Road and Norris Cooley sidewalk project; and

WHEREAS, in response to the bid, five bids were received. Bidders were Francis Excavation, LLC of Nash, Texas, J.R. Pope Company, Inc. of Texarkana, Texas, Contech Contractors of Texarkana, Texas, D4 Construction of Texarkana, Texas, and Texarkana Concrete Construction, Inc. of Texarkana, Texas, and are summarized in the Bid Tab Sheet on the attached **Exhibit "A"**; and

WHEREAS, D4 Construction was the lowest bid, however, D4 Construction did not complete all required paperwork included in the bid packet and therefore made the bid incomplete; and

WHEREAS, Francis Excavation, LLC of Nash, Texas, was the next lowest and most responsible bidder; and

WHEREAS, funds are available in the CDBG budget.

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

SECTION 1: That the responsible bid to complete the Robison Road and Norris Cooley sidewalk project is hereby declared to be Francis Excavation, LLC of Nash, Texas, for an amount not to exceed \$73,366.19 and therefore its bid is accepted.

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 **10th day of December, 2018.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 12/3/2018 12:20 PM

Lead Department: Purchasing and Contracting **Action Officer:** Sharon Moore, Purchasing Manager
Resolution No. 2018-138 authorizing the City Manager to enter into a contract with Texarkana Concrete Construction, Inc. of Texarkana, Texas, utilizing CDBG funds for an amount not to exceed \$120,694.04 for the New Boston Road Rosehill sidewalk project.

Subject: Road Rosehill sidewalk project.

Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

Item Schedule

Schedule 3: No briefing required (one week)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Invitation for Bid was published on City website October 26, 2018 and Texarkana Gazette October 28 and November 4, 2018.

A mandatory pre-bid conference was held on November 6, 2018.

Bids were opened November 13, 2018.

Bids received were Francis Excavation, LLC., J. R. Pope Company, Contech Contractors, D4 Construction and Texarkana Concrete Construction, Inc.

The lowest and most responsible bidder is Texarkana Concrete Construction, Inc.

Texarkana Concrete Construction, Inc. completed the prior bid for the first phase of the New Boston Road Sidewalk Project. The Contractors performance with the City was excellent.

There are no policy exceptions.

Funds are available through the 2018 CDBG Annual Action Plan.

The Scope of Work: Install sidewalk, handicap ramps, and other correct any other issues to ensure a smooth walking path stretching westward on New Boston Road from Milam Street to Celeste Avenue.

The Rosehill portion will stretch westward along W 15th Street from Smelser Street to Plum Street.

Then the project will continue south along Milam Street from W 15th Street to W 13th Street before continuing westward again along W 13th street from Casteel to Vermont Street.

Potential Options:

- To approve the New Boston Road Rosehill Sidewalk Project
- To not approve the New Boston Road Rosehill Sidewalk Project

Fiscal Implications:

Funding is available in the 2018 CDBG Annual Action Plan Fund

Staff Recommendation:

City of Texarkana, Texas

Staff recommends approval

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. 2018-138 RES New Boston Rd Sidewalk Project (DOCX)
- b. 2018-138 EXH 'A' Bid Tab (XLSX)
- c. 2018-138 Goals & Perspectives (DOCX)

Staff Coordination

Purchasing and Contracting	Sharon Moore	Department Head Review
Completed	11/28/2018 3:59 PM	
Finance Department Kristin Peebles	Finance Review	Completed 11/28/2018 4:16 PM
Planning and Community Development	David Orr	Review Completed
11/28/2018 5:06 PM		
Deputy City Manager - Kyle Dooley	Kyle Dooley	Deputy City Manager
Review Completed	11/29/2018 11:20 AM	
City Manager Shirley Jaster	City Manager Review	Completed 11/30/2018 12:05 PM
City Council Vicky Coopwood	Meeting	Pending 12/10/2018 6:00 PM

Meeting History

RESOLUTION NO. 2018 - 138

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH TEXARKANA CONCRETE CONSTRUCTION, INC. OF TEXARKANA, TEXAS, FOR AN AMOUNT NOT TO EXCEED \$120,694.04 FOR THE NEW BOSTON ROAD AND ROSEHILL SIDEWALK PROJECT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Texarkana, Texas, issued invitations for bid for the New Boston Road and Rosehill sidewalk project; and

WHEREAS, in response to the bid, five bids were received. Bidders were Francis Excavation, LLC of Nash, Texas, J.R. Pope Company, Inc. of Texarkana, Texas, Contech Contractors of Texarkana, Texas, D4 Construction of Texarkana, Texas, and Texarkana Concrete Construction, Inc. of Texarkana, Texas, and are summarized in the Bid Tab Sheet on the attached **Exhibit "A"**; and

WHEREAS, Texarkana Concrete Construction, Inc. was the lowest and most responsible bidder; and

WHEREAS, funds are available in the CDBG Budget.

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

SECTION 1: That the responsible bid to complete the New Boston Road and Rosehill sidewalk project is hereby declared to be Texarkana Concrete Construction, Inc. of Texarkana, Texas, for an amount not to exceed \$120,694.04 and therefore its bid is accepted.

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 **10th day of December, 2018.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

IFB#19-2001-03 New Boston Road and Rosehill Sidewalk Project

4.5.b

2018-138 EXH 'A'

Item	Description	Unit	QTY	JR Pope Company Texarkana, TX		Contech Contractors Texarkana, TX		D4 Construction Texarkana, TX		Texarkana Concrete Texarkana, TX		Francis Excavation Texarkana, TX	
				Price	Total	Price	Total	Price	Total	Price	Total	Price	Total
1	Mobilization	LS	1	\$5,000.00	\$5,000.00	\$10,310.00	\$10,310.00	\$6,163.42	\$6,163.42	\$5,798.00	\$5,798.00	\$6,382.00	\$6,382.00
2	Site Preparation	STA	15.75	\$1,000.00	\$15,750.00	\$511.50	\$8,056.13	\$625.00	\$9,843.75	\$150.00	\$2,362.50	\$775.00	\$12,206.25
3	Barricade Sign & Traffic Handling	MO	2	\$2,500.00	\$5,000.00	\$1,210.00	\$2,420.00	\$2,000.00	\$4,000.00	\$1,200.00	\$2,400.00	\$3,500.00	\$7,000.00
4	Remove Curb & Gutter	LF	127	\$10.00	\$1,270.00	\$44.00	\$5,588.00	\$25.00	\$3,175.00	\$30.00	\$3,810.00	\$30.00	\$3,810.00
5	Remove Concrete	SY	238	\$20.00	\$4,760.00	\$55.00	\$13,090.00	\$11.25	\$2,677.50	\$19.33	\$4,600.54	\$13.42	\$3,193.96
6	Remove Concrete Driveway	SY	303	\$20.00	\$6,060.00	\$55.00	\$16,665.00	\$11.25	\$3,408.75	\$20.47	\$6,202.41	\$15.72	\$4,763.16
7	Remove Asphalt Pavement	SY	18	\$20.00	\$360.00	\$110.00	\$1,980.00	\$11.25	\$202.50	\$22.23	\$400.14	\$23.00	\$414.00
8	Install Mountable Curb	LF	112	\$12.00	\$1,344.00	\$27.50	\$3,080.00	\$17.20	\$1,926.40	\$19.65	\$2,200.80	\$19.89	\$2,227.68
9	Surface Prep for Pavement Markings	LF	18	\$1.25	\$22.50	\$1.10	\$19.80	\$1.10	\$19.80	\$5.00	\$90.00	\$3.30	\$59.40
10	Install 24" Crosswalk Bars	LF	18	\$23.75	\$427.50	\$20.90	\$376.20	\$20.90	\$376.20	\$21.12	\$380.16	\$29.70	\$534.60
11	Install Crosswalk Signs	EA	2	\$375.00	\$750.00	\$330.00	\$660.00	\$330.00	\$660.00	\$330.00	\$660.00	\$550.00	\$1,100.00
12	Install Concrete Driveways (5")	SY	343	\$63.00	\$21,609.00	\$59.40	\$20,374.20	\$58.05	\$19,911.15	\$67.97	\$23,313.71	\$68.80	\$23,598.40
13	Concrete Sidewalk 4" & 5"	SY	607	\$58.00	\$35,206.00	\$59.40	\$36,055.80	\$53.21	\$32,298.47	\$66.82	\$40,559.74	\$61.28	\$37,196.96
14	Install Type A & B Curb Ramps	EA	22	\$1,500.00	\$33,000.00	\$440.00	\$9,680.00	\$1,612.50	\$35,475.00	\$1,000.00	\$22,000.00	\$1,075.00	\$23,650.00
15	Install Inlet Protection	EA	7	\$45.00	\$315.00	\$101.75	\$712.25	\$100.00	\$700.00	\$106.00	\$742.00	\$215.00	\$1,505.00
16	Silt Fence	LF	872	\$3.00	\$2,616.00	\$3.74	\$3,261.28	\$4.00	\$3,488.00	\$4.07	\$3,549.04	\$4.20	\$3,662.40
17	Revegetation - Seeding	SY	250	\$1.50	\$375.00	\$0.33	\$82.50	\$5.00	\$1,250.00	\$4.50	\$1,125.00	\$6.25	\$1,562.50
18	Adjust Water Meter	EA	2	\$500.00	\$1,000.00	\$330.00	\$660.00	\$100.00	\$200.00	\$250.00	\$500.00	\$200.00	\$400.00
				TOTAL	\$134,865.00	TOTAL	\$133,071.16	TOTAL	\$125,775.94	TOTAL	\$120,694.04	TOTAL	\$133,266.31

Attachment: 2018-138 EXH 'A' Bid Tab (1985 : 2018-138 RES New Boston Road Rosehill Sidewalk Project)

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

Briefing Sheet

Version:
Update Date: 12/3/2018 12:34 PM

Lead Department: Water Utilities **Action Officer:** Pam White,
Resolution No. 2018-148 authorizing the City Manager to enter into a contract
with Bazan Painting Company of St. Louis, Missouri, for the Millwood WTP -
Settling Basin Interior Repairs/Liner Project, utilizing Millwood Water
Subject: Treatment Plant Depreciation funds, in an amount with the Texas portion not to
exceed \$186,700.21 and the total amount not to exceed \$297,246.00.

Briefing: 12/10/2018 **Public Hearing:** **Council Vote:** 12/10/2018

Item Schedule

Schedule 3: No briefing required (one week)

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

Bids were received Tuesday, November 27, 2018 for the Millwood WTP – Settling Basin Interior Repairs/Liner Project. Nine (9) contractors picked up bid packages for the project and three (3) contractors bid on the project. Bazan Painting Company of St. Louis, Missouri was the apparent low bidder with a low Deductive Alternate Bid “A” of \$297,246.00. This project consists of repairing areas of deteriorated concrete and cracks and installing a liner in the settling basin at our Millwood Water Treatment Plant located in Ashdown, Arkansas.

Potential Options:

- None

Fiscal Implications:

This project will repair the cracks and spalled areas in the basin and then install a liner in the troughs and walls of Basin #1 at the Millwood WTP located in Ashdown, Arkansas. This project is budgeted in the Utility’s 2018-2019 Budget in the Millwood Water Treatment Plant Depreciation Fund at \$275,000. The remaining \$22,246.00 is available in the Millwood Water Treatment Plant Depreciation Fund.

Staff Recommendation:

Utility staff recommends approval.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

City of Texarkana, Texas

Attachments

- a. 2018-148 RES MillwoodWTPBasinLiner (DOCX)
- b. 2018-148 ATTH 01 Bid Summary (DOC)
- c. 2018-148 ATTH 02 Bid Tab (PDF)
- d. 2018-148 Goals and Perspectives (DOCX)

Staff Coordination

Water Utilities	Gary Smith 11/29/2018 1:02 PM	Department Head Review	Completed	
Water Utilities 1:44 PM	Jim Cornelius	Review	Completed	11/29/2018
Water Utilities	JD Phillips 11/29/2018 1:47 PM	Water Utilities Review	Completed	
Deputy City Manager - Review	Kyle Dooley Completed	Kyle Dooley	Deputy City Manager	
City Manager 12:08 PM	Shirley Jaster	City Manager Review	Completed	11/30/2018
City Council 6:00 PM	Vicky Coopwood	Meeting	Pending	12/10/2018

Meeting History

RESOLUTION NO. 2018-148

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AUTHORIZING THE CITY MANAGER TO ACCEPT THE BID AND ENTER INTO A CONTRACT WITH BAZAN PAINTING COMPANY OF ST. LOUIS, MISSOURI IN AN AMOUNT WITH THE TEXAS PORTION NOT TO EXCEED \$186,700.21 AND THE TOTAL AMOUNT NOT TO EXCEED \$297,246.00 FOR THE MILLWOOD WATER TREATMENT SETTLING BASIN INTERIOR REPAIRS/LINER PROJECT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on November 27, 2018, three (3) bids were received, a copy of which is attached hereto as **ATTH01**, by Texarkana Water Utilities for the Millwood WTP – Settling Basin Interior Repairs/Liner Project; and

WHEREAS, the project will consist of repairing areas of deteriorated concrete and cracks and installing a liner in the settling basin at our Millwood Water Treatment Plant located in Ashdown, Arkansas; and

WHEREAS, the lowest and best deductive alternate bid by a responsible vendor for this project was submitted by Bazan Painting Company of St. Louis, Missouri, a copy of which is attached hereto as **ATTH02** in an amount not to exceed \$297,246.00; and

WHEREAS, funds currently budgeted in the Texarkana Water Utilities 2018-2019 Budget in the Millwood Water Treatment Plant Depreciation Fund are available in the amount of \$275,000.00 for the Millwood WTP – Settling Basin Interior Repairs/ liner Project. The remaining \$22,246.00 is available in the Millwood Water Treatment Plant Depreciation Fund.

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

SECTION 1: That the lowest and best bid by a responsible vendor, submitted by Bazan Painting Company of St. Louis, Missouri, a copy of which is attached hereto as **ATTH02** be and is hereby approved for the Texas portion in an amount not to exceed \$186,700.21 for the repairing of areas of deteriorated concrete and cracks and installing a liner in settling basin #1 and related appurtenances at our Millwood Water Treatment Plant in Ashdown, Arkansas.

SECTION 2: That the City Manager be and is authorized to contract with Bazan Painting Company of St. Louis, Missouri for the above-described services.

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

PASSED AND APPROVED in Regular Council Session on this the **10th** day of **December 2018**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Attachment: 2018-148 RES MillwoodWTPBasinLiner [Revision 1] (1987 : 2018-148 RES Millwood WTP Basin Repairs)

2018-148
ATTH 01

Bid Summary

MILLWOOD WTP SETTLING BASIN INTERIOR REPAIRS/LINER Project 61/62-000-135112-A/T131808

2:00 P.M. Tuesday, November 27, 2018

	<u>Deductive Alt. Bid A</u>
1. Bazan Painting Company St. Louis, MO	\$297,246.00
2. Thomas Industrial Coatings Pevely, MO	\$399,970.88
3. Metalizing & Coatings of America Eldorado, Arkansas	\$410,712.70

Time First Bid Opened: 2:00 P.M.

Number of Bidders: Three

Apparent Low Bidder: Bazan Painting Company

Attachment: 2018-148 ATTH 01 Bid Summary (1987 : 2018-148 RES Millwood WTP Basin Repairs)

2018-148
ATTN 02

Packet Pg. 41

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:
Update Date: 11/14/2018 4:51 PM

Lead Department: Human Resources **Action Officer:** Jim Powell, Director of Human Resources
Subject: Resolution No. 2018-139 adopting recommended revisions to the Employee Handbook.
Briefing: 12/10/2018 **Public Hearing:** **Council Vote:** 12/10/2018

Item Schedule

Updates/History of Briefing:

The current Employee Handbook was adopted in March 2015. It is time to perform a comprehensive review of all current policies and make needed updates.

Executive Summary and Background Information:

The framework of our policies come from the Texas Municipal Human Resources Association's Sample Employee Handbook Index. These policies have been written and reviewed by Bettye Lynn of the law firm Lynn Law, Fort Worth, Texas.

Potential Options:

Council may approve or disapprove recommended changes.

Fiscal Implications:

Adopting the proposed change in Chapter 2, Section 2.09 will result in cost savings by raising the eligibility payout of up to 120 hours of accrued vacation at separation from a minimum of one year of service to a minimum five years of service.

Staff Recommendation:

Staff recommends approval.

Advisory Board/Committee Review:

The Employee Handbook Review Committee.

Board/Committee Recommendation:

Committee recommended approval.

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

City of Texarkana, Texas

- a. 2018-139 RES Employee Handbook Update (DOC)
- b. 2018-139 EXH 'A' Employee Handbook Final (PDF)
- c. 2018-139 Goals & Perspectives (DOCX)

Staff Coordination

Human Resources	Jim Powell	Department Head Review	Completed
	11/13/2018 4:12 PM		
Deputy City Manager - Review	Kyle Dooley	Kyle Dooley	Deputy City Manager
	Completed	11/14/2018 8:46 AM	
City Manager	Shirley Jaster	City Manager Review	Completed 11/19/2018
5:00 PM			
City Council	Jennifer Evans	Meeting	Completed 11/26/2018
6:00 PM			

Meeting History

11/26/18 City Council MOVED FORWARD Next: 12/10/18
 Jim Powell briefed this agenda item.

RESOLUTION NO. 2018 - 139

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING RECOMMENDED REVISIONS TO THE EMPLOYEE HANDBOOK; REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT HERewith TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Employee Handbook has been formulated by the Human Resources Director as a part of a comprehensive review and revision of policy related to employment, personnel actions, leave, compensation, benefits, conduct and work environment; and

WHEREAS, the Human Resources Director reviewed policy recommended by the Texas Municipal Human Resources Association, written and approved by Lynn Law, L.L.C.; and

WHEREAS, an employee evaluation committee representing the Police, Fire, Health, Public Works, Parks, Fleet, Water, and Finance Departments participated in a review of the existing policy document approved by the City Council, in 2015, submitted by the Human Resources Director; and

WHEREAS, the completed Employee Handbook (**Exhibit “A”**) was submitted to senior staff for final review and completion.

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

SECTION 1: The recommended revisions to the Employee Handbook are hereby approved and adopted in their entirety to read as set forth in **Exhibit “A”** attached hereto and made a part hereof by reference.

SECTION 2: That this Resolution shall be in full force and effect on January 1, 2019.

PASSED AND APPROVED in Regular Council Session on this the **10th day of December, 2018**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Introduction:

Application of Policies: **Added collective bargaining.**

Chapter 1:

1.04 Conflict of Interest, Solicitation and Acceptance of Gifts Updated to current TMHRA sample policy
 1.05 Nepotism Updated to current TMHRA sample policy
 1.06 Valid Driver's License **Added**

Chapter 2:

2.03 Attendance and Work Hours **Added text messaging** to supervisor notification.
 2.05 Orientation Period GF Orientation extended from **6 to 12 months**.
 2.06 Coaching Reviews Previously known as performance evaluation.
 2.08 Exit Interviews **Added**
 2.09 Separations Change vacation pay out at separation from **one year to five years of service**.

Chapter 3:

3.06 Funeral Leave **Added** using funeral leave code.
 3.10 Inclement Weather Essential Personnel: **Added** paragraph regarding essential personnel.

Chapter 4:

4.06 On Call Call Back Comp Return of **guaranteed minimum pay**.

Chapter 5:

5.11 Tuition Reimbursement A,6 Identified **specific tuition and fee schedule** used.

Chapter 6:

6.01 Progressive Discipline **Added last chance agreement. Verbal warnings are filed at the department level. Added documentation guidelines. Added disciplinary meeting for suspensions of one day or more.**

6.02 Appeal Process **Removed Employee Review Board. Appeal is to City Manager or their designee.**

Chapter 7:

7.09 Travel **Revised travel guidelines to safeguard city funds, define reporting requirements and ensure reimbursements comply with IRS regulations.**

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APPENDICES

Appendix A: Positions Subject to Testing, DOT and Safety Sensitive.

Appendix B: Forms located in the G drive, swap folder, human resources, forms.

Introductory Statement

Effective Date: 03-01-2015
Revision Date:

The Employee Handbook is designed to provide information about working conditions, employee benefits, and policies affecting employment. These policies apply to all employees of the City of Texarkana unless specified otherwise. It describes many of your responsibilities as an employee and outlines the programs developed by the City to benefit employees. It is your responsibility to review the manual and comply with the policies as well as all other rules, guidelines and regulations implemented in accordance with these policies.

It is important to understand that no Employee Handbook cannot anticipate every circumstance or question. Due to changes in state and federal employment laws, portions of these policies may be superseded by such new legislation and it is the intent of the City to monitor and follow any such legislation. The City reserves the right to revise, supplement, or rescind any policy or portion of the Employee Handbook from time to time as it deems appropriate, at its sole and absolute discretion. When there are revisions, supplements or other changes to the manual, managers, supervisors and employees will be notified of such changes as these occur.

The language used in any statement, policy or procedure herein, is not intended to create, nor is it to be construed to create, a contract between the City and any one or all our employees.

Should you have any questions as to the interpretation or understanding of any policy, procedure or practice, please visit the Human Resources Department. The Human Resources Department administers the City's personnel functions and employment policies in accordance with applicable federal and state law. As a matter of policy, all personnel records and policy administration shall be the responsibility of the Human Resources Department.

Objectives of Policy

Effective Date: 03-01-2015

Revision Date:

The objectives of the HR policies are as follows:

- (A) To promote good and uniform personnel practices and administration in the management of the City's human resources;
- (B) To develop a program of recruitment, advancement and tenure, that will make municipal employment attractive as a career and encourage each employee to render the employee's best services to the citizens of the City;
- (C) To provide compensation based upon the relative duties and responsibilities of positions in the service of the City;
- (D) To promote high morale by the consistent administration of these policies; and
- (E) To provide that tenure of employees covered by these policies shall be subject to good conduct, satisfactory performance, necessity for the position, and availability of funds.
- (F) We believe that employees are entitled to a safe and secure work environment where everyone treats each other with dignity, respect and professionalism always. Treat all City employees, vendors, guests and anyone with whom you interact with respect, professionalism and civility always. This means exercising emotional self-control and sensitivity to the feelings of others. When differences arise, address them with a constructive, problem-solving approach, not with blame or recrimination.

Amendment of Policies

Effective Date: 03-01-2015
Revision Date: 10-01-2017

Amendments to the Employee Handbook must be approved by the City Manager. The City Manager is responsible for the implementation of the personnel policies.

General and final authority for personnel administration rests with the City Manager, except for matters reserved to the City Council by state law or the City Charter. Authority may be delegated to appropriate staff members to act in the City Manager's behalf in the administration of this handbook; however, the final authority on personnel decisions shall be reserved to the City Manager. Operational changes to any policy, practice, or process will require approval by the City Manager.

No City of Texarkana supervisor is authorized to modify this handbook for any employee or to enter into any agreement, oral or written.

Application of Policies

Effective Date: 03-01-2015
Revision Date: 10-01-2018

These policies shall apply to all City employees, provided that the provisions may be varied in the case of an employee with a written employment agreement approved by the City Council. All employees must become familiar with and abide by these policies. The City reserves the right to revise or rescind any policy at any time. The City also reserves the right to make final decisions as to the interpretation and intent of all information contained in the Employee Handbook.

The City reserves the right to interpret, change, suspend, or cancel, with or without notice, all or any part of these policies, or procedures contained herein.

This Handbook sets forth policies applicable to all City employees. However, the Texas Local Government Code, Chapter 143, **collective bargaining** and the City Charter will supersede any provision of this manual as it relates to disciplinary action, dismissal, and any other personnel matters affecting Police Officers and Firefighters.

Management Authority

Effective Date: 03-01-2015
Revision Date: 10-01-2017

General and final authority for personnel administration rests with the City Manager, except for matters reserved to the City Council by State law or the City Charter.

Management Authority. The City may modify, revoke, suspend, interpret, terminate, or change any or all its policies and procedures, in whole or in part, at any time. The issuance of these policies and procedures does not constitute a contract between the City and its employees for any duration of employment. There is no specified length of employment, and either the City or the employee can terminate the employment relationship at any time, for any reason.

Policy administration rests with City management and City management reserves sole authority to administer City operations.

Departmental Policy and Procedural Requirements. Individual City departments may develop policies and procedures that are consistent with City policies and procedures. Department policies and procedures that are **operational** and that do not relate to those in this handbook, or other approved operational manuals, do not need to be reviewed and approved by the Director of Human Resources or other appropriate departments. All others, however, are subject to approval by the appropriate City department. All employment related department policies must be reviewed by the Director of Human Resources. Department Directors are responsible for obtaining the necessary review and approval prior to issuing such departmental policies and procedures. Departmental policies and procedures will not become effective unless they have been reviewed and approved in accordance with this policy.

Miscellaneous. Policies and procedures apply to all employees of the City, both on and off duty where applicable, unless otherwise indicated, restricted by proper authority, or prohibited by State and/or Federal law.

Only the City Manager has the authority to enter into an employment agreement, promise, or commitment contrary to these policies and procedures, and all such agreements, promises, and/or commitments entered into by the City Manager must be contained in an express written employment contract signed by both the City Manager and the affected employee.

Any statement in a policy and/or procedure found to be illegal, incorrect, and/or not applicable will not affect the validity and intent of the remaining content of such policy or procedure.

Management Authority

Effective Date: 03-01-2015

Revision Date: 10-01-2017

Titles utilized do not govern, limit, modify, or affect the scope of meaning or intent of any provision.

Any conflicts, questions, or ambiguities in City or departmental policies and procedures will be decided by the City Manager.

The City Manager may delegate rights and powers granted under these policies and procedures to the Human Resources Director or to others as deemed appropriate in the City Manager's sole discretion.

Chapter 1: General Policy

1.01 Equal Employment Opportunity

Effective Date: 03/01/2015

The City is an equal opportunity employer. Discrimination against any person in recruitment, examination, selection, appointment, rate of pay, promotion and transfer, retention, daily working conditions, training, awards, compensation and benefits, disciplinary measures or any other aspect of employment because of age, race, color, religion, sex, national origin, disability, genetics, veteran's status or other unlawful basis, is prohibited.

1.02 Americans with Disabilities (ADAAA)

Effective Date: 03/01/2015

To ensure compliance with the Americans with Disabilities Act (ADA) and Americans with Disabilities Act as Amended (ADAAA), the City offers equal employment opportunity to qualified individuals and strictly prohibits discrimination against qualified individuals based on disability.

The City will provide reasonable accommodation to the known physical or mental impairments of an otherwise qualified individual with a disability if such reasonable accommodation will enable the individual to perform the essential functions of the position. The City's obligation under this policy is limited to providing reasonable accommodations that will not result in undue hardship to the City.

Any employee seeking a reasonable accommodation for a disability that affects the employee's ability to perform the essential functions of the position shall make a written application on Form 18, Request for ADAAA Accommodation provided by Human Resources.

Employees who have a complaint involving potential violations of the Americans with Disabilities Act or ADAAA, including but not limited to harassment, discrimination, or failure to provide a reasonable accommodation, must immediately contact the immediate Supervisor, Human Resources, the City Manager or designee.

However, the employer is **not** required to lower quality or quantity standards to make an accommodation. In addition, the employer is **not** required to provide personal use items such as glasses, wheel chairs or hearing aids as an accommodation. The City of Texarkana will comply with all federal, state, and local laws relating to the employment of applicants and employees with disabilities and reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of the job in question.

An individual, who can be reasonably accommodated for the job in question, without undue hardship to the City, will be given the same consideration for that position as any other applicant or employee.

All employees are required to comply with safety standards. The City will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of their position unless doing so causes a direct threat to the individuals or others in the workplace which cannot be eliminated by reasonable accommodation and/or if the accommodation creates an undue hardship to the City. Essential functions of the job refer to those job activities that are determined by the City to be essential or core to performing the job; these functions cannot be modified. Any employee that poses a direct threat to the health or safety of the other individuals in the

1.02 Americans with Disabilities (ADAAA)

workplace will be placed on appropriate leave until an organizational decision can be made regarding the employee's qualifications for the position.

A. Definitions

In implementing this policy, the City of Texarkana will be guided by the most recent applicable definitions stated in the ADAAA or in case law construing the ADAAA, and applicable state and local law. In the event of any conflict between the definitions in the ADAAA and the definitions in this policy, the legal definitions will be prevailing.

The following discussion is provided for general guidance of applicants and employees in understanding the policy of the City of Texarkana.

1. **"Disability"** refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. An individual who has such an impairment or has a record of such an impairment is also deemed a "disabled individual". An individual may also be deemed "disabled" if that person is *regarded* as having such impairment. However, in the "regarded as" instance, the situation is more complicated. Under amendments to the ADAAA in 2008, if the condition is transitory and minor, defined as having an actual or expected duration of 6 months or less, then the condition does not qualify as a disability.
2. Generally, ameliorative measures such as medications and medical devices *will not* be considered in making a disability determination, although ordinary eyeglasses or contacts *may* be taken into consideration. So, for example, the mere fact that a person wears ordinary eyeglasses will not qualify that person as "disabled." On the other hand, the fact that a person has a hearing aid or takes medications to address the impairment will not disqualify that person as being "disabled" if the person otherwise meets the definition of "disabled."
3. **"Major life activity"** may include things such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating or working. A "major life activity" may also include bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive systems.
4. **"Direct threat to safety"** refers to a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.
5. A **"qualified individual with a disability"** refers to an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or has applied for.

1.02 Americans with Disabilities (ADAAA)

6. **“Reasonable accommodation”** refers to making existing facilities readily accessible to and usable by individuals with disabilities, including but not limited to; job restructuring, part time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modification of examinations, adjustment or modification of training materials, adjustment or modification of policies, and similar activities.
7. **“Undue hardship”** refers to an action requiring significant difficulty or expense by the employer. The factors to be considered in determining an undue hardship include but not limited to: (1) the nature and cost of the accommodation; (2) the overall financial resources of the facility at which the reasonable accommodation is to be made; (3) the number of persons employed at that facility; (4) the effect on expenses and resources or other impact upon that facility; (5) the overall financial resources of the City; (6) the overall number of employees and facilities; (7) the operations of the particular facility as well as the entire City; and (8) the relationship of the particular facility to the City. These are not all the factors but merely examples.
8. **Essential job functions”** refer to those activities of a job that are the core to performing the job in question and must be performed with or without an accommodation; these functions cannot be modified for the job position.

B. Administrative Procedures ~ How to request an accommodation

An applicant and/or employee may request an accommodation using **Form 18, Request for ADAAA Accommodation Form** found in the back of the Personnel Handbook, on the HR website, or in the Human Resources department. Any request for accommodation must be reasonable, not cause an undue hardship, not be a threat to safety, and enable the applicant or employee to perform the essential functions of the position. Each request will be evaluated on the criteria. All requests are confidential. The review and coordination of any request for accommodation for a disability will be limited to those who have a right to know.

The Human Resources Department is responsible for implementing this policy, including resolution of reasonable accommodation, safety, and undue hardship issues.

The Human Resources Director is designated as the ADAAA Coordinator responsible for the receipt, review and response of requests for accommodation from the applicant or employee.

The applicant or employee will be provided the status of the request within five (5) working days. Extensions may be required contingent upon the complexity of the

1.02 Americans with Disabilities (ADAAA)

request. A need for extension will be provided in writing by the ADAAA Coordinator to the applicant or employee.

Should the applicant or employee disagree with the findings of the ADAAA Coordinator, the applicant or employee may appeal the decision of the ADAAA Coordinator within five (5) working days to the City Manager or designee. The request for appeal must be provided in writing. The decision of the City Manager or designee will be final.

1.03 At-Will Employment

Effective Date: 03/01/2015

Employment with the City is for no fixed or definite term. All employment by the City has been and continues to be at-will, except for those positions that may have a written contract approved by the City Council. That means that both the employee and/or the City have the right to terminate employment at any time, with or without notice, and with or without cause. This Employee Handbook does not constitute a contract of employment. Nothing in this handbook is intended to alter the continuing at-will status of employment with the City. Nothing contained in a City Ordinance or Resolution constitutes a contract of employment, and the City has the right to change the content of City Ordinances or Resolutions related to employment matters at any time, with or without notice, and with or without cause.

1.04 Conflict of Interest, Solicitation, and Acceptance of Gifts

Effective Date: 03/01/2015

Revision Date: 01/01/2019

Conflict of Interests: No employee of the City may:

- Have any financial or other interest, directly or indirectly, in any proposed or existing contract, purchase, work, sale or service to, for, with or by the City;
- Use City employment, authority, or influence in any manner for personal betterment, financial or otherwise;
- Have any financial interest, directly or indirectly, in the sale to the City of any land, materials, supplies or services;
- Have discussions or participate in decisions of any City agency, board, commission or instrumentality if the employee has any personal economic interest or is employed, directly or indirectly, by the person or entity that is the subject of the discussion or decision;
- Accept other employment or engage in outside activities incompatible with the performance of duties and responsibilities as a City employee or that might impair independent judgement in the performance of duties to the City; or
- Accept remuneration or provide services for compensation, directly or indirectly, to a person or organization requesting an approval, investigation, or determination from the City.

Solicitation and Acceptance of Gift

- Solicitation of funds or anything of value for any purpose whatsoever shall be permitted of or by City employees on the job only with the express approval of the City Manager. No employee may be required to make any contribution, nor may an employee be penalized in any way concerning employment according to the employee's response to a solicitation.
- If a person (outside source) presents a gift to a City employee as a reward for service or as an act of expressing appreciation, the gift shall not create a personal benefit to a specific employee.

Violations of this policy may result in disciplinary action. Employees should direct questions regarding the prohibitions imposed by this policy to your Department Director, the Director of Human Resources, or the City Manager's office.

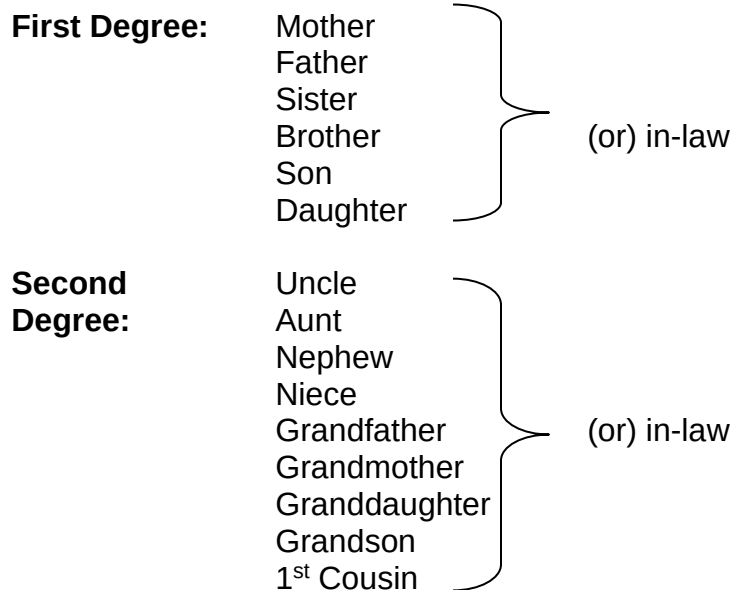
1.05 Nepotism

Effective Date: 03/01/2015
Revision Date: 01/01/2019

To prevent conflicts of interest, to avoid accusations perceptions of favoritism and biased and to maintain the confidentiality of restricted information, it is the policy of the City that:

(A) Applicants

- An applicant related to the City Manager by blood or marriage within the second degree according to common law shall not be employed by the City.
- An applicant related by blood or marriage within the second degree according to common law to any member of the City Council shall not be employed by the City.
- Under no circumstances will an applicant be employed in a department in which the employee may directly or indirectly supervise or be supervised by a member of the employee's immediate family. **Immediate family includes** spouse, parents, children, brother or sister.



(B) Promotion

In the event of a proposed promotion of a current employee to a position where the employee would be required to directly or indirectly supervise or be supervised by a member of the employee's immediate family (see definition above), any employed family member of a person considered for promotion must agree to immediately tender written, conditional resignation before the candidate will be formally considered for the

1.05 Nepotism

proposed promotion. If the candidate is selected for and chooses to accept the promotion, the conditional resignation becomes final. Normally, once final, any such resignation will not become effective until ninety (90) days after the promotion takes effect.

(C) Reorganization

In the event of a reorganization, or any other situation (other than a promotion) giving rise to a relationship prohibited by this section of the policy, the lower ranking employee will be required to immediately resign employment. If both employees are of an equal rank, one of them will be required to immediately resign employment. If the employees do not decide which will resign the employee with the least seniority will be deemed to have resigned. Normally, any such resignation will not be effective until ninety (90) days after the engagement, reorganization, etc., occurs.

(D) Other Restrictions

The following restrictions apply on the employment of any relative, including those defined as family members under this policy:

- No employee in the relationship will supervise, review or process the work of the other;
- The employees' relationship must not create a conflict between employees/City interests; and
- There must be no interdependence or relationship between the jobs of the individuals concerned which could be potentially detrimental to the interests of the City.

Relatives will not normally be permitted to work in the same department with each other without prior written authorization from the City Manager (or designee). In addition, written authorization must also be obtained from the City Manager (or designee) to employ any relative of a current City employee.

(E) Marriage of Current Employees

In the event of a marriage between two City employees, a promotion, reorganization, or any other situation giving rise to a relationship prohibited by Subsection B of this policy, one or both affected employees must immediately seek a transfer to another available position within the City for which the employee is qualified and that meets the requirements of Subsection B of this policy. If a suitable transfer cannot be made within

1.05 Nepotism

ninety (90) days of the event giving rise to a relationship prohibited by this policy, one or both affected employees will be required to resign from employment.

(F) Grandfather Clause

The City is aware that, as of the above effective date of this policy, a few City employees are currently related, by blood or by marriage, to other City employees. These employees will be “grandfathered” under this policy, meaning they will be permitted to continue their employment with the City if the requirements set out in this policy are met. Please be informed that the above "grandfathered" provision is for family relationships as they exist as of the revision date of this policy. Any future changes to the family relationship and/or the employment status of the affected employee(s) will be governed by the requirements of this policy.

(G) Periodic Review

Periodically, the City Manager (or designee) will review the job descriptions and interrelationship between the affected jobs and determine whether they are following this policy. If one or more of these requirements are not met, one or both affected employees must immediately seek a transfer to another available position within the City for which he or she is qualified and that meets the requirements of this policy. If a suitable transfer cannot be made within ninety (90) days, one or both affected employees will be required to resign from employment.

(H) Application of Policy

This policy applies to all full-time, part-time and temporary seasonal employees of the City.

1.06 Valid Driver's License

Effective Date: 01/01/2019

The City requires that every employee who operates a City owned or leased vehicle, or who drives a privately-owned vehicle while carrying out job duties for the City, must maintain a current valid Texas or other acceptable driver's license and an acceptable driving record as determined by the City.

Driving records will be checked prior to employment and periodically throughout the course of employment.

When a special classification of driver's license is required to operate City equipment, it is the employee's responsibility to maintain the required license.

1.07 Outside Employment

Effective Date: 03/01/2015

Written Authorization Required. City employees and applicants may engage in outside employment provided they receive prior written approval from their Department Director. Employee must submit a **Form 24, Request for Outside Employment** to the Department Director prior to the acceptance of outside employment and whenever the nature of such employment changes. If outside employment is approved, the request form will be forwarded to Human Resources and placed in the employee's personnel file.

Outside Jobs Coordinated Through Police Department. Police officers authorized to work part-time jobs coordinated by and through the City's Police Department must perform the outside employment in accordance with applicable Police Department procedures.

Prohibited Activities. Employees will not be permitted to engage in outside employment (including self-employment) or other activities that might discredit the City, result in a conflict of interest or a potential conflict of interest, or adversely affect the employee's job performance. Approval of outside employment may be withdrawn at any time.

Workers' Compensation Coverage. Employees are not covered by the City's workers' compensation insurance while working for another employer.

Outside Employment While on Leave Prohibited. Approval for outside employment as set out in this policy **does not authorize** an employee on Family Medical Leave, sick leave, disability leave, workers' compensation leave, administrative leave (**paid or unpaid**), or an unpaid leave of absence, or on restricted or light duty to engage in any outside employment. Any exceptions must be expressly authorized in writing by the City Manager.

1.08 Personal Relationships

Effective Date: 03/01/2015

POLICY:

Personal relationship is defined as a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. Supervisors are strictly prohibited from having personal relationships with subordinates; dating or intimate, regardless of frequency. The City reserves the right to take prompt action if an actual or potential conflict of interest arises concerning individuals who occupy positions at any level (higher or lower) in the same line of authority that may affect employment decisions. If it has been determined that a supervisor is dating or intimate with a subordinate, the supervisor may be disciplined, up to and including termination. Any employee who is in violation of the personal relationship policy may be subject to discipline, up to and including termination.

Employees involved in a personal relationship with another employee may not occupy a position in the same department, work directly for, or supervise the employee with whom they are involved. The exception is for the employees who work in larger city departments: **having different divisions or work schedules**, and who have first disclosed that they were involved in a personal relationship. The employees may be separated by reassignment into a different unit, division or work schedule. The alternative for any employee determined to be in a personal relationship is for one or both employees to leave employment of the department.

Where a conflict or the potential for conflict arises because of a relationship between employees, even if there is no line of authority or reporting involved, the employees may be separated by reassignment or terminated from employment. If such a dating relationship is established after employment, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the Department Director or Human Resources immediately. Failure to immediately disclose the relationship constitutes violation of the personal relationship policy. Where a conflict or potential conflict arises because of the relationship affecting employment the individuals concerned will be given the opportunity to decide who is to be transferred to another position or terminated if no position is available. If that decision is not made within 30 calendar days, management will decide who is to be transferred or, if necessary, terminated from employment.

1.09 Personnel File

The City of Texarkana maintains an official personnel file in Human Resources on each employee including such information as the employee's job application, resume, performance evaluation forms, personnel action forms, and other employment records.

A. Restrictions & Confidentiality of File

Personnel files are the property of the City, and access to the information they contain is restricted. However, release of information contained in the personnel file is subject to the Public Information Act. Information contained in the personnel file, except information deemed confidential by law or other information that is excepted from disclosure under the Public Information Act, may be released pursuant to such Act. Additionally, direct or hiring supervisors and management personnel of the City who have a legitimate reason may review information in a file. Medical records are maintained separate from the personnel file and will not be released to the public, unless required by law. An employee or former employee may choose not to allow public access to information that relates to the employee's home address, home telephone number, or social security number, or that reveals whether the employee has family members, by signing a written **Form 25, Non-Disclosure Form** at the time of employment, termination, or retirement. An employee or former employee may also later choose to open or close access to such information.

B. Employee Access to File

Employees who wish to review their own file shall contact the Human Resources Department to schedule an appointment. With reasonable notice, employees may review their own personnel file in the Human Resources Department in the presence of a Human Resources employee. The employee may review the files and take notes or request copies of select pages but shall not add or remove anything from their personnel file at that time.

C. Personal Data Changes

It is the responsibility of each employee to notify Human Resources of any changes in personal data, such as personal mailing addresses, telephone numbers, emergency contact, insurance data, etc.

Chapter 2: Employment

2.01 Recruitment and Selection

Effective Date: 01/01/2019

The City hires employees based on their knowledge, skills and abilities, experience, and other qualifications as they relate to the duties and responsibilities of a position without regard to race, national origin, religion, color, sex, age, citizenship, political affiliation, disability, genetics, military/veteran's status, sexual orientation, gender identity or any other characteristic protected by law. It is the desire and intent of management to provide promotional opportunities for employees of the City and making applicable training and educational opportunities available.

Recruitment Requirements: The recruitment process is initiated by a Department Director or designee, submitting an electronic requisition to Human Resources. Job vacancies will normally be posted internally for the benefit of any qualified employee. External recruitment may also be conducted during an internal posting.

The recruitment method for vacant director level positions may be determined by the City Manager on a case by case basis.

Applications. Outside applicants seeking employment, promotion, transfer, or reemployment with the City must complete and submit an official City application process for the position desired. Current City employees seeking promotion or transfer with the City must complete an application. All information set forth on an application is subject to verification. Applications will normally be considered active until the vacancy is filled or the closing date has past.

Hiring Process. Applicants for employment shall be required to submit to an oral interview and may be required to submit to a post-offer physical examination, drug and alcohol screening, and may be required to submit to pre-employment testing and investigation.

After deciding to hire, the hiring department must submit the appropriate paperwork to Human Resources, along with the applicable personnel action form (**PAF**). Offers for City employment will be communicated through the Human Resources Department.

Disqualification. Applicants will be disqualified from consideration for one or more of the following:

- Failure to meet the minimum qualifications necessary for performance of the duties for the position;

2.01 Recruitment and Selection

- If they previously worked for the City and were involuntarily terminated, or resigned in lieu of termination;
- If employment will result in a violation of the City's Nepotism Policy;
- Failure to meet minimum age requirement of 18; or for Civil Service applicant's failure to meet the local rules age requirement;
- False statements or material omissions on the application form or during the application process;
- Failing any of the City's background and employment requirements including, but not limited to, drug/alcohol testing;
- The applicant commits or attempts to commit a fraudulent act at any stage of the selection process;
- The applicant is not legally permitted to work in the United States;
- The applicant is unable to perform the essential functions of the job applied for with or without a reasonable accommodation; or
- Any other reason deemed to be in the best interests of the City.
- Any other reason prescribed by the Civil Service Commission, in the Local Civil Service Rules or Departmental Rules, Orders, and Directives.

2.02 Promotions

Effective Date: 03/01/2015

- (A) Current City employees will receive consideration for open positions if qualified. The City may recruit candidates both internally and externally simultaneously to hire the best qualified person.
- (B) Promotions shall be made upon the recommendation of the Department Directors with the approval of the City Manager.
- (C) Promotions shall be based on qualifications, proven performance, merit, and the ability to perform the duties and responsibilities of the position.
- (D) A promotion should not be deemed completed until an orientation period of six months shall have elapsed. Should a promoted employee not successfully complete the orientation period, the employee is eligible to return to the previous position held, if available. If no position is available for which the employee is qualified, the employee will be terminated.

2.03 Attendance and Work Hours

Effective Date: 03/01/2015
Revision Date: 01/01/2019

Regular Work Hours. Nonexempt employees of the City, except for **Police and Fire Department** personnel, normally work 40 hours in a seven-day workweek. Exempt employees may be required to work more than 40 hours in certain weeks. **The work week begins at 12:00 A.M. on Monday and ends at 12:00 midnight on Sunday.** The regular workday normally begins at 8:00 a.m. and ends at 5:00 p.m., although employees in some departments may have different work hours. For example, most nonexempt Fire Department personnel work a 24-hour shift every third day, based on a 56-hour work cycle. In times of disaster or emergency, working hours shall be determined by the City Manager.

Adjustment to Work Hours. To assure the continuity of City services, it may be necessary for Department Directors to establish other operating hours for their departments. Work hours and work shifts must be arranged to provide continuous service to the public. Employees are expected to cooperate when asked to work overtime or a different schedule. Acceptance of work with the City includes the employee's acknowledgement that changing shifts or work schedules may be required and indicates that the employee will be available to do such work.

Attendance Records. Employees are expected to be at their work stations and ready to work at their scheduled start time. Nonexempt employees are required to record the number of hours worked each day.

Attendance and Punctuality. To maintain a safe and productive work environment, the City expects employees to be reliable and punctual in reporting to work. Absenteeism and tardiness are disruptive and place a burden on the City and on co-workers. Either may lead to disciplinary action, up to and including termination of employment. In the rare instance when an employee cannot avoid being late to work or is unable to work as scheduled, **the employee must personally notify the supervisor by telephone. Text messaging is considered proper notification with prior supervisor or department director approval, as soon as possible in advance of the anticipated tardiness or absence in accordance with departmental procedures** CONFIRMATION REQUIRED. The employee must personally notify the supervisor on each day of absence for absences of a day or more unless the supervisor expressly waives this requirement. An employee who does not personally reach the supervisor by phone must leave a detailed text message with the information described above.

In most instances, an employee who fails to properly notify the supervisor in advance of an absence or tardiness will be subject to disciplinary action up to and including termination.

2.04 Breaks

Effective Date: 03/01/2015

Rest Breaks: Full-time employees may, depending on individual departmental work schedules and the discretion of their supervisor, take up to two fifteen-minute, paid breaks each day, one during the first part of the work day and the other during the latter part of the work day. Breaks may not be combined. Time spent on rest breaks will be compensated as hours worked. An employee is expected to be punctual in starting and ending breaks and will be subject to disciplinary action for tardiness.

Civil Service employees do not have designated breaks.

Meal Periods: Full-time employees (excluding most Police and Fire Department employees) are normally provided a one-hour unpaid meal break near the middle of the workday. Meal periods may be staggered by the Department Director to minimize departmental interruption. Supervisors will provide employees with the starting and ending times for their specific meal periods. Employees will be relieved from work responsibilities during unpaid meal breaks. Employees may not extend meal breaks beyond their assigned period. Employees may not add rest breaks to the beginning or end of their meal periods.

Lactation Break: Nursing mothers will be provided with reasonable unpaid break time to express breast milk for up to one year after the birth of a child in accordance with applicable law. If an employee needs time beyond the usual lunch and break times, the employee may use vacation or make up time as approved by supervisor. Employees and supervisors are expected to agree, in advance, upon a break schedule and how the time will be counted or made up. A private room will be provided for nursing mothers to use. Employees who have a private office may use it if they prefer.

Supervisor Responsibility: Supervisors are responsible for scheduling the time for employee rest and lactation breaks and should take into consideration the work load and nature of the job performed. Whenever necessary, the supervisor may change the frequency and length of rest breaks.

Practices Not Permitted: The following practices are not permitted uses of rest breaks:

- combining two daily breaks into one thirty (30) minute rest break;
- "banking" rest period time from day to day;
- saving rest period time to extend lunch periods or shorten the scheduled work day; or requesting compensatory time off or overtime pay; no work is to be performed during rest period time.

2.05 Orientation Period General Fund Employees

Effective Date: 01/01/2019

All new employees hired to fill regular full-time or part-time positions must satisfactorily complete an initial performance orientation period of **12 months**.

Employees covered by Chapter 143 of the Texas Local Government Code and/or a collective bargaining agreement shall serve a probationary period as contained in Chapter 143, Local Civil Service Rules, and/or the collective bargaining agreement.

Additionally, all current employees who are transferred, promoted, demoted, or reclassified to a supervisory position, must satisfactorily complete a performance orientation period of **six months**. The orientation period assists the City in maintaining an effective, productive, and efficient workforce to provide quality services to the citizens. Only those employees who meet acceptable performance and other standards during their orientation period will be retained as employees.

Each employee serving in the orientation period is responsible for knowing, understanding, and meeting the expectations and standards for the position. In addition, each employee is also responsible for performing the job in a safe, productive, and effective manner within the instructions and established standards for the position. Furthermore, employees are expected to maintain acceptable standards of conduct in their employment. During the orientation period, it is the responsibility of the employee to correct any deficiencies or inadequacies in job performance, or conduct.

Seasonal/Temporary Employees. Seasonal and temporary full and part-time employees do not serve a performance orientation period and have no right of appeal when terminated at any time.

Change in Assignment of Employee serving in the Initial Orientation Period. Employees serving in the orientation period may not request or make application for reassignment, promotion, or voluntary transfer during the orientation period without written approval from the City Manager, or if requested by their Department Director. If the reassignment, promotion, or transfer is approved, the employee will serve a minimum of 6 months or the balance of the previous orientation period, whichever is greater, performance orientation period in the new position beginning with the date of the position change.

Absences During Orientation Period. During the orientation period and with Department Director approval, an employee is eligible to use sick leave for qualifying absences and may use vacation leave for an absence due to illness or injury only if all sick leave has been exhausted. Compensatory time off or recognized holidays during the orientation period may be used as approved per established departmental policy or practice. Transferred or promoted employees serving in the orientation period retain eligibility for all types of leave established by City policy.

2.05 Orientation Period General Fund Employees

Orientation Coaching Reviews. All employees serving in the orientation period shall be constantly coached and reviewed in accordance with the policy.

Extensions to Orientation Period. At the end of the initial period, the performance orientation period may be extended for up to an additional 90 days when an employee's performance has been marginal due to extenuating circumstances, additional training is warranted, or an employee's absence from work for an extended period did not permit an opportunity for adequate assessment of performance. The decision to extend or not to extend an employee's orientation period may not be appealed. If an extension is granted, the employee will be advised in writing and given the date on which the extended orientation period will be completed. Such extension will be at the sole discretion of the Department Director and the Director of Human Resources.

Successful Completion of Orientation Period/Regular Status Granted. Employees have no guarantee of employment either during or after their orientation period. Only employees who meet acceptable performance, conduct, attendance, and other standards during the orientation period will be retained as regular employees. An employee is granted "regular" status in the new position if the employee satisfactorily completes the performance orientation period.

Failure of Orientation Period. An employee is considered to have failed the orientation period when it is determined that the employee's fitness, job performance, quality or quantity of work, attendance, or combination thereof, does not meet minimum job performance standards and expectations for the position. Failure of orientation period may occur at any time within the orientation period. An employee who does not successfully complete the orientation period will normally be terminated from the City's employment. If desirable and feasible, the employee may be administratively transferred to a more suitable position at the sole discretion of the City. A transferred or promoted employee who fails the orientation period may, at the sole discretion of the City, be reinstated to the former position provided there is a vacancy and if approved by the affected Department Director(s). **Department Directors** are responsible for ensuring the **timely written documentation of all cases of failure of the orientation period, including documentation of counseling, training, and other efforts to help employees during their orientation period.** All such documentation must be reviewed by the Director of Human Resources before an employee serving in the orientation period can be terminated.

Termination of Employees Serving in the Orientation Period. All employees of the City including those serving in the initial orientation period are at-will employees and may be terminated at any time during the orientation period, with or without notice or cause. An employee serving in the initial orientation period who is terminated has no right of appeal. Employees serving in the initial orientation period are subject to all policies and procedures of the City except for appeal rights.

2.06 Coaching Reviews

Effective Date: 01/01/2019

Coaching reviews assist supervisors in communicating job expectations, measuring the employee's level of performance, recognizing employee achievements and exemplary performance, and strengthening the supervisor-employee relationship. The coaching reviews system provides necessary information for management decisions including career development and training, assignments, advancements, performance corrections, retention, compensation, etc. The purpose of the coaching reviews as outlined herein is to achieve optimum employee performance resulting in outstanding citizen service.

Schedule. Regular full and part-time employees are eligible for:

- A coaching review before completing their orientation period; and
- On-going annual coaching reviews shall be scheduled by the HR Director

Newly transferred or promoted employees who are serving their initial orientation period shall also receive a coaching review before completing their orientation period.

Department Directors are not governed by the above schedule; the City Manager's office may establish a coaching review system for Director-level positions.

Supervisory Responsibilities. All coaching review processes and documentation must be completed where required. A review is considered complete at the time the employee signs the document, or the supervisor and/or Department Director has a witness acknowledge the employee's refusal to sign the document. ***Supervisors will strive to listen and make sure employees feel heard with the use of the Check-In steps of the coaching review. Enabling their team should be their #1 priority. Ask employees what's working and what could be done differently. Feedback should be frequent. Let employees know what they did well and where they could improve. Provide clarity on roles and department goals.***

Department Directors are expected to ensure compliance with this policy and ensure that supervisors and managers under their direction are adequately trained in the coaching review process. Department Directors, supervisors, and/or managers are responsible for the comments contained within the coaching review and to correct any obvious errors or rating bias.

2.06 Coaching Reviews

Human Resources Responsibilities. Human Resources will review all coaching reviews for obvious errors and return reviews to the Department Directors, supervisors and/or managers for any clarifications or procedural corrections.

Employee Responsibilities. Employees are expected to be knowledgeable of their essential job functions and core competencies and maintain established performance standards and requirements as outlined in the coaching review. Employees are encouraged to discuss issues and concerns throughout the coaching review process during the check-in steps with their supervisor. If the employee is unable to resolve an issue or concern with their supervisor, the employee may address them with the Department Director; if the Department Director is their direct supervisor, the employee may go to the Human Resources to address their concerns.

2.07 Classification Plan

Effective Date: 01/01/2019

All full-time positions authorized by the City Council shall be included in a position classification plan.

Each position classification shall include jobs based on similar or comparable responsibilities, duties, type of work, and required qualifications.

The Classification Plan may be revised from time to time as changing circumstances and market conditions require and upon recommendation by the Director of Human Resources and approved by the City Manager. Such revisions may consist of the addition, deletion, abolishment, consolidation, division or amendment of existing position classifications.

2.08 Exit Interviews

Effective Date: 01/10/2019

The City usually provides separating employees with an exit interview prior to their last day of work. The purpose of the exit interview is to finalize all compensation due, return City equipment, provide explanation of any continuing benefits, review employment history, discuss the reason(s) for the separation, and solicit constructive feedback to improve the City. Exit interviews are conducted confidentially by Human Resources. Information discussed during the exit interview may be shared with the department director and acted upon as deemed appropriate.

The Department Director (or designee) is responsible for promptly notifying Human Resources of all separations and providing documentation of receipt of all departmental and/or City property from the exiting employee.

Final payment of compensation may be withheld pending return of City property, completion of necessary paperwork, and other requirements of separation.

2.09 Separations

Effective Date: 03/01/2015
Revision Date: 01/01/2019

The City designates all employee separations as one of the following types:

Resignation. An employee who intends to resign is requested to notify the supervisor and/or the Director of Human Resources in writing at least two weeks prior to the last day of work. Employees who fail to give a two-week notice are typically not eligible for rehire. The supervisor is responsible for immediately notifying the Director of Human Resources.

Retirement. An employee who intends to retire is requested to notify the Department Director, supervisor and the Director of Human Resources, in writing at least one month prior to the date of retirement. The TMRS application for retirement must be in the TMRS office the day of intended retirement date to lock in the in-service-date.

Dismissal/Termination. The City may terminate an employee's employment because of unsatisfactory performance or conduct and/or violation of City policies or procedures, including a new hire who fails the orientation period or for Civil Service, the probation period. City employees who are terminated, or who resign in lieu of termination, due to unsatisfactory performance, pending results of an investigation, or conduct and /or violation of City policies or procedures, are not eligible for rehire.

Dismissal may also occur for the following:

Job Abandonment. If an employee fails to properly notify the City of an absence from work or if an employee is absent without authorization and/or notification for three or more consecutive days, the City will normally consider the employee to have abandoned employment, and the employee will be terminated.

Long-Term Absence. Leave of absence beyond 12 weeks may be granted if it is a reasonable accommodation justified by medical necessity. This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act.

Incapacity. An employee may be terminated for incapacity when the employee no longer meets the physical or mental requirement of the job with or without accommodations. A termination for incapacity is not considered a disciplinary action. The employee may receive accrued vacation and sick leave benefits if provided by policy, if any, payable upon termination.

Reductions-in-Force/Reorganization. An employee may be separated from City service when it is deemed necessary by reason of shortage of funds or work, the

2.09 Separations

abolition of the position, or other material change in the duties of the organization, or for other reasons which are outside the employee's control and which do not reflect discredit upon the service of the employee.

Death. If a City employee dies, the designated beneficiary or estate will be paid all earned pay and payable benefits.

Upon separation from service with the City, any time after **five years of continuous service**, regular, full-time and regular, part-time employees and certified police officers shall receive pay for vacation leave accumulated up to 120 hours x their current hourly pay rate. Certified firefighters can receive up to 168 hours.

Certified police officers receive up to 720 hours of sick leave pay at separation. Certified firefighters (24/48) receive up to 1008 hours of sick leave pay at separation.

Employees who retire, resign, or otherwise terminate their employment with the City while under investigation for policy violations that may result in the employee's involuntary separation from service, absent extenuating circumstances approved by the City Manager, **are not** eligible to receive any compensation for unused vacation leave.

If the employee is terminated or resigns without a two (2) week notice or fails to work the final full two (2) weeks after notice, no payment for accrued vacation leave shall be made, unless the two (2) week notice is waived by the Department Directors and the Director of Human Resources.

Except in extraordinary situations, separating employees will not be allowed to use a holiday as their final day of employment. Exceptions must be scheduled and authorized in advance by the Department Director.

2.10 Retirement

Effective Date: 03/01/2015

The City participates in the Texas Municipal Retirement System (TMRS), which provides retirement benefits to eligible employees. Employees covered under TMRS are required to contribute 7% of the employee's pay to be deposited into the member's account. The City of Texarkana currently contributes matching funds (2:1) pursuant to actuarial assumptions. Participation by every full-time regular employee is a condition of employment. All amendments and additions to such system enacted by the City Council are continued in full force and effect and are incorporated herein by reference. Employees are provided retirement benefits upon meeting TMRS eligibility and plan requirements. Specific TMRS plan requirements and provisions can be obtained from Human Resources or TMRS. Members of the Fire Department may be members of the City's Firemen's Relief and Retirement Fund.

LEAVE BUYOUT RETIREMENT BENEFIT:

Employees hired before January 1, 2010 shall be eligible to receive payment for **up to 240** vacation hours and **720** sick leave hours. Fire Operations equals **336** hours vacation and **1008** sick leave. These employees shall also receive an amount equal to up to an additional 720 sick leave hours deposited into an account for health and/or dental coverage premium payments. **(Fire 336V/1008S)** Such premium payment shall be made only to the insurance coverage provided by the City. The benefits of this retirement program shall be effective immediately upon retirement and shall not be deferred for any reason. All age and tenure requirements must comply with TMRS guidelines at the time of retirement to qualify for this program.

Employees hired on or after January 1, 2010 shall be eligible to receive payment for up to 240 vacation hours and 720 sick leave hours. For sick leave they must choose between a lump sum payment or depositing the funds into an account for health and/or dental coverage premium payments. All other conditions above apply.

Participation in the City's health and dental insurance program shall **cease upon the date of eligibility for Medicare** for the Retiree and dependents.

Eligibility for participation in the City's group medical and dental insurance plan will cease if the retiree becomes eligible for another employer's group plan. The retiree is required to notify the City of medical insurance benefits provided by another group insurance. If a retiree fails to disclose evidence of medical insurance benefits provided by another group plan, the retiree's eligibility and enrollment shall be terminated immediately.

To be eligible for retiree health coverage the employee must inform Human Resources, no later than the day on which the person retires from the City that continued coverage is elected.

2.10 Retirement

Dependents that are on the City's medical plan at the time of retirement **may** be maintained on the retiree medical plan. Retirees **may not** add dependents to insurance after retiring.

After **SICK LEAVE BUYOUT** funding has been exhausted, retiree may continue to be eligible to participate in employer's group plan at the fully funded retiree rates until they reach Medicare eligibility age. The retiree is responsible for remitting the amount of the premium at the time specified to the city. If the retiree fails to remit the required premium amount to the CITY at the time required, the coverage will terminate, and medical/dental insurance coverage will cease.

The City reserves the right to change this benefit and/or eligibility criteria at any time at the City's discretion. The policy is not intended to be a contract. Benefit changes to the City's group medical plan shall apply to retirees enrolled in the group plan.

Once participation in the City's retiree insurance plan has been terminated for any reason, it **shall not** be reinstated.

Chapter 3: Leave

3.01 Holiday Leave

Effective Date: 03/01/2015

Revision Date: 01/01/2019

The City provides paid holidays to employees serving in the initial orientation period, regular full-time. Every other employee is extended the official holiday, but without pay. The following official holidays will be observed:

A. All City regular, full-time and part-time City employees are entitled to the following holidays:

1.	New Year's Day	January 1 st
2.	Martin Luther King's Holiday	Third Monday in January
3.	Good Friday	Friday before Easter Sunday
4.	Memorial Day	Last Monday in May
5.	Independence Day	July 4 th
6.	Labor Day	First Monday in September
7.	Veteran's Day	November 11 th
8.	Thanksgiving Day	Fourth Thursday in November
9.	Friday after Thanksgiving	Fourth Friday in November
10.	Christmas Eve	December 24 th
11.	Christmas Day	December 25 th
12.	Day after Christmas	December 26 th

In compliance with the Texas Local Government Code section 142.0013, covered fire-fighters shall receive a holiday designated as September 11 in lieu of Labor Day.

Explanation for Christmas Holidays: City offices will be closed on Christmas Eve, Christmas Day, and the day following Christmas as adjusted for weekend dates and Christmas Wednesdays. Christmas closure schedule will be based on what day of the week Christmas occurs.

EXAMPLES: When these two days fall on Thursday/Friday, Friday/Saturday, Saturday/Sunday, Sunday/Monday or Monday/Tuesday employees enjoy a four (4) day weekend. Being closed for three days the schedule can be adjusted to always permit a five (5) day weekend. When Christmas occurs on Wednesday the adjustment will be to close on December 23 and open on December 26 thus maintaining the five (5) day weekend but requiring employees to work on the day following Christmas.

3.01 Holiday Leave

B. Taking a Holiday

1. All specially declared holidays shall be taken or accrued in accordance with the provisions of this section.
2. Holidays occurring on Saturday normally will be observed on the preceding Friday and holidays occurring on Sunday will normally be observed on the following Monday.
3. Employees who are required to work on a designated holiday and are unable to schedule a subsequent day off convenient to their Department Head shall, in addition to their regular pay for that day, be paid overtime pay for the holiday time worked, or at the Director's option, be entitled to receive compensatory time off for actual holiday hours worked.
4. **Employees Scheduled "Off Duty" on a Holiday.** When a holiday and an employee's regularly scheduled day off occur on the same day, the employee will accrue 8 hours of holiday leave (12 hours for Fire Department shift personnel) to be taken later.
5. **Ineligibility for Holiday Pay.** Employees on unpaid leave the day before and/or the day after the holiday are not eligible for holiday pay. Likewise, nonexempt employees who are absent without authorized leave on the day immediately preceding or following a scheduled holiday will not be paid for the holiday.
6. **Paid Leave Status.** An employee on a paid leave status will normally be paid holiday pay in lieu of the leave status pay they would ordinarily receive at the time of the holiday.
7. **Other Religious Holidays.** Employees may request an approved absence to celebrate a religious holiday that is not a scheduled City holiday. If approved, the employee must charge the time to vacation, compensatory time, or an excused absence without pay.
8. Holidays shall be observed as they occur except in the Police Department, Fire Department, TWU operations and the Bi-State Central Records and Communications Center.

3.01 Holiday Leave

9. All employees are required to use any available holiday time prior to using vacation time.
10. Employees who have a balance of holiday time will be paid for their holiday time at the end of the fiscal year at straight time for a maximum of 40 hours or the equivalent.
11. All holiday time balances will be set to zero out at the end of each fiscal year.
12. Personnel working 8, 10 or 12-hour shifts are only granted 8 paid hours of time for each holiday.
13. Employees must work the last scheduled day immediately preceding and the first scheduled day immediately following the holiday **unless** leave has been previously approved by the Department Director or designee.

C. Holidays on a Day Off

1. On the Weekend: A recognized holiday that falls on a Saturday will be observed on the preceding Friday or earlier if Friday is also a holiday. A recognized holiday that falls on a Sunday will be observed on the following Monday.
2. During Vacation Leave: Holidays that occur during a scheduled paid vacation time will be paid as holidays and will not be charged as vacation.
3. During Sick Leave: An employee who is on FMLA approved leave will receive holiday pay.
4. Due to Suspension: If an employee is suspended without pay on the day previous, day of, or day after the observed holiday, the employee is not eligible for a paid holiday.

Holiday Pay During Workers' Compensation Leave. An employee on worker's compensation leave will receive holiday pay.

Separating Employees. Except in extraordinary situations, separating employees will not be allowed to use a holiday as their final day of employment. Exceptions must be scheduled and authorized in advance by the Department Director.

3.02 Vacation Leave

Effective Date: 03/01/2015

Revision Date: 10/01/2018

A. Accumulation of Vacation Leave

1. Full-time, regular employees shall accumulate vacation leave at a rate of 120 hours per year.
2. Part-time, regular employees who work at least 1,040 hours and less than 2,080 hours per year shall earn vacation leave benefits at one-half (1/2) the rate of full-time, regular employees.
3. Fire Department Operations Division personnel working a 56 hour per week schedule receive 168 hours per year.

	Vacation Accrual Rate
General Fund	4.62 (per pay period)
Police	4.62 (per pay period)
Fire	6.4615 (per pay period)

4. Vacation leave may be accumulated above 200 hours, however **only 200 hours may be carried over into a new fiscal** year unless otherwise approved by the City Manager. On October 1st of each year vacation leave exceeding of 200 hours will be deleted from the employee's leave balance. Fire Department Operations Division personnel working a 56 hour per week may accumulate and carry over up to 280 hours.
5. Full-time employees who are in their initial orientation period **may** use accrued vacation leave only if approved by their Department Director. Employees who resign or who are dismissed prior to completing their training periods shall forfeit all accumulated leave.
6. Emergency, seasonal, temporary, and other irregular scheduled employees shall not earn vacation leave.

B. Use of Vacation Leave Time

1. Employees must submit a written request and receive supervisor approval.
2. All employees must use accumulated holiday time prior to using vacation time.
3. Department Directors shall schedule employees' vacations giving due consideration to the wishes of the employee and balancing the need for

3.02 Vacation Leave

responsible and efficient operation of the City. Department Directors must be certain that vacations do not interfere with the normal functions and activities of department operations. Whenever possible, employees are encouraged to submit their preferred vacation schedule to the appropriate supervisor as far in advance as possible to relieve any scheduling problems that may develop.

4. Employees who become ill while off work on vacation leave may request that their vacation time be converted to sick leave. *A statement from the employee's physician is required to convert the time to sick leave.*
5. Minimum Increments. Sick leave must be taken in **minimum increments of .25 hours**. Sick leave taken in increments of less than one hour should be made up within the same work week.

3.03 Sick Leave

Effective Date: 03/01/2015
Revision Date: 01/01/2019

Accumulation of Sick Leave:

Sick leave is paid time away from work due to a bona fide illness or injury that prevents the employee from working, for visits to the doctor or dentist, or to care for certain family members who are ill or injured. Employees who are unable to work due to illness or injury or other situations covered by this policy must immediately notify the appropriate supervisor prior to start time or in accordance with the procedures adopted by their Department.

If an employee is off on FMLA approved sick leave on the date of a City holiday, then the employee will accumulate the holiday to be taken later.

Eligibility. All full-time and part-time employees begin accruing paid sick leave at hire date. Temporary and seasonal employees do not accrue sick leave. **Full-time employees who are in their initial orientation period may use accrued sick leave** only if approved by their supervisor and/or Department Director. An employee who is released for and offered light duty by the City, but who elects not to accept such assignment, will generally be ineligible for paid sick leave benefits.

Accrual Rate.

	Sick Leave Accrual Rate
General Fund	4.62 (per pay period)
Police	4.62 (per pay period)
Fire	6.4615 (per pay period)

Maximum Accrual. Employees may accrue unlimited sick leave.

Authorized Use of Sick Leave:

For the employee. Accrued sick leave may be used for absences due to the employee's bona fide personal illness, accident, injury that prevents working, or birth of a child (if the employee physically gave birth; otherwise use of sick leave for child birth falls under the section below).

For the employee's immediate family. Sick leave may also be used for absences when needed to care for the employee or a member of the employee's immediate family who is ill or injured and for their own and /or their immediate family's scheduled doctor and dentist appointments.

3.03 Sick Leave

For purposes of this policy, “immediate family” is defined as persons related to the employee through blood, marriage or adoption; these include employee’s mother, father, son, daughter, spouse and stepchildren.

Minimum Increments. Sick leave must be taken in **minimum increments of .25 hours**. Sick leave taken in increments of less than one hour should be made up within the same pay period.

Failure to Report Absence/ Abuse of Sick Leave. Supervisors closely monitor use of sick leave. It is anticipated that employees using paid City sick time for their own illness/injury or that of a family member will use their sick leave time to recuperate or care for their family member. Trips to the doctor or hospital stays/visits, which take the employee away from the home, are acceptable, but other **personal pursuits during paid sick leave will be considered an abuse of this policy**. Use of sick leave for anything other than an illness, injury, or doctor/dentist appointment as provided for in this policy, may result in immediate disciplinary action, up to and including termination of employment, and may also render the employee ineligible for paid sick leave benefits. Similarly, employees who fail to timely report an absence or tardiness due to illness, injury, or doctor/dentist appointment may be disqualified from using sick leave for their absence.

Other Employment During Sick Leave. Employees on sick leave, whether paid or unpaid, **may not work a second job**, including self-employment or participate in volunteer work, during the period of leave. Exceptions to this policy must be obtained in writing from the Department Director **and** the Director of Human Resources.

Use of Other Leave. If approved by the Department Director (and in the case of Department Directors, by the City Manager), employees who have successfully completed their initial orientation period may use accrued vacation leave, compensatory time, other accrued paid leave, or leave of absence without pay, but only if an employee has no accrued sick leave time. Official holidays observed by the City while an employee is on approved paid sick leave will be treated as a paid holiday, rather than a day of sick leave, if the employee is eligible for the paid holiday. Under certain circumstances and with the approval of the Department Director/supervisor, the employee may flex the work schedule (“flex time”) to attend to medical or dental appointments. This is acceptable if work time is accurately recorded on the time sheet

3.03 Sick Leave

for the week or work cycle in which flex time was approved. Under no circumstances can flex time to make up time missed extend beyond the affected workweek, or work cycle.

Documentation. Employees requesting paid sick leave must complete a leave request and submit it to their supervisor for approval. An employee must present satisfactory proof of illness/injury, (i.e. doctor's excuse) that prevents the employee from working whenever sick leave for 3 or more consecutive work days is used, and at any other time if requested by the City. An employee may also be required to present satisfactory proof of family relationship and/or satisfactory proof of a family member's illness, injury, and/or doctor/dentist appointment if the employee wishes to use accrued sick leave to care for a family member. If the employee fails to present such proof in a timely manner, use of sick leave will be disallowed and no other paid leave may be used for the absence.

Family and Medical Leave and Sick Leave. Any absence that qualifies for both Family and Medical Leave and sick leave will follow the guidelines set out in this policy and will typically be counted as both.

3.04 Family Medical Leave

Effective Date: 03/01/2015

In accordance with the Family and Medical Leave Act of 1993, an employee may be eligible to take up to twelve (12) weeks of unpaid family and medical leave during a rolling twelve (12) month period. An eligible employee is one who has worked for the City for twelve (12) months and has worked at least 1,250 hours during the twelve (12) months preceding the first date leave is to be taken. Leave can be taken for any of the following reasons: birth of a child; placement with the employee of a child for adoption or foster care (entitlement to family and medical leave expires twelve months after birth or placement); when the employee is needed to care for a child, spouse, or parent who has a serious health condition; or when the employee is unable to perform the essential functions of the position because of the employee's own serious health condition.

PROCEDURE

Twelve Month Period: The twelve (12) month period for counting family and medical leave is a "rolling" 12-month period measured backward from the date an employee requests or is placed on FMLA leave. Each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months, or 26 weeks provided in certain circumstances.

Employee Notification: An employee should give at least thirty (30) days' notice for the need to take foreseeable family and medical leave, unless the need is unforeseeable, in which case, as much notice as is practicable should be given. A form for requesting family and medical leave is available in the Human Resources Department. If it is determined that the need for family and medical leave was foreseeable, the leave may be delayed until at least thirty (30) days after the date that the employee provides notice to the City.

Department Notification: Each department supervisor is responsible for notifying the Human Resource Department immediately when an employee is away from work for a family and medical leave qualifying event (if family and medical leave has not been approved), even if the employee is utilizing paid vacation, sick or personal leave, or is out due to a work-related injury. An employee using sick leave should be reported to the Human Resource Department if it is anticipated that the duration of the illness will be three (3) or more days, or two (2) or more shifts for Fire Department employees.

Human Resource Responsibility: Human Resources is responsible for central administration of all requests for family and medical leave. The Human Resource Department reserves the right to automatically place an employee on family and medical leave if it is determined that a qualifying event has occurred. The Human

3.04 Family Medical Leave

Resource Department may retroactively designate the beginning date of FMLA to the beginning date of the employee's absence for the qualifying event.

Approval: An employee shall submit a request for family and medical leave through proper channels to the Department Director who will then forward it to the Human Resource Department for approval. Confidential medical information that accompanies the application can be submitted directly to the Human Resource Department.

Substitution of Paid Leave: An employee utilizing this policy for the placement of a child for adoption or foster care with the employee shall be required to exhaust all accrued sick, vacation and any other applicable paid leave prior to going on unpaid leave. An employee utilizing this policy for the serious illness of a child, spouse or parent must exhaust all accrued sick, vacation and any other applicable paid leave prior to going on unpaid leave. If an employee gives birth to a child, sick leave can be utilized until the employee receives a release from the doctor. After being released, the employee may use additional sick leave in accordance with the sick leave policy. Once all applicable sick leave has been used, the employee shall be required to exhaust all accrued vacation and personal leave prior to going on unpaid leave. An employee utilizing this policy for the employee's own serious health condition shall exhaust all accrued sick leave, vacation leave and personal leave prior to going on unpaid leave. If an employee is off work due to a work-related injury and the employee qualifies for family and medical leave, it will run concurrently with any paid leave. *The City reserves the right to count any paid leave that qualifies for family and medical leave toward the twelve (12) or twenty-six (26) weeks allowed under this policy.*

NOTE: Employees reaching "unpaid leave" status stop accruing all types of leave. Also, employee is responsible for continuing insurance payments for any dependent portion of the insurance.

Maximum Time Allowed: The maximum amount of family and medical leave available is twelve (12) weeks during a twelve (12) month period even if there is more than one family and medical leave qualifying event. The only exception to the twelve (12) week maximum is the leave to provide care of an injured service member, described below, which allows for an extended FMLA leave of 26 weeks.

Medical Certification: The City may require medical certification from a health care provider to support a claim for leave to care for a seriously ill child, spouse or parent, or for the employee's own serious health condition. Medical certifications must be returned to the Human Resource Department within fifteen (15) working days. Recertification may also be required monthly. For leave to care for a seriously ill child, spouse, or parent, the certification must include an estimate of the amount of time the employee is needed to provide care. For the employee's own

3.04 Family Medical Leave

serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of the position and expected duration. The City does not seek and should not be provided genetic information. If an employee or applicant's genetic information is inadvertently received by the City; the City will not use genetic information for any employment decision or action.

Upon returning to work after leave for his or her own illness, an employee is required to provide certification to the supervisor that the employee can return to regular duties. If the validity of a certification is questioned, the City may require that a second opinion be obtained. If the first and second opinions differ, the City may require a third opinion be obtained. The employee and the City must agree upon a health care provider for the third opinion and this opinion shall be binding on both parties. The City shall bear the expense of second and third opinions.

Return to Work: When an employee returns to work after family and medical leave, the employee shall be restored to the same position or to an equivalent position involving the same or substantially similar duties and responsibilities. An employee will be restored to the same worksite or to a geographically proximate worksite. The employee is also entitled to return to the same shift or an equivalent schedule.

Effect on Married Couples: If a City employee is married to another City employee and either or both employees request family and medical leave for the birth or placement of a child with the employee for adoption or foster care, the total time allowed shall be limited to no more than twelve (12) weeks combined during any rolling twelve (12) month period. For other qualifying family and medical leave events, each employee is entitled to leave if the total amount of leave taken during any twelve (12) month period does not exceed twelve (12) weeks or twenty-six (26) weeks if applicable for one employee.

Continuation of Insurance Benefits: While utilizing unpaid family and medical leave, an employee's insurance benefits will continue without interruption if the employee pays his or her portion of the insurance premiums. Insurance premiums can be deducted from the paycheck before the leave begins, or during the leave, if the employee continues to receive pay (pre-tax), paid monthly or bi-weekly.

Intermittent Leave: When medically necessary, an employee may take family and medical leave on an intermittent basis or work a reduced schedule. Arrangements should be made with the employee's immediate supervisor so that the operations of the department do not suffer an undue hardship. An employee taking intermittent leave or leave on a reduced schedule may be temporarily assigned to an alternative position with equivalent pay and benefits if it better accommodates the needs of the department.

3.04 Family Medical Leave

Holidays: Holidays will be paid in accordance with the Holidays policy. City holidays will be counted as part of the twelve (12) or twenty-six (26) weeks of family and medical leave, whether the employee is on paid or unpaid leave.

TMRS: Employee contributions to TMRS may be made on a voluntary basis through a special arrangement with the City while an employee is in a leave without pay status. It is the employee's responsibility to initiate such an arrangement by timely contacting the City's Director of Human Resources and completing the necessary paperwork.

Recordkeeping: Family medical leave time will be tracked on an hourly basis for payroll and compliance purposes. To determine entitlement for employees who work variable hours, the minimum hours required for eligibility are calculated on a pro rata or proportional basis by averaging the weekly hours worked during the twelve (12) weeks prior to the start of family and medical leave.

Exempt Employees: Paid leave accounts may be charged for less than one (1) full work day according to department policy and the salary of an exempt employee may be docked for absences of less than one (1) full work day. Salaried executive, administrative, professional and other employees of the City who meet the Fair Labor Standards Act (FLSA) criteria for exemption from overtime do not lose their FLSA-exempt status by using any unpaid FMLA leave.

DEFINITIONS

Child: A biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis, who is standing in the place of a parent, who is either under age 18, or age 18 or older and requires active assistance or supervision to provide daily self-care. A biological or legal relationship is not necessary. A more detailed definition is provided in the Family and Medical Leave Act of 1993 which is available in the Human Resource or Legal Department.

Health Care Provider: A Doctor of Medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or any other person determined by the Secretary of Labor to can provide health care services. A more expansive definition is provided in the Family and Medical Leave Act of 1993 which is available in the Human Resource Department.

Parent: A biological parent or an individual who stands or stood in the place of a parent to an employee when the employee was a child. This term does not include parents-in-law.

3.04 Family Medical Leave

Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves: (1) any period of incapacity or treatment that results in inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; (2) any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider; or (3) continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or 4) for prenatal care. Voluntary or cosmetic treatments (such as most treatments for orthodontia or acne) which are not medically necessary are not "serious health conditions," unless inpatient hospital care is required. Restorative dental surgeries after an accident or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met.

Spouse: A husband or wife as defined or recognized under State law for purposes of marriage, including common law marriage.

Military Family Leave Entitlement.

Qualifying Exigency Leave - Family Leave has been expanded to provide Family and Medical Leave due to a call to active military duty. Eligible employees with a spouse, child, or parent on covered active duty (deployed to a foreign country) or called to covered active duty status in the National Guard or Reserves (deployment to a foreign country or in support of a contingency operation) may use their 12-week leave entitlement to address certain qualifying exigencies including eligible: short-notice deployments; attendance at military events and related activities; childcare and school activities; addressing financial and legal arrangements; attending counseling sessions; attending post-deployment activities; up to 15 days of rest and recuperation; and parental care.

Military Caregiver Leave - FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave (during a single 12-month period) to care for a covered spouse, child, parent, or next of kin. The covered service member must be a current member or eligible veteran of the Armed Forces (including a member of the National Guard or Reserves) with a serious injury or illness incurred in, or aggravated by, service in the line of duty on active duty that may render him/her medically unfit to perform his/her duties for which he/she is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

3.05 Military Leave

Effective Date: 03/01/2015

The City complies with all state and federal laws relating to employees in reserve or active military service and does not discriminate against employees who serve in the military. Temporary employees who have brief or non-recurrent positions with the City and who have no reasonable expectation that their employment with the City will continue indefinitely or for a significant period are generally ineligible for extended paid military leave more than 15 days, reemployment rights, or any other military leave benefits under this policy.

This policy covers employees who serve in the uniformed services in a voluntary or involuntary basis, including active duty, active duty for training, initial active duty for training, inactive duty training, and full-time National Guard duty.

Notice to City of Need for Leave. Employees must provide as much advance written or verbal notice to the City as possible for all military duty (unless giving notice is impossible, unreasonable, or precluded by military necessity). Absent unusual circumstances, such notice must be given to the City no later than 24 hours after the employee receives the military orders. To be eligible for paid military leave, employees must complete and submit a leave request form along with the official documents setting forth the purpose of the leave and, if known, its duration. The form must be turned into the Department Director and the Director of Human Resources as far in advance of the leave as possible.

Paid and Unpaid Leave for Training and Duty.

Full Pay for Up to 15 Days. Employees will be paid for military absences of up to a maximum of 15 work days per fiscal year. Shift employees will be transitioned to a 40-hour work week during military absences. This leave may be used when an employee is engaged in National Guard or U.S. armed forces reserve training or active military duty ordered or approved by proper military authority. The paid leave days may be consecutive or scattered throughout the year.

Other Paid Leave. Employees who have exhausted all available paid military leave may, at their option, use any other available paid leave time (i.e., vacation leave, holiday leave and compensatory time) to cover their absence from work.

Unpaid Leave. After an employee has exhausted all available paid military leave (including any other paid leave time that the employee chooses to use to cover a military absence), the employee will be placed on leave without pay.

For Civil Service Employees Only:

Civil Service employees called to active federal military may be eligible to

3.05 Military Leave

receive payments of donated vacation, holiday, and sick or compensatory leave time to help provide salary continuation. The employee must be on active duty for a minimum of three months before becoming eligible for such payments and is not required to have exhausted personal leave time banks before receiving this benefit.

Benefits. The City will continue to provide employees on paid military leave with most City benefits.

Medical and Dental. While an employee is on paid military leave (or any military leave of less than 31 days), the City will continue to pay its portion of the monthly premium for group health benefits. When military leave is unpaid, the employee may elect to continue group health coverage for up to 24 months following separation of employment or until the employee's reemployment rights expire, whichever event occurs first, for the employee and eligible dependents.

Upon an employee's return to employment following military service, the City will provide health insurance coverage immediately. In addition, a returning employee will not be subjected to exclusions from coverage unless the exclusions apply to injuries or conditions that were incurred because of military service.

Other Benefits. While on *paid* military leave, employees continue to accrue vacation, sick leave and other benefits provided to other employees on paid leave. The City will also continue to pay the premium for any City-provided life insurance (if applicable) while the employee is on *paid* military leave. While on unpaid military leave, employees are generally ineligible for most City-provided benefits. Benefits, such as vacation and sick leave, do not accrue while an employee is on unpaid leave, including unpaid military leave. While on unpaid military leave, benefit accruals will be suspended and will resume upon the employee's return to active employment. Once an employee returns to work following an unpaid leave, the employee will be treated as though continuously employed for purposes of determining benefits based on length of service, such as vacation accrual and longevity pay.

TMRS. Typically, an employee's period of uniformed service is deemed to constitute service for purposes of vesting and benefit accrual. Thus, employees earn service credit for time spent on active duty military leave. Service time is credited when an employee returns to work. To qualify for service credit, an employee must: return to work for the City within 90 days after discharge; receive an honorable discharge; and timely complete the necessary application. To receive monetary credit, an employee has the lesser of 5 years or 3 times the length of the military service to make up any TMRS contributions that were missed while on military leave.

3.05 Military Leave

Returning from Leave.

Return to Work: A person returning from service must report back to work or apply for reemployment within the time constraints prescribed by USERRA. The City shall re-employ a returning veteran according to the provisions of USERRA. Civil service employees shall be required to meet additional requirements in Chapter 143 of the T.L.G.C. before being reinstated.

Deadline to Notify City of Intent to Return to Work. The deadline for an employee to return to work and/or notify the City that the employee intends to return to work following military leave depends upon how long the employee's military service lasted:

- A) For service of less than 31 days, employees have 8 hours following their release from service to report for their next scheduled work period.
- B) For service between 31 days and 180 days, employees have 14 days following their release from service to apply for reemployment.
- C) For service of more than 180 days, employees have 90 days following their release from service to apply for reemployment.

These deadlines may be extended for 2 years or more when an employee suffers service-related injuries that prevent the employee from applying for reemployment or when circumstances beyond the employee's control make reporting within the time limits impossible or unreasonable.

Required Documentation. To qualify to return to work, an employee returning from leave must provide documentation of the length and character of his/her military service. Also, evidence of discharge or release under honorable conditions must be submitted to the City if the military leave lasted more than 31 calendar days.

3.06 Bereavement (Funeral) Leave

Effective Date: 03/01/2015
Revision Date: 10/01/2018

The City provides employees serving their initial orientation or probation period and regular full-time employees paid time off for funeral leave. **(Timekeepers: use funeral leave code)**, up to a maximum of three work days in the event of a death(s) in the family, for attending the funeral. For authorizing bereavement leave "family" is defined as current spouse, child, parent, brother, sister, grandmother, grandfather by blood or marriage.

An employee may be required to provide proof of death/funeral/family relationship in support of bereavement leave. Bereavement leave pay is paid at the employee's base rate at the time of absence. It does not include overtime or any special forms of compensation. Paid time off for bereavement leave is not counted as hours worked for purposes of determining overtime.

Employees who wish to take bereavement leave must notify their supervisor immediately.

With **prior Department Director approval**, employees requiring additional time off, in excess of three days, may use vacation, compensatory time or, if no vacation or compensatory time is available, as authorized leave without pay.

Employees who wish to attend funerals for other than immediate family must use vacation, compensatory time, or unpaid leave.

3.07 Jury and Witness Duty Leave

Effective Date: 03/01/2015

The City provides paid leave to regular full-time and regular part-time employees required to serve on jury duty or requested to testify as a witness by the City in a City-related civil, criminal, legislative, or administrative proceeding. Court appearances for testimony, investigation, and court preparation because of official duties as a City employee (e.g., police, fire, inspections, animal control, etc.) are compensated as actual hours worked and are not classified as paid leave.

In all other cases, employees called for jury duty shall have two options:

- 1) Charge leave to Administrative Leave and turn in jury duty check.
- 2) Charge leave to Vacation Leave and keep the check for personal use.

The employee must provide documentation of the requirement for jury duty, subpoena compliance, and any other documentation with the leave request.

Employees requesting jury duty leave must complete a leave request and submit it to their supervisor for approval as soon as possible so that arrangements can be made to accommodate the absence. Ju

An employee who is on jury duty typically must report for City duty for the remainder of the day upon completion of court or jury service, or request approval for use of other available paid time off.

Jury duty leave is paid at the employee's base rate at the time of leave and does not include overtime or any other special forms of compensation.

3.08 Voting Leave

Effective Date: 03/01/2015

Employees are encouraged to exercise their right to vote in elections. If the polls are not open on election day for voting for two consecutive hours outside of the employee's working hours, the employee will be permitted reasonable time to vote during the working hours

Upon 3 days' notice to the supervisor, employees will be granted time off to attend a precinct convention or a county, district, or state convention to which the employee is a delegate. Time may be charged to vacation, accrued compensatory time, or leave without pay for the period missed.

3.09 Administrative Leave

Effective Date: 03/01/2015

The City may grant Administrative Leave with or without pay to an employee, at the discretion of the City Manager (or designee), when no other paid leave category is available or applicable.

Department Directors may designate Administrative Leave with pay only pending a disciplinary decision or drug/alcohol screening results, during an internal investigation, or fitness for duty exams requested by the City.

Written notice of administrative leave shall be provided to the employee and a copy forwarded to the Director of Human Resources for proper payroll processing.

3.10 Inclement Weather Emergency Leave and Essential Personnel

Effective Date: 03/01/2015

Except for extraordinary circumstances, City offices **DO NOT CLOSE**. All City employees, whether exempt or nonexempt, are expected to make a sincere effort to report to work during inclement weather conditions or other emergency situations.

If an employee determines that the weather conditions constitute a danger to life and/or property, the employee must notify the immediate supervisor and/or Department Director and decide to report to work if weather conditions improve. Any leave taken due to inclement weather can be flexed or charged to vacation or comp time. Regular full-time and part-time nonexempt employees who are unable to flex their time and who have no accrued vacation or compensatory time available will not be paid for the time missed.

The Department Director/immediate supervisor is responsible for seeing that City services are staffed while City offices are open for business during inclement weather or emergency conditions. Any City service that cannot be provided during inclement weather or other emergency conditions must be immediately reported to the City Manager's Office.

When weather or other conditions are such that the City Manager declares certain City offices/departments officially closed, all affected personnel, i.e., those non-essential employees who were scheduled to work during the time of closure, will be granted "administrative leave" for the time the office/department is closed.

Department Directors are required to notify their employees that they are designated essential personnel and their requirement to work during inclement weather at time of employment.

Essential personnel must report to work even when other City departments are officially closed due to weather or other type of extraordinary circumstances. Essential personnel required to be on the job regardless of adverse weather or other conditions are designated by the Department Director and/or the City Manager. Essential personnel who fail to report to work may be subject to disciplinary action up to and including termination of employment.

3.11 Leave of Absence

Effective Date: 03/01/2015

In extraordinary circumstances, the City may grant employees an unpaid leave of absence (LOA). All requests for LOA must be in writing. Department Directors are authorized to grant an unpaid LOA for up to 30 days. Any LOA beyond 30 days must be authorized by the City Manager. The employee may seek extensions of leave, up to a maximum of 180 total days away from work. This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act. A LOA will not be authorized unless there is a reasonable expectation that the employee will return to employment with the City at the end of the approved leave period.

Use of All Other Available Leave. All vacation, compensatory time, holiday time and/or leave authorized under FMLA must be used prior to authorizing a LOA to an employee. If the LOA is due to illness or injury, all sick leave must also be used prior to authorizing a LOA.

Criteria. Factors considered by the City in granting a LOA include the reason for the leave; departmental work requirements; the employee's length of service, work performance and disciplinary history.

Reasons for LOA. A LOA may be considered in the following circumstances:

- a) Recovery from extended illness, injury or temporary disability.
- b) Extended care for immediate family members.
- c) Educational purposes when successful completion will contribute to the work of the City.
- d) Public service assignment.
- e) Personnel exchange programs which emphasize intergovernmental relations.

Documentation. Requests for LOA without pay must be made in writing to the employee's Department Director as far in advance as possible prior to the requested leave date. Requests for an extension of leave must also be in writing and submitted to the Department Director, who will forward the request to the City Manager's office and the Director of Human Resources. The need for a medical LOA must be supported by documentation acceptable to the City, including but not limited to a doctor's explanation of why the employee cannot perform the essential functions of the position, when the employee is expected to return to work, and periodic updates regarding the employee's ability or inability to return to work. The Department Director and/or City Manager may require that the employee on leave periodically contact a designated supervisor to report on the employee's condition or status. Before returning to work from a medical LOA, the employee may be required to submit a letter from the doctor stating that the employee is able to perform essential job duties. The City may also impose additional return to work requirements as set out in the City's Health/Fitness policy.

3.11 Leave of Absence

Other Employment During Leave. Under no circumstances may an employee on an authorized LOA without pay work another job, whether for pay, as a volunteer or as self-employment, unless expressly authorized in writing by the Department Director and the Director of Human Resources.

Reinstatement. Employees returning from a LOA will be reinstated to their same position or one of similar pay and status, provided the City's circumstances have not changed to the extent that it would create an undue hardship for the City to provide reinstatement. If the same job or one of similar pay and status is not available, reinstatement may, at the City's discretion, be deferred until a position is available. Usually, an employee who fails to return to work after an approved LOA will be considered to have voluntarily resigned employment with the City.

Benefits/Premium Payments. All LOA'S are unpaid. Vacation, sick leave, holiday pay, and other benefits do not accrue during an unpaid LOA. Any benefit continuation during a LOA must be approved in advance by the Director of Human Resources and the City Manager.

Any insurance premiums, or partial premiums, normally paid on behalf of the employee by the City will not be paid by the City beginning the first day of the month following the starting date of a LOA. Employees who have group health or any other kind of insurance through the City continue to be responsible for paying their portion of the premiums while on a LOA. An employee's failure to pay either the employee's, or the City's, portion of insurance premiums during a LOA may result in cancellation of coverage.

Revocation. The City Manager may revoke authorized leave without pay at any time. Failure to return to work after the expiration of an authorized LOA or failure to provide required medical status reports, physician's statements, or to contact the City per the required schedule will likely result in revocation of the LOA and/or disciplinary action up to and including dismissal.

3.12 Leave Donation Program

Effective Date: 03/01/2015

PURPOSE:

To provide guidelines for donating and receiving donated accrued leave.

ELIGIBILITY:

Full time employees who have depleted all paid leave.

The employee requesting the donation must have been a full-time employee for a minimum of twelve (12) consecutive months.

An employee with written corrective action regarding unsatisfactory attendance within the last twelve (12) months may not be eligible.

POLICY:

This is a voluntary program provided to a specific employee for continued income due to absences. **Qualifying events for participation include:** when the employee is unable to perform the essential functions of the position because of the employee's own serious health condition or when the employee is needed to care for a child, spouse, or parent who has a serious health condition. For the purposes of this policy, a serious health condition should meet the requirements defined in the Family Medical Leave Act. City reserves the right to request written confirmation of from treating physician regarding health condition ability to work.

A. Procedures

1. To receive donated leave, the employee **must have exhausted or on the verge of exhausting** all paid leave. An exhausted leave balance by itself is not enough justification for requesting leave donation.
2. Donations to a recipient shall be made in **4-hour increments**. The maximum amount of leave an employee may donate to another employee is **40 hours** per accident or illness. At no time shall a donating employee's sick or vacation leave balance go below **80 hours** because of a leave donation. Leave donations will be deducted from the leave balance of the contributing employee.
3. The maximum number of hours that may be received by an employee is **2080 hours** during their employment with the City of Texarkana. The City provides access to Long-term Disability insurance which has a 90-day elimination period. See *Policy 5.04 Long-term Disability* for additional information. Leave donated will be transferred on an hour for hour basis without regard to pay differential.
4. Donations will be applied in the order received in Human Resources. Unused leave shall be returned to donating employees in the order received, i.e. last donations received shall be returned first.

3.12 Leave Donation Program

5. In the event a holiday occurs during this period; the employee shall receive eight (8) hours of holiday pay.
6. Employees receiving donated leave will not be required to pay the leave back.

B. Process

Request for leave sharing must be submitted **by the Department Director** on a Leave Donation *Application (Appendix F, Form 7)* and include the Director's recommendation. Human Resources will communicate the request to potential donors but will not reveal the identity of the employee unless the employee or immediate family gives permission. Without permission, the employee will only be identified by employee number. Donors shall complete a Leave Transfer *Authorization (Appendix F, Form 8)* and submit to the Human Resources Department.

C. Recordkeeping

Human Resources shall be responsible for managing and administering this policy, including solicitation of contributions and processing requests. Records pertaining to the leave sharing policy shall be maintained in Human Resources, where they will be kept confidential. Human Resources will not disclose the nature of the illness except as necessary to process the request or as permitted by the employee.

D. Exclusions

1. On the job accident/ injury/illness for which workers' compensation benefits have or will be awarded.
2. Intentionally self-inflicted injuries.
3. Injuries occurring while committing a crime.
4. Elective surgery.

Chapter 4: Compensation

4.01 Timekeeping

Effective Date: 03/01/2015

Accurately reporting time worked is the responsibility of every non-exempt employee. The City must keep an accurate record of time worked to calculate employee pay and benefits.

A. Time Worked

Time worked includes all time that an employee is required to be performing any work for the City, whether on premises or at another location. **Vacation and Holiday time are counted as time worked.** Time worked is used to determine overtime pay for non-exempt employees. The City does include the following provisions as time worked:

1. Work Away from Premises or at Home: A non-exempt employee shall not be permitted to perform work away from the premises, job site, or at home, unless approved in advance in writing by the Department Director. If approved, work performed off the premises, job site, or at home by a non-exempt employee must be counted as time worked.
2. Break Time: Rest periods of fifteen (15) minutes or less are counted as time worked.

B. Time Not Worked

The City does **not** count the following provisions as time worked:

1. Paid Leave: Approved paid absences, including but not limited to sick leave, FMLA, military leave, jury duty, non-job-related witness duty, funeral/bereavement leave, and voting time off **are not** counted as time worked.
2. Lunch or Dinner Periods: Uninterrupted time off for lunch or dinner is not counted as time worked.

C. Timekeeping

It is the employee's responsibility to review and confirm his/her time records to certify the accuracy of all time recorded. The timekeeper for the department will review and then certify the time record before submitting it for payroll processing. In the event of an error in reporting time, immediately report the problem to the department timekeeper. Altering, falsifying, tampering with time records, or recording time on another employee's time record may result in disciplinary action, up to and including termination of employment.

4.02 Pay Periods

Effective Date: 03/01/2015

Employees of the City of Texarkana are paid biweekly, every other Friday. Each paycheck will include earnings for work performed through the end of the previous payroll period. In the event the regularly scheduled payday falls on a holiday, employees will be paid the day before. There are **26 pay periods** per fiscal year.

The City's workweek begins at 12:00 a.m. on Monday and ends at midnight the following Sunday.

For most employees, the pay period is made up of two, 40-hour work weeks or work cycles. Some Police and Fire Department personnel may have alternate work cycles that make up the pay period. **The alternate work cycles must be in accordance with law and approved by the Department Director.**

4.03 Pay Deductions

Effective Date: 03/01/2015

A. **Mandatory Deductions**

The City is required by law to make certain deductions from employee's compensation. These deductions include withholdings for federal income taxes; Federal Insurance Contributions Act (FICA) tax, which is comprised of Social Security (**Civil Service does not participate in Social Security**) and Medicare, and contributions to the TMRS Retirement Plan or Texarkana Fireman's Relief and Pension Fund.

B. **Voluntary Deductions**

The City allows limited voluntary deduction programs to employees for City-sponsored benefits, such as the ICMA 457 Deferred Compensation Plan, flexible spending account (FSA), supplemental insurance, and credit union share or loan payment amounts. Contact the Human Resources Department for contribution levels and enrollment information.

C. **Record of Deductions**

The check stub serves as a statement of employee's earnings and deductions and is available through the **Employee Self Service (ESS)**. Employees who received income in the previous year will receive a Wage and Tax Statement (W-2) by January 31st. If an employee does not receive a W-2 by the second week of February, contact the Finance Department.

D. **Changes in Deductions**

An employee may begin, change, or cancel most optional deductions, or may change the number of dependents for tax purposes by contacting the Human Resources Department for the appropriate form.

4.04 Overtime, Compensatory Time and Time Management

Effective Date: 03/01/2015

Overtime. Overtime compensation is paid to all non-exempt employees in accordance with federal and state wage and hour requirements. Exempt employees are not paid overtime compensation.

NON-EXEMPT EMPLOYEES.

When the City's operating requirements or other needs cannot be met during regular working hours, non-exempt employees may be scheduled to work overtime, at the request of their supervisor. When possible, advance notification of mandatory overtime assignments will be provided. **Overtime assignments will be distributed as equitably as practical to all non-exempt employees qualified to perform the required work.** Refusal or other failure to work mandatory overtime may result in disciplinary action up to and including termination of employment. Overtime work is otherwise subject to the same attendance policies as straight time work.

All non-exempt employees must receive their supervisor's and Department Director's **prior authorization** before performing any overtime work. This means employees may not begin work prior to their scheduled work day and may not continue working beyond the end of their scheduled workday, without prior authorization from the appropriate supervisor. Similarly, employees may not work through their lunch break without prior authorization from the appropriate supervisor. On the employee's time sheet, the appropriate supervisor must also approve any overtime before the time sheet is submitted for processing and payment. Non-exempt employees shall not remain on the work premises without authorization unless they are on duty or are scheduled to begin work within a brief period. Non-exempt employees who work overtime without receiving proper authorization will likely be subject to disciplinary action, up to and including possible termination of employment.

Generally, except for Fire Department shift employees, overtime pay for non-exempt employees is at the rate of 1-1/2 times the employee's regular hourly rate of pay for hours actually worked in excess of 40 in the City's workweek. An employee's regular hourly rate includes all pay incentives, such as longevity, assignment pay, etc. Fire personnel are paid overtime based on the work cycle adopted by their Department under Section 207(k) of the Fair Labor Standards Act.

4.04 Overtime, Compensatory Time and Time Management

Effective Date: 03/01/2015

Paid vacation and paid holiday leave are included as hours worked for purposes of determining eligibility for overtime pay. However, time off because of sick leave, jury duty leave, witness duty leave, bereavement leave, or any other leave of absence is not considered time worked for purposes of performing overtime calculations.

Compensatory Time. Non-exempt employees may accrue compensatory time in lieu of being paid overtime compensation. Department policies may further restrict the maximum amount of compensatory time accrued. Overtime hours worked beyond the applicable cap must be paid or flexed, as described below. Compensatory time accrues at a rate of 1 1/2 hours for every hour of overtime worked by non-exempt employees. Compensatory time accruals are to be monitored at the department level and maximum hours accrued will be restricted based on the requirements of this policy. All compensatory time earned must be documented on the employee's compensatory time records.

An employee who has accrued compensatory time and requests use of such time must be permitted to use the time off within a **"reasonable period"** after making the request, if it does not "unduly disrupt" the work of the department. If use of requested compensatory time would be disruptive, the department may elect to pay the employee in lieu of approving the requested time off. The City may, at any time, elect to pay a non-exempt employee for any or all the employee's accrued compensatory time. The City may also require employees to take time off to reduce their accrued compensatory time. Otherwise, compensatory time off may be used the same as leave time.

All accrued compensatory time must be taken by September 30th of each fiscal year. Any time not taken by September 30th will be paid to the employee on the last pay period of the fiscal year. Employees may bank up to 40 hours maximum of accrued time.

Payment of Compensatory Time. All employees who are reclassified from a non-exempt position to an exempt position will be paid all accrued compensatory time upon approval of the reclassification and will cease to be eligible for any additional overtime and /or compensatory time. Likewise, an employee who is either promoted, transferred or demoted to another non-exempt position will be paid in full for any compensatory time accrued before the promotion or demotion becomes effective. Upon leaving employment with the City, a non-exempt employee will be paid for unused compensatory time at the employee's current hourly rate.

4.04 Overtime, Compensatory Time and Time Management

NOTE: Exempt employees are not eligible to earn and accrue compensatory time.

Flex-time Work Schedule. In situations where overtime payment is not feasible due to budgetary constraints, the Department Director or supervisor must consider flexing the employee's work schedule to minimize the need for overtime compensation. Flexing must be completed within the same workweek (or work cycle if under the 207(k) exemption of FLSA) that the overtime was worked and must be accurately reflected on the affected employee's time record.

EXEMPT EMPLOYEES.

Exempt employees are those who are not covered by the overtime requirements of the FLSA. Accordingly, exempt employees are not entitled to overtime compensation for work performed beyond 40 hours in a workweek. Exempt employees are expected to put in the hours necessary to complete their assignments with an acceptable level of quality in a timely manner.

"Docking" an exempt employee's pay for a partial day's absence will be permitted only as authorized by law and approved by the Director of Human Resources. It is the policy of the City not to make improper deductions from an exempt employee's pay. Any exempt employee who believes an improper pay deduction has been made, must immediately notify the Director of Human Resources. The City will promptly reimburse an exempt employee for any improper deduction(s) and will make a good faith commitment to comply in the future.

Absent accrued paid leave time, an exempt employee need not be paid for any workweek in which no work was performed.

4.05 Longevity Pay

Effective Date: 03/01/2015

The City provides regular full-time employees longevity pay, at the budgeted rate **per month for each full year of service**, up to a maximum of 25 years. Longevity pay begins after a regular, full-time employee has completed one year of service.

4.06 On Call & Call Back Compensation

Effective Date: 03/01/2015

Revision Date: 01/01/2019

The City provides for after-hour service needs by allowing some departmental operations to designate certain non-exempt employees to be on-call. Employees designated to be on-call are expected to respond to departmental after-hour service needs as required by procedures established by their Department.

Return to work provisions. After regularly scheduled working hours, on-call employees are free to pursue personal activities but must respond to a call back (via phone or radio) within designated guidelines set by their Department. Employees designated as on-call must be fit, both mentally and physically, to accomplish on-call services needed within the time frame required. An employee is considered officially scheduled and designated as on-call only when approved by the supervisor in accordance with procedures established by the Department.

Compensation. On-call status is not considered time worked and is not compensable unless the employee responds to a call back. On-call employees called back to the workplace will be paid at their regular rate of pay for actual hours worked and guaranteed a minimum of **2-hours** hours pay for each call-back within the same 24 hours after their regularly scheduled working hours or on a regular day off. Time worked immediately after regularly scheduled working hours at the request or approval of the supervisor will not be considered call-back and is paid at the employee's regular rate of pay until overtime requirements are met. Continuing work on a call-back that extends beyond the 2-hour minimum and into a day off does not entitle the employee to additional premium pay. Travel time to and from a call-back is compensable under this policy, in accordance with departmental policy.

On-call employees who do not return to the workplace but who handle a workplace issue by phone will be paid for actual time spent on the phone or a minimum of **1-hour** pay, whichever is greater. In all cases, employees must report their actual hours worked on their time sheets. Employees exempt from overtime are not eligible for compensation under the provisions of this policy.

Departmental Policies. Each Department has its own internal procedures for handling on-call services. Departments may establish guidelines for varying levels of response to call-back situations depending upon the nature and importance of the services to be completed.

Chapter 5: Benefits

5.01 Benefits

Effective Date: 03/01/2015

Benefit eligibility is dependent upon a variety of factors, including employee classification. The Human Resources Department can identify the eligible programs. Details of many of these benefits may be found elsewhere in this policy manual.

The following benefits are available to eligible employees:

- Health Insurance
- Life Insurance
- Workers' Compensation Insurance
- Long-Term Disability
- COBRA
- Deferred Compensation Plan
- TMRS Retirement Plan
- Texarkana Fireman's Relief and Pension Fund
- Tuition Reimbursement
- Employee Assistance Program
- Credit Union
- Certification Pay
- Sick Leave
- Vacation Leave
- Vacation Leave Donation
- Holiday Leave
- Family and Medical Leave
- Leave of Absence
- Military Leave
- Funeral/Bereavement Leave
- Jury & Witness Duty Leave
- Voting Time Off
- Longevity Pay

5.02 Confidentiality of Medical Information

Effective Date: 03/01/2015

Federal law requires that the City maintain all employee medical information in separate, confidential files. Therefore, in addition to personnel files, the City maintains a separate medical file for each employee. The Director of Human Resources maintains these confidential medical files.

Examples of information that may be provided to the City by an employee or the employee's health care provider, and maintained in the confidential medical file, include:

- a note to justify an absence;
- a note to request a leave;
- a note to verify the employee's ability to return to work;
- medical records to support a claim for sick pay or disability benefits;
- insurance records;
- workers' compensation records; and
- medical history records
- drug screens

The City does not request genetic information from an applicant, employee, or health care provider. The City discourages health care providers from sending genetic information. Any genetic information inadvertently sent to the City will be placed in the employee's confidential medical file maintained by Human Resources.

It is important that employees understand that the records are confidential but that the confidentiality may be waived when the employee provides medical information to the supervisor or the Director of Human Resources. When an employee provides information to the supervisor, the supervisor is expected to share the information only on an "as needed" basis with other members of management.

In addition to protecting their own confidential medical information, employees must also respect the privacy and confidentiality of their coworkers' medical information. Employees are expected to use discretion and judgment when dealing with such information and are to refrain from passing along information, gossip, rumors or anything else that may constitute an invasion of a coworker's privacy or breach of confidence.

5.03 Health Insurance

Effective Date: 03/01/2015

The City of Texarkana's health insurance plans provide employees and their dependent(s) access to health insurance benefits. Only employees in the following employment classification are eligible to participate in the health insurance plan:

- Full time employees
- Part time employees working 30 hours per week or more.

AND

- Completes the employment waiting period defined as the first month following the first complete month as an active employee.

Eligible employees may participate in the health insurance plan subject to all terms and conditions of the agreement between the City and the plan document.

The City offers employees retiring from the City the option to purchase continued health benefits coverage, as outlined in Tex. Local Gov't Code §§ 175.001 et seq., as amended.

Contact the Human Resources Department for additional information about health insurance benefits.

5.04 Life Insurance

Effective Date: 03/01/2015

Life insurance offers employees and their families' important financial protection. The City of Texarkana provides a basic life insurance plan at **one time the employees' base annual earnings** and offers employees the option to purchase supplemental life insurance for themselves and their dependents. Employees in the following employment classifications are eligible to participate:

- Full time employees
- Part time employees working 30 hours per week or more.

Eligible employees participate in the life insurance plan subject to all terms and conditions of the agreement between City and the insurance carrier.

Contact the Human Resources Department for additional information about life insurance benefits.

5.05 Long Term Disability

Effective Date: 03/01/2015

The City of Texarkana provides access to an employee paid long-term disability plan (LTD) to help eligible employees cope with an illness or injury that would result in long-term absence from employment. Employees in the following employment classifications are eligible to participate in the LTD plan:

- Full time employees
- Part time employees working 30 hours per week or more.

LTD is designed to ensure a continuing income for employees who are disabled and unable to work. Eligible employees may participate in the LTD plan subject to all terms and conditions of the agreement between the City and the insurance carrier. There is a 90-day period that an employee must be disabled before benefits become payable. Contact the Human Resources Department for additional information about the LTD benefits plan.

5.06 Consolidated Omnibus Budget Reconciliation Act (COBRA)

Effective Date: 03/01/2015

COBRA is a federal law that requires most employers who sponsor group health plans to offer employees and their families the opportunity to temporarily extend their group coverage at group rates in certain instances where coverage under the employer's group health plan would otherwise terminate. The employee is responsible for paying for the cost of any such continuation coverage.

Under COBRA, employees may elect COBRA continuation coverage for up to 18 months after termination of employment (unless the employee is terminated due to gross misconduct), or if an employee's hours are reduced to such an extent that the employee no longer qualifies for participation in the group health plan. Under other circumstances, COBRA coverage is available for up to 36 months following a qualifying event. Employees must notify the City within 60 days of the occurrence of the employee's legal separation or divorce and of a covered dependent ceasing to qualify as a dependent under the medical plan.

Detailed COBRA notices are mailed to employees when an employee becomes eligible for participation in the City's group health plan and again when a qualifying event occurs. For more complete information on COBRA and your health plan, you should review your summary plan description or review a copy of the full health plan at the Human Resources office.

5.07 Deferred Compensation Plan

Effective Date: 03/01/2015

The 457 Deferred Compensation Plan has been established to provide employees with a voluntary investment option designed to supplement the employee's income at retirement.

Employees in the following employment classifications are eligible for participation in the 457 Deferred Compensation Plan:

- Full time employees
- Part time employees working 30 hours per week or more.

The 457 Deferred Compensation Plan, offered through the International City/County Management Association (ICMA) permits an employee, on a voluntary basis, to authorize a portion of their salary to be withheld, tax deferred, and invested. Eligible employees may enroll, make changes, or stop deductions at any time in the 457 Deferred Compensation Plan. Employees contribute up to a fixed amount that is set annually by ICMA. Neither the deferred amount nor earnings on the investments are subject to current federal income tax. Various investment options are available to best meet individual retirement objectives.

For additional information, please contact ICMA or the Human Resources Department.

5.08 TMRS Retirement Plan

Effective Date: 03/01/2015

Participation in the Texas Municipal Retirement System (TMRS) system provides for monthly pension benefits at retirement. Firefighters participate in their own self-funded retirement plan, Texarkana Firemen's Relief and Pension Fund.

A. Eligibility for Enrollment

At the time of employment, all eligible employees are enrolled in the TMRS pension plan. Employees in the following employment classifications participate in TMRS:

- Full time employees
- Employees in positions budgeted to work 1,000 or more hours a year

B. Contributions

Contribution rates and other policies of the City's TMRS Plan are determined by the City Council and are subject to change.

1. Contributions to TMRS are mandatory for eligible employment classifications described above.
2. Currently, the employee contributes 7% of their earnings each pay period. The contributions are tax deferred and made through payroll deduction. Vesting generally occurs five (5) years after the first contribution.
3. Currently, the City's contributions are a 2 to 1 match.

C. Interest Earnings

Employee deposits earn interest on an annual basis, credited to the employee's account each year on December 31st. Prorated interest occurs only during the year in which the employee retires.

D. Benefits at Retirement

1. Generally, employees may retire after 240 months (20 years) of TMRS credit, regardless of age or at age 60 and vested with five years of service. Military Service or previous government employment may contribute service credit toward earlier retirement.
2. TMRS benefits will be based on years of service, salary, the employee and City contributions to the account, and the retirement option selected.
3. Employees must contact the Human Resources Department at least one (1) month before the planned retirement date to allow for completion of paperwork. For additional information, please consult the TMRS Benefits Guide available online at <http://www.tmrs.org>.

5.09 Employee Assistance Program

Effective Date: 03/01/2015

The City of Texarkana offers an Employee Assistance Program (EAP) to employees that provide confidential short-term counseling for employees and/or their dependent(s).

Areas for counseling include, but are not limited to marital and family conflicts, drugs and alcohol use, job or emotional stress, depression, and grief. Individual counseling for immediate family is available for up to six (6) sessions per incident per year at no cost. Consult your insurance material or the Human Resources Department for the telephone number of the EAP.

The EAP provides free financial, legal, personal counseling and referral assistance for full time employees of the City.

www.alliancewp.com

5.10 Credit Union

Effective Date: 03/01/2015

The City of Texarkana offers all employees the opportunity to join a Credit Union that provides full service banking, including checking and savings accounts and loan opportunities.

Employees in the following employment classifications are eligible to participate in the Credit Union:

- Full time employees
- Part time employees

Employees are eligible for membership at the following credit union:

Morris Sheppard Credit Union
903-798-3258
www.morrisheppardcu.org

Contact the Human Resources Department for additional information.

5.11 Tuition Reimbursement

Effective Date: 03/01/2015

In recognition of the long-range contribution that additional job-related education can make in continued quality service to the community, educational expense reimbursement is offered to eligible employees on a limited basis according to the following guidelines. Only Full Time Employees are eligible to participate. Tuition reimbursement does not apply to doctoral degrees.

A. Eligibility

1. Educational courses must be taken from an accredited college or university. For the purposes of this policy, accredited shall mean an institution of higher education recognized by the Department of Education and the Southern Association of Colleges and Universities or other regionally accredited agency.
2. The employee must have a field of study, commonly known as a major, declared with the employee's chosen college or university. Only those fields of study that, in the judgment of the employee's Department and Human Resources Director, are related to the employee's current job classification or which will enhance the employee's potential for advancement to a position within the City are considered under this program. Single courses in self-improvement or continuing education programs not leading to a degree do not qualify under this program.
3. The maximum number of hours eligible to be reimbursed per semester is Six (6).
4. To be eligible for reimbursement, completion of the course with a passing grade of "C" or better for undergraduate level is required, or "B" or better for graduate level work.
5. Employees receiving tuition assistance from a source that does not require repayment (Veteran's benefits, grants, scholarships, etc.) are required to submit reimbursement requests for the balance of the tuition not covered by the alternate source.
6. Reimbursement of tuition may not exceed the cost per semester hour for a course(s) at Texas A&M University-Texarkana as described in the TAMU-T tuition and fees schedule for **"Border State plus Border State Designated"** tuition. Employees will not be reimbursed for any portion of tuition which exceeds that amount.

B. Procedures and Responsibilities

1. An employee considering reimbursement under the terms of this program must make application to the City prior to enrollment in qualified courses. Tuition reimbursement will be paid only if the courses are pre-approved.

New applications will be accepted **through March 31st**. The employee must complete and submit to their Department Director the *Application for Degree Plan Approval* form (**Appendix F, Form 20**), along with a complete degree plan outlining required courses and a signed *Tuition Reimbursement Agreement* (**Appendix F, Form 23**). The Department Director will enter a recommendation as to approval of the degree plan and then forward the application to the Human Resources Department.

5.11 Tuition Reimbursement

The Human Resources Director will review the application for completion and forward to the City Manager's office for approval.

2. The decision of the City Manager or designee is final. If the City Manager approves the field of study, all courses in the degree plan are eligible for reimbursement subject to the six (6) hour per semester cap and the availability of funds in the City's Annual Operating Budget. Reimbursement will be paid at 100% of the eligible tuition. Participation is on a first come, first serve basis.
3. Mandatory fees shall be reimbursed at a cost not to exceed 50% of Texas A&M University-Texarkana fees listed in the most current TAMUT fee schedule excluding late fees and interest for delayed payment plans.
4. Sixty days prior to the registration of each semester, the employee must submit a *Course Pre-Approval Request (Appendix F, Form 22)* to the Human Resources Department notifying the City of the courses to be taken that semester.
5. Upon completion of the course the employee must submit original tuition and textbook receipts, grade reports, and the *Reimbursement Request (Appendix F, Form 23)* to the Human Resources Department for reimbursement.
6. Books and course materials will be reimbursed with appropriate receipts up to, but not exceeding, the amount of the tuition reimbursed for the course.
7. The employee who receives tuition reimbursement must remain in service to the City, as a full-time employee, for at least one year beyond the date of reimbursement; otherwise, all sums for tuition and books paid by the City over the past year must be refunded to the City. As a condition of receiving tuition reimbursement, the City may deduct any sums owing from the employee's final paycheck from the City as authorized by the Tuition Reimbursement Agreement.

The Employee agrees to refund the City of Texarkana the full amount of the tuition and book reimbursement provided during the year preceding voluntary resignation. Employee shall sign a *Tuition Reimbursement Agreement (Appendix F, Form 21)*.

5.12 Workers Compensation

Effective Date: 03/01/2015

The City of Texarkana complies with the Texas Labor Code in the provision of workers' compensation insurance coverage for its employees. This program covers an injury or illness sustained in the course of employment that requires medical treatment, subject to applicable legal requirements and workers' compensation guidelines. Workers' compensation insurance coverage begins immediately upon employment with the City.

Employees who sustain work-related injuries or illnesses must inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it must be reported.

Neither the City nor the workers compensation insurance carrier will be liable for the payment of workers' compensation benefits for injuries that occur during an employee's participation in an off-duty recreational, social, or athletic activity sponsored by the City or for outside employment.

Time off on workers' compensation leave will not be counted as time worked for the purposes of determining overtime. FMLA will run concurrent with workers compensation absences. See **Policy 3.04 Family and Medical Leave** for more information

For additional information on workers' compensation, visit the Texas Workers' Compensation Commission online at <http://www.tdi.gov/wc/indexwc.html> or contact Human Resources.

5.13 WC Reporting Requirements

1. An employee who suffers ANY on-the-job injury shall report the incident to their supervisor within 24 hours of the incident. Upon notification of an on-the-job injury, the immediate supervisor shall investigate and complete the appropriate Risk Management Form. Injuries should be properly documented even when the injury does not require treatment by a physician.
2. The maximum duration of injury leave is 12 months. An employee on Worker's Compensation injury leave who is not able to return to his/her regular position before the expiration of one year from the beginning of injury leave will have his/her employment terminated with the City. Upon rehabilitation, the former employee may be rehired if a vacancy exists if he/she has applied for the position, is qualified for the position and can do the work.
3. An employee on injury leave is responsible for contacting his/her department supervisor, either in person or by phone, at least once every workweek and may be required to submit proof of continuing disability from a City-designated physician.
4. On-duty injuries or illness are subject to the same guidelines for HIPAA privacy requirements as an injury or illness which occurs outside of the work environment.
5. All supervisors must report the injury and submit the Risk Management Form to the Human Resources Department within 24 hours of when the injury was reported by the employee.
6. Incidents occurring during weekends and holidays shall be reported to Human Resources prior to 11:00 a.m. the following business day.
7. Superficial injuries such as minor cuts should be treated at the Health Department by the Employee Health Nurse whenever the Employee Health Nurse is available.
8. When an on-the-job injury requires professional medical attention, the injured employee shall obtain a dated medical report (doctors slip) from the attending physician at the time of treatment. The doctor's slip shall state if the employee is medically released for full duty or restricted duty. If the doctor recommends restricted duty, the report shall list the limitations. The employee or their immediate supervisor is responsible for submitting the completed doctor's slip to the city's Human Resources Department when the Risk Management Form is submitted or as soon as possible thereafter. Under no circumstances will an employee be allowed to return to work without a release from the physician stating that the employee is reinstated, i.e., light duty, limited duty, full duty.

5.13 WC Reporting Requirements

9. The employee shall obtain a separate doctor's slip completed for each subsequent visit to a doctor, clinic or hospital.
10. An employee returning to work from a lost time injury shall submit a completed doctor's slip reflecting the doctor's release. The doctor's release shall be submitted to Human Resources within 24 hours of the employee's return.
11. Employees who need medical treatment have the right to choose a doctor or medical facility from the Texas Department of Insurance list of designated doctors.
12. Employees who are authorized by a physician to be off work due to an on-the-job injury shall contact the Human Resources Department by telephone within 24 hours after each doctor visit. If the employee cannot make the call, they must have someone call on their behalf.
13. An employee who is authorized to be off duty due to an on-the-job injury shall be subject to disciplinary action if the employee:
 - a. Engages in part-time or full-time work which is inconsistent with the employee's injury or illness.
 - b. Falsifies or misrepresents the physical condition or disability.
 - c. Fails or refuses to follow the instructions of the treating physician.
 - d. Fails to report for examination or treatment as directed by the treating physician.
 - e. Refuses to return to regular or modified duty when authorized by the treating physician and offered by the City.
 - f. Refuses to follow the above guidelines in (Section 5.13).

5.14 Supplemental Benefits

Effective Date: 03/01/2015

1. Supplemental Injury Benefits may be paid by the City to full time regular employees, sustaining an on the job injury, to make up the difference between Workers' Compensation benefits and the employee's regular net pay. This pay is subject to regular payroll deductions.
2. Supplemental Injury Benefits will be provided for the first **12 consecutive weeks** from the date of injury when an eligible employee is unable to work.
3. At the expiration of the **12-week period**, the employee may use their available vacation and sick leave balances to continue receiving supplemental pay. The employee may supplement their pay for the duration of the injury leave if vacation and sick leave balances are available.
4. Vacation and sick leave will accrue during the **12 consecutive weeks** from the date of disability, illness, injury, or medical condition. Employees who are unable to return to work and perform the essential functions of their job in a modified capacity shall **cease to accrue** vacation and sick leave at the end of **12 consecutive weeks** from the date of disability, illness, injury, or medical condition.
5. For Civil Service, the leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the leave shall continue for at least one year.

Eligibility for Supplemental Injury Benefits

1. Emergency, seasonal, temporary, part-time, or other irregularly scheduled employees, as well as employees who are completing their orientation period are not eligible to receive injury leave.
2. The eligible employee must report to the Human Resources Department by telephone within 24 hours of every follow up doctor's appointment.
3. The eligible employee will no longer be entitled to Supplemental Injury Benefits if they resign, are terminated from employment for any reason, retire, or do not comply with the requirements of this policy.
4. The eligible employee must agree to perform regular or modified duties, as assigned, when allowed by the treating physician and/or City's designated physician.

5.14 Supplemental Benefits

5. If an employee's supplemental injury benefits are terminated for failing to comply with any of the requirements listed herein, the employee will be notified, in writing, by the Human Resources Director. Once supplemental injury benefits have been denied or terminated for any given injury, the employee shall not be eligible to receive supplemental injury benefits in the future in relation to the same injury. The employee shall cease to accrue vacation and sick leave.

Payment for Supplemental Injury Benefits

1. Supplemental Injury Benefits will also be provided when the employee sustains a job-related injury, returns to work, later begins losing time due to the initial injury, and qualifies to receive temporary income benefits. In no case will the employee be provided more than twelve weeks Supplemental Injury Benefits for the same injury. Supplemental Injury Benefits will not be provided for follow-up doctor visits or continuing physical therapy once the employee has returned to work.
2. Supplemental Injury Benefits may not result in an increase in the employee's net pay as compared to the employee's net pay before the injury or illness. Net pay is comprised of the weekly non-taxable Workers' Compensation pay and the Supplemental Injury Benefit pay.
3. Employees are not entitled to receive both Workers' Compensation weekly pay and their regular paycheck. If an employee is overpaid, the employee shall repay the amount of the overpayment. The Finance Department may schedule the payments if necessary, by deducting the overpayment amount from the employee's paycheck as indicated on the employee's authorized deduction form.

5.15 Voluntary Salary Continuation

Effective Date: 06/16/1998

Effective June 16, 1998 the City allows injured employees to voluntarily agree to exchange their weekly workers' compensation check for their regular City payroll check. This is a voluntary program in lieu of the standard practice of deducting the workers' compensation payment from the regular paycheck prior to issuance. If an employee chooses to participate, they shall complete a Voluntary Salary Continuation Agreement and submit the form to the Human Resources Department within 7 days from the date of injury.

5.16 Modified Duty Assignment

Effective Date: 03/01/2015

The City offers modify duty assignments to ill or injured employees who are unable to perform their regular job duties. The decision to offer an employee a modified duty assignment is made in the City's sole discretion. A modified duty assignment may be in the employee's own or another department in the City. Factors considered by the City in making its decision include, but are not limited to: the nature of the employee's illness or injury; the medical release provided in support of modified duty; the risk that a modified duty assignment may result in aggravation of the employee's injury or illness; the type of modified duty work available; the length of the employee's employment with the City; the employee's performance and disciplinary history; and whether the illness or injury occurred on or off duty. In making modified duty assignments, the City will normally give priority to employees whose injury or illness is work-related.

Employees who are released for and given a modified duty assignment may not perform work duties in violation of their medical release. An employee, who violates the terms of the medical release while on a modified duty assignment may lose the modified duty assignment and, in addition, may be disciplined up to and including termination of employment.

Modified duty will not normally extend beyond ninety **90 calendar days** without an evaluation by the employee's treating physician and a recommendation from the Department Director to the Director of Human Resources. Only the Human Resources Director may approve an extension of a modified duty assignment. Employees still unable to return to regular duty within the time limit established for modified duty must re-qualify for modified duty through evaluation by their treating physician or revert to workers' compensation indemnity payment, accumulated sick leave, Family Medical Leave Act (FMLA) or vacation benefits, if available.

An employee who is released for and offered modified duty by the City, but who elects not to accept such an assignment, will be ineligible salary continuation benefits under workers' compensation, but may still be entitled to unpaid leave under the City's Family Medical Leave Act policy.

During a modified duty assignment, employees will typically work an 8-hour workday, Monday through Friday. This means that 24-hour shift employees, as well as other employees who work a non-traditional schedule, will usually be temporarily reassigned to an 8-hour workday, Monday through Friday, for the duration of their modified duty assignment.

An employee's salary during any modified duty assignment shall be at the same rate as the salary received prior to the injury.

5.16 Modified Duty Assignment

All modified duty requests and assignments will be reviewed by and coordinated through the Director of Human Resources. The Director of Human Resources will work with the employee's department in determining whether modified duty work will be offered. Before returning to regular job duties following a modified duty assignment, the employee must provide a full release from the physician to return to work and coordinate the return through the Director of Human Resources.

5.17 Reasonable Accommodation

Effective Date: 03/01/2015

1. When an employee is unable to perform the essential functions of his/her position with or without reasonable accommodations due to a disability, illness, injury or medical condition, the City may deem the position vacant and fill the position when business necessity requires any time after 12 weeks following the date lost time began with prior legal review.
2. An employee who has a job-related illness or injury that renders the employee incapable of performing his/her regularly assigned duties shall first utilize the Supplemental Injury Benefits prior to being placed in an unpaid leave status.
3. The City Manager or his/her designee may authorize the continuation of employment in certain cases if the employee provides written information from the treating physician indicating that he/she may be able to perform the essential functions of his/her position within a reasonable and specific period. The period will be determined after considering the employee's entitlement to the leave, needs of the department, and nature of the injury as indicated by the treating physician.
5. A reasonable accommodation, if available, will be provided to any otherwise qualified employee, as defined by the Americans with Disabilities Act and its amendments.
6. Requests for a reasonable accommodation must be submitted by the individual to the Human Resources Director. All such requests shall be reviewed by the immediate Supervisor, the Department Head, and the Human Resources Director.

5.18 Health/Medical Examinations/Fitness for Duty

Effective Date: 03/01/2015

The City endeavors to provide a safe work environment for all employees. It is the responsibility of each employee to maintain the standards of physical and mental health fitness required for performing the essential functions of the position, either with or without reasonable accommodation.

Serious Health Condition/Disabilities. The City recognizes that employees with a potentially life-threatening and/or infectious illness or physical and/or mental disabilities may wish to continue to engage in as many of their normal pursuits as their condition allows, including their employment. If these employees can perform the essential functions of their job, with or without a reasonable accommodation, without creating an undue hardship on other employees, and medical evidence indicates that their condition is not a direct threat to themselves or others, the City will treat them consistently with other employees.

Medical Exams for Current Employees. The Director of Human Resources, or an employee's Department Director (with the prior written approval of the Director of Human Resources) may require a current employee to undergo a medical and/or psychological examination to determine fitness for continued employment, as may be necessary for the City to provide a reasonable accommodation; following an injury or accident; and as otherwise permitted in accordance with applicable laws.

Medical Information from an Employee's Doctor. Under certain circumstances (e.g., FMLA Certifications), Human Resources may require employees to provide medical information from their health care provider. In such cases, employees are to inform their health care provider not to provide any genetic information when responding to such request.

Genetic Information. In accordance with the Genetic Information Nondiscrimination Act (GINA), the City will neither request nor require genetic information of an employee or his/her family member, except as specifically allowed by GINA. To comply with GINA, employees are directed not to provide any genetic information when responding to any City request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or embryo lawfully held by an individual or family member receiving assistive reproductive services.

Medical Records. Medical records and sensitive information regarding an employee's health will be kept confidential as required by law. Limited information may be provided to supervisors and managers, first aid and safety personnel, government officials, Texas

5.18 Health/Medical Examinations/Fitness for Duty

Workers' Compensation Commission, and as necessary for insurance and other business-related purposes.

Return to Work/Fitness for Duty. Before returning to work following a medical and/or psychological examination under this policy, the employee must coordinate his/her return through Human Resources. An employee who misses work due to medical reasons may be required to provide a fitness-for-duty certification before returning to work.

Time Off from Work. Time away from work undergoing a City mandated fitness for duty examination will normally be coded to paid administrative leave, but may be retroactively changed to sick leave, Family Medical Leave Act leave, and/or other leave as circumstances warrant.

CIVIL SERVICE EMPLOYEES

Civil Service employees are also covered by Civil Service law regarding fitness for duty.

Chapter 6 - Conduct

6.01 Employee Conduct, Work Rules, Disciplinary Action

Effective Date: 03/01/2015
Revised: 01/01/2019

To ensure orderly and productive operations and provide the best possible work environment, the City requires employees to follow rules of conduct that will protect the interests and safety of the City, its citizens and employees.

Progressive Discipline: The City will use a progressive disciplinary system. The City is not obligated to use all the progressive disciplinary steps available, and may begin the disciplinary process at any level, up to and including immediate discharge, depending upon the severity of the conduct, the employee's work performance and prior disciplinary history, the employee's length of service, and any mitigating circumstances. At-will employment status is not affected by the use the progressive discipline process. Depending on the circumstances of each individual case, disciplinary action may consist of one or more of the following:

- verbal correction
- written reprimand
- suspension (without pay)
- demotion
- last chance agreement
- discharge

Documentation: All forms of discipline, **other than verbal warnings**, must be documented and placed in the employee's personnel file. Supervisors shall document verbal warnings for their records. In the event an employee is to be discharged, the supervisor shall forward a copy of the documentation to the Director of Human Resources for review prior to taking the action, who shall forward a copy of the dismissal to the City Manager. The Department Director will also make a recommendation concerning the disciplinary recommended and, if necessary, possible rehiring (or not rehiring) of the person in the future.

Supervisory Responsibility: All employees with the responsibility and authority to supervise and direct employees under their control shall administer policies and procedures within their scope of authority; document their subordinates' job performance, conduct, and behavior as appropriate; properly conduct reviews of subordinates in a timely manner; discipline their subordinates as required under their departmental and/or City policies and procedures as well as address performance appeals submitted to them as provided by policy in a professional manner, in an attempt to resolve such issues at the lowest possible supervisory level.

6.01 Employee Conduct, Work Rules, Disciplinary Action

DOCUMENTATION:

1. Make a record immediately following the incident while the facts are still fresh in everyone's mind and witnesses are readily available;
2. Document everything. When in doubt, write it out!
3. Do not get bogged down with petty details and subjective opinions. Stick to the main points, develop the facts and don't cloud the issues;
4. Relate the incident(s) to the Employee Handbook policies and procedures which the employee has acknowledged receiving and agreed to be bound by as a condition of employment;
5. Do not be vindictive, retaliatory or profane – take the high road. Disciplinary action should not be a character assassination no matter how upset or angry you may be. Stay focused on work-related issues;
6. Consider giving your employees the chance to provide their side of the story in writing. This makes good business sense for several reasons: it builds confidence in your disciplinary procedure and helps reduce the appearance of “building a case” against employees; it also preserves an account of the facts of the incident and minimizes the chances of employees changing their story later.

Review by Director of Human Resources: Any proposed disciplinary action more than a written reprimand must be reviewed by the Director of Human Resources prior to being given to the employee. This applies to both employees serving in the initial orientation period and regular employees that have completed the initial orientation period.

Administrative Leave: During an investigation into alleged offenses or violations of City policies, the City may, in its sole discretion, place the employee on administrative leave. The leave may be with or without pay and may be charged to available accrued leave if authorized by the City Manager.

Disciplinary Meeting: A disciplinary meeting will be scheduled prior to the imposition of a disciplinary suspension of **1 day or more, demotion or termination**. The Department Director, the affected employee, the Director of Human Resources and anyone else deemed necessary by the Department Director typically attend the disciplinary meeting. During the meeting, the affected employee will be given an opportunity to present an explanation of the conduct leading up to the proposed disciplinary action. Employees will be given advanced notice of the meeting. Employees may, in the City's sole discretion, be placed on administrative leave prior to, during, or after the disciplinary meeting. The employee will be notified of the City's determination following the meeting.

6.01 Employee Conduct, Work Rules, Disciplinary Action

Appeal Rights: Where a disciplinary action involves a suspension of 1 day or more, demotion and/or termination, the employee will normally be given an opportunity to respond to the allegations prior to disciplinary action being taken. However, positions classified as Director level and above have no right of appeal for any type of disciplinary action, including termination. Employees serving the initial orientation period have no right of appeal for disciplinary action taken against them.

Prohibited Activities: Disciplinary action will be imposed for violations of City or departmental policies and procedures, codes of conduct, rules and regulations, either written or verbal. In addition, acts which are not specifically addressed in policies and procedures, codes of conduct, and rules and regulations, yet may adversely affect the City or put the health and safety of fellow employees, citizens or other third parties, at risk, may also result in disciplinary action. It is impossible to list all the forms of behavior that are considered unacceptable in the workplace. The following are some examples of conduct that will likely result in disciplinary action, up to and including termination of employment:

- Theft or inappropriate removal or use of City property or other property not belonging to the employee;
- Falsification of timekeeping or other records, including employment application;
- Reporting for work or working under the influence of or a presence in the system of alcohol or illegal drugs;
- Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating City-owned equipment;
- Violation of City's policy regarding sexual or other unlawful harassment;
- Interfering with work schedules or another employee's ability to work;
- Misuse of City telephones, computers, mail systems, internet, etc.;
- Excessive or unscheduled absenteeism, tardiness in reporting for work or returning from lunch and breaks or absence without notice and/or approval;
- Breaks more than the allotted time allowed;
- Violation of smoking policy;

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- Violation of safety or health rules and failure to immediately report an on-the-job injury/accident;
- Profanity, abusive language, or racial slurs;
- Unauthorized disclosure of confidential information;
- Violation of any provision of the City Charter;
- Violation of City or departmental policies, codes of conduct, rules and procedures;
- Coercion, intimidation, or threats against citizens, supervisors, co-workers, City officials, or others;
- Making or publishing false, vicious, or malicious statements about the City, or a City employee or citizen, or others;
- Unsatisfactory performance or conduct;
- Inefficiency, incompetence or neglect of duty;
- Fighting, provoking or instigating a fight, or threatening violence;
- Disruptive activity in the workplace;
- Engaging in a work stoppage;
- Conduct which results in waste or damage of a coworker's, City, or citizen-owned property;
- Insubordination or other disrespectful or unprofessional conduct;
- Discourteous treatment of the public;
- Possession of weapons on City time, City premises, or while on City business (except for licensed peace officers required to carry a weapon as part of their job duties or employees with concealed handgun license with permitted weapon locked in their personal vehicle);
- Violation of local, state or federal law;

6.01 Employee Conduct, Work Rules, Disciplinary Action

- Conviction of a felony, including reasonable belief employee has committed a crime under Texas Penal Code or Class A or B misdemeanor involving moral turpitude, or repeated conviction of Class C misdemeanor charges, or any crime;
- Failure to timely return to work upon conclusion of authorized leave or disciplinary suspension;
- Outside employment that conflicts with, or potentially conflicts with, City interests;
- Acceptance of payment of any kind for activities related to City Employment;
- Failure or refusal to follow lawful orders;
- Sleeping on the job (except for Fire Department personnel who are governed by applicable Fire Department Rules and Regulations);
- Dishonesty, including misrepresentation during the hiring process;
- An accumulation of minor infractions.
- Job abandonment occurs when an employee deliberately and without authorization is absent from the job, or refuses a legitimate order to report to work, for two (2) consecutive work days. The employee is deemed to have abandoned his/her job and shall be terminated.

6.02 Employee Appeal Process

Effective Date: 03/01/2015
Revised: 01/01/2019

An employee who wishes to appeal a disciplinary action may do so by the following procedure. Written notification of the appeal of a disciplinary action must be presented to the Human Resources Director within five business days of the disciplinary actions taken.

Appeal to the City Manager

In the event the decision is eligible to be appealed, and is requested, the City Manager shall hear the appeal within five (5) City business days of the request, unless the date is extended by agreement between the employee and the City Manager. The City Manager reserves the right to appoint **one or more designees** to hear an appeal in his/her stead at any time during the appeal procedure. Employee representation will be allowed if requested.

The City Manager shall have the absolute right to determine the case on the merits. The City Manager shall render a written decision to the employee and Department Director within five (5) City business days after the appeal hearing. The decision of the City Manager is final.

6.03 Grievance

Effective Date: 03/01/2015

- (A) **Definition of Grievance.** Employee complaints of inconsistent and/or unlawful treatment, interpretation and/or application of City or departmental policies, procedures, or practices; and retaliation.
- (B) Any employee wishing to submit a complaint or grievance should first complete **FORM 12 – EMPLOYEE GRIEVANCE**. Form 12 shall serve as the document of record throughout the process. Follow the three step process instructions described on Form 12. Pay attention to the response dates. Discuss the grievance with the employee's immediate supervisor. If the matter is not resolved to the employee's satisfaction, the employee may take the grievance to the employee's Department Director.
- (C) An employee failing to gain satisfaction after conferring with the employee's Department Director may present the grievance to the Director of Human Resources, who will forward the written grievance to the City Manager.
- (D) The decision of the City Manager is final.

6.04 Sexual and Other Unlawful Harassment

Effective Date: 03/01/2015

All City employees are entitled to a workplace free of unlawful harassment by management, supervisors, co-workers, citizens, and vendors. This means that each employee must be respectful of others and act professionally. City employees are also prohibited from engaging in unlawful harassment of other employees, citizens, vendors, and all other third parties.

Sexual Harassment. All types of sexual harassment are prohibited. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or
- submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Sexual harassment does not require sexual attraction or interest. This policy prohibits sexual advances and requests for sexual favors, sexual jokes and innuendo; comments about bodies, sexual prowess, sexual preferences, sexual experiences or sexual deficiencies; leering, whistling, or touching; verbal abuse of a sexual nature, including insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures, including nudity and pornography; and all inappropriate conduct of a sexual nature, whether it be physical, verbal or visual conduct.

Other Prohibited Harassment. In addition to the City's prohibition against sexual harassment, harassment based on any other legally protected characteristic is also strictly prohibited. This means that verbal or physical conduct that singles out, denigrates, or shows hostility or aversion toward someone because of race, religion, color, national origin, age, disability, genetics, veteran status, citizenship, or any other characteristic protected by law is also prohibited.

Prohibited conduct includes, but is not limited to, epithets, slurs and negative stereotyping; threatening, intimidating, or hostile conduct; denigrating jokes and comments; and writings or pictures, that single out, denigrate, or show hostility or aversion toward someone based on a protected characteristic. Conduct, comments, or

6.04 Sexual and Other Unlawful Harassment

innuendoes that may be perceived by others as offensive are wholly inappropriate and are strictly prohibited.

This policy also prohibits sending, showing, sharing, or distributing in any form, inappropriate jokes, pictures, comics, stories, etc., including but not limited to via facsimile, e-mail, cell phone or other electronic devices, social media, and/or the Internet, such as YouTube and Facebook. Harassment of any nature, when based on race, religion, color, sex, national origin, age or disability, genetics, veteran status, citizenship or any other characteristic protected by law is prohibited and will not be tolerated. This policy applies to City employees, citizens, vendors, and other visitors to the workplace.

Mandatory Reporting. The City requires that employees report all perceived incidents of harassment, regardless of the offender's identity or position. Any employee who observes or otherwise learns of possible harassment in the workplace or who feels that harassment has occurred or has been subjected to conduct prohibited by this policy must report it immediately to:

- the Department Director;
- the Director of Human Resources;
- the Deputy City Manager; or
- the City Manager.

Any supervisor, manager, or Department Director who becomes aware of possible conduct prohibited by this policy must immediately advise the Department Director and /or the Director of Human Resources. A formal Complaint Form is available from the Director of Human Resources.

Under this policy, an employee may report to and/or contact the Director of Human Resources directly, without regard to the employee's normal chain of command.

Voice messages or e-mails may be left at any time.

Investigation. All reports of prohibited conduct will be investigated promptly and in as confidential a manner as possible. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have other relevant knowledge. All employees are required to cooperate with the investigation and to maintain confidentiality.

Retaliation Prohibited. Retaliation against employees who make a good faith charge or report of prohibited conduct or who assist in a complaint investigation is prohibited. Acts of retaliation must be reported immediately as set out above.

Responsive Action. Misconduct constituting harassment or retaliation will be dealt with appropriately. Discipline, up to and including dismissal will be imposed upon any employee who is found to have engaged in conduct prohibited by this policy. Likewise,

6.04 Sexual and Other Unlawful Harassment

disciplinary action will be imposed in situations where claims of prohibited conduct were untruthful, fabricated or exaggerated or when employees are untruthful during an investigation.

6.05 Drug and Alcohol Use Policy

Effective Date: 03/01/2015

It is the desire of the City to provide an alcohol and drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory and safe manner.

Prohibition Against Alcohol and Illegal and Unauthorized Drugs. While on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment, no employee may use, possess, distribute, sell, or be under the influence of alcohol (except under the limited circumstances described below), inhalants, illegal drugs, including drugs which are legally obtainable but which were not legally obtained, and prescribed or over-the-counter drugs which are not being used as prescribed or as intended by the manufacturer.

The use of alcohol by a City employee during a business lunch is prohibited even though the person with whom the employee is having lunch may be consuming alcohol. Further, an employee on duty or conducting City business, including City-related business entertainment, may not drive his or her own personal vehicle while under the influence of alcohol. No employee in his or her work-related capacity should ever be impaired because of the excessive use of alcohol. City employees may not bring alcoholic beverages on City premises, including parking lots adjacent to City work areas, and may not store or transport alcohol in a City-owned or leased vehicle.

Prohibition Against Illegal and Unauthorized Drug-Related Paraphernalia. This policy also prohibits the use, possession, distribution and sale of drug-related paraphernalia while on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment. Drug-related paraphernalia includes material and/or equipment designed for use in testing, packaging, storing, injecting, ingesting, inhaling or otherwise introducing illegal or unauthorized drugs into the body.

Permissive Use of Prescribed and Over-The-Counter Drugs. The legal use of prescribed and over-the-counter drugs is permitted while on City premises, while on duty, while conducting City-related business or other activities off premises, while driving a City-owned or leased vehicle, or while operating or using other City-owned or leased property or equipment only if it does not impair an employee's ability to perform the essential functions of the job (or operate the vehicle, property or other equipment) effectively and in a safe manner that does not endanger the employee, citizens or other individuals in the workplace. Examples of impairment include, but are not limited to, drowsiness, dizziness, confusion, or feeling shaky.

Police Department Employees. Certain City Police Department employees may be required to be in possession of alcohol and/or drugs in carrying out their job duties.

6.05 Drug and Alcohol Use Policy

Such employees will be exempted from certain portions of this policy under certain limited conditions. Additional guidelines may be established by Police Department operating procedures.

Mandatory Disclosure by Employees. Employees taking prescription medication and/or over-the-counter medication must report such use to either their Department Director or to the City Manager if there is a reasonable likelihood the medication will impair the employee's ability to perform the essential functions of his or her job (or operate a vehicle, property or other equipment, if applicable) effectively and in a safe manner that does not endanger the employee, citizens or other individuals in the workplace. Examples of impairment include, but are not limited to, slurred speech, drowsiness, dizziness, confusion, or feeling shaky.

On-Call Employees. Employees scheduled to be on call are expected to be fit for duty upon reporting to work. Any employee scheduled to be on call, and is called out, is governed by this policy. Sometimes, an employee who is not scheduled to be on call may nevertheless be called out. If this or any other situation occurs where the employee called out is under the influence of alcohol or has a presence in the system of drugs, such that reporting to work would result in a violation of this policy, the employee must so advise the appropriate supervisor on duty. The employee will not be required to report to work.

Mandatory Reporting of Arrests and Convictions. Employees must notify their immediate supervisor and the Department Director, in writing, of any alcohol or drug-related arrest and/or convictions (including a plea of *nolo contendere*) or deferred adjudication, for a violation occurring off duty and/or in the workplace no later than twenty-four (24) hours after the arrest and/or conviction.

Off-Duty Conduct. The City may take disciplinary action, up to and including termination of employment, if an employee's off-duty use of or involvement with drugs or alcohol is damaging to the City's reputation or business, is inconsistent with the employee's job duties, or when such off-duty use, or involvement adversely affects the employee's job performance. Any employee reporting to work under the influence of illegal drugs or alcohol (.02 bac or higher) may be disciplined, up to and including termination.

Rehabilitation/Treatment.

1. It is the City's desire to assist employees who voluntarily request assistance with alcohol or drug dependency. For City support and assistance, however, an employee must acknowledge the problem and seek and accept counseling and/or rehabilitation before it impairs job performance and/or jeopardizes the employee's employment.

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2. Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take a leave of absence to participate in a rehabilitation or treatment program. (An employee may not enroll in a rehabilitation or treatment program in lieu of disciplinary action.) The leave of absence may be granted in the City's sole discretion. Factors considered by the City in deciding whether to grant leave include: the length of the employee's employment with the City; the employee's prior work and disciplinary history; the employee's agreement to abstain from the use of the problem substance and follow all other requirements of the rehabilitation/treatment program; the reputation of the program and the likelihood of a successful outcome; the employee's compliance with City policies, rules, and prohibitions relating to conduct in the workplace; and the resulting hardship on the City due to the employee's absence. Unless otherwise required by law, it is the City's policy to grant such a leave of absence only once during an employee's employment with the City.
3. The cost of any rehabilitation or treatment may be covered under the City's group health insurance policy. In any case, the employee is responsible for all costs associated with any rehabilitation or treatment program.
4. During time off for a City-approved rehabilitation or treatment program, the employee must use any available vacation leave, sick leave, compensatory time off, or other accrued paid leave time.
5. If the employee successfully completes the prescribed rehabilitation or treatment, the City will make reasonable efforts to return the employee to the prior position or one of similar pay and status. However, employment with the City following a City-approved leave for rehabilitation or treatment is conditioned on the following:

Initial negative test for drugs and/or alcohol before returning to work;

A written release to return to work from the City-approved rehabilitation or treatment facility/program;

Periodic and timely confirmation of the employee's on-going cooperation and successful participation in any follow-up or ongoing counseling, testing, or other treatment required in connection with the City-approved rehabilitation or treatment program, if applicable;

In addition to any testing required in connection with the employee's ongoing treatment or follow-up to treatment, all employees who participate in rehabilitation or treatment under this section will also be required to submit to periodic and/or random testing by the City during the two years following the employee's return to work following treatment;

The employee must sign a formal written agreement to abide by the above conditions,

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as well as any other conditions deemed appropriate by the Director of Human Resources. The employee must meet with the Director of Human Resources to discuss the terms of continued employment and sign a formal agreement before returning to work.

Policy Violations. Violations of this policy will generally lead to disciplinary action, up to and including immediate termination of employment and/or required participation in a substance abuse rehabilitation or treatment program. The Police and Fire Departments may have stricter disciplinary rules regarding violation of this policy. Employees with questions or concerns about substance dependency or abuse are encouraged to discuss these matters with their supervisor or the Director of Human Resources to receive assistance or referrals to appropriate resources in the community.

TESTING

Types of Tests. Testing may include one or more of the following: urinalysis, hair testing, breathalyzer, Intoxilyzer, blood, or other generally-accepted testing procedure.

Testing of Applicants. All applicants to whom a conditional offer of employment has been made will be required to submit to testing for alcohol and illegal and unauthorized drugs. A positive test result, refusal to test, or attempts to alter or tamper with a sample or any other part of the test, will render the applicant ineligible for consideration of employment or future employment with the City.

Testing of Employees.

1. Employees may be tested for alcohol and/or illegal and unauthorized drugs after a workplace injury or accident or “near miss,” when reasonable suspicion exists, or in connection with any required treatment or rehabilitation. The City may conduct random testing on employees holding safety-sensitive positions.
2. Police and Fire Department employees are also subject to any applicable Departmental rules and regulations regarding illegal and unauthorized drug and alcohol testing.
3. For purposes of this policy, reasonable suspicion is a belief based on articulable observations (e.g., observation of alcohol or drug use, apparent physical state of impairment, incoherent mental state, changes in personal behavior that are otherwise unexplainable, deteriorating work performance that is not attributable to other factors, a work-related accident or injury, evidence of possession of substances or objects which appear to be illegal or unauthorized drugs or drug paraphernalia) sufficient to lead a supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Supervisors who refer an employee for reasonable suspicion testing must document the specific factors that support reasonable suspicion testing (e.g., the who, what, when, where of the

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employee's behavior and other symptoms, statements from other employees or third parties, and other evidence supporting the reasonable suspicion testing).

4. Tests will be paid for by the City. To the extent possible, testing will normally be done during the employee's normal work time.
5. **Any employee who refuses to be tested, or who attempts to alter or tamper with a sample or any other part of the testing process, will be subject to disciplinary action up to and including termination.**
6. A positive test result is a violation of the City's Drug and Alcohol Use Policy and may result in disciplinary action up to and including termination of employment. Any employee who is terminated for violation of the City's Drug and Alcohol Use Policy is ineligible for future employment with the City.
7. The City has additional obligations when testing for controlled substances and alcohol for those employees regulated by the U.S. Department of Transportation. Please see the City's Drug and Alcohol Policy for DOT Employees for additional information.

Testing Procedures.

1. All testing must normally be authorized in advance by both the employee's Department Director and the Director of Human Resources. If the Department Director is unavailable within a reasonable period, the Director of Human Resources may, with sole discretion, authorize the testing of an employee. If the Director of Human Resources is unavailable within a reasonable period, the Department Director may, with sole discretion, authorize the testing of an employee. For reasonable suspicion testing, testing may not be authorized without the supervisor's documentation of the articulable factors which led the supervisor to suspect that the employee is under the influence of illegal or unauthorized drugs or alcohol. Testing should be arranged as soon as possible after the supervisor's articulable observations.
2. If an employee's conduct resulted in a work place accident, injury or "near miss," or reasonable suspicion exists to believe that the employee has violated the City's Drug and Alcohol Use Policy, the employee will be provided with transportation to the testing facility. A supervisor or other designated City representative may be required to stay with the employee during the testing process. The City may, in its discretion, reassign the employee or put the employee on administrative leave until the test results are received. The City will arrange to have the employee transported home after the testing.
3. All substance abuse testing will be performed by an approved laboratory or healthcare provider chosen by the City. All positive test results will be subject to

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confirmation testing.

4. Test results will be maintained in a confidential file separate and apart from the employee's personnel file. Any medical-related information will be confidential and accessible only by the Director of Human Resources; supervisors and managers on a need to know basis, including those who have a need to know about necessary restrictions on the work or duties of an employee and any necessary accommodation; first aid and safety personnel when appropriate; government officials; insurance companies as may be necessary to provide health or life insurance to employees; by court order or as otherwise legally mandated; and as necessary to protect the interests of the City.

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Effective Date: 03/01/2015

Employees/Applicants Subject to Testing. City employees who drive a commercial motor vehicle (CMV) requiring a Commercial Driver's License (CDL) as part of their job duties are subject to alcohol and drug testing as required by the U.S. Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration and as outlined in this policy. The employee's supervisor or the Director of Human Resources will advise the employee if the employee is subject to DOT testing and the terms of this policy. Employees who are not required by DOT to hold a CDL are not subject to this policy. Applicants for employment for a position requiring a CDL are also subject to testing under this policy.

Employees covered by this policy are also required to comply with the City's Drug and Alcohol Use Policy. In other words, this DOT Drug and Alcohol Policy is in addition to, not in lieu of, the provisions of the City's general Drug and Alcohol Use Policy. DOT tests will be separate from non-DOT tests in all respects. DOT tests take priority and will be conducted and completed before a non-DOT test is begun. All drug and alcohol testing performed under this DOT Policy will comply with applicable DOT procedures. If this policy conflicts with DOT regulations in any way, the DOT regulations will govern.

An employee subject to the provisions of this policy may be a person employed by the City, a contractor engaged by the City or an employee of such contractor. Refer to Attachment A for a listing of City positions currently subject to the testing provisions of this policy. The list of job titles on Attachment A may change as job responsibilities change or as new jobs are added to the City's work force. Employees required by DOT to hold a CDL, due to the type of equipment they operate, are subject to this policy whether this list is immediately updated to include their job titles. Employees who hold these jobs are required to carry their CDLs when they are at work or are operating City equipment.

Prohibited Alcohol Use.

- a. **On-duty and Pre-duty Use.** Reporting for, or remaining on, duty requiring the performance of safety-sensitive functions is prohibited under the following conditions:
 - While having a breath alcohol concentration of 0.04 or more as indicated via breath test;
 - While using alcohol; or
 - Within 4 hours after using alcohol.
- b. **Use Following an Accident.** An employee required to take a post-accident alcohol test pursuant to this policy is prohibited from using alcohol for 8 hours following the accident, or until undergoing a post-accident alcohol test, whichever occurs first.

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Prohibited Drug Use. Illicit use of drugs by safety sensitive drivers is prohibited both on and off duty. An employee may not report for duty or remain on duty when using or after use of any controlled substances, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to safely operate a CMV. An employee may not report for duty, remain on duty or perform a safety sensitive function if the employee tests positive for controlled substances or has adulterated or substituted a test specimen.

Required Alcohol and Drug Tests. DOT requires the following testing for covered drivers: pre-employment, post-accident, random, reasonable suspicion, return-to-duty and follow-up testing. Before conducting any required DOT testing, the City will notify the driver that the alcohol or drug test is required by DOT regulations.

- a. **Pre-employment Testing.** Drug and alcohol tests will be conducted after a conditional offer of employment is made, but before actually performing safety-sensitive functions for the first time. These tests are also required when employees are promoted, demoted or transferred into a safety sensitive driver position.
- b. **Post-accident testing.** Drug and alcohol tests will be conducted after accidents in which the driver's performance could have contributed to the accident (as determined by a citation for a moving traffic violation) and for all fatal accidents even if the driver is not cited for a moving traffic violation. Post-accident testing must be conducted as soon as practicable on all surviving drivers following an occurrence involving a CMV operating on a public road in commerce, as follows:
 - When the employee is issued a moving traffic violation citation and one or more of the vehicles involved is disabled and must be towed from the scene;
 - When the employee is issued a moving traffic violation citation and any person involved in the accident is injured to the extent that he/she requires and receives immediate medical treatment away from the scene of the accident; or
 - In an accident involving a fatality, testing will be performed on anyone who was performing safety sensitive functions with respect to the vehicle.

An employee subject to post-accident testing must remain readily available for such testing or will be deemed by the City to have refused to test. Nothing in this policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

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In post-accident situations, the City may substitute a blood or breath alcohol test for a urine drug test, so long as the test is performed by state or local law enforcement

officials using procedures required by their jurisdictions, provided such test results are received directly from the local jurisdiction or the driver. A positive post-accident test administered by law enforcement will result in the same action as a positive post-accident test performed at the City's behest.

Post-Accident Alcohol Testing. If alcohol testing cannot be administered within 2 hours of one of the above listed occurrences, a written statement explaining why the alcohol test was not promptly administered must be provided to the Director of Human Resources by the appropriate supervisor. If alcohol testing cannot be administered within 8 hours after the occurrence, the City will cease attempts to administer an alcohol test and document the reasons the alcohol test was not administered. This report must be promptly forwarded to the Director of Human Resources.

Post-Accident Drug Testing. A driver will be drug tested as soon as practicable but not later than 32 hours after one of the above listed occurrences. If the driver is not drug tested within 32 hours, the appropriate supervisor must prepare a report documenting the reason why and promptly forward the report to the Director of Human Resources.

- c. **Reasonable Suspicion Testing.** Reasonable suspicion drug and alcohol testing is conducted when a trained supervisor has reason to believe that an employee is in violation of this policy. The reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee; the observations may also include indications of the chronic and withdrawal effects of controlled substances. The supervisor must consult with the Department Director (or designee) and affirm the basis of the suspicion. If the Department Director concurs, the employee will be required to undergo testing only after consultation with the Director of Human Resources. A written report of the reasonable suspicion observations must be prepared by the supervisor(s) who made the observation within 24 hours of the observed behavior or before the results of tests are released, whichever is earlier. This report must be promptly forwarded to the Director of Human Resources.

Reasonable Suspicion Alcohol Testing. Reasonable suspicion alcohol testing is permitted only if the reasonable suspicion observation is made during, just before, or just after, the period of the work day the employee is required to be in compliance with this policy. An employee may be directed to undergo reasonable suspicion testing only while the employee is performing, just before performing, or just after performing, safety sensitive functions. If alcohol testing cannot be administered within 2 hours after the reasonable suspicion

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observation, a written statement that explains why the alcohol test was not promptly administered must be given to the Director of Human Resources. If alcohol testing cannot be administered within 8 hours after the observation, the

City will cease attempts to administer an alcohol test and the appropriate supervisor must immediately document the reasons that the alcohol test was not administered; this report must be promptly forwarded to the Director of Human Resources.

Notwithstanding the absence of a reasonable suspicion alcohol test under this policy, an employee may not report for duty or remain on duty requiring the performance of safety sensitive functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse. In such instances, the employee will not be permitted to perform or continue to perform safety sensitive functions until:

- An alcohol test measures the employee's alcohol concentration at less than 0.02; or
- 24 hours have elapsed since the reasonable suspicion observation was made.

Reasonable Suspicion Drug Testing. A driver will be drug tested as soon as practicable but not later than 32 hours after the reasonable suspicion observation. If the driver is not drug tested within 32 hours, the appropriate supervisor must prepare a report documenting the reason why and promptly forward the report to the Director of Human Resources.

- d. **Random Testing.** Drivers are selected for random, unannounced drug and alcohol testing using a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with the employee's Social Security number, payroll identification number, or other comparable identifying numbers. Each driver subject to this policy will have an equal chance of being tested each time random selections are made. The number of drivers randomly selected will be in accordance with applicable DOT regulations. Each driver randomly selected for testing will be tested during the selection period. Dates and times for random testing are unannounced and spread reasonably throughout the calendar year. Each driver selected for random testing must proceed to the test site immediately after notification; if, however, the driver is performing a safety-sensitive function, other than driving a CMV, at the time of notification, the City will instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible. A driver will be randomly tested for alcohol just before, during, or just after performing, safety sensitive functions; random testing for drugs does

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not have to be conducted in immediate time proximity to performing safety sensitive functions.

Return-to-duty and follow-up testing. Return-to-duty tests are conducted when a driver who has violated DOT's prohibited drug and alcohol standards returns to

performing safety sensitive duties. Follow-up tests are unannounced, and at least 6 tests must be conducted in the first 12 months after a driver returns to duty; follow-up tests may be extended for up to 60 months following a driver's return to duty. Drug tests must be negative and alcohol tests must demonstrate a breath alcohol level of less than 0.02. The driver will pay all costs associated with return-to-duty testing. When applicable, the City will follow all applicable DOT regulations in requiring return-to-duty and follow-up testing. The City is not, however, required to hire an applicant or continue the employment of a driver who has violated DOT drug and alcohol regulations, or this policy and it is the policy of the City not to do so. Thus, return-to-duty and follow-up tests are generally applicable only for those seeking assistance as set out below and, based on individual circumstances, for those who may have had an alcohol concentration of 0.02 or greater, but less than 0.04.

Refusal to Test. An employee who refuses to be tested in any of the above circumstances, who obstructs the testing process, or who tampers/alters a specimen, will not be permitted to perform or continue to perform safety sensitive functions and will likely be terminated. An applicant who does one of these prohibited acts will not be hired. Except in the case of pre-employment testing, a refusal to test includes the failure to appear for testing within a reasonable time, as well as failure to remain at the testing site until the testing process is complete. Failure to test also includes the failure to provide the required sample with no adequate medical explanation, and the failure to cooperate with any part of the testing process (e.g., refusing to empty pockets when asked to do so, behaving in a confrontational way that disrupts the collection process, or failure to undergo a medical exam or evaluation as directed by the physician medical review officer (MRO) as part of the verification process).

Additional Information About Alcohol Testing.

- a. **Consequences of a Positive Alcohol Test.** An employee who is tested and has an alcohol concentration of 0.04 or greater will be removed from safety sensitive functions and may be terminated. An employee who is tested and has an alcohol concentration of .02 to .039 will not be permitted to perform safety sensitive functions for a minimum of 24 hours and will be disciplined, up to and including termination. If not terminated, then the employee will receive a mandatory referral to a substance abuse professional. Any non-compliance with the treatment recommendations of the substance abuse professional will result in disciplinary action, up to and including termination. (The employee will be placed on administrative leave without pay during the treatment period. That employee

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- b. may use accrued sick leave during the treatment period.)
- c. **Alcohol Testing Procedures.** A trained breath alcohol technician will conduct alcohol tests. If the alcohol concentration is 0.02 or greater, a second confirmation test will be conducted in accordance with DOT regulations, the results of which will determine any actions taken. Any result of less than 0.02

alcohol concentration is considered a “negative” test. The second, confirmation test results determine if the employee is in violation of this policy. Testing procedures that ensure accuracy, reliability and confidentiality of test results will be followed pursuant to DOT regulations.

Additional Information About Drug Testing.

- a. **Drug Testing Procedures.** Drug testing is conducted by analyzing a driver’s urine specimen at a lab certified by the U.S. Department of Health and Human Services. The driver provides a specimen in a location that affords privacy and the “collector” seals and labels the specimen, completes a chain of custody document, and prepares the specimen and accompanying paperwork for shipment to a drug-testing lab. “Split” urine specimens provide drivers with an opportunity for a second test, if needed. If the driver challenges the validity of the test, then the employee has 72 hours to request that the split specimen be sent for testing to another certified lab approved by the City’s Director of Human Resources. The second test will be at the driver’s own expense.
- b. **Drugs Tested For.** DOT requires testing for the following drugs:
 - Marijuana (THC)
 - Cocaine
 - Amphetamines
 - Opioids (natural, synthetic and semi-synthetic)
 - Phencyclidine (PCP)

A screening test is performed first. If it is positive for one or more of these drugs, then a confirmation test is performed. Whenever the terms “drug,” “drugs” or “controlled substances” are used in this policy, they refer to the substances listed above. The City will not test for any other substances under this policy. The City may, however, (1) test for other controlled substances pursuant to its general Drug and Alcohol Use Policy; or (2) modify the list of DOT tested drugs at the direction of DOT.

- c. **Review of Drug Test Results.** All positive drug test results are reviewed and interpreted by a physician medical review officer (MRO) before they are reported to the City. If the lab reports a positive result to the MRO, the MRO will contact the driver (either in person or by phone) and will conduct an interview to

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- d. determine if there is an alternative medical explanation for the drug(s) found in the driver's urine specimen. If the driver provides appropriate documentation and the MRO determines that it is a legitimate medical use of the prohibited drug(s), the drug test result is reported as a negative to the City.

- d. **Consequences of a Positive Drug Test.** A driver will be removed from safety sensitive duties and placed on administrative leave if the test returns a positive

for drugs. The removal cannot take place until the MRO has interviewed the driver and determined that the positive test resulted from the unauthorized use of a controlled substance. A confirmed positive drug result will result in termination of employment.

Confidentiality. Test results may be released only to the driver, designated City officials, a substance abuse professional, laboratory officials or a medical review officer. Records will also be made available to a subsequent employer or other identified person upon the driver's specific written request. Test results will not be released to others except as required by law or expressly authorized in the applicable DOT regulations (e.g., the decision maker in a lawsuit, appeal or administrative proceeding initiated by or on behalf of the driver and arising from a positive DOT drug or alcohol test or refusal to test; this includes workers' compensation and unemployment proceedings.) All test results will be kept in a confidential file by the Director of Human Resources. Management and supervisory personnel who are authorized to have access to alcohol and drug testing results must maintain complete confidentiality regarding this information. City employees who make a reasonable suspicion observation or who witness an accident must also maintain confidentiality. Breach of confidentiality relating to test results, or any other related matters, will likely result in disciplinary action, up to and including termination of employment.

Information from Prior Employers. For new hires, promotions and transferred employee-drivers seeking to perform safety sensitive functions for the first time, the City is required, with the driver's written consent, to obtain information from previous employers regarding alcohol test results of 0.04 or greater, verified positive drug test results, refusals to test (including verified adulterated or substituted drug test results), and any other violation of DOT drug and alcohol testing regulations within the two years prior to the date of the driver's application, promotion or transfer. Affected individuals must sign a Breath Alcohol and Drug Testing Results Request. The City will obtain and review the information before allowing the person to perform safety sensitive functions. If the City receives any such information about an applicant-driver, the applicant will not be hired; if such information is received about an employee seeking promotion or transfer, the employee will not be promoted or transferred to the driver position and may also receive disciplinary action, up to and including termination of employment. The City will maintain a written, confidential record of the information it obtains and/or the good faith efforts it made to obtain the information. This information will be retained for a minimum of 3 years. The City will also ask if the person has tested positive, or

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refused to test, on any pre-employment drug or alcohol test administered by an employer to which the driver applied for, but did not obtain, safety sensitive transportation work covered by a DOT agency drug and alcohol testing rules during the past 2 years. If the person admits to such conduct, the person will not be allowed to perform safety sensitive functions for the City. If the driver refuses to provide the City with the required written consent, the driver will not be permitted to perform safety sensitive functions and will likely be disciplined (up to and including termination of employment) if employed, or not hired if applying for employment.

Record Retention. The City will maintain and retain records under this policy as mandated by DOT regulations.

Notification to Applicants/Employees of Positive Test Results. The City will notify applicants of the results of a pre-employment drug test if the applicant requests such results within 60 calendar days of being notified of the disposition of the employment application. The City will notify an employee of the results of random, reasonable suspicion and post-accident drug tests if the test results are confirmed positive, and which controlled substance(s) verified positive after the MRO confirms the positive. The City will also make reasonable efforts to contact and request each driver who tested positive to contact and discuss the results of their drug test with an MRO who has been unable to contact the driver. The City will immediately notify the MRO that the driver has been notified to contact the MRO within 72 hours.

Employee Admission of Drug/Alcohol Use. An employee who admits to alcohol misuse or drug use must do so in accordance with the City's general Drug and Alcohol Use Policy; provided, however, the employee may not self-identify to avoid the testing requirements of this DOT policy. Further, the employee must make the admission prior to performing a safety sensitive function, i.e., prior to reporting for duty. The employee may not perform a safety sensitive function until the City is satisfied that the employee has been evaluated and has successfully completed educational or treatment requirements in accordance with the City's general Drug and Alcohol Use Policy. A drug and alcohol abuse evaluation expert, i.e., an EAP professional, a substance abuse professional or a qualified drug and alcohol counselor, will determine successful completion. Prior to the employee performing safety sensitive functions, the employee must undergo a return to duty alcohol test with a result of less than 0.02 and/or a return to duty drug test with a negative test result.

Safety Sensitive Functions. For purposes of this policy, safety sensitive function or duty means all the time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety sensitive functions/duties include:

- ***All time at a City, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City;***

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- All time inspecting equipment as required by applicable DOT regulations or otherwise inspecting, servicing, or conditioning any CMV at any time;
- All time spent at the driving controls of a CMV in operation;
- All time, other than driving time, in or upon any CMV;
- All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Transportation to Testing Site. Except for pre-employment and random testing, employees will be driven to the testing facility by a supervisor. The supervisor will remain with the employee during the testing process. The City will decide to have the employee transported back to the City or home, as appropriate, after the testing is complete.

Questions. Anyone with questions regarding this policy should contact the Director of Human Resources.

Chapter 7: Work Environment

7.01 Cell Phone Use in the Workplace

Effective Date: 03/01/2015

Cell phones may belong to the employee or be provided for the employee's use by the City. The use of personal cell phones, including those with a texting, camera and/or video playing capability should be limited as to not impede work or the duties required of an employee and is **subject to a supervisor's approval**. Employees who are permitted by a supervisor to use a personal cell phone while at work must not allow cell phone use to become disruptive or interfere with their own or a co-worker's ability to do their jobs. Employees who use cell phones to violate City policy, including the City's Sexual and Other Unlawful Harassment Policy, will be subject to disciplinary action.

Reasonable personal use of city cell phones is allowed under this policy if such use is not excessive and does not impede job performance or the performance of City business.

Except in emergency circumstances, employees are discouraged from using a cell phone while operating a City owned motor vehicle, including both making and receiving phone calls, texting, viewing the Internet, Instagram, or Facebook, reading or responding to emails, etc. During work hours, calls may be conducted from a motor vehicle only if the vehicle has been pulled off the road, removed from traffic, and brought to a complete stop.

All employees must, when asked by the City, consent to a request to provide the City access to all City-issued cell phone and text message records during work hours. Employees using City-issued cell phones have no expectation of privacy in either cell phone calls, pictures, or text messages on these City-issued cell phones made during work hours.

PUBLIC INFORMATION ACT

Employees are advised that records related to calls and text messages made and received on City owned cellular telephones or business calls made on personal cell phones are public information. Information related to telephone numbers called, length of call, and time and date of call as well as the text message itself may be obtainable through the Texas Public Information Act, except in narrowly defined circumstances.

7.02 Electronic Communications and Systems Access Use

Effective Date: 03/01/2015

The City may provide computer networks, Internet access, instant messaging, email, telephones, cell phones, digital cameras, voice mail, and fax communication systems for use by City employees in the performance of their job duties. These communication devices are referred to collectively in this policy as “electronic communications systems” or “systems.” These electronic communications systems are designed to support and enhance the communication, research and information capabilities of City employees and to encourage work-related communication and sharing of information resources within the City. This policy governs user behavior pertaining to access and usage of the City’s electronic communications systems. This policy applies to all City employees, contractors, volunteers and other affiliates who use the City’s electronic communications systems. The City’s electronic communications systems access must be used in a professional, responsible, efficient, ethical and legal manner. The City owns all data associated with city owned electronic communications systems.

Internet, Instant Message and email access. Users desiring Internet, instant messaging and/or email access must obtain written authorization from their Department Director and provide it to the Director of IT through the Work Order system. Users must acknowledge an understanding of this policy and its guidelines as a condition of receiving an Internet, instant message and/or email access account. Failure to adhere to this policy and its guidelines may result in suspending or revoking the offender's privilege of access and/or other disciplinary action under City policies, up to and including termination of employment.

Acceptable Use. Acceptable uses of the City’s electronic communication systems are limited to those activities that support reference, research, internal/external communication and conducting City business in line with the user's job responsibilities. Network users are encouraged to develop uses which meet their individual needs and which take advantage of the City’s internal network function. The City prohibits connection to sites or forwarding of information that contain materials that may be offensive to others including, but not limited to, sites or information containing sexually explicit material.

Users must understand that use of any City-provided, publicly accessible computer network such as the Internet, instant messaging and email is a privilege. Minimal personal use of the Internet, instant messaging or email and other electronic communications systems is allowed under this policy if such use is not excessive and does not impede job performance or the performance of City business. The City is not responsible for personal communications sent on its electronic communications systems. Supervisors cannot alter the restrictions of this policy.

7.02 Electronic Communications and Systems Access Use

Unacceptable Uses of Electronic Communications Systems include:

- Using language that is harassing, bullying, discriminatory, threats of violence, maliciously false, intimidating, or retaliatory to coworkers or third parties.
- Accessing, displaying, downloading, or distributing sexually explicit material.
- Accessing, displaying, downloading or distributing profane, obscene, harassing, or offensive messages or content.
- Copying or downloading commercial software in violation of copyright law.
- Using the systems for financial gain or for any commercial activity unrelated to City business.
- Using the systems in such a manner as to create a security breach of the City network.
- Looking or applying for work or business opportunities other than for internal City postings.
- Accessing any site, or creating or forwarding messages with derogatory, inflammatory, or otherwise unwelcome remarks or content regarding race, religion, genetics, color, sex, national origin, disability, age, physical attributes, gender identity, sexual orientation, or military/veteran status.
- Transmitting or sharing information regarding a coworker's health status without authorization.
- Expressing opinions or personal views that could be misconstrued as being those of the City.
- Expressing opinions or personal views regarding management of the City.
- Expressing opinions about politics or other political views that could be misconstrued as being those of the City.
- Using the electronic communication systems for any illegal purpose or in any way that violates City policy or is contrary to the City's best interest.

Responsibility. The person in whose name a City provided Internet, email or other electronic communications system account is issued is responsible always for its proper use, regardless of the user's location. Exchanges that occur while conducting City business on the City's electronic communications systems will be considered a communication of the City and held to the same standards as formal letters.

No Right of Privacy/Monitoring. Users of City electronic communications systems may not assume they are provided any degree of anonymity and employees have no right to privacy regarding such systems. Personal passwords are not an assurance of confidentiality. The Internet itself is not secure. To ensure proper use of its electronic communications systems, the City will monitor their use. Management staff has the ability and will, with or without notice, monitor and view usage, including but not limited to: employee email, voice mail and instant messages, text messages, information and material transmitted, received or stored using City systems and user Internet access and usage patterns to assure that the City's Internet resources

7.02 Electronic Communications and Systems Access Use

are devoted to maintaining the highest levels of productivity, as well as proper use and compliance with this policy.

Copyright Restriction. Any software or other material, including music, downloaded into a City computer may be used only in ways consistent with the licenses and copyrights of the vendor, author or owner of the material. Prior written authorization from the Director of Information Technology Department is required before introducing any software into the City's computer system. Employees may not download entertainment software, games or any other software unrelated to their work.

7.03 Social Media

Effective Date: 03/01/2015

An employee's use of social media, both on and off duty, must not interfere with or conflict with the employee's duties or job performance, reflect negatively on the City or violate any City policy. The intent of these standards is to regulate the creation and distribution of information concerning the City, its employees and citizens through electronic media, including, but not limited to online forums, instant messaging and internet social media and blogging sites. This policy is designed to protect the City's reputation and ensure that an employee's communications not only reflect positively on the employee as an individual, but also on the City.

The term "social media" encompasses: Twitter, Facebook, LinkedIn, blogs, and other online journals and diaries; bulletin boards and chat rooms, microblogging and all other social networking sites, instant messaging and the posting of video on YouTube and similar media.

Use of City's Internet. Use of the City's Internet is a privilege and City employees must responsibly and ethically use it. The City may monitor an employee's access, use, and postings to the City's Internet to: ensure compliance with internal policies; support the performance of internal investigations; assist management of information systems; and for all other lawful purposes. The City expects all employees to follow the Guidelines below when posting information on the City's Social media sites.

Other City Policies

This policy should be read and interpreted in conjunction with other City policies, including but not limited to, policies prohibiting harassment, discrimination, offensive conduct or inappropriate behavior. Violations of the Social Media Policy may lead to disciplinary action. The City provides an effective system for employee complaints "off-line" through the "Grievance" policy without resorting to social media.

A. Employee Guidelines During Work Time

Any blogging or posting of information on the Internet or other City social media sites must comply with the City's guidelines, regardless of where the blogging or posting is done.

- Blogging, or posting information of a personal nature on the Internet or other City social media sites is prohibited during work hours. Employees are not permitted to engage in social networking of a personal nature while using any of the City's electronic social media sites.

7.03 Social Media

- Employees must obtain written authorization from the City Manager or their designee to update or post on social media sites on behalf of the City and all content must be approved prior to posting. All the employee's time spent updating or posting on City social media sites as part of the employee's job duties is compensable time that must be reported and counted in the calculation of overtime.
- No use of social media on work time and on City equipment on City-operated networks is considered private or confidential, even if password protected or otherwise restricted. The City reserves the right to access, intercept, monitor and review all information accessed, posted, sent, stored, printed or received through its communications systems or equipment at any time.
- Never disclose any confidential information concerning another employee of the City in a blog or other posting to the Internet. Posting of confidential information may violate state law and subject the user to criminal penalty. All requests for City documents must be processed through the Public Information Act.
- Employees must abide by all federal and state law and policies of the City regarding information sent through the City's Internet.
- Individual supervisors do not have the authority to make exceptions to these guidelines.

Employee Guidelines While Not on Work Time

The City recognizes that many City employees utilize social media when not at work. The City requires that employees be aware of guidelines regarding posting of work-related information on personal social media sites, and they are listed below.

- If the employee's social networking includes any information related to the City, the employee must make it clear to the readers that the views expressed are the employee's alone and not reflective of the views of the City.
- Employees are encouraged to act responsibly on and off duty, and to exercise good judgment when using social media. Recognize that postings on your social media site, even if done off premises and while off duty, could have an adverse effect on the City's legitimate business interests.
- Respect coworkers and the City. Do not put anything on your personal social media site that may defame, embarrass, insult, demean or damage the reputation of the City or any of its employees.

7.03 Social Media

- Do not put anything on your personal social media site that may constitute violation of the City's Harassment policy. Be mindful that the City's harassment policy covers both work and non-work time, including postings on social media sites.
- Do not post pictures of yourself or others on your personal social media site containing images of City uniforms or insignia, City logos, City equipment or City work sites.
- Do not post information on your personal social media site that could adversely impact the City and/or an employee of the City.
- Do not permit or fail to remove postings violating this policy, even when placed by others on your social media site.

7.04 Arrests, Confinements and Indictments

Effective Date: 03/01/2015

POLICY

City employees are subject to disciplinary action and/or job restrictions for violations of law. This policy applies to acts prohibited by law that result in charges being filed, arrest, confinement, indictment, and/or conviction, as well as to acts prohibited by law not resulting in charges filed, arrest, confinement, or indictment.

PROCEDURE

Employee Notice of Felony and Misdemeanor Charges: Employees must immediately notify their supervisor and/or Department Director within twenty-four (24) hours if they are arrested, charged, indicted, convicted, receive deferred adjudication, or plead *nolo contendere* to any misdemeanor or felony. Employees who do not drive as a part of their job duties with the City are not required to report minor traffic violations. Failure to report these events in a timely manner may result in immediate termination.

Employee Status after Alleged Violation of Law: At the time the employee's department is made aware of an employee's arrest or conduct constituting an offense, the Department Director shall consult with Human Resources to determine available options which may include, but are not limited to:

- allowing the employee to return to regular duty with pay;
- allowing the employee to return to restricted duty with pay;
- placing the employee on paid administrative leave;
- placing the employee on unpaid administrative leave; or
- terminating the employee.

Employee Status after Adjudication: Once the indictment or information is dismissed or fully adjudicated without trial, and if tried, until the trial and appeal (if any) are computed and all related administrative matters are completed, the Department Director will determine, in conjunction with Human Resources Director the status of the employee. An employee on administrative leave may, in the City's sole discretion, be reinstated to the position held before being placed on administrative leave (if available), if the indictment or information is dismissed, the employee is acquitted, or the conviction is reversed on appeal.

Disciplinary Action: Disciplinary action may be pursued concurrently or in place of the above options or imposed later. Multiple violations of law or confinements within a prescribed period may also result in disciplinary action.

7.04 Arrests, Confinements and Indictments

Violations of Law Discovered through Criminal History Check: The City may conduct criminal history checks on existing employees at any time during their employment, for any reason. Conduct constituting an offense, arrest or conviction that is discovered may result in disciplinary action, up to and including termination.

Other Policies: This policy should not be construed to limit disciplinary action that may be taken in accordance with other Personnel Policies and Procedures, department policies, or other city-wide policies.

In addition to the policy above, civil service employees shall be governed by applicable departmental policies and procedures, the City's Civil Service Rules and Regulations and Chapter 143 of the Texas Local Government Code.

7.05 Weapons Control and Violence Prevention Policy

Effective Date: 03/01/2015

The City strives to provide a safe and secure working environment for its employees. This policy is designed to help prevent incidents of violence from occurring in the workplace and to provide for the appropriate response when and if such incidents do occur.

Zero Tolerance. This policy prohibits harassment, bullying, intimidation, threats, and violent behavior by or towards anyone in the workplace, that is in any way job- or City-related, that is or might be carried out on City-property, or that is in any way connected to the employee's employment with the City, whether the conduct occurs on-duty or off-duty. The City has a zero-tolerance policy for this type of misconduct.

Weapons Banned. Unless specifically authorized by the City Manager, no employee, other than a City licensed peace officer, shall carry or possess a firearm or other weapon on City property. Employees are also prohibited from carrying a weapon while on duty or at any time while engaging in City-related business. Prohibited weapons include firearms, clubs, explosive devices, knives with blades exceeding 5 ½ inches, switchblades, etc. Employees do not have an expectation of privacy and the City retains the right to search for firearms or other weapons on City property.

Employees licensed by the State of Texas to carry a concealed weapon may have a permitted weapon only on the City parking lot if it is locked in the employee's vehicle.

Mandatory Reporting. Each City employee must immediately notify his/her supervisor, Department Director, the Director of Human Resources and /or the Police Department of any act of violence or of any threat involving a City employee that the employee has witnessed, received, or has been told that another person has witnessed or received. Even without an actual threat, each City employee must also report any behavior that the employee regards as threatening or violent when that behavior is job-related or might be carried out on City property, a City-controlled site or City job site, or when that behavior is in any manner connected to City employment or activity. Each employee is responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person or persons threatened or the target of the threatening behavior. A supervisor who is made aware of such a threat or other conduct must immediately notify his/her Department Director and the Director of Human Resources.

Protective Orders. Employees who apply for or obtain a protective or restraining order which lists City locations as being protected areas must immediately provide to the Director of Human Resources and the City's Police Department a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent. City employees must immediately advise their Department

7.05 Weapons Control and Violence Prevention Policy

Director and the Director of Human Resources of any protective or restraining order issued against them.

Confidentiality. To the extent possible, while accomplishing the purposes of this policy, the City will respect the privacy of reporting employees and will treat information and reports confidentially. Such information will be released or distributed only to appropriate law enforcement personnel and others on a need-to-know basis and as may otherwise be required by law.

City Property. For purposes of this policy, City property includes but is not limited to owned or leased vehicles, buildings and facilities, entrances, exits, break areas, parking lots and surrounding areas, recreation centers, and parks.

Documentation. When appropriate, threats and incidents of violence will be documented. Documentation will be maintained by the Director of Human Resources and/or the Police Department.

Policy Violations. Violations of this policy may lead to disciplinary action, up to and including termination of employment. Policy violations may also result in arrest and prosecution.

7.06 Searches

Effective Date: 03/01/2015

The City may conduct unannounced searches or inspections of the work site, including but not limited to City property used by employees such as lockers, file cabinets, desks, and offices, computer and electronic files, social media sites, cell phones, text messages, whether secured, unsecured or secured by a lock or password provided by the employee. No supervisor has the authority to deviate from City policy. If reasonable suspicion exists, the City may also conduct unannounced searches or inspections of the employee's personal property located on City premises, including vehicles parked on City parking lots.

All searches must be authorized and conducted under the direction of the Director of Human Resources and/or the City Manager. Employees who refuse to cooperate with a search may be subject to disciplinary action up to and including termination.

7.07 City Property/Equipment Use

Effective Date: 03/01/2015

The City attempts to provide employees with adequate tools, equipment, vehicles and facilities for the job being performed, and the City requires all employees to observe safe work practices and lawful, careful and courteous operation of vehicles and equipment. Any City-provided safety equipment must be used always.

From time to time, the City may issue various equipment or other property to employees, e.g., credit cards, keys, tools, security passes, manuals, written materials, uniforms, cell phones, computers, and computer-related equipment. Employees are responsible for items formally issued to them by the City, as well as for items otherwise in their possession or control or used by them in the performance of their duties. At the time of issuance, employees may be required to sign certain forms or other documentation evidencing their receipt of property and/or equipment and authorizing a payroll deduction for the cost of lost, damaged, or unreturned items. In addition to payroll deductions, the City may take any other action it deems appropriate or necessary to recover and/or protect its property.

Employees must notify their supervisor immediately if any vehicle, equipment, machinery, tools, etc. appears to be damaged or defective, or need repair. The appropriate supervisor can answer questions about an employee's responsibility for maintenance and care of equipment used on the job. The improper, careless, negligent, destructive, unauthorized, or unsafe use or operation of equipment will likely result in disciplinary action.

Personal Use Prohibited. City property, materials, supplies, tools, equipment or vehicles may not be removed from the premises or used for personal business without prior written approval by the City Manager, or the Department Director.

Tobacco Use Prohibited. The use of all tobacco products of any kind, including smokeless electronic cigarettes is prohibited at any time in City buildings and other facilities, in City vehicles, while using City equipment, and as otherwise directed. Employees are welcome to smoke on their rest breaks outside of the building in designated smoking areas. Smoke breaks which are excessive in frequency or length will be treated as an attendance issue.

Vehicle Allowance. An employee may be given a monthly allowance for consistently using such employee's own vehicle for City business if the use is deemed necessary by the City Manager. The amount of the allowance shall be determined by the City Manager.

Take Home Vehicles. To be eligible for assignment of a take-home vehicle, an employee must be subject to emergency call back during off duty hours to locations other than the employee's normal work station.

7.07 City Property/Equipment Use

No alcoholic beverages are allowed in City vehicles. No passengers may be transported in take-home vehicles except as required by official duties.

If approved by the City Manager, use of a City owned vehicle may be included within a contract of employment and may be exempt from this policy.

The City's vehicles are classified as either "exempt" or "non-exempt" as prescribed by law. Most pickups, vans and automobiles are classified as "non-exempt" vehicles. Employees to whom a "non-exempt" vehicle is assigned for take-home may incur a federal income tax liability for the benefit of commuting to and from work in a City vehicle. Police and fire vehicles used by employees on call 24-hours are normally exempt from the benefit tax liability.

Use of City Vehicles. City-owned or leased vehicles may be used only for official City business. City owned, or leased vehicles may only be driven by authorized City employees. If an employee drives a personal vehicle, or a City-owned, rented or leased vehicle on the job or while carrying out City-related business, the employee must comply with the following:

- Drivers must have a valid State of Texas driver's license appropriate for the vehicle operated, must maintain a satisfactory driving record, and must inform their supervisor of any change in status.
- Always observe all posted laws and speed limits.
- Always wear seat belts when the vehicle is in operation.
- No passengers other than City employees or others on City business may ride in a City vehicle unless otherwise approved in advance by the City Manager or Department Director.
- No personal use of City-provided vehicles is allowed without the prior, specific approval of the City Manager or Department Director.
- All maintenance and use records for City vehicles must be completed as directed by the employee's supervisor.
- Report any broken, missing, or worn parts, tires, etc., or any needed maintenance of City vehicles to the appropriate supervisor immediately.

7.07 City Property/Equipment Use

- All drivers must be eligible for coverage under the City's insurance policy.
- Drivers covered by Department of Transportation (DOT) regulations must comply with the DOT regulations always.
- AT NO TIME MAY AN EMPLOYEE UNDER THE INFLUENCE OF ALCOHOL OR A PRESENCE IN THE SYSTEM OF ILLEGAL DRUGS DRIVE A CITY VEHICLE OR A PERSONAL VEHICLE WHILE CONDUCTING CITY BUSINESS.
- EMPLOYEES INVOLVED IN AN ACCIDENT WHILE OPERATING A CITY VEHICLE, OR WHILE OPERATING A PERSONAL VEHICLE ON CITY BUSINESS, MUST IMMEDIATELY NOTIFY THE PROPER LAW ENFORCEMENT AGENCY (IF APPLICABLE) AND THE APPROPRIATE SUPERVISOR, DEPARTMENT DIRECTOR, AND/OR CITY MANAGER. ACCIDENT REPORTS, ALONG WITH ANY LAW ENFORCEMENT REPORT, MUST BE FILED BY THE EMPLOYEE WITH THE DEPARTMENT DIRECTOR AND THE DIRECTOR OF HUMAN RESOURCES.

The City may, at any time, check the driving record of a City employee who drives as part of the job duties to determine that the necessary qualifications are maintained as a City driver. Employees must cooperate in giving the City whatever authorization is required for this purpose.

The above is not a complete and exhaustive list of vehicle use policies. Violations of any of the specific items listed, as well as the improper, careless, negligent, destructive, unauthorized, or unsafe use or operation of a vehicle, may result in loss of driving privilege or disciplinary action.

Personal Property. All employees shall be solely responsible for their personal property always.

7.08 Safety

Effective Date: 03/01/2015

PURPOSE:

To define health and safety practices utilized by the City to assist in providing a safe and healthy work environment for employees, citizens, customers, and visitors.

A. Report of Accident

The City will take all practical steps to eliminate or reduce an employee's exposure to accidental injury or to conditions that would be injurious to his or her health. In the case of accidents resulting in injury, employees must immediately complete a Risk Management Form and submit the form to their immediate supervisor. The supervisor must then submit the form to Purchasing.

B. Safety Training

Employees and supervisors receive periodic workplace safety training through City-initiated risk/safety procedures. The training covers potential safety and health hazards and safe work practices and procedures to eliminate or minimize hazards.

C. Reporting Unsafe Acts

Employees shall cooperate with the City by observing reasonable safety regulations and working in a safe manner. Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to the appropriate supervisor. Employees who violate safety standards, cause hazardous or dangerous situations, fail to report, or, where appropriate, correct such situations, may be subject to disciplinary action, up to and including termination of employment.

D. Safety Suggestions

Some of the best safety improvement ideas come from employees. Those with ideas, concerns, or suggestions for improved safety in the workplace are encouraged to raise them with their supervisor, another supervisor or manager, or bring them to the attention of Human Resources. Reports and concerns about workplace safety issues may be made anonymously, if the employee wishes. All reports can be made without fear of reprisal.

7.09 Travel

Effective Date: 03/01/2015

Revision Date: 10/01/2019

Purpose

To establish official travel guidelines to safeguard City funds, define reporting requirements, and ensure reimbursements comply with IRS regulations. This policy will remain in effect until changed or otherwise repealed by the City Manager. It supersedes all prior published travel policies.

Clearly, all expense reports are subject to the Open Records Act and public scrutiny. Employees shall use their best judgement and make expenditure decisions as if they were paying for them personally.

Policy

The Travel Policy is applicable to all individuals conducting official City business. Official travel should benefit the City and the traveler should have the desire and ability to make productive use of and share the knowledge gained. Professional conduct is expected while representing the City.

The City adheres to the General Services Administration's (GSA) per diem & mileage rates. The policy meets IRS Accountable Plan standards based on the following guidelines in Publication 15 (Circular E) Employer's Tax Guide:

"You may reimburse your employees by travel days, miles, or some other fixed allowance under the applicable revenue procedure. In these cases, your employee is considered to have accounted to you if your reimbursement doesn't exceed rates established by the Federal Government. The government per diem rates for meals and lodging in the continental United States can be found by visiting the U.S. General Services Administration website at GSA.gov and entering "per diem rates" in the search box. Other than the amount of these expenses, your employees' business expenses must be substantiated. If the per diem or allowance paid exceeds the amounts substantiated, you must report the excess amount as wages. This excess amount is subject to income tax withholding and payment of social security, Medicare, and FUTA taxes. This amount is reported in box 12 of Form W-2 using code L."

Approval Levels

The Chief Financial Officer is responsible for the overall administration and enforcement of the travel policy through the Purchasing Department. Directors approve employees in their chain of command.

7.09 Travel

Pre-Authorization for Travel Request

Travelers are expected to make the most cost-effective travel arrangements possible. Advanced director approval must be obtained prior to any travel which requires payment for registration, materials, meals and/or overnight stay.

Upon director approval, a Travel Claim Form (TCF) is submitted to the Purchasing Department for policy review before forwarding to Accounts Payable for issuance of a travel advance. The TCF shall be accompanied by pertinent conference brochures, agendas, or schedules of meetings and state the nature of the trip, destination and dates of the beginning and end of official leave and travel cost. Requests must be received in the Purchasing Department at least ten (10) business days prior to the departure date. Employees with purchasing cards open to travel are not required to submit a TCF until the trip is completed. A travel advance will not be issued to travelers that submit late requests unless authorized by the City Manager.

Expense Reimbursement

All travelers should file a TCF post-travel. Reimbursement is made for ordinary and reasonable expenses (see Allowable Expenses below).

If a traveler did not submit a TCF prior to travel, he/she may do so within ten (10) business days of his/her return. If a traveler did submit a TCF for per diem amounts and incurred allowable expenses during the travel period, he/she may submit receipts for the reimbursement of allowable expenses within ten (10) business days of his/her return.

Purchasing will review the TCF to verify compliance with the Travel Policy. If an error is found, the traveler will be given instructions on how to correct the error. In the case of overpayment, the City reserves the right to deduct amounts owed from the traveler's paycheck. If a purchasing card is used to make a purchase and the employee does not have a receipt to support the purchase, the employee must reimburse the City for the cost of the unsupported purchase.

An employee may forgo a travel advance and use his/her City purchasing card to pay for travel expenses when incurred. However, upon return, the employee will not be eligible for per diem reimbursement. The employee should not exceed the per diem allowance in total for the period of travel. If travel expenses charged on the City purchasing card exceed the per diem allowance for the period of travel, the employee is required to reimburse the City for excess expenses. An employee that chooses to use a City purchasing card to pay for travel expenses must complete a TCF when he/she returns. The TCF should be used to reconcile all travel expenses paid on the City purchasing card to per diem allowances to verify that the employee did not exceed the per diem allowance in total for the period of travel. The TCF and receipts should be included with the employee's monthly credit card Expense Report when submitted to his/her supervisor for approval.

7.09 Travel

Allowable Expenses

- Meals and Incidentals (M & IE)

Per Diem for M & IE is an allowance intended to cover daily meals and incidentals, such as tips for food and luggage-handling services. Each October 1, the GSA establishes per diem rates which vary by destination. No deduction is made for conference provided meals. Travel day meals are reimbursed in accordance with the following rules:

- Breakfast is reimbursed if travel day departure is prior to 8:00 a.m.
- Dinner is reimbursed if return travel day arrival is after 5:00 p.m.

- Hotel

The rate allowed for hotel rooms (before taxes) should not exceed the applicable per diem rate or the conference hotel rate, whichever is greater. Room rates above this limit are required to have pre-authorization by the director and the purchasing department prior to booking. The policy allows for one traveler per hotel room. Room sharing shall not be required.

- Transportation

Cost-saving methods which include using a City vehicle or ride-sharing are encouraged. Early departure or a later return resulting in substantial cost savings may be approved by the supervisor.

- Air Travel

Authorized fares are based on economy/coach rates. No upgrades will be paid by the City. Fees incurred due to seat selection in economy/coach areas will be allowed. A traveler may upgrade using personal reward miles or by paying the difference out-of-pocket. Early booking is encouraged to ensure discounted rates. Luggage reimbursement is limited to one (1) checked bag and excludes any excess fees (i.e. overweight). Special consideration is given for fees on necessary City equipment. Airport Parking is reimbursed up to the DFW Express non-covered parking rate.

- Personal Vehicle

Mileage is calculated using Texarkana, Texas City Hall, 220 Texas Blvd. as the starting and ending destination. If travel by personal vehicle is chosen, mileage reimbursements cover all expenses related to operating the vehicle, including fuel, *oil and insurance*. ***No other vehicle expense is paid when mileage is paid to the traveler.***

- Traveler Receiving a Vehicle Allowance

Employees that receive a vehicle allowance are not allowed reimbursement for fuel or mileage if the destination is within a 50-mile radius of Texarkana, Texas

7.09 Travel

City Hall, 220 Texas Blvd. 100 miles will be deducted from the mileage portion of the Travel Claim Form (TCF) for all travel over 50 miles one way.

- **Rental Car**
Generally, car rental is the most economical means of transportation. The Purchasing Department will make rental car reservations and payment. Purchasing must be contacted in writing five (5) business days before departure. Rental type shall be **full sized or smaller**. Minivans or SUV's are acceptable for parties over two. Any upgrade requested shall be paid by the requesting traveler at the daily rate difference. Free upgrades offered by the rental car agencies are acceptable. Only City employees/officials will be allowed to drive the rental car. The purchase of insurance (loss Damage Waiver) is not authorized. The City has insurance through the Texas Municipal League for car rentals.
- **City Vehicles**
A City Vehicle is encouraged when available. When possible, travel should be limited to Arkansas and Texas. Travel outside of Arkansas and Texas in a City Vehicle may be permitted with prior approval of the employee's director and the purchasing department. Fuel may be charged on a purchasing card and receipts must be kept. When fueling the City Vehicle, make note of the mileage and the unit number and print on the receipt. A copy of that receipt shall be given to Fleet Services to update the vehicle records.
- **Lodging**
Authorized rates are based on single-occupancy rooms. Rates will be paid if equal to or below the GSA per diem for the area of travel or the conference room rate, whichever is greater. Travelers will pay the difference of any overages. Internet charges may be authorized by the supervisor/director if conducting City business. The traveler is responsible for room service or other personal charges.
- **Registration**
Required registration fees and materials are authorized.
- **Miscellaneous Expenses**
Allowable expenses include tolls, parking, cab/ride share fares, shuttle/bus fares, hotel /lodging mandated cleaning fees, copy/fax/phone charges, and other business-related expenses. Valet parking is permitted in areas where parking is limited. However, it may not be used as a convenience.

7.09 Travel

Special Circumstances

When practical, official travel should occur during regular work hours. If travel occurs outside of regular work hours, every effort should be made to reduce overtime by adjusting the weekly work schedule or the accrual of compensatory time. Supervisors must approve travel outside of regular work hours.

Official travel may coincide with personal travel plans (i.e. vacation, attend conference golf tournament, etc.) when vacation is approved prior to the trip. Any expenses not related to City business, such as extracurricular events, lodging, and meals will be the responsibility of the traveler.

A traveler is permitted to bring guest(s) and is responsible for any extra charges incurred because of guest(s). If the travel is cancelled, the City is not liable for any guest expenses and the traveler will not be reimbursed.

Damage to or loss of luggage and/or other personal items is not covered by the City's insurance. Travelers should file claims with their personal insurance company or, if applicable, the airline.

7.10 Dress, Appearance and Uniforms

Effective Date: 03/01/2015

Employees must, always, dress appropriately and professionally and present a clean and neat appearance while at work and while representing the City or conducting City business. The City allows business casual dress in the work place year-round, in accordance with this policy. Department Directors are strongly encouraged to allow their employees to participate in business casual dress, as practical. **Department Directors and supervisors are responsible for enforcing** this policy in their respective departments to maintain acceptable dress and appearance.

Professional business attire or a required uniform is to be worn when there is a need to present a more formal professional appearance for meetings or special events. Suits, dress shirts and ties for men and suits or dresses for women are proper attire for personnel scheduled for agenda presentations (i.e. City Council meetings, receptions, etc.). Employees must remember that they are professionals 100% of the time and are dressing for business, not for pleasure. Attire must always reflect a professional business attitude and presence. Police, Fire and Maintenance/Operations department employees may be covered under departmental policies regarding appropriate dress and appearance.

Standards for Work Attire:

- Jeans and athletic shoes are not acceptable, unless a special day is declared or as specifically approved by the appropriate Department Director as work assignments dictate. Friday's are casual day and jeans are acceptable.
- Sweat-shirts, sweat pants, or shorts of any type are not acceptable unless a special casual wear or festive occasion is declared by City management or shorts have been approved as part of the standard uniform.
- T-shirts are not acceptable.

The following are inappropriate:

- provocative or revealing clothing;
- clothing with unclear or obscene messages or that endorses alcohol, tobacco products, drugs, pornography, or offensive material of any kind;
- wrinkled, ripped and tattered clothing;
- visible tattoos which could be deemed offensive;

7.10 Dress, Appearance and Uniforms

- nose rings/studs, eyebrow rings/studs, tongue studs or similar type facial jewelry, including “gauged” earrings that cause large holes in the earlobe must be covered by skin neutral colored plugs.

Hair. Hair styles and hair colors must be appropriate to the employee's position and extremes of any type are unacceptable. For example, green hair, Mohawk style haircuts, and severely spiked hair are not allowed. Hair, including facial hair, must be clean and neatly groomed always. Sideburns may not extend below the ear lobe.

Uniforms. The City supplies many Fire, Police, General Fund personnel with appropriate uniforms. Employees in jobs that require a uniform will be told how and where the uniforms can be obtained. The City will provide replacement uniforms as necessary. Uniforms must be clean and neat. City-owned or authorized uniforms may not be used outside of work, for personal use or by any third party. City uniforms may be used by City employees in connection with outside employment only with the Department Director's prior written authorization.

Employees who are provided with uniforms are required to wear their uniforms when on duty and keep them in good, clean and serviceable condition. No part of the uniform shall be worn by itself. An employee must wear the entire uniform when on duty. No part of the uniform shall be worn when off duty, except to and from work and City related events.

When an employee terminates, uniforms and any other City equipment which the employee possesses must be returned in good condition before final pay will be authorized. The cost of lost or damaged City property and unreturned uniforms will be deducted from the employee's final pay check.

Enforcement. In all cases, each Department Director will make the determination as to acceptable dress, appearance and grooming in their department. Employees should direct questions about appropriate appearance or dress to your supervisor, Department Director or the Director of Human Resources.

Employees in violation of this policy may be sent home. Under such circumstances, nonexempt employees will not be paid for work time missed, and exempt employees will be required to make up the work time missed. Employees whose grooming or personal appearance violates this policy may be disciplined, up to and including termination of employment.

The Department Director, with approval of the City Manager's office, may make departmental exceptions to this policy when deemed necessary for business reasons or implement a more restrictive dress and appearance policy.

7.11 Political Activity

Effective Date: 03/01/2015

City employees will not be appointed or retained based on their political support or activities. City employees are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies. No City employee is prohibited from becoming a candidate for public office. However, City employees may not:

- Publicly endorse or campaign in any manner for any person seeking a City public office.
- Use the employee's position or office to coerce political support from employees or citizens.
- Use the employee's official authority or influence to interfere with or affect the result of a campaign issue, an election or nomination for public office.
- Make, solicit or receive any contribution to the campaign funds of any candidate, directly or indirectly through an organization or association, for the City Council or take any part in the management, affairs or political campaign of any such candidate; provided nothing herein shall infringe upon the rights of an employee to seek office himself/herself, express his or her opinions and to cast his or her vote.
- Use working hours or City property to be in any way concerned with soliciting or receiving any subscription, contribution or political service to circulate petitions or campaign literature on behalf of an election issue or candidate for public office in any jurisdiction.
- Contribute money, labor, time or other valuable thing to any person for City election purposes, except as permitted by law.
- Hold an appointive or elective office of public trust where service would constitute a direct conflict of interest with City employment, e.g. City of Texarkana City Council, Texarkana Independent School District, Bowie County. Upon being elected to such an office, an employee must immediately resign or will be dismissed upon failure to do so.

Civil Service employees shall be covered by the rules in chapter 143 or collective bargaining.

APPENDICES

Appendix C: Positions Subject to DOT Regulations

Appendix D: Safety Sensitive Positions

Appendix F: FORMS

Personnel Action Form (PAF).....	Form 3
Voluntary Resignation/Retirement Notice.....	Form 4
Supervisor's Checklist for Separated Employee.....	Form 5
Wage Deduction Authorization	Form 6
Application for Leave Donation.....	Form 7
Authorization to Transfer Vacation Leave.....	Form 8
Discrimination and/or Harassment Complaint.....	Form 11
Grievance	Form 12
Performance Correction Notice	Form 13
Performance Improvement Plan	Form 14
Supervisor's Report of Reasonable Suspicion.....	Form 16
Employee Request for ADA Accommodation	Form 18
Application for Degree Plan Approval.....	Form 20
Tuition Reimbursement Agreement.....	Form 21
Course Pre-Approval Request.....	Form 22
Tuition Reimbursement Request	Form 23
Request for Outside Employment.....	Form 24
Non-Disclosure of Personnel Information	Form 25

Appendix A: Positions Subject to DOT Regulations and Safety Sensitive Positions

All employees that hold a Commercial Driver's License (CDL) and operate a Commercial Motor Vehicle with a gross vehicle weight rating of 26,001 pounds or more are subject to DOT drug testing.

SAFETY SENSITIVE POSITIONS

Street Maintenance Supervisor	Light Equipment Operator	Finisher/Operator
Foreman - Street	Mower Operator	Formsetter/Finisher
Traffic Signal Tech	Truck Driver	Heavy Equipment Operator
Mechanic	Building Maintenance Sup.	Sweeper/Operator
Foreman/Operator	Shop Technician - Street	
Licensed Police Officers	Public Safety Dispatchers/Call Takers	
Licensed Firefighters	Emergency Management	
TWU		
Plant Mechanic I	Utilities Foreman/Operator	Utility Supervisor
Plant Mechanic II	Laborer II	Sludge Disposal Foreman
Utilities Foreman/Heavy Eq. Op.	Maintenance Chief	Jet Truck Operator
Auto Mechanic		

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:
Update Date: 11/15/2018 4:41 PM

Lead Department: Finance Department **Action Officer:** Kristin Peeples,
Resolution No. 2018-140 approving and authorizing the City Manager to
execute the agreement between the City and Valley View Consulting, L.L.C. to
provide professional investment advisory services for the City's investable funds
Subject: for a period of two (2) years.

Briefing: 12/10/2018 **Public Hearing:** **Council Vote:** 12/10/2018

Item Schedule

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

Updates/History of Briefing:

Not Applicable

Executive Summary and Background Information:

The City has maintained an agreement with Valley View Consulting, L.L.C. since November 22, 2010, to provide professional investment advisory services with respect to the City's investable funds. The agreement also includes a provision for assistance in soliciting, evaluating, and completing bids for bank depository services. During the term of this agreement, Valley View has assisted the City in updating its Investment Policy to assure continued compliance with the requirements of the Public Funds Investment Act. They have prepared and presented a quarterly investment report to the Investment Committee, which is then posted to the City's website. They have assisted staff in investing available funds at the best available rate, assisted in development of cash flow models to determine levels of investable funds, and assisted staff in the preparation and issuance of a bank depository services request.

Potential Options:

- Approve
- Deny

Fiscal Implications:

The annual fee will be .06% of average book value and will be due and payable at the end of each investment quarter.

Staff Recommendation:

Staff recommends approval.

Advisory Board/Committee Review:

Item was discussed at the quarterly investment committee meeting held on November 7, 2018.

City of Texarkana, Texas

Board/Committee Recommendation:

The committee recommended presentation to the Council for renewal of the contract.

Advisory Board/Committee Meeting Date and Minutes:

Attached.

Attachments

- a. 2018-140 RES Investment Advisory Contract (DOC)
- b. 2018-140 EXH 'A' IA Agreement 2018 11 05 Texarkana (003) (DOC)
- c. 2018-140 ATTH 01 Investment Committee Meeting Minutes 11.07.2018 (DOCX)
- d. 2018-140 Goals & Perspectives (DOCX)

Staff Coordination

Finance Department	Kristin Peeples	Department Head Review	Completed	
	11/15/2018 4:24 PM			
Finance Department	Kristin Peeples	Finance Review	Completed	11/15/2018
	4:24 PM			
Purchasing and Contracting		Sharon Moore	Purchasing Review	
	Completed	11/21/2018 7:37 AM		
Deputy City Manager - Kyle Dooley		Kyle Dooley	Deputy City Manager	
Review	Completed	11/21/2018 8:09 AM		
City Manager	Jennifer Evans	City Manager Review	Completed	11/21/2018
				9:32 AM
City Council	Jennifer Evans	Meeting	Completed	11/26/2018
				6:00 PM

Meeting History

11/26/18 City Council MOVED FORWARD Next: 12/10/18
 Kristin Peeples briefed this agenda item. Bill Koch, of Valley View Counselling, L.L.C., said it has been a pleasure working with the City and the company would like to continue its relationship with the City.

RESOLUTION NO. 2018 – 140

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AUTHORIZING THE CITY MANAGER TO APPROVE THE AGREEMENT BY AND BETWEEN THE CITY OF TEXARKANA, TEXAS, AND VALLEY VIEW CONSULTING, L.L.C., TO PROVIDE PROFESSIONAL INVESTMENT ADVISORY SERVICES WITH RESPECT TO THE CITY OF TEXARKANA, TEXAS' INVESTABLE FUNDS FOR A PERIOD OF TWO YEARS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, from time to time the City of Texarkana, Texas, has money available for investment and finds it prudent to consult with professional investors for the best possible advice in order to give the City quality investments to receive optimum returns on the City's money while maintaining appropriate levels of safety as required under the City's investment policy; and

WHEREAS, Valley View Consulting, L.L.C. is an experienced, respected, and professional investment advisory consultant recommended by staff to invest available City of Texarkana, Texas, funds for a period of two years at an annual fee of 0.06% of average book value for all combined funds as described in attached **Exhibit 'A'**.

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

SECTION 1: That the agreement between the City of Texarkana, Texas, and Valley View Consulting, L.L.C. to provide professional investment advisory services to invest available City of Texarkana, Texas, funds for a period of two years at an annual fee of 0.06% of average book value for all combined funds, a copy of which is attached hereto as **Exhibit 'A'**, is hereby approved.

SECTION 2: That the City Manager is hereby authorized to execute said agreement to provide services as herein described above.

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

PASSED AND APPROVED in Regular Council Session on this the **10th day of December, 2018.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Attachment: 2018-140 RES Investment Advisory Contract (1969 : 2018-140 RES Investment Advisory Contract)

**AGREEMENT
BY AND BETWEEN
CITY OF TEXARKANA, TEXAS
AND
VALLEY VIEW CONSULTING, L.L.C.**

2018-140 EXH 'A'

It is understood and agreed that the City of Texarkana (the *Investor*) will have from time to time money available for investment (*Investable Funds*) and Valley View Consulting, L.L.C. (*Advisor*) has been requested to provide professional services to the Investor with respect to the Investable Funds. This agreement (the *Agreement*) constitutes the understanding of the parties with regard to the subject matter hereof.

1. This Agreement shall apply to any and all Investable Funds of the Investor from time to time during the period in which this Agreement shall be effective.
2. The Advisor agrees to provide its professional services to direct and coordinate all programs of investing as may be considered and authorized by the Investor.
3. The Advisor agrees to perform the following duties:
 - a) Assist the Investor in developing cash flow projections,
 - b) Suggest appropriate investment strategies to achieve the Investor's objectives,
 - c) Advise the Investor on market conditions, general information and economic data,
 - d) Analyze risk/return relationships between various investment alternatives,
 - e) Attend occasional meetings as requested by the Investor,
 - f) Assist in the selection, purchase, and sale of investments. The Advisor shall not have discretionary investment authority over the Investable Funds and the Investor shall make all decisions regarding purchase and sale of investments. All funds shall be invested consistent with the Texas Public Funds Investment Act, Chapter 2256 Government Code and the Investor's Investment Policy. The eligible investments are listed in the Investor's Investment Policy,
 - g) Advise on the investment of bond funds as to provide the best possible rate of return to the Investor in a manner which is consistent with the proceedings of the Investor authorizing the investment of the bond funds or applicable federal rules and regulations,
 - h) Assist the Investor in creating investment reports in compliance with State legislation and the Investor's Investment Policy,
 - i) Assist the Investor in creating monthly portfolio accounting reports, and
 - j) Assist the Investor with primary depository bank selection.

4. The Investor agrees to:

2018-140 EXH 'A'

- a) Compensate the Advisor for any and all services rendered and expenses incurred as set forth in Appendix A attached hereto,
- b) Provide the Advisor with the schedule of estimated cash flow requirements related to the Investable Funds, and will promptly notify the Advisor as to any changes in such estimated cash flow projections,
- c) Allow the Advisor to rely upon all information regarding schedules, investment policies and strategies, restrictions, or other information regarding the Investable Funds as provided to it by the Investor and that the Advisor shall have no responsibility to verify, through audit or investigation, the accuracy or completeness of such information,
- d) Recognize that there is no assurance that recommended investments will be available or that such will be able to be purchased or sold at the price recommended by the Advisor, and
- e) Not require the Advisor to place any order on behalf of the Investor that is inconsistent with any recommendation given by the Advisor or the policies and regulations pertaining to the Investor.

5. In providing the investment services in this Agreement, it is agreed that the Advisor shall have no liability or responsibility for any loss or penalty resulting from any investment made or not made in accordance with the provisions of this Agreement, except that the Advisor shall be liable for its own gross negligence or willful misconduct; nor shall the Advisor be responsible for any loss incurred by reason of any act or omission of any financial institution or broker/dealer, selected with reasonable care by the Advisor and approved by the Investor, or of the Investor's custodian or safekeeping agent. Furthermore, the Advisor shall not be liable for any investment made which causes the interest on the Investor's obligations to become included in the gross income of the owners thereof.

6. The fee due to the Advisor in providing services pursuant to this Agreement shall be calculated in accordance with Appendix A attached hereto, and shall become due and payable as specified. Any and all expenses for which the Advisor is entitled to reimbursement in accordance with Appendix A attached hereto shall become due and payable at the end of each calendar quarter in which such expenses are incurred.

7. This Agreement shall remain in effect until December 31, 2020, with the option of the Investor to extend this Agreement in additional one or two year increments. Provided, however, the Investor or Advisor may terminate this Agreement upon thirty (30) days written notice to the other party. In the event of such termination, it is understood and agreed that only the amounts due to the Advisor for services provided and expenses incurred to and including the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement. In the event this Agreement is terminated, all investments and/or funds held by the Advisor shall be returned to the Investor as soon as practicable. In addition, the parties hereto agree that upon termination of this Agreement

2018-140 EXH 'A'

the Advisor shall have no continuing obligation to the Investor regarding the investment of funds or performing any other services contemplated herein.

8. The Advisor reserves the right to offer and perform these and other services for various other clients. The Investor agrees that the Advisor may give advice and take action with respect to any of its other clients, which may differ from advice given to the Investor. The Investor agrees to coordinate with and avoid undue demands upon the Advisor to prevent conflicts with the performance of the Advisor towards its other clients.

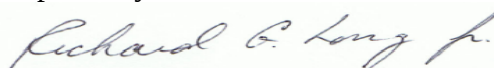
9. The Advisor shall not assign this Agreement without the express written consent of the Investor.

10. Investor acknowledges that:

- 1) ____ Investor was provided a written copy of Form ADV Part 2 not less than 48 hours prior to entering into this written contract, or
- 2) ____ Investor received a written copy of Form ADV Part 2 at the time of entering into this contract and has the right to terminate this contract without penalty within five business days after entering into this contract.
- 3) X Investor is renewing an expiring contract and has received in the past, and offered annually, a written copy of Form ADV Part 2.

When accepted by the Investor, it, together with Appendix A attached hereto, will constitute the entire Agreement between the Investor and Advisor for the purposes and the consideration herein specified. Acceptance will be indicated with the return of one executed copy to Advisor.

Respectfully submitted,



Richard G. Long, Jr.
Manager, Valley View Consulting, L.L.C.

This agreement is hereby agreed to and executed on behalf of City of Texarkana, Texas.

By _____
City of Texarkana

Date: _____

Attachment: 2018-140 EXH 'A' IA Agreement 2018 11 05 Texarkana (003) (1969 : 2018-140 RES Investment Advisory Contract)

APPENDIX A

2018-140 EXH 'A'

FEE SCHEDULE AND EXPENSE ITEMS

In consideration for the services rendered by the Advisor in connection with the investment of the Investable Funds for the Investor, it is understood and agreed that its fee will be an annual fee equal to six basis points (0.06%) of the total portfolio's average quarter end book value.

The applicable portion of said fee shall be due and payable at the end of each investment quarter.

Should the Investor issue debt and select a bond proceeds investment strategy that incorporates a flexible repurchase agreement or other structured investment, fees will be determined by any applicable I.R.S. guidelines and industry standards.

Said fee includes all costs of services related to this Agreement, and all travel and business expenses related to attending regularly scheduled occasional meetings. With pre-trip Investor approval, the Advisor may also request reimbursement for special meeting or event travel and business expenses. The obligation of the Advisor to pay expenses shall not include any costs incident to litigation, mandamus action, test case or other similar legal actions.

Any other fees retained by Advisor in the performance of its duties shall be disclosed to the Investor.

Attachment: 2018-140 EXH 'A' IA Agreement 2018 11 05 Texarkana (003) (1969 : 2018-140 RES Investment Advisory Contract)

Investment Committee Meeting November 07, 2018

Present: Kristin Peebles, Chief Financial Officer
 Jodie Lee, Assistant Chief Financial Officer
 Jim Cornelius, Finance Director, TWU
 Tricia Briggs, Customer Service/Accounting/HR Manager, TWU
 Bob Bruggeman, Mayor
 Dick Long Valley View Consulting (Via conference call)

Absent:

- The minutes from the August 8th meeting were reviewed. Bob Bruggeman made a motion to approve the minutes. Jim Cornelius seconded the motion.
- Dick Long presented the Quarterly Investment Report for the period ending September 30, 2018.
 - Total portfolio average for the quarter ended 9/30/18 was 2.13% for the City and 1.93% for TWU. Book values for the quarter ended September 30, 2018 for the City was \$31,502,225 and TWU was \$13,366,051.
 - There was an overall better average quarter-end yield this fiscal year compared to last fiscal year. The City went from 0.72% to 1.65% and TWU went from 0.93% to 1.56%.
 - There was a positive increase in quarterly interest income for both the City and TWU. The City's interest was \$142,146 and TWU was \$62,966.
 - Portfolio for the City consisted of 83% DDA/MMA/Pools and 17% CDs/Securities while TWU had 55% DDA/MMA/Pools and 45% CDs/Securities for quarter ended September 30, 2018.
 - The rates on the older CD's are less than some of the more current CD's due to the positive rate increases we have seen over the last couple of years. The City and TWU have still earned good returns on these investments because they were purchased at a time when money market rates were as low as 55 basis points.
- Jim Cornelius made a motion to approve the investment report. It was seconded by Tricia Briggs.
- Collateral report for both the City and TWU reflected adequate coverage. It was noted that NexBank reflects collateralization at 101%. This is acceptable because investments with NexBank are spread out to various banks through the ICS program and are federally insured.
- Bob Bruggeman made a motion to approve the collateral report and Jodie Lee seconded the motion.
- Valley View recommends the City and TWU continue to ladder out funds when they have the opportunity to invest. Still a very positive yield curve for 6 – 24 month CD's.

2018-140 ATTH 01

- The committee agreed to place the renewal agreement for Valley View on the next City Council agenda meeting.
- Bob Bruggeman made a motion to adjourn the meeting and Jim Cornelius seconded.
- The next meeting is scheduled for February 6, 2018 at 2:00 p.m.

City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

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

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

Staff time required if item is approved: Low

Other Potential Impacts:

NONE APPLICABLE

Public Information Plan:

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

Other:

City of Texarkana, Texas

Briefing Sheet

Version:
Update Date: 12/3/2018 11:53 AM

Lead Department: City Manager **Action Officer:** Jennifer Evans, City Secretary
Subject: Resolution No. 2018-149 approving a settlement agreement benefiting the City in the Liquid Aluminum Sulfate Antitrust Litigation and delegating authority to the City Manager or designee to approve the agreement on behalf of the City.

Briefing: 12/10/2018 **Public Hearing:** **Council Vote:** 12/10/2018

Item Schedule

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

On November 25, 2015, the City of Texarkana, Texas, together with the City of Texarkana, Arkansas, filed suit in the United States District Court for the District of New Jersey on behalf of the cities and as representatives of the putative class of similarly-situated persons (a suit which has been consolidated with other suits filed by other public and private entities) asserting claims alleging a conspiracy against named defendants and unnamed co-conspirators to allocate territories and/or not to compete for each other's historical business by rigging bids, allocating customers, and fixing, stabilizing, and maintaining the price of Alum sold in the United States during a certain period. Alum is a chemical directly purchased by Texarkana Water Utilities for its operations.

Pending approval by the City and others, a settlement agreement has been reached with a group of defendants, with the agreement benefitting both the City of Texarkana, Texas, and the City of Texarkana, Arkansas, by making available some funds for the damages arising from the alleged.

The 4-page settlement term sheet is included as an exhibit to the resolution.

The City Council's approval of this resolution will authorize the City Manager or who she may designate to approve this settlement agreement on behalf of the City of Texarkana, Texas.

Potential Options:

- Approve
- Deny

Fiscal Implications:

No adverse fiscal implications.

Staff Recommendation:

Staff recommends approval of this resolution.

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

City of Texarkana, Texas

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. 2018-149 RES Auth CM sign LAS settlement v4 (DOC)
- b. 2018-149 EXH 'A' Chemtrade - Executed Term Sheet (PDF)
- c. 2018-149 Goals & Perspectives (DOCX)

Staff Coordination

City Manager	Shirley Jaster	Department Head Review	Completed
	11/30/2018 1:09 PM		
City Attorney	Jennifer Evans	City Attorney Review	Skipped 12/03/2018
			4:22 PM
Deputy City Manager -	Kyle Dooley	Kyle Dooley	Deputy City Manager
Review	Completed	12/05/2018 10:04 AM	
City Manager	Shirley Jaster	City Manager Review	Completed 12/05/2018
			1:54 PM
City Council	Vicky Coopwood	Meeting	Pending 12/10/2018
			6:00 PM

Meeting History

RESOLUTION NO. 2018 - 149

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING A SETTLEMENT AGREEMENT BENEFITTING THE CITY IN THE LIQUID ALUMINUM SULFATE ANTITRUST LITIGATION AND DELEGATING AUTHORITY TO THE CITY MANAGER OR DESIGNEE TO APPROVE THE SETTLEMENT AGREEMENT ON BEHALF OF THE CITY OF TEXARKANA, TEXAS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on November 25, 2015, the City of Texarkana, Texas, together with the City of Texarkana, Arkansas, filed suit in the United States District Court for the District of New Jersey on behalf of the cities and as representatives of the putative class of similarly-situated persons (a suit which has been consolidated with other suits filed by other public and private entities) asserting claims alleging a conspiracy against named defendants and unnamed co-conspirators to allocate territories and/or not to compete for each other's historical business by rigging bids, allocating customers, and fixing, stabilizing, and maintaining the price of Alum sold in the United States during a certain period, and Alum is a chemical directly purchased by Texarkana Water Utilities for its operations; and

WHEREAS, pending approval by the City and others, a settlement agreement has been reached with a small group of defendants, with the agreement attached as **Exhibit "A"** to this Resolution, which benefits both the City of Texarkana, Texas, and the City of Texarkana, Arkansas, by making available some funds for the damages arising from the alleged conspiracy.

WHEREAS, the City Council intends for this resolution to approve the settlement agreement and delegate authority to the City Manager or who she may designate to approve this agreement on behalf of the City of Texarkana, Texas.

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

SECTION 1: The City Council approves the settlement agreement attached as **Exhibit "A"** to this Resolution and delegates authority to the City Manager or who she may designate to approve this agreement on behalf of the City of Texarkana, Texas.

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

PASSED AND APPROVED in Regular Council Session on this the **10th day of December, 2018.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Attachment: 2018-149 RES Auth CM sign LAS settlement v4 (1994 : 2018-149 RES Liquid Aluminum Sulfate Litigation)

PRIVILEGED AND CONFIDENTIAL
DRAFT COPY – NOT FINAL VERSION

Chemtrade Defendants / DPPs – Confidential Binding Settlement Term Sheet

1. This Confidential Binding Settlement Term Sheet ("Term Sheet") is entered into between the named plaintiffs¹ and the putative class of direct purchasers of liquid aluminum sulfate as set forth in the Consolidated Amended Complaint (Dkt. 220) (collectively, "DPPs"); and Chemtrade Logistics Income Fund, General Chemical Corporation, General Chemical LLC, General Chemical Performance Products, LLC, Chemtrade Chemicals Corporation, Chemtrade Chemicals US LLC, and Chemtrade Solutions, LLC (together, "Chemtrade") (collectively, the "Settling Parties") in In re Liquid Aluminum Sulfate Antitrust Litigation, 2:16-md-02687-JLL-JAD (the "Litigation").
2. **Payment:** In consideration for the release set forth in Section 6 below, Chemtrade shall pay DPPs fifty one million U.S. dollars (\$51,000,000) within thirty (30) calendar days after preliminary approval by the Court of the Settlement Agreement and provide the other consideration set forth herein.
3. **Indemnification Claim:** Upon final approval by the Court of the Settlement Agreement, Chemtrade agrees to provide DPPs the option of pursuing and litigating, in Chemtrade Acquireco's name, claims pursuant to Section 9.2(c) of the Amended and Restated Agreement and Plan of Merger, dated as of January 23, 2014, among Chemtrade Finance Inc., Chemtrade Water Chemicals Inc. (collectively, "Chemtrade Acquireco"), ASP GT Holding Corp., and ASP Manger Corp. (the "Indemnification Claim"). If DPPs elect to pursue the Indemnification Claim, then (a) DPPs shall file any complaint no later than August 31, 2019; (b) DPPs shall retain reasonably satisfactory counsel to represent Chemtrade Acquireco, and shall be responsible for all attorneys' and other fees and costs associated with pursuing the Indemnification Claim and any counterclaims; and (c) Chemtrade shall provide reasonable cooperation to DPPs, including ensuring access to witnesses and necessary documents and responding to any discovery, in pursuing the Indemnification Claim. Chemtrade Acquireco shall take any and all reasonably necessary steps to permit DPPs to direct Chemtrade Acquireco in pursuing the Indemnification Claim in Chemtrade Acquireco's name.
4. **Additional Payment Option:** On the later of (a) one year after the Court's final approval of the Settlement Agreement; or (b) fourteen (14) calendar days after a decision by the Court or arbitral panel on any motion to dismiss the Indemnification Claim, DPPs shall elect to either (i) continue to pursue the Indemnification Claim, with all proceeds obtained payable to the DPPs; or (ii) receive \$5 million U.S. dollars (\$5,000,000) from Chemtrade.
5. **Recovery Guarantee:** If DPPs elect to pursue the Indemnification Claim as set forth in 4(b)(i) above, and any award by a trial court or arbitration panel to Chemtrade Acquireco for the Indemnification Claim is less than \$5 million U.S. dollars (\$5,000,000), Chemtrade agrees to pay the difference between said award and \$5 million U.S. dollars (\$5,000,000) to DPPs. The terms of this Section 5 do not apply to any settlement

¹ Central Arkansas Water, City of Charlotte, North Carolina, City and County of Denver, Colorado, acting by and through its board of Water commissioners, Denver, Colorado, Flambeau River Papers, LLC, City of Greensboro, North Carolina, Mobile Area Water and Sewer System, City of Rochester, Minnesota, City of Sacramento, California, SUEZ Water Environmental Services Inc., SUEZ Water New Jersey Inc., SUEZ Water Princeton Meadows Inc., SUEZ Water New York Inc., SUEZ Water Pennsylvania Inc., and City of Texarkana, Arkansas and City of Texarkana, Texas, d/b/a Texarkana Water Utilities.

agreement or payment as part of an agreed resolution of the Indemnification Claims. If the Indemnification Claim is settled or subject to an agreed resolution in any amount, Chemtrade will have no further payment obligations to DPPs.

6. **Release:** Upon final approval by the Court of the Settlement Agreement, DPPs shall grant to Chemtrade a general release of any and all claims, known or unknown, relating to or arising out of the Litigation, including but not limited to the claims asserted in DPPs' Consolidated Amended Complaint, dated August 22, 2016. Said release shall include at least:

(a) Chemtrade, its parents, subsidiaries and affiliates; and

(b) any of their respective current and former, direct or indirect, directors, officers, managers, attorneys, equity holders, agents, and employees (including, but not limited to, Matthew LeBaron, Scott Wolff, Alex Avraamides, Frank Reichl, Amita Gupta, and Vincent Opalewski), **provided, however,** that excluded from the Release are any American Securities entities, including without limitation any American Securities entity currently named in the Litigation or any American Securities entity involved in any way in the underlying transaction or any other current parents, subsidiaries and/or affiliates of American Securities. For the sake of clarity, the exclusion of American Securities entities from this release is not intended, and shall not be construed, to exclude from the release any Chemtrade or General Chemical entity or Matthew LeBaron or Scott Wolff.

7. **Dismissal of Complaints:** Upon final approval by the Court of the Settlement Agreement, DPPs will dismiss Chemtrade, Matthew LeBaron, Scott Wolff, Alex Avraamides, Frank Reichl, Amita Gupta, and Vincent Opalewski with prejudice from all filed complaints in the Litigation.

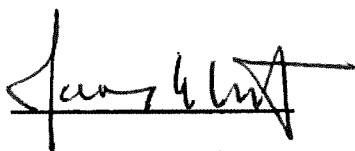
8. **Option to Terminate:** If DPP class members representing more than fifteen (15) percent of the total volume of purchases during 1997-2011 from all defendants in the Litigation of liquid aluminum sulfate by the DPP class (exclusive of any members of the DPP class that have already commenced their own cases to pursue their claims as of the date of the filing of DPPs' motion for preliminary approval by the Court of the Settlement Agreement) elect to opt out of participation in the settlement (the "GCC Termination Option Trigger"), Chemtrade shall have a unilateral option to terminate the Settlement Agreement within ten (10) calendar days after the final deadline that will be set for DPP class members to opt out of participation in the settlement, **provided, however,** that if Chemtrade so chooses to terminate the Settlement Agreement, the DPPs, within five (5) days of any election by Chemtrade to terminate pursuant to this Section, shall have the unilateral option to accept, in lieu of such termination, a reduction in the cash payment due under Section 2 herein by a percentage equal to the percentage of the total volume of purchases during 1997-2011 from all defendants in the Litigation of liquid aluminum sulfate by the DPP class that elected to opt out (exclusive of any members of the DPP class that have already commenced their own cases to pursue their claims as of the date of the filing of DPPs' motion for preliminary approval by the Court of the Settlement Agreement) (the "Pro Rata Reduction"). Notwithstanding the foregoing, in the event that DPP class members representing more than thirty five (35) percent of the total volume of purchases during 1997-2011 from all defendants in the Litigation of liquid aluminum sulfate by the DPP class (exclusive of any members of the DPP class that have already commenced their own cases to pursue their claims as of

the date of the filing of DPPs' motion for preliminary approval by the Court of the Settlement Agreement) elect to opt out of participation in the settlement (the "GCC Ultimate Termination Option Trigger"), Chemtrade shall have the unilateral option to terminate the Settlement Agreement within ten (10) calendar days after the final deadline that will be set for DPP class members to opt out of participation in the settlement, and DPPs shall have no unilateral option to accept, in lieu of such termination, any reduction in the cash payment due under Section 2 herein. Solely for purposes of this Term Sheet and the Settlement Agreement, the Settling Parties agree that (a) the total volume of purchases during 1997-2011 of liquid aluminum sulfate by the DPP class members from all defendants shall be deemed to be \$2.4 billion U.S. dollars (\$2,400,000,000); and (b) for the purposes of calculating the GCC Termination Option Trigger, the Pro Rata Reduction, and the GCC Ultimate Termination Option Trigger, the numerator of the percentage ratio shall be based on the opt outs' purchased liquid aluminum sulfate from all defendants in the Litigation during 1997-2011. It is further understood and agreed by the Settling Parties that the specific percentages and terms of the GCC Termination Option Trigger, the Pro Rata Reduction and the GCC Ultimate Termination Option shall only be referenced generally in the Settlement Agreement, and the specific details of each shall be included in a side letter that will be provided to the Court through a filing under seal.

9. **Confidentiality:** The existence and terms of this Term Sheet and the settlement contemplated herein shall be kept confidential, except (a) for purposes of obtaining preliminary and final approval by the Court of the settlement by the Court, which is expected to include public filing of the Settlement Agreement; (b) for purposes of providing notice of the settlement to members of the DPP settlement class; (c) as otherwise required by law (including any applicable court order) or regulation or administrative guidance, ruling or proceeding or stock exchange rule and as necessary to prepare tax, securities, and other required documents and disclosure, it being acknowledged that Chemtrade shall issue a news release regarding the material terms of the settlement; (d) to enforce this Term Sheet; or (e) to comply with any obligations of Chemtrade pursuant to any joint defense understanding with other defendants.
10. **Counsel Express Authority:** Each counsel signing this Term Sheet on behalf of a party or parties to this agreement has full and express authority to enter into all of the settlement terms reflected herein on behalf of each and every one of the clients for which counsel is signing.
11. **Parties to Execute Full Settlement Agreement:** Subject to Section 13 below, this Term Sheet is a binding and enforceable agreement in its own right, and is admissible to prove the terms agreed to herein. The Settling Parties to this Term Sheet agree that it contains all material terms of the Settlement Agreement. However, the parties intend to replace this Term Sheet at a later date with a full-length settlement document (the "Settlement Agreement"). The Settling Parties acknowledge that this Term Sheet and the underlying agreement have been reached as the result of arms' length negotiations with the assistance of an experienced professional mediator, and that no party has entered this Term Sheet as the result of any coercion or duress.
12. **Motion for Preliminary Approval:** DPPs agree to move for preliminary approval by the Court of the Settlement Agreement no later than fifteen (15) days after execution of the Settlement Agreement.

13. **No Admission of Liability:** The Settling Parties agree and acknowledge that this Term Sheet is not, and shall not be construed as, an admission of liability by any party.
14. **Board Approval and Court Approval:** This Term Sheet is subject to the approval of the Board of Trustees of Chemtrade Logistics Income Fund. The Settling Parties recognize that the underlying settlement agreement embodied in this Term Sheet, and in any Settlement Agreement, is subject to the preliminary and final approval of the Court, and the certification by the Court of a class for settlement purposes.
15. **Choice of Law:** New York law shall govern any disputes concerning this Term Sheet without regard to principles of conflicts of laws that would otherwise require the application of the laws of any other jurisdiction. The Settling Parties agree that any claims relating to enforcement of this Term Sheet shall be made in the Litigation before the United States District Court of the District of New Jersey.

Dated: 11-1-18



James E. Cecchi
on behalf of the DPPs



Steven A. Reiss
on behalf of Chemtrade

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:

Update Date: 11/28/2018 3:12 PM

Lead Department: Planning and Community Development **Action Officer:** Debbie Burk,
Ordinance No. 2018-128 rezoning a 1.13 acre tract of land in the Thomas Price
Subject: HRS, A-466, located at 3303 New Boston Road. Single Family-2 to Planned
Development-General Retail. Virgilio Martinez, applicant.

Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

Item Schedule

Updates/History of Briefing:

"NOT APPLICABLE"

Executive Summary and Background Information:

Z-18-13: This is a request by Virgilio Martinez, owner, to rezone property located at 3303 New Boston Road (a 1.13 acre tract of land located in the Thomas Price HRS, A-466) from Single Family-2 to General Retail. The proposed use is an outdoor automobile sales business. The existing use is vacant land.

The adjacent zoning is Single Family-2 and PD-General Retail to the north and Single Family-2 to the south, east and west. The adjacent land use is a residence and car lot to the north. A residence to the east and vacant land to the south and west.

The City's current Comprehensive Plan has designated this as a mixed-use development area.

This tract is one of several small sections of land fronting on New Boston Road that remain zoned as residential (SF-2). There is General Retail and Commercial zoning and uses in this immediate area of New Boston Road. An automobile sales business was approved in November 2016 for a property located diagonally across New Boston Road (3314).

It should be noted that a specific use permit by Section 140-80 of the Zoning Ordinance to allow the one additional use of "new or used auto sales, outdoor lot" is required in the General Retail zoning district.

The applicant should be aware that a 7' screening device will be required along the south, west and east property lines where this tract abuts to residential zoning.

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,

City of Texarkana, Texas

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:

None

Staff Recommendation:

Since this use is consistent with other uses in the area, staff recommends for approval to the General Retail zoning district.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval to Planned Development-General Retail with the following staff stipulations:

1. Any outdoor lighting is to be shielded away from adjacent residential properties.
2. A new substantial 8' screening fence is to be constructed along the east, west and south property lines where adjacent to residential zoned properties.
3. No CEVMS signage allowed.
4. If this use ever ceases to exist at this location, the City may revoke the Specific Use Permit.

After the recommendation by the Planning and Zoning Commission, the applicant agreed to amend the application to include the Planned Development designation.

Advisory Board/Committee Meeting Date and Minutes:

November 5, 2018

Attachments

- a. 2018-128 ORD rezoning 3303 New Boston Rd (PDF)
- b. 2018-128 EXH 'A' (legal description) (PDF)
- c. 2018-128 ATTH 01 (maps) (PDF)
- d. 2018-128 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	11/15/2018 3:41 PM	
Deputy City Manager - Kyle Dooley	Kyle Dooley	Deputy City Manager
Review	Completed	11/16/2018 8:37 AM

City of Texarkana, Texas

City Manager 4:39 PM	Shirley Jaster	City Manager Review Completed	11/19/2018
City Council 6:00 PM	Jennifer Evans	Meeting Completed	11/26/2018

Meeting History

11/26/18 City Council MOVED FORWARD Next: 12/10/18
David Orr briefed this agenda item.

ORDINANCE NO. 2018-128

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 1.13 ACRE TRACT OF LAND IN THE THOMAS PRICE HRS, A-466, LOCATED AT 3303 NEW BOSTON ROAD IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS FROM SINGLE FAMILY-2 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 1.13 acre tract of land in the Thomas Price HRS, A-466 (**Exhibit 'A'**), located at 3303 New Boston Road in the City of Texarkana, Bowie County, Texas, from **Single Family-2 to 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 after holding hearings and affording a full and fair hearing 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 six (6) to zero (0) to recommend the application for rezoning from Single Family-2 to Planned Development-General Retail on a 1.13 acre tract of land in the Thomas Price HRS, A-466 (Exhibit 'A'), located at 3303 New Boston Road to the City Council of Texarkana, Texas; and**

WHEREAS, after consideration of said application and the recommendation of the Planning and Zoning Commission, applicant agreed to amend the application from **Single Family-2 to Planned Development-General Retail**; 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 **Single Family-2 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 1.13 acre tract of land in the Thomas Price HRS, A-466 (**Exhibit 'A'**), located at 3303 New Boston Road in the City of Texarkana, Bowie County, Texas, from **Single Family-2 to Planned Development-General Retail**.

SECTION 2: That the following stipulations are hereby imposed and made a part of this Ordinance:

1. Any outdoor lighting is to be shielded away from adjacent residential properties.
2. A new substantial 8' screening fence is to be constructed along the east, west and south property lines where adjacent to residential zoned properties.
3. No CEVMS signage allowed.
4. If this use ever ceases to exist at this location, the City may revoke the Specific Use Permit.

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 **10th day of December, 2018**.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

EXHIBIT 'A'

Z--18-13

All that certain tract or parcel of land, to-wit: A part of the THOMAS PRICE HEADRIGHT SURVEY, A-466, in Bowie County, Texas, and a part of a 12 acre tract in said survey conveyed to A. Champion by William Hodges by General Warranty Deed dated October 21, 1913, recorded in Volume 69, Page 181, Deed Records of Bowie County, Texas, as follows:

BEGINNING 461 feet North, 54 feet West from where the East boundary line of the 12 acre tract crosses Highway No. 82 in the South boundary line of said highway, the NW corner of the part allotted to Horace H. Champion;

THENCE: South, 544 feet;

THENCE: West, 132 feet;

THENCE: North, 606 feet;

THENCE: East, 44 feet to a stake in the South boundary line of Highway No. 82;

THENCE: South, 54 feet East, 105.20 feet to the PLACE OF BEGINNING, containing approximately 1.8 acres of land, and being designated as Lot Numbered Three (3) of a partition made by the Heirs of A. Champion and Florence Champion.

SAVE AND EXCEPT that portion deeded to the Texarkana Independent School District on February 18, 1954, filed for record February 24, 1954 in Volume 310, Page 140, Deed Records of Bowie County, Texas and being a part of the Thomas Price HRS, A-466, Bowie County, Texas, described as follows:

BEGINNING at the Southwest corner of the Lemmerhirt tract;

THENCE: North, 206.77 feet;

THENCE: N 89 deg. 26' E, 132 feet;

THENCE: South, 206.12 feet;

THENCE: West, 132 feet to the Point of Beginning.

ALSO SAVE AND EXCEPT that portion deeded to the State of Texas on March 5, 1973, filed for record March 7, 1973 in Volume 556, Page 509, Deed Records of Bowie County, Texas, being a part of the Thomas Price HRS, A-466, and described as follows:

1,784 square feet of land, more or less, same being out of and a part of that certain 1.8 acre tract of land out of the Thomas Price Headright Survey, Abstract No. 466, in Bowie County, Texas, which 1.8 acre tract was conveyed to L.E. Lemmerhirt and wife, Vera Iva Lemmerhirt by deed dated May 26, 1950, of record in Volume 266, Page 189, Deed Records of Bowie County, Texas, which 1,784 square feet of land, more or less, is more particularly described by metes and bounds as follows:

BEGINNING at a point in the North boundary line of said Lemmerhirt tract, same being the South boundary line of a 0.15 acre tract of land conveyed to Scott Sharp by deed of record in Volume 127, Page 392, Deed Records of Bowie County, Texas, said point being 20.6 feet N 83° 49' E, along said boundary line from the apparent Northwest corner of said Lemmerhirt tract, said point being on the proposed South right-of-way line of US Highway 82, said point being 50.00 feet at right angles from the survey centerline of US Highway 82, hereinafter referred to as the "survey centerline" at survey centerline station 92+02.36;

THENCE: N 83° 49' E, 23.26 feet along said Lemmerhirt-Sharp boundary line to a point in the existing South right-of-way line of US Highway 82;

THENCE: S 56° 01' E, 104.64 feet along the existing South right-of-way line of US Highway 82, to a point in the East boundary line of said Lemmerhirt tract, same being the West boundary line

of a tract conveyed to J.T. Miller by deed of record in Volume 268, Page 65, Deed Records of Bowie County, Texas;

THENCE: S 01° 43' E, 18.48 feet along said Lemmerhirt-Miller boundary line, to a point on the proposed South right-of-way line of US Highway 82, said point being 50.00 feet at right angles from survey centerline station 90+69.16;

THENCE: N 56° 01' W, 133.20 feet along the proposed South right-of-way line of US Highway 82 to the Point of Beginning, containing 1,784 square feet of land, more or less.

EXHIBIT 'A'

Z--18-13

All that certain tract or parcel of land, to-wit: A part of the THOMAS PRICE HEADRIGHT SURVEY, A-466, in Bowie County, Texas, and a part of a 12 acre tract in said survey conveyed to A. Champion by William Hodges by General Warranty Deed dated October 21, 1913, recorded in Volume 69, Page 181, Deed Records of Bowie County, Texas, as follows:

BEGINNING 461 feet North, 54 feet West from where the East boundary line of the 12 acre tract crosses Highway No. 82 in the South boundary line of said highway, the NW corner of the part allotted to Horace H Champion;

THENCE: South, 544 feet;

THENCE: West, 132 feet;

THENCE: North, 606 feet;

THENCE: East, 44 feet to a stake in the South boundary line of Highway No. 82;

THENCE: South, 54 East, 105.20 feet to the PLACE OF BEGINNING, containing approximately 1.8 acres of land, and being designated as Lot Numbered Three (3) of a partition made by the Heirs of A. Champion and Florence Champion.

SAVE AND EXCEPT that portion deeded to the Texarkana Independent School District on February 18, 1954, filed for record February 24, 1954 in Volume 310, Page 140, Deed Records of Bowie County, Texas and being a part of the Thomas Price HRS, A-466, Bowie County, Texas, described as follows:

BEGINNING at the Southwest corner of the Lemmerhirt tract;

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THENCE: West, 132 feet to the Point of Beginning.

ALSO SAVE AND EXCEPT that portion deeded to the State of Texas on March 5, 1973, filed for record March 7, 1973 in Volume 556, Page 509, Deed Records of Bowie County, Texas, being a part of the Thomas Price HRS, A-466, and described as follows:

1,784 square feet of land, more or less, same being out of and a part of that certain 1.8 acre tract of land out of the Thomas Price Headright Survey, Abstract No. 466, in Bowie County, Texas, which 1.8 acre tract was conveyed to L.E. Lemmerhirt and wife, Vera Iva Lemmerhirt by deed dated May 26, 1950, of record in Volume 266, Page 189, Deed Records of Bowie County, Texas, which 1,784 square feet of land, more or less, is more particularly described by metes and bounds as follows:

BEGINNING at a point in the North boundary line of said Lemmerhirt tract, same being the South boundary line of a 0.15 acre tract of land conveyed to Scott Sharp by deed of record in Volume 127, Page 392, Deed Records of Bowie County, Texas, said point being 20.6 feet N 83° 49' E, along said boundary line from the apparent Northwest corner of said Lemmerhirt tract, said point being on the proposed South right-of-way line of US Highway 82, said point being 50.00 feet at right angles from the survey centerline of US Highway 82, hereinafter referred to as the "survey centerline" at survey centerline station 92+02.36;

THENCE: N 83° 49' E, 23.26 feet along said Lemmerhirt-Sharp boundary line to a point in the existing South right-of-way line of US Highway 82;

THENCE: S 56° 01' E, 104.64 feet along the existing South right-of-way line of US Highway 82, to a point in the East boundary line of said Lemmerhirt tract, same being the West boundary line

of a tract conveyed to J.T. Miller by deed of record in Volume 268, Page 65, Deed Records of Bowie County, Texas;

THENCE: S 01° 43' E, 18.48 feet along said Lemmerhirt-Miller boundary line, to a point on the proposed South right-of-way line of US Highway 82, said point being 50.00 feet at right angles from survey centerline station 90+69.16;

THENCE: N 56° 01' W, 133.20 feet along the proposed South right-of-way line of US Highway 82 to the Point of Beginning, containing 1,784 square feet of land, more or less.

Attachment: 2018-128 EXH 'A' (legal description) (1972 : 2018-128 ORD rezoning 3303 New Boston Rd.)

Planning and Community Development



3303 New Boston Rd. Planning and Community Development



1:1,500



Attachment: 2018-128 ATTH 01 (maps) [Revision 1] (1972 : 2018-128 ORD rezoning 3303 New Boston 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: 11/20/2018 12:06 PM

Lead Department: Planning and Community Development **Action Officer:** Debbie Burk,
Ordinance No. 2018-129 granting a Specific Use Permit to allow an outdoor
Subject: automobile sales business on a 1.13 acre tract of land in the Thomas Price HRS,
A-466, located at 3303 New Boston Road. Virgilio Martinez, applicant.

Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

Item Schedule

"NOT APPLICABLE"

Executive Summary and Background Information:

S-698: This is a request by Virgilio Martinez, applicant, for a Specific Use Permit to allow an "outdoor automobile sales lot" at 3303 New Boston Road (a 1.13 acre tract of land located in the Thomas Price HRS, A-466). A Specific Use Permit is required by Section 140-80 of the Zoning Ordinance to allow the one additional use of "new or used auto sales, outdoor lot" in the General Retail zoning district. The existing use is vacant land.

The adjacent zoning is Single Family-2 and PD-General Retail to the north and Single Family-2 to the south, east and west. The adjacent land use is a residence and car lot to the north, a residence to the east and vacant land to the south and west.

The City's current Comprehensive Plan has designated this as a mixed-use development area.

An automobile sales business was approved in November 2016 for a property located diagonally across New Boston Road (3314 New Boston Road).

The applicant should be aware that a 7' screening device will be required along the south, west and east property lines where this tract abuts to residential zoning.

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

Potential Options:

"None"

Fiscal Implications:

None

Staff Recommendation:

Since this use is consistent with other uses in the area, staff recommends for approval of the

City of Texarkana, Texas

Specific Use Permit to allow outdoor automobile sales with stipulations as recommended by the Planning and Zoning Commission.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval of the request with the following stipulations:

1. Any outdoor lighting is to be shielded away from adjacent residential properties.
2. A new substantial 8' screening fence is to be constructed along the east, west and south property lines where adjacent to residential zoned properties.
3. No CEVMS signage allowed.
4. If this use ever ceases to exist at this location, the City may revoke the Specific Use Permit.

Advisory Board/Committee Meeting Date and Minutes:

November 5, 2018

Attachments

- a. 2018-129 ORD granting SUP at 3303 New Boston (PDF)
- b. 2018-129 EXH 'A' (legal description) (PDF)
- c. 2018-129 ATTH 01 (maps) (PDF)
- d. 2018-129 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	11/16/2018 1:45 PM	
Deputy City Manager - Kyle Dooley	Kyle Dooley	Deputy City Manager
Review Completed	11/16/2018 2:10 PM	
City Manager Shirley Jaster	City Manager Review Completed	11/19/2018
4:40 PM		
City Council Jennifer Evans	Meeting Completed	11/26/2018
6:00 PM		

Meeting History

11/26/18 City Council MOVED FORWARD Next: 12/10/18
David Orr briefed this agenda item.

S-698

ORDINANCE NO. 2018-129

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE ZONING MAP SHOWING THE LOCATION, BOUNDARY AND USE OF CERTAIN PROPERTY BY THE GRANTING OF SPECIFIC USE PERMIT NO. S-698 TO ALLOW THE ONE ADDITIONAL USE OF AN OUTDOOR AUTOMOBILE SALES BUSINESS ON A 1.13 ACRE TRACT OF LAND LOCATED IN THE THOMAS PRICE HRS, A-466, LOCATED AT 3303 NEW BOSTON 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 with the City of Texarkana, Texas, requesting an amendment to the Zoning Ordinance so as to grant a **Specific Use Permit** to allow the **one additional use of an outdoor automobile sales business** on a 1.13 acre tract of land located in the Thomas Price HRS, A-466 (**Exhibit 'A'**), located at 3303 New Boston Road, in the City of Texarkana, Bowie County, Texas; and

WHEREAS, the Planning and Zoning Commission of the City of Texarkana, Texas, and the City Council of the City of Texarkana, Texas, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and after holding hearings and affording a full and fair hearing 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** to the City Council of Texarkana, Texas, that a **Specific Use Permit be granted to allow the one additional use of an outdoor automobile sales business** on said property; and

WHEREAS, after consideration of said application and the recommendation of the Planning and Zoning Commission, the City Council of the City of Texarkana, Texas, does hereby find that granting the **Specific Use Permit** is in the best interest of the public health, safety, morals and general welfare of the City.

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

SECTION 1: That the Zoning Ordinance of the City of Texarkana, Texas, Ordinance No. 127-70, passed and approved on September 14, 1970, be further amended so as to grant **Specific Use Permit numbered S-698 for the purpose of allowing the one additional use of an outdoor automobile sales business** on the following described property, to-wit: **A 1.13 acre tract of land located in the Thomas Price HRS, A-466 (Exhibit 'A'), located at 3303 New Boston Road, in the City of Texarkana, Bowie County, Texas.**

Attachment: 2018-129 ORD granting SUP at 3303 New Boston (1973 : 2018-129 ORD granting SUP at 3303 New Boston Rd.)

SECTION 2: That the following stipulations are hereby imposed and made a part of this Ordinance:

1. Any outdoor lighting is to be shielded away from adjacent residential properties.
2. A new substantial 8' screening fence is to be constructed along the east, west and south property lines where adjacent to residential zoned properties.
3. No CEVMS signage allowed.
4. If this use ever ceases to exist at this location, the City may revoke the Specific Use Permit.

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

SECTION 4: It is further provided that in case a section, clause, sentence or part of this Ordinance shall be deemed or adjudged by a court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair, or invalidate the remainder of this Ordinance.

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

PASSED AND APPROVED in Regular Council Session on this the **10th day of December, 2018.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

EXHIBIT 'A'

S-698

All that certain tract or parcel of land, to-wit: A part of the THOMAS PRICE HEADRIGHT SURVEY, A-466, in Bowie County, Texas, and a part of a 12 acre tract in said survey conveyed to A. Champion by William Hodges by General Warranty Deed dated October 21, 1913, recorded in Volume 69, Page 181, Deed Records of Bowie County, Texas, as follows:

BEGINNING 461 feet North, 54 feet West from where the East boundary line of the 12 acre tract crosses Highway No. 82 in the South boundary line of said highway, the NW corner of the part allotted to Horace H. Champion;
 THENCE: South, 544 feet;
 THENCE: West, 132 feet;
 THENCE: North, 606 feet;
 THENCE: East, 44 feet to a stake in the South boundary line of Highway No. 82;
 THENCE: South, 54 feet East, 105.20 feet to the PLACE OF BEGINNING, containing approximately 1.8 acres of land, and being designated as Lot Numbered Three (3) of a partition made by the Heirs of A. Champion and Florence Champion.

SAVE AND EXCEPT that portion deeded to the Texarkana Independent School District on February 18, 1954, filed for record February 24, 1954 in Volume 310, Page 140, Deed Records of Bowie County, Texas and being a part of the Thomas Price HRS, A-466, Bowie County, Texas, described as follows:

BEGINNING at the Southwest corner of the Lemmerhirt tract;
 THENCE: North, 206.77 feet;
 THENCE: N 89 deg. 26' E, 132 feet;
 THENCE: South, 206.12 feet;
 THENCE: West, 132 feet to the Point of Beginning.

ALSO SAVE AND EXCEPT that portion deeded to the State of Texas on March 5, 1973, filed for record March 7, 1973 in Volume 556, Page 509, Deed Records of Bowie County, Texas, being a part of the Thomas Price HRS, A-466, and described as follows:

1,784 square feet of land, more or less, same being out of and a part of that certain 1.8-acre tract of land out of the Thomas Price Headright Survey, Abstract No. 466, in Bowie County, Texas, which 1.8 acre tract was conveyed to L.E. Lemmerhirt and wife, Vera Iva Lemmerhirt by deed dated May 26, 1950, of record in Volume 266, Page 189, Deed Records of Bowie County, Texas, which 1,784 square feet of land, more or less, is more particularly described by metes and bounds as follows:

BEGINNING at a point in the North boundary line of said Lemmerhirt tract, same being the South boundary line of a 0.15 acre tract of land conveyed to Scott Sharp by deed of record in Volume 127, Page 392, Deed Records of Bowie County, Texas, said point being 20.6 feet N 83° 49' E, along said boundary line from the apparent Northwest corner of said Lemmerhirt tract, said point being on the proposed South right-of-way line of US Highway 82, said point being 50.00 feet at right angles from the survey centerline of US Highway 82, hereinafter referred to as the "survey centerline" at survey centerline station 92+02.36;
 THENCE: N 83° 49' E, 23.26 feet along said Lemmerhirt-Sharp boundary line to a point in the existing South right-of-way line of US Highway 82;
 THENCE: S 56° 01' E, 104.64 feet along the existing South right-of-way line of US Highway 82, to a point in the East boundary line of said Lemmerhirt tract, same being the West boundary line of a tract conveyed to J.T. Miller by deed of record in Volume 268, Page 65, Deed Records of Bowie County, Texas;
 THENCE: S 01° 43' E, 18.48 feet along said Lemmerhirt-Miller boundary line, to a point on the proposed South right-of-way line of US Highway 82, said point being 50.00 feet at right angles from survey centerline station 90+69.16;
 THENCE: N 56° 01' W, 133.20 feet along the proposed South right-of-way line of US Highway 82 to the Point of Beginning, containing 1,784 square feet of land, more or less.

EXHIBIT 'A'

S-698

All that certain tract or parcel of land, to-wit: A part of the THOMAS PRICE HEADRIGHT SURVEY, A-466, in Bowie County, Texas, and a part of a 12 acre tract in said survey conveyed to A. Champion by William Hodges by General Warranty Deed dated October 21, 1913, recorded in Volume 69, Page 181, Deed Records of Bowie County, Texas, as follows:

BEGINNING 461 feet North, 54 feet West from where the East boundary line of the 12 acre tract crosses Highway No. 82 in the South boundary line of said highway, the NW corner of the part allotted to Horace H Champion;
 THENCE: South, 544 feet;
 THENCE: West, 132 feet;
 THENCE: North, 606 feet;
 THENCE: East, 44 feet to a stake in the South boundary line of Highway No. 82;
 THENCE: South, 54 East, 105.20 feet to the PLACE OF BEGINNING, containing approximately 1.8 acres of land, and being designated as Lot Numbered Three (3) of a partition made by the Heirs of A. Champion and Florence Champion.

SAVE AND EXCEPT that portion deeded to the Texarkana Independent School District on February 18, 1954, filed for record February 24, 1954 in Volume 310, Page 140, Deed Records of Bowie County, Texas and being a part of the Thomas Price HRS, A-466, Bowie County, Texas, described as follows:

BEGINNING at the Southwest corner of the Lemmerhirt tract;
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 THENCE: West, 132 feet to the Point of Beginning.

ALSO SAVE AND EXCEPT that portion deeded to the State of Texas on March 5, 1973, filed for record March 7, 1973 in Volume 556, Page 509, Deed Records of Bowie County, Texas, being a part of the Thomas Price HRS, A-466, and described as follows:

1,784 square feet of land, more or less, same being out of and a part of that certain 1.8 acre tract of land out of the Thomas Price Headright Survey, Abstract No. 466, in Bowie County, Texas, which 1.8 acre tract was conveyed to L.E. Lemmerhirt and wife, Vera Iva Lemmerhirt by deed dated May 26, 1950, of record in Volume 266, Page 189, Deed Records of Bowie County, Texas, which 1,784 square feet of land, more or less, is more particularly described by metes and bounds as follows:

BEGINNING at a point in the North boundary line of said Lemmerhirt tract, same being the South boundary line of a 0.15 acre tract of land conveyed to Scott Sharp by deed of record in Volume 127, Page 392, Deed Records of Bowie County, Texas, said point being 20.6 feet N 83° 49' E, along said boundary line from the apparent Northwest corner of said Lemmerhirt tract, said point being on the proposed South right-of-way line of US Highway 82, said point being 50.00 feet at right angles from the survey centerline of US Highway 82, hereinafter referred to as the "survey centerline" at survey centerline station 92+02.36;
 THENCE: N 83° 49' E, 23.26 feet along said Lemmerhirt-Sharp boundary line to a point in the existing South right-of-way line of US Highway 82;
 THENCE: S 56° 01' E, 104.64 feet along the existing South right-of-way line of US Highway 82, to a point in the East boundary line of said Lemmerhirt tract, same being the West boundary line of a tract conveyed to J.T. Miller by deed of record in Volume 268, Page 65, Deed Records of Bowie County, Texas;
 THENCE: S 01° 43' E, 18.48 feet along said Lemmerhirt-Miller boundary line, to a point on the proposed South right-of-way line of US Highway 82, said point being 50.00 feet at right angles from survey centerline station 90+69.16;
 THENCE: N 56° 01' W, 133.20 feet along the proposed South right-of-way line of US Highway 82 to the Point of Beginning, containing 1,784 square feet of land, more or less.

3303 New Boston Rd. Planning and Community Development



1:3,000



Attachment: 2018-129 ATTH 01 (maps) (1973 : 2018-129 ORD granting SUP at 3303 New Boston Rd.)

3303 New Boston Rd. Planning and Community Development



Attachment: 2018-129 ATTH 01 (maps) (1973 : 2018-129 ORD granting SUP at 3303 New Boston 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: 11/16/2018 10:11 AM

Lead Department: Planning and Community Development **Action Officer:** Debbie Burk
Ordinance No. 2018-130 granting a Specific Use Permit to allow a tattoo studio on a 2.41 acre tract of land in the Willis Oldham HRS, A-458, located at 4501 State Line Avenue (tenant space 120), Hayco Realty, LTD, applicant. Brian A. Harris, agent.

Subject: Harris, agent.

Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

Item Schedule

"NOT APPLICABLE"

Executive Summary and Background Information:

S-699: This is a request by Hayco Realty, LTD, owner, and Brian Harris, agent, for a Specific Use Permit, SUP, to allow the location of a tattoo studio in tenant space 120 at 4501 State Line Avenue (a 2.41 acre tract of land in the Willis Oldham HRS, A-458). This is a strip shopping center.

A specific use permit was previously approved for a tattoo studio in another tenant space in this same shopping center. That tattoo studio closed, and the specific use permit was revoked.

The adjacent zoning is Commercial to the north, south, east and west. The adjacent land use is tenants in the strip center to the north, south and east and a restaurant to the west.

This property is zoned Commercial. A specific use permit is required by Section 140-80 of the Zoning Ordinance to allow the one additional use of a tattoo studio in this zoning district. The State of Texas will regulate this business as to licensing and other health related issues.

This request meets all city requirements to allow the one additional use of a tattoo studio on this property. There is adequate parking for this business. If this request is approved, staff would suggest the following stipulations be placed in the Ordinance:

1. That the owner/or any employee performing the application of tattooing procedures be currently licensed by the State and meet all Federal, State and City licensing laws and health regulations. (A copy of the current license must be provided to the City prior to the opening of the business).
2. That if any complaints concerning minors or any violations of the regulations listed above occur, the City has the right to revoke the Specific Use Permit.
3. That if this use ever ceases at this location, the City may revoke the Specific Use Permit that allows a tattoo studio.
4. That the sale of tobacco products or drug paraphernalia is prohibited.
5. Any remodeling of the current building must meet all city codes and requires licensed contractors.

City of Texarkana, Texas

6. No painting of the windows or the building with advertisement or graphic art.
7. No loitering allowed.
8. The hours of operation will be from 9 a.m. to 10 p.m. Monday through Saturday.

Potential Options:

“None”

Fiscal Implications:

None

Staff Recommendation:

Since a tattoo studio was previously approved and operated in this shopping center, staff recommends for approval with stipulations. All notifications and application requirements have been met to consider this request.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission recommended by a vote of 5-1 for approval of the Specific Use Permit with staff stipulations.

Advisory Board/Committee Meeting Date and Minutes:

November 5, 2018

Attachments

- a. 2018-130 ORD granting SUP at 4501 State Line (PDF)
- b. 2018-130 EXH 'A' (legal description) (PDF)
- c. 2018-130 ATTH 01 (maps) (PDF)
- d. 2018-130 ATTH 02 (copy of tattoo license) (PDF)
- e. 2018-131 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	11/15/2018 3:43 PM	
Deputy City Manager - Kyle Dooley	Kyle Dooley	Deputy City Manager
Review Completed	11/16/2018 8:47 AM	
City Manager Shirley Jaster	City Manager Review Completed	11/19/2018
4:40 PM		
City Council Jennifer Evans	Meeting Completed	11/26/2018
6:00 PM		

Meeting History

11/26/18 City Council MOVED FORWARD Next: 12/10/18

City of Texarkana, Texas

David Orr briefed this agenda item.

S-699

ORDINANCE NO. 2018-130

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE ZONING MAP SHOWING THE LOCATION, BOUNDARY AND USE OF CERTAIN PROPERTY BY THE GRANTING OF SPECIFIC USE PERMIT NO. S-699 TO ALLOW THE ONE ADDITIONAL USE OF A TATTOO STUDIO ON A 2.41 ACRE TRACT OF LAND IN THE WILLIS OLDHAM HRS, A-458, LOCATED IN TENANT SPACE 120 AT 4501 STATE LINE AVENUE IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS; CONTAINING A REPEALER CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, an application has been filed with the City of Texarkana, Texas, requesting an Amendment to the Zoning Ordinance to grant a **Specific Use Permit** to allow the **one additional use of a tattoo studio** on a 2.41 acre tract of land in the Willis Oldham HRS, A-458 (**Exhibit "A"**), located in tenant space 120 at 4501 State Line Avenue in the City of Texarkana, Bowie County, Texas; and

WHEREAS, the Planning and Zoning Commission of the City of Texarkana, Texas, and the City Council of the City of Texarkana, Texas, in compliance with the laws of the State of Texas with reference to the granting of zoning classifications and changes, have given the requisite notices by publication and otherwise, and after holding hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof; and

WHEREAS, after consideration of said application, the Planning and Zoning Commission of the City of Texarkana, Texas, voted **five (5) to one (1) to recommend** to the City Council of Texarkana, Texas, that a **Specific Use Permit be granted to allow the one additional use of a tattoo studio** on said property; and

WHEREAS, after consideration of said application and the recommendation of the Planning and Zoning Commission, the City Council of the City of Texarkana, Texas, does hereby find that granting the **Specific Use Permit** is in the best interest of the public health, safety, morals and general welfare of the City.

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

SECTION 1: That the Zoning Ordinance of the City of Texarkana, Texas, Ordinance No. 127-70, passed and approved on September 14, 1970, be further amended to grant a **Specific Use Permit Numbered S-699 for allowing the one additional use of a tattoo studio** in tenant space 120 at 4501 State Line Avenue in the City of Texarkana, Bowie County, Texas.

Attachment: 2018-130 ORD granting SUP at 4501 State Line (1974 : 2018-130 ORD granting SUP at 4501 State Line Ave.)

SECTION 2: That the following special terms and conditions are hereby imposed and made part of this Ordinance:

1. That the owner/or any employee performing the application of tattooing procedures be currently licensed by the State and meet all Federal, State and City licensing laws and health regulations. (A copy of the current license must be provided to the City prior to the opening of the business).
2. That if any complaints concerning minors or any violations of the regulations listed above occur, the City has the right to revoke the Specific Use Permit.
3. That if this use ever ceases at this location, the City may revoke the Specific Use Permit that allows a tattoo studio.
4. That the sale of tobacco products or drug paraphernalia is prohibited.
5. Any remodeling of the current building must meet all city codes and requires licensed contractors.
6. No painting of the windows or the building with advertisement or graphic art.
7. No loitering allowed.
8. The hours of operation will be 9 a.m. to 10 p.m. Monday thru Saturday.

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

SECTION 4: It is further provided that in case a section, clause, sentence or part of this Ordinance shall be deemed or adjudged by a court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair, or invalidate the remainder of this Ordinance.

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

PASSED AND APPROVED in Regular Council Session on this the **10th** day of **December, 2018.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

EXHIBIT 'A'

S-699

A certain 2.481 ac tract containing 107,201 square feet on the corner of State Line & Texas Blvd., legally described as all that certain tract of land named as Parcel 2 containing 2.413 ac. being a part of the Willis Oldham Headright Survey, and being more particularly described:

COMMENCING at a 1" iron pipe found in place 142.00 ft. West and 189.60 ft. North of the Southeast corner of the Willis Oldham Headright Survey, Bowie County, Texas; said Point of Commencing being 142.00 ft. West of the State Line between the States of Arkansas and Texas; said Point of Commencing being the Northeast corner of a tract conveyed to Lawrence Duncan, October 28, 1893, and described in Deed of Record, Vol. 460, Page 581 of the Deed Records of Bowie County, Texas; THENCE - N. 90° 00' 00" E., 441.34 ft. with the North boundary line of said Duncan tract to a 1 1/4" iron pipe found in place in the East boundary line of Gus Orr tract; the POINT OF BEGINNING of the herein described tract of land;

THENCE - N. 00° 00' 00" E., 223.57 ft. with the east boundary line of the Gus Orr tract to the point of intersection of said East boundary line and the projection of a line 8 ft. South at right angles from and parallel with the South edge of an existing concrete walk along the South side of an existing 2 - story masonry motel building;

THENCE - S. 89° 54' 21" E., 829.34 ft. with said line 8 ft. at right angles from and parallel with walk to the West right-of-way line of U.S. HWY. 71, same being 60.0 ft. at right angle from the above mentioned State Line;

THENCE - S. 00° 00' 00" E., 191.02 ft. with said East right-of-way 60 ft. at right angles from and parallel with said State Line;

THENCE - N. 90° 00' 00" W., 82.00 ft.;

THENCE - S. 00° 00' 22" W., 20.06 ft. to a 1/2" reinf. steel found in place on the projection of a line along and with the back and South side of an existing concrete curb;

THENCE - N. 89° 52' 24" W., 294.13 ft. with said projection of end curb line to a 1/2" reinf. steel found in place;

THENCE - S. 00° 00' 00" E., 21.75 ft. to the above mentioned North boundary line of Duncan tract;

THENCE - N. 90° 00' 00" W., 150.21 ft. with said North boundary line to the Point of Beginning and containing 107,911 sq. ft. or 2.481 acres of land, more or less;

AND SUBJECT TO A UTILITY EASEMENT being a strip of land 16 ft. in width along the following described centerline:

BEGINNING in the North boundary line of the above described property, N. 89° 54' 21" W., 37.88 ft. from the Northeast corner of said property;

THENCE - S. 03° 14' 43" W., 91.85 ft.;

THENCE - S. 00° 34' 37" W., 85.15 ft.;

THENCE - S. 45° 00' 00" W., 98.52 ft.;

THENCE - S. 00° 00' 00" E., 5.05 ft. to the South boundary line of the above described property along the back of concrete curbing; the END POINT of said centerline, the East and West boundary lines of said 16 ft. strip are to be prolonged or shortened to end at said North and South boundary lines of above described property.

EXHIBIT 'A'

S-699

A certain 2.481 ac tract containing 107,201 square feet on the corner of State Line & Texas Blvd., legally described as all that certain tract of land named as Parcel 2 containing 2.413 ac, being a part of the Willis Oldham Headright Survey, and being more particularly described:

COMMENCING at a 1" iron pipe found in place 142.00 ft. West and 188.80 ft. North of the Southeast corner of the Willis Oldham Headright Survey, Bowie County, Texas; said Point of Commencing being 142.00 ft. West of the State Line between the States of Arkansas and Texas; said Point of Commencing being the Northeast corner of a tract conveyed to Lawrence Duncan, October 28, 1963, and described in Deed of Record, Vol. 460, Page 681 of the Deed Records of Bowie County, Texas; THENCE - N. 80° 00' 00" E., 441.34 ft. with the North boundary line of said Duncan tract to a 1 1/2" iron pipe found in place in the East boundary line of Gus Orr tract; the POINT OF BEGINNING of the herein described tract of land;

THENCE - N. 00° 00' 00" E., 223.87 ft. with the east boundary line of the Gus Orr tract to the point of intersection of said East boundary line and the projection of a line 8 ft. South at right angles from and parallel with the South edge of an existing concrete walk along the South side of an existing 2-story masonry motel building;

THENCE - S. 89° 54' 21" E., 523.34 ft. with said line 8 ft. at right angles from and parallel with walk to the West right-of-way line of U.S. HWY. 71, same being 60.0 ft. at right angle from the above mentioned State Line;

THENCE - S. 00° 00' 00" E., 191.82 ft. with said East right-of-way 60 ft. at right angles from and parallel with said State Line;

THENCE - N. 90° 00' 00" W., 82.00 ft.;

THENCE - S. 00° 00' 22" W., 20.06 ft. to a 1/2" reinf. steel found in place on the projection of a line along and with the back and South side of an existing concrete curb;

THENCE - N. 89° 52' 24" W., 291.13 ft. with said projection of end curb line to a 1/2" reinf. steel found in place;

THENCE - S. 00° 00' 00" E., 21.75 ft. to the above mentioned North boundary line of Duncan tract;

THENCE - N. 80° 00' 00" W., 150.21 ft. with said North boundary line to the Point of Beginning and containing 107,911 sq. ft. or 2.481 acres of land, more or less;

AND SUBJECT TO A UTILITY EASEMENT being a strip of land 16 ft. in width along the following described centerline:

BEGINNING in the North boundary line of the above described property, N. 89° 54' 21" W., 37.86 ft. from the Northeast corner of said property;

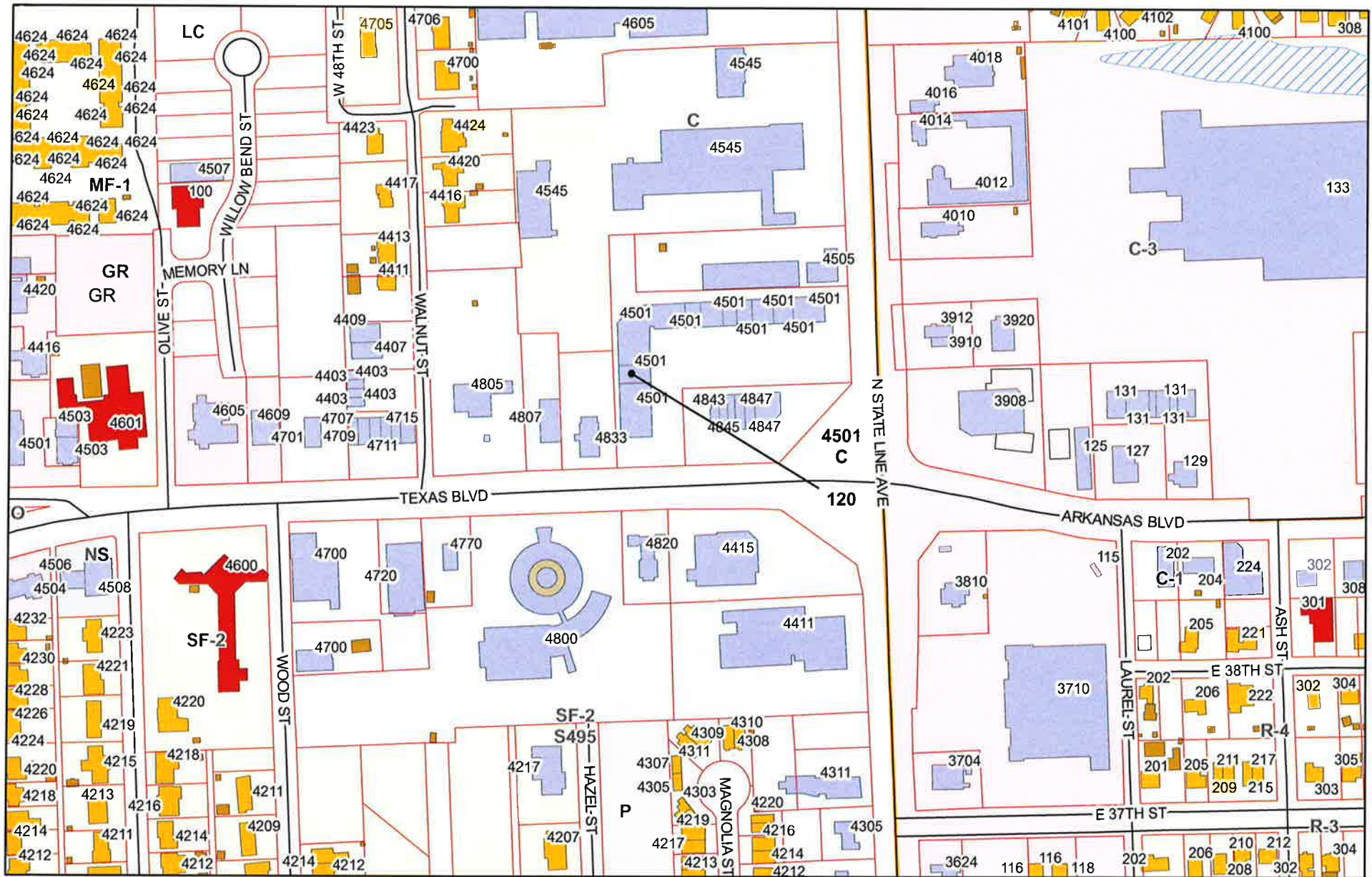
THENCE - S. 03° 14' 43" W., 31.85 ft.;

THENCE - S. 00° 34' 37" W., 85.15 ft.;

THENCE - S. 45° 00' 00" W., 98.52 ft.;

THENCE - S. 00° 00' 00" E., 5.05 ft. to the South boundary line of the above described property along the back of concrete curbing; the END POINT of said centerline, the East and West boundary lines of said 16 ft. strip are to be prolonged or shortened to end at said North and South boundary lines of above described property.

4501 N State Line Ave. Planning and Community Development



N
1:3,500

Attachment: 2018-130 ATTH 01 (maps) (1974 : 2018-130 ORD granting SUP at 4501 State Line Ave.)



4501 N State Line Ave.

Planning and Community Development



N



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: 11/28/2018 3:11 PM

Lead Department: Planning and Community Development **Action Officer:** Debbie Burk,
Ordinance No. 2018-131 rezoning a 0.784 acre tract of land in the George
Subject: Brinlee HRS, A-18, located at 4602 McKnight Road. Single Family-2 to
Office. Teresa Liepman, applicant.

Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

Item Schedule

Updates/History of Briefing:

"NOT APPLICABLE"

Executive Summary and Background Information:

Z-18-14: This is a request by Teresa Liepman, owner, to rezone property located at 4602 McKnight Road (a 0.748 acre tract of land located in the George Brinlee HRS, A-18) from Single Family-2 to Office. The proposed use is a real estate office. The existing use is a single-family residence.

The adjacent zoning is General Retail to the north, east and west and PD-General Retail across McKnight Road to the south. The adjacent land use is vacant land to the north, south, east and west.

The City's current Comprehensive Plan has designated this as an office/institutional area.

According to the applicant, renovation plans are underway to update the existing single-family residence into a real estate office. Upgraded plumbing, electrical, and ADA compliant restrooms are in the process with plans to remove the existing deck and trees and add concrete for additional parking.

The applicant should 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:

City of Texarkana, Texas

None

Staff Recommendation:

Since this use is consistent with other uses in the area, staff recommends for approval to the Office zoning district.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

The Planning and Zoning Commission unanimously recommended for approval.

Advisory Board/Committee Meeting Date and Minutes:

November 5, 2018

Attachments

- a. 2018-131 ORD rezoning 4602 McKnight Rd(PDF)
- b. 2018-131 EXH 'A' (legal description) (PDF)
- c. 2018-131 ATTH 01 (maps) (PDF)
- d. 2018-131 ATTH 02 (layout of existing property) (PDF)
- e. 2018-131 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	11/15/2018 3:44 PM	
Deputy City Manager - Kyle Dooley	Kyle Dooley	Deputy City Manager
Review	Completed	11/16/2018 8:48 AM
City Manager	Shirley Jaster	City Manager Review Completed
4:40 PM		11/19/2018
City Council	Jennifer Evans	Meeting
6:00 PM		Completed
		11/26/2018

Meeting History

11/26/18 City Council MOVED FORWARD Next: 12/10/18
David Orr briefed this agenda item.

ORDINANCE NO. 2018-131

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 0.784 ACRE TRACT OF LAND IN THE GEORGE BRINLEE HRS, A-18, LOCATED AT 4602 MCKNIGHT ROAD IN THE CITY OF TEXARKANA, BOWIE COUNTY, TEXAS FROM SINGLE FAMILY-2 TO OFFICE; 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 0.784 acre tract of land in the George Brinlee HRS, A-18 (**Exhibit 'A'**), located at 4602 McKnight Road in the City of Texarkana, Bowie County, Texas, from **Single Family-2 to Office**; 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 after holding hearings and affording a full and fair hearing 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 six (6) to zero (0) to recommend the application for rezoning from Single Family-2 to Office on a 0.784 acre tract of land in the George Brinlee HRS, A-18 (Exhibit 'A'), located at 4602 McKnight 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 **Single Family-2 to Office** 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 0.784 acre tract of land in the George Brinlee HRS, A-18 (**Exhibit 'A'**), located at 4602 McKnight Road in the City of Texarkana, Bowie County, Texas, from **Single Family-2 to Office**.

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 10th day of December, 2018.

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

EXHIBIT 'A'

Z-18-14

THIS IS TO CERTIFY: that this plat correctly reflects the results of a survey made on the ground covering all that certain tract or parcel of land being a part of the GEORGE BRINLEE HEADRIGHT SURVEY, Abstract No. 18, Bowie County, Texas, and being a part of a certain 1.00 acre tract of land conveyed to John M. Jarvis, et ux, by Deed dated May 10, 1988, and recorded in Volume 1179, Page 16 of the Real Property Records of Bowie County, Texas, and the subject tract of land being the same 0.478 acre tract of land as conveyed to Jonathan Scott Jarmon and wife, Kelli D. Jarmon, by Warranty Deed recorded in Volume 6249, Page 125 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 the Intersection point of the East line of said 1.00 acre tract and the North right-of-way line of McKnight Road (F. M. Road No. 1297), said Point of Beginning also being the Southeast corner of said 0.478 acre tract;
 THENCE: S 88°47'44" W, 129.04 feet with the South line of said 0.478 acre tract and the North right-of-way line of McKnight Road to a 1/2" Iron pin found for corner at the Southwest corner of said 0.478 acre tract;
 THENCE: N 00°50'46" W, 161.43 feet with the West line of said 0.478 acre tract to a 1/2" Iron pin found for corner at the Northwest corner of same;
 THENCE: S 90°00'00" E, 131.40 feet with the North line of said 0.478 acre tract, same being the North line of said 0.478 acre tract to a 1/2" Iron pin found for corner at the Northeast corner of said tracts;
 THENCE: S 00°00'00" E, passing a 1" Iron pipe found on line at 152.70 feet and continuing for a total distance of 158.70 feet with the East line of said 0.478 acre tract and the East line of said 1.00 acre tract to the Point of Beginning and containing 0.478 acres of land, more or less.

TO THE LIENHOLDERS AND/OR THE OWNERS OF THE PREMISES SURVEYED AND TO THE TITLE COMPANY: The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that any discrepancies, conflict, shortages in area, boundary line conflicts, encroachments of improvements, apparent or visible easements or rights-of-way are as shown hereon and/or described herein as best can be determined by the documents provided and as per on the ground survey, and that said property appears to have access to and from a dedicated roadway.

Attachment: 2018-131 ORD rezoning 4602 McKnight Rd (1975 : 2018-131 ORD rezoning 4602 McKnight Rd.)

EXHIBIT 'A'

Z-18-14

THIS IS TO CERTIFY: that this plat correctly reflects the results of a survey made on the ground covering all that certain tract or parcel of land being a part of the GEORGE BRINLEE HEADRIGHT SURVEY, Abstract No. 18, Bowie County, Texas, and being a part of a certain 1.00 acre tract of land conveyed to John M. Jarvis, et ux, by Deed dated May 10, 1988, and recorded in Volume 1179, Page 16 of the Real Property Records of Bowie County, Texas, and the subject tract of land being the same 0.478 acre tract of land as conveyed to Jonathan Scott Jarman and wife, Kelli D. Jarman, by Warranty Deed recorded in Volume 6249, Page 125 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:

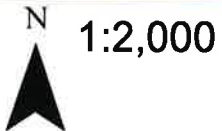
Beginning at the Intersection point of the East line of said 1.00 acre tract and the North right-of-way line of McKnight Road (F. M. Road No. 1297), said Point of Beginning also being the Southeast corner of said 0.478 acre tract;
 THENCE: S 88°47'44" W, 129.04 feet with the South line of said 0.478 acre tract and the North right-of-way line of McKnight Road to a 1/2" iron pin found for corner at the Southwest corner of said 0.478 acre tract;
 THENCE: N 00°50'46" W, 161.43 feet with the West line of said 0.478 acre tract to a 1/2" iron pin found for corner at the Northwest corner of same;
 THENCE: S 90°00'00" E, 131.40 feet with the North line of said 0.478 acre tract, same being the North line of said 0.478 acre tract to a 1/2" iron pin found for corner at the Northeast corner of said tracts;
 THENCE: S 00°00'00" E, passing a 1" iron pipe found on line at 152.70 feet and continuing for a total distance of 158.70 feet with the East line of said 0.478 acre tract and the East line of said 1.00 acre tract to the Point of Beginning and containing 0.478 acres of land, more or less.

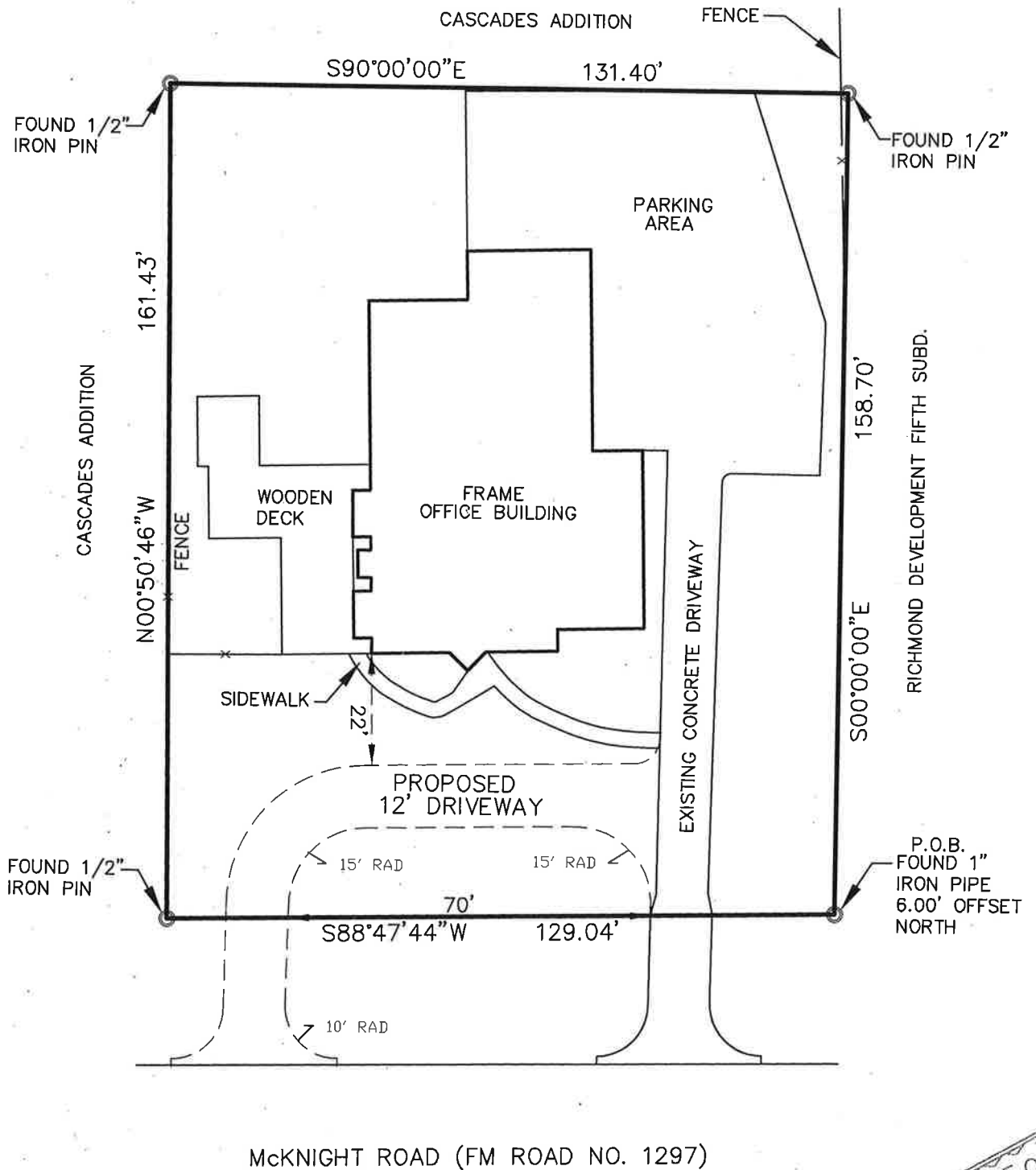
TO THE LIENHOLDERS AND/OR THE OWNERS OF THE PREMISES SURVEYED AND TO THE TITLE COMPANY: The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that any discrepancies, conflict, shortages in area, boundary line conflicts, encroachments of improvements, apparent or visible easements or rights-of-way are as shown hereon and/or described herein as best can be determined by the documents provided and as per on the ground survey, and that said property appears to have access to and from a dedicated roadway.

Attachment: 2018-131 EXH 'A' (legal description) (1975 : 2018-131 ORD rezoning 4602 McKnight Rd.)

4602 McKnight Rd. Planning and Community Development

2018-131 ATTH 01





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: C

Update Date: 12/4/2018 9:28 AM

Briefing Sheet

Lead Department: Building Code Administration **Action Officer:** Mashell Daniel
Subject: Ordinance No. 2018-133 amending the Code of Ordinances by adding Section 100-6. - "Certificate of Occupancy" to the Land Development Code.
Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

Item Schedule**Updates/History of Briefing:**

NOT APPLICABLE

Executive Summary and Background Information:

The City's Code of Ordinances requires a Certificate of Occupancy ("CO") for use of a building and requires a new application for a CO upon a change of occupancy from one conforming use to another conforming use or from one nonconforming use to another nonconforming use.

City staff recommends adding a new section to the Land Development Code, Section 100-6. – "Certificate of Occupancy," that would add more detail when a CO is needed, and when an application of a new CO is needed, information required for obtaining a CO, information to be contained on a CO, applicable fees, and circumstances authorizing suspension or revocation of a CO.

After consideration, the Planning and Zoning Commission of the City of Texarkana, Texas voted by a vote of six (6) to zero (0) to approve this amendment.

Potential Options:

- Approve the addition to the Code of Ordinances.
- Disapprove the addition to the Code of Ordinances.

Fiscal Implications:

None.

Staff Recommendation:

Staff Recommends Approval.

Advisory Board/Committee Review:

Planning and Zoning Commission

Board/Committee Recommendation:

City of Texarkana, Texas

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

Advisory Board/Committee Meeting Date and Minutes:

December 3, 2018

Attachments

- a. 2018-133 ORD adding Sec.100-6 - Cert.Occup.(jcl rev) (002) (DOCX)
- b. 2018-133 Goals & Perspectives (DOCX)

Staff Coordination

Building Code Administration	Mashell Daniel	Department Head Review	
Completed	11/06/2018 10:17 AM		
Municipal Prosecutor Deborah Jones	Asst. City Attorney Review	Completed	
11/06/2018 10:49 AM			
City Attorney Jeffery C. Lewis	City Attorney Review	Completed	11/06/2018
10:58 AM			
Deputy City Manager - Kyle Dooley	Kyle Dooley	Deputy City Manager	
Review Completed	11/06/2018 11:06 AM		
City Manager Shirley Jaster	City Manager Review	Completed	11/15/2018
4:15 PM			
City Council Jennifer Evans	Meeting	Completed	11/26/2018
6:00 PM			

Meeting History

11/26/18 City Council MOVED FORWARD Next: 12/10/18
 Mashell Daniel briefed this agenda item.

PUBLISH

ORDINANCE NO. 2018 - 133

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TEXARKANA, TEXAS, LAND DEVELOPMENT CODE, CHAPTER 100, "GENERAL AND ADMINISTRATIVE PROVISIONS", BY ADDING SECTION 100-6, "CERTIFICATE OF OCCUPANCY"; PROVIDING FOR PUBLICATION; PROVIDING FOR A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances of the City of Texarkana, Texas, Land Development Code, Section 140.315, requires a Certificate of Occupancy ("CO") for use of a building and requires a new application for a CO upon a change of occupancy from one conforming use to another conforming use or from one nonconforming use to another nonconforming use; and

WHEREAS, City staff recommends adding a new section to the general and administrative provisions of the Land Development Code that would augment existing Code provisions relating to COs, adding more detail when a CO is needed and when an application of a new CO is needed, information required for obtaining a CO, information to be contained on a CO, applicable fees, and circumstances authorizing suspension or revocation of a CO; and

WHEREAS, the City Council finds and determines that such amendments as set forth below are in the best interest of citizens and the City's future growth.

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

SECTION 1: The Code of Ordinances of the City of Texarkana, Texas, Land Development Code, Chapter 100, "General and Administrative Provisions", is hereby amended by adding Section 100-6, "Certificate of Occupancy", as follows:

Sec. 100-6. - Certificate of Occupancy.

- (a) *Use or occupancy; changes.* A building, structure, or land shall not be used or operated, and a change in the existing use or occupancy of a building, structure, land, or a portion thereof shall not be made, until the Chief Building Official has issued a certificate of occupancy as provided herein.
- (b) *Application required.* An applicant for a certificate of occupancy must complete and submit an application promulgated by the City. Approval, if any, of the requested use or occupancy, or change in the existing use or occupancy, as applicable, shall be based on the applicant's representations as to the use of the building, structure, or land, and the provisions of this Code pertaining to the building, structure, or land.
- (c) *Issuance of certificate.* A certificate of occupancy will issue after all necessary inspections have been conducted by the City and after the Chief Building Official approves the issuance; provided, however, that issuance shall not be construed as either authorizing or approving any unlawful condition or use of the building, structure, or land which violates any

PUBLISH

applicable provision of the Code, City ordinances, state law or regulations. The certificate of occupancy shall contain the following information:

- (1) The address of the location of the building, structure, or land;
 - (2) The name of the occupier or user of the building, structure, or land;
 - (3) A statement as to the applicable zoning and approved use of the building, structure, or land;
 - (4) The allowable and approved maximum occupant load for uses; and
 - (5) Any other information deemed necessary by the City.
- (d) *Posting requirement.* The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Chief Building Official or designee. Misplacing or losing the certificate shall not constitute a defense to prosecution.
- (e) *Temporary occupancy.* The Chief Building Official may issue a temporary certificate of occupancy before the completion of the entire work covered by any applicable permit, provided that such temporary areas can be occupied safely. The Chief Building Official shall set a time period during which the temporary certificate of occupancy is valid.
- (f) *Revocation.* The Chief Building Official may suspend or revoke a certificate of occupancy in the event:
- (1) the certificate was issued in error or on the basis of incorrect information;
 - (2) the certificate was issued to an address different from the location posted;
 - (3) the certificate was issued to an occupier or user different from the current occupier or user;
 - (4) of an undisclosed or unapproved use or occupancy of the building, structure, land, or any part thereof; or
 - (5) of an undisclosed or unapproved addition to the building or structure, or any part thereof;
 - (6) of an undisclosed or unapproved change in use or occupancy of the building, structure, land, or any part thereof; or
 - (7) the condition of the building, structure, land, or any portion thereof violates any applicable Code provision, City ordinance, state law, or regulation.
- (g) *Fee.* An applicant for a certificate of occupancy shall pay a fee at the time of submitting the application. The fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.
- (h) *Replacement certificate; fee.* The applicant or designee may secure a lost or misplaced certificate of occupancy upon request accompanied by payment of a replacement fee. The fee shall be in an amount as established by the city council from time to time and is on file in the city secretary's office or city website.
- (i) *Violation.* It shall be unlawful and a violation of this section for any person to fail to comply with the requirements of this section.
- (j) *Exemption.* Except as otherwise provided in this Code, "Dwelling, one-family" and "Dwelling, two-family" as defined by section 140-23 are exempted from the requirements of this section.
- (k) *Cumulative provisions.* This section is cumulative of other provisions in the Code relating to the same subject.

SECTION 2: 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 3: In case a section, clause, sentence or part of this Ordinance shall be deemed or adjudged by a Court of competent jurisdiction to be invalid, then such invalidity shall not affect, impair or invalidate the remainder of this Ordinance.

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

PASSED AND APPROVED in Regular Council Session on this the **10th day of December, 2018.**

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:
Update Date: 11/29/2018 3:18 PM

Lead Department: Planning and Community Development **Action Officer:** David Orr, Planning & Community Development Director

Subject: Resolution No. 2018-142 approving the Community Development Block Grant (CDBG) Comprehensive Assessment Performance Evaluation Report.

Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

Item Schedule

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

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

The U.S. Department of Housing and Urban Development – Community Planning Department requires each Community Development Block Grant (CDBG) Entitlement Community to complete an annual Comprehensive Assessment Performance Evaluation Report (CAPER) no later than 90 days after the close of the program year (Program Year-End Date: September 30, 2018).

The City of Texarkana, Texas hereby gives notice that the DRAFT of the Community Development Block Grant 2017 Program Year Consolidated Annual Performance Evaluation Report (CAPER) will be available for public review and comment at the dates and times listed below. Spanish translation is available upon request.

The Department of Housing and Urban Development requires all recipients of Community Development Block Grant funds to submit an annual report. All interested persons or groups are encouraged to review the DRAFT CAPER and formally present their comments for inclusion in this report.

The DRAFT report can be reviewed at the following location during regular business hours between November 25, 2018 and December 10, 2018:

Texarkana, Texas City Hall
Department of Planning and Community Development
220 Texas Boulevard
Texarkana, Texas

The DRAFT CAPER is also available on the Texarkana, Texas website at www.ci.texakana.tx.us

The City will hold a regularly scheduled City Council Meeting, which is a Public Meeting, on November 26, 2018 where the public and Council will be briefed on the report and comment period.

City of Texarkana, Texas

The Public Hearing for the CAPER will occur at the regularly scheduled City Council Meeting on December 10, 2018. The 15-day comment period will end on December 10, 2018. Citizens are asked to present their comments at this Public Hearing for inclusion in the report or to submit written comments for inclusion in the report to the Department of Planning and Community Development, City of Texarkana, Texas 220 Texas Boulevard, P.O. Box 1967, Texarkana, Texas 75504. Comments may be mailed or delivered to this office by 5:00 p.m. December 10, 2018.

Potential Options:

- Approve
- Deny

Fiscal Implications:

None – report only

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. 2018-142 RES Approving 2017 CDBG CAPER (DOCX)
- b. 2018-142 ATTH 01 CAPER PY2017 draft (DOCX)
- c. 2018-142 ATTH 02 Council Presentation CAPER 11.26.18 (PDF)
- d. 2018-142 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	11/15/2018 5:37 PM	
Deputy City Manager - Kyle Dooley	Kyle Dooley	Deputy City Manager
Review	Completed	11/16/2018 8:29 AM
City Manager	Shirley Jaster	City Manager Review Completed
4:45 PM		11/19/2018
City Council	Jennifer Evans	Meeting
6:00 PM		Completed
		11/26/2018

Meeting History

City of Texarkana, Texas

11/26/18 City Council MOVED FORWARD Next: 12/10/18
David Orr briefed this agenda item.

RESOLUTION NO. 2018 – 142

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, APPROVING THE COMMUNITY DEVELOPMENT BLOCK GRANT ANNUAL PERFORMANCE EVALUATION REPORT AND AUTHORIZING THE CITY MANAGER TO SUBMIT SAID REPORT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the U. S. Department of Housing and Urban Development has provided the City of Texarkana, Texas, with Community Development Block Grant (CDBG) funds; and

WHEREAS, the City of Texarkana, Texas, hereby gives notice that the DRAFT of the Community Development Block Grant 2017 Program Year Consolidated Annual Performance Evaluation Report (CAPER) will be available for public review and comment; and

WHEREAS, the Department of Housing and Urban Development requires all recipients of Community Development Block Grant funds to submit an annual report. All interested persons or groups are encouraged to review the DRAFT CAPER and formally present their comments for inclusion in this report; and

WHEREAS, the City Council has determined it to be appropriate to approve the Community Development Block Grant 2017 Program Year Consolidated Annual Performance Evaluation Report (CAPER).

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

SECTION 1: That the Community Development Block Grant 2017 Program Year Consolidated Annual Performance Evaluation Report (CAPER) is hereby approved.

SECTION 2: That the City Manager is hereby authorized to submit said the Community Development Block Grant 2017 Program Year Consolidated Annual Performance Evaluation Report (CAPER) to the U. S. Department of Housing and Urban Development and provide such additional information as may be required.

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

PASSED AND APPROVED in Regular Council Session on this the **10th day of December, 2018.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR



2018-142 ATTH 01

City of Texarkana, Texas CAPER

Consolidated Annual Performance Evaluation Report

Community Development Block Grant Program
October 1, 2017 through September 30, 2018
Program Year 2017

Attachment: 2018-142 ATTH 01 CAPER PY2017 draft (1976 : 2018-142 RES Consolidated Annual Performance Evaluation Report)

CR-05 - Goals and Outcomes

Progress the jurisdiction has made in carrying out its strategic plan and its action plan.

91.520(a)

This could be an overview that includes major initiatives and highlights that were proposed and executed throughout the program year.

During CDBG Program Year 2017 (October 1, 2017 – September 30, 2018 = PY17), the City of Texarkana had a total of \$1,484,040.76 in CDBG resources to address various community needs. These funds included carryover resources in the amount of \$684,786 from prior allocations, \$2,480.76 in Program Income, \$512,000 in Section 108 Loan Funds and \$284,774.00 for the Program Year 2017 allocation. The City expended \$1,385,237.88 leaving an unexpended balance at the beginning of the 2018 program year of \$98,802.88.

Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)

Categories, priority levels, funding sources and amounts, outcomes/objectives, goal outcome indicators, units of measure, targets, actual outcomes/outputs, and percentage completed for each of the grantee's program year goals.



Assess how the jurisdiction's use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority

activities identified.

The City carried out the following activities during this reporting period:

Public Service – Vista \$6,001

Public Service – Life Skills \$12,739

Public Service – Youth Programs \$20,924

Sidewalk/Bike/Tree Project Downtown \$147,245

Housing Rehabilitation \$99,560

Hotel Grim Project-Section 108 Loan \$512,000

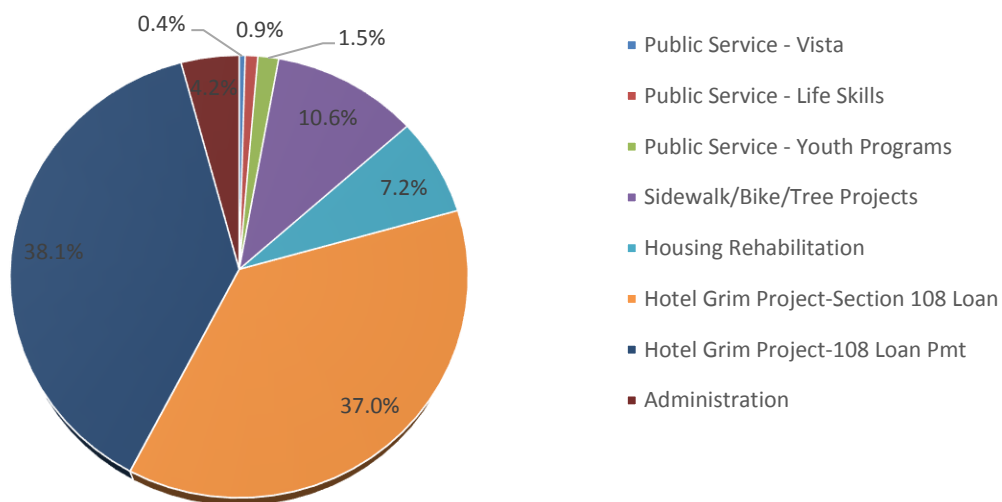
Hotel Grim Project-Section 108 Loan Payments \$528,190

Administration \$58,579

HUD requires Entitlement Communities receiving CDBG funds to spend at least seventy percent of program expenditures on activities that benefit low and moderate income persons. One hundred percent of Texarkana's program expenditures benefitted low and moderate income persons. Four percent of total expenditures went toward administration of the program.

Project/Activity	Status	Percent	Funded	Drawn
Public Service - Vista	Completed	0.4%	\$6,125.00	\$6,001.04
Public Service - Life Skills	Completed	0.9%	\$15,174.00	\$12,739.26
Public Service - Youth Programs	Completed	1.5%	\$21,600.00	\$20,923.75
Sidewalk/Bike/Tree Projects	Completed	10.6%	\$151,268.82	\$147,244.81
Housing Rehabilitation	Completed	7.2%	\$80,000.00	\$99,559.91
Hotel Grim Project-Section 108 Loan	Completed	37.0%	\$512,000.00	\$512,000.00
Hotel Grim Project-108 Loan Pmt	Ongoing	38.1%	\$512,000.00	\$528,190.13
Administration	Completed	4.2%	\$56,955.00	\$58,578.98
TOTAL		100%	\$1,355,122.82	\$1,385,237.88

Community Development Block Grant Projects



Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected – Strategic Plan	Actual – Strategic Plan	Percent Complete	Expected – Program Year	Actual – Program Year	Percent Complete
Administer the CDBG Program	Administration	CDBG: \$58,579	Other	Other	1	1	100.00%	1	1	100.00%
CDBG Revolving Loan Fund	Non-Housing Community Development	CDBG: \$0	Facade treatment/business building rehabilitation	Business	3	4	133.00%	0	0	
CDBG Revolving Loan Fund	Non-Housing Community Development	CDBG: \$0	Jobs created/retained	Jobs	10	10	100.00%	0	0	
CDBG Revolving Loan Fund	Non-Housing Community Development	CDBG: \$0	Businesses assisted	Businesses Assisted	3	4	133.00%	0	0	
Evaluate & Reduce Lead Paint Hazards	Public Service activities for LMI Households	General: \$0	Affordable Housing Rehab-Existing Units Lead Paint	Households Assisted	100	40	40.00%	60	60	100.00%
Rental Assistance Information Dissemination	Public Service activities for LMI Households	General: \$0	Homelessness Prevention	Households Assisted	100	100	100.00%			
First Time Home Buyer Down Payment Assistance	Affordable Housing	CDBG: \$0	Direct Financial Assistance to Homebuyers	Households Assisted	2	2	100.00%	1	0	0.00%

Attachment: 2018-142 ATTH 01 CAPER PY2017 draft (1976 : 2018-142 RES Consolidated Annual

Homelessness Emergency Shelter	Homeless	General Fund: \$	Homeless Person Overnight Shelter	Persons Assisted	100	100	100.00%			
Homelessness Outreach	Homeless Non-Homeless Special Needs	General Fund: \$	Homeless Person Overnight Shelter	Persons Assisted	100	0	0.00%			
Homelessness Outreach	Homeless Non-Homeless Special Needs	General Fund: \$	Homelessness Prevention	Persons Assisted	100	0	0.00%			
Homelessness Prevention	Homeless Non-Homeless Special Needs	General Fund: \$	Homelessness Prevention	Persons Assisted	100	100	100.00%			
Housing Reconstruction/ Rehabilitation	Affordable Housing	CDBG: \$99,560	Homeowner Housing Rehabilitated	Household Housing Unit	14	10	71%	4	4	100.0
Public Services	Non-Housing Community Development	CDBG: \$39,664	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	50	25	50.00%	25	50	200.00
Public Facilities and Parks	Non-Housing Community Development	CDBG: \$0	Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit	Households Assisted	20	20	100.00%			
Public Improvements and Infrastructure- Sidewalks	Non-Housing Community Development	CDBG: \$147,245	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit	Persons Assisted	50	200	400.00%	100	1000	1000.0

Attachment: 2018-142 ATTH 01 CAPER PY2017 draft (1976 : 2018-142 RES Consolidated Annual

Public Improvements and Infrastructure	Non-Housing Community Development	CDBG: \$	Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit	Households Assisted	5	20	400.00%			
Public Improvements and Infrastructure	Non-Housing Community Development	CDBG: \$	Buildings Demolished	Buildings	5	5	100.00%			
Public Improvements and Infrastructure	Non-Housing Community Development	CDBG: \$	Housing Code Enforcement/Foreclosed Property Care	Household Housing Unit	10	0	0.00%			
Section 108 Loan Program for Economic Development	Affordable Housing	Section 108: \$512,000	Rental units constructed	Household Housing Unit	20	0	0.00%			
Section 108 Loan Program Repayment with Interest	Affordable Housing	Section 108: \$528,190	Rental units constructed	Household Housing Unit	1	0	0.00%			

Table 1 - Accomplishments – Program Year & Strategic Plan to Date

Attachment: 2018-142 ATTH 01 CAPER PY2017 draft (1976 : 2018-142 RES Consolidated Annual

CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted).

91.520(a)

	CDBG
White	1,215
Black or African American	380
Asian	0
American Indian or American Native	3
Native Hawaiian or Other Pacific Islander	1
Total	1,599
Hispanic	16
Not Hispanic	337

Table 2 – Table of assistance to racial and ethnic populations by source of funds

Narrative

Project resources were concentrated in Texarkana's two Target Areas, the Beverly neighborhood and Downtown Texarkana.

Downtown Texarkana is located in Census Tract #48037010500. This tract has a poverty rate of 49.8%. Of the 3232 residents that call the Downtown area home, 1,009 are white, 2,050 are Black or African American. Population continues to decline in the area as fewer and fewer make their homes here. In this area of just over 200 acres, there are over 200 confirmed or suspected Brownfield properties ranging from suspected lead and asbestos contamination to petroleum and MTBE's. Nearly half of the buildings in the area are no longer open or functioning.

The Beverly area (Census Tract #48037010600) population has decreased from 2,612 in 1990 to 2,293 in 2010, with the number of households for the same period also declining from 921 to 774. Total number of housing units likewise decreased from 1,103 to 918 households. The number of vacant housing units decreased from 182 to 144. During this same time period, renter occupied housing units rose from 441 to 506 while owner occupied housing units dramatically decreased 44.17% from 480 to 268. In 2012, average median household income for Texarkana, Texas was \$37,526, but only \$17,262 in Beverly, a variance of 46%. Per capita income was also lower by 45% as compared to the city at \$23,297 per person in the city and only \$10,477 in Beverly. Median home values in the city were reported at \$136,770 and only \$37,863 in Beverly.

CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG	CDBG-Fort Worth	969,560	870,757
Section 108 Loan Funds	CDBG – HQ	512,000	512,000
Other	General Fund	2,481	2,481

Table 3 – Resources Made Available

Narrative

During CDBG Program Year 2017 (October 1, 2017 – September 30, 2018 = PY17), the City of Texarkana had a total of \$1,484,040.76 in CDBG resources to address various community needs. These funds included carryover resources in the amount of \$684,786 from prior allocations, \$2,480.76 in Program Income, \$512,000 in Section 108 Loan Funds and \$284,774.00 for the Program Year 2017 allocation. The City expended \$1,385,237.88 leaving an unexpended balance at the beginning of the 2018 program year of \$98,802.88.

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description
Target Areas	3	3	Public Services : Vista, Youth & Life Skills Programs
Downtown Area	9	11	Sidewalk/Bike/Tree Project
Target Areas	13	7	Housing Rehabilitation
Downtown Area	38	38	Hotel Grim Project

Table 4 – Identify the geographic distribution and location of investments

Narrative

Boundaries for Beverly Target Area: Southern border: New Boston Road, also US Hwy 82; Western border: Robinson Road; Northern border: College Drive; Eastern border: Richmond Road to Summerhill Road; Qualified Census Tract 106.

This once thriving community is bordered on all four sides by commercially zoned streets with an interior comprised of older housing stock, and many vacant, boarded buildings. This is an area of minority, elderly, and poverty concentrations. As the Staff works closely with community leaders in the Beverly neighborhood, and it became increasingly clear that residents felt that cleaning up their neighborhood had to begin with literal neighborhood cleanups. The City has committed staff time to this effort as the Beverly Neighborhood Association has taken on the responsibility of the actual cleanups.

The Downtown Area Local Target Area (Tract 105) is sometimes referred to as the Downtown/7th Street Corridor as this is descriptive of the boundaries of the Target Area. It is bounded on one side by the Kansas City Southern Railroad (Front Street) and 7th Street (Martin Luther King Blvd.) on the other. Its eastern and western border are Stateline Avenue, literally the Texas/Arkansas border, on the east side and Lakeside Drive on the other.

Citizens of Texarkana have asked the City to focus on downtown revitalization for at least ten years. Consultation with numerous agencies, public meetings, public hearings, citizen surveys, and votes of the duly elected City Council Members establish a strong consensus for moving forward to arrest the decline of this historic center of the town and revitalize the area's economic potential and potential for providing affordable housing close to city, county, state, federal and non-profit services.

These geographic regions were chosen because they have great potential and great need. These areas are bordered by major transportation routes, which are prime real estate for commercial development. These neighborhoods provide significant opportunity for quality affordable housing. New multifamily units along with the development of new single family housing will provide what these neighborhoods need the most – safe, secure, quality, affordable, housing for families. The combination of affordable rental units and the development of new single family housing will provide families who currently reside in these neighborhoods opportunities to become future property owners. The development of new affordable housing stock will provide opportunities for those families currently locked out of the homeownership market the opportunity to make their initial investment in the American dream of home ownership. Moreover, the economic development potential in these areas can bring what is most needed to sustain these low-mod income areas: jobs.

In PY 2017, the expenditures in the Downtown Target Area consisted of accessibility improvements to area surrounding Randy Sams Outreach Shelter, including sidewalks, bike facilities and tree planting. Improvements to the area designed to help create a suitable living environment around the homeless shelter. Sidewalks with ADA improvements installed at Kidtopia Park in Downtown Area. Design work and construction for New Boston Road sidewalks and ADA improvements were done in Beverly neighborhood. Design work for Robison Road and Rose Hill areas were completed with construction of sidewalks and ADA improvements to be done in PY2018. Housing Rehabilitation Program was implemented in PY2017 with four (4) low-moderate income households being assisted. Public services programs implemented with Texarkana Homeless Coalition – Vista Program designed to provide a one-stop shop for persons who are homeless to receive services needed. Public services program created at Randy Sams Outreach Shelter to provide Life Skills classes to women and children who are homeless and living at the shelter as well as Job Training classes for all residents of the Shelter. Youth Programs were also implemented by Amachi Vision Corp for low-moderate income children. Tutoring services were provided twice a week and Robotics classes provided once a week for 30 students during the month of September. Prior to September, Amachi was preparing for classes, obtaining class space and gathering equipment and supplies to start services. These services will continue in PY2018 and hopefully grow to provide needed services to our city's LMI children. Hotel Grim Project to create low/mod housing in Downtown Area began and will be ongoing throughout at least the next year and will include Section

108 Loan Funds. Section 108 Loan funds were drawn from HUD – Headquarters in preparation of closing with the developer. EN funds were also drawn to repay the HUD – HQ loan plus interest and financing fees.

Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

The City recognizes the importance of leveraging resources. It is estimated that these community development projects will bring \$1.75 in private resources spent in the local economy for each grant dollar invested. Moreover, most projects require substantial private investments at a 9 to 1 ratio, especially the Revolving Loan Fund program for Downtown Business economic development. Matching requirements for other grant programs are met by in-kind donations of labor and/or materials rather than by the use of CDBG funds. Publically owned land or property located within the jurisdiction includes housing lots owned by the city, city parks, and scattered properties located in downtown. This property may be used to promote economic development, provide support for homeless programs, and/or affordable housing in Texarkana, Texas. Publicly owned land may also be used to support public health activities, infrastructure and public services, promoting livability and sustainability within the jurisdiction. The City expects to use CDBG funding as a leveraging tool to support community and economic development within the jurisdiction.

Other grant programs that magnify the impact the City's commitment of CDBG resources and provide significant leverage to CDBG investments in the Downtown and Beverly Target Areas include the:

- \$ 440,000 EPA Brownfields Multi-Purpose Grant
- \$ 900,000 EPA Brownfields Revolving Loan Fund
- \$ 200,000 EPA Brownfields Petroleum Assessment Grant
- \$ 200,000 EPA Brownfields Hazardous Materials Assessment Grant
- \$ 94,000 USDA Farmers' Market Promotions Program
- \$ 100,000 NEA Grant for Downtown redevelopment

Note: Texarkana, Texas is not a HOME entitlement community.

Some tables in the official template for this report contain tables for the HOME program that have been deleted in this report.

CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	300	300
Number of Non-Homeless households to be provided affordable housing units	300	300
Number of Special-Needs households to be provided affordable housing units	300	300
Total	900	900

Table 5- Number of Households

	One-Year Goal	Actual
Number of households supported through Rental Assistance	1,000	1,000
Number of households supported through The Production of New Units	5	0
Number of households supported through Rehab of Existing Units	5	4
Number of households supported through Acquisition of Existing Units	0	0
Total	1,010	1,010

Table 6 - Number of Households Supported

Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

The City's Five Year Consolidated Plan for meeting Housing goals primarily consisted of projects and activities relying on Non-CDBG funding. Significant changes in funding streams the City relied upon for meeting these goals, including both CDBG and Non-CDBG funding, necessitated changes in plans for the 2017 Action Plan and will impact future Action Plans.

In the past, the City has included outcomes associated with projects funded with Non-CDBG funding sources like Texas Department of Housing and Community Affairs in the Five Year Plan and One Year Action Plans. For example, the City included four Housing Rehabilitation projects in the Consolidated Plan funded through TDHCA. Those funds are now not available. Without a replacement funding source, those programs have been removed from the City's expected outcomes. However, even though these

no longer exist as projects in HUD's (Housing and Urban Development) database system due to the way IDIS archives projects associated with these plans, the expected outcomes still appear in this report.

The more significant issue is the decrease in funding in CDBG and Non-CDBG funding programs. This directly impacts real outcomes in Texarkana communities. The City does provide capacity building support for Homeless Coalition members, including Randy Sams Homeless Shelter, ArkTex Council of Governments and Mission Texarkana. The outcomes for these activities are reported as organizations assisted.

Discuss how these outcomes will impact future annual action plans.

Future action plans will incorporate more activities funded by the CDBG program leading to improvements in meeting the goals and outcomes specified in the Five Year Consolidated Plan. The City has submitted a new Consolidated Plan to allow for future annual action plans to specify the use of CDBG funds to address priority needs areas, especially those relating to housing, homelessness, and homelessness prevention activities.

Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

Number of Persons Served	CDBG Actual	HOME Actual
Extremely Low-income	0	0
Low-income	4	0
Moderate-income	0	0
Total	0	0

Table 7 – Number of Persons Served

Narrative Information

No CDBG activities were conducted that required information on income by family size to determine the eligibility of the activity. The Consolidated Plan does include several activities that require the calculation to determine applicant eligibility and these were conducted in the first three years of the Plan. The City provided First Time Home Buyer Assistance Grants Program in Program Year 2017 (October 1, 2017 – September 30, 2018) that require eligibility determination, however, no funds were expended during the year due to no applicants completing home purchase. The City provided Home Rehabilitation Grants Program for four (4) households in Program Year 2017 (October 1, 2017 – September 30, 2018) that required eligibility determination.

CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The priorities for Texarkana in addressing the needs of these population groups include:

- To assist public and nonprofit agencies in providing housing and supportive services to the elderly and frail elderly;
- To assist public and nonprofit agencies in providing housing and supportive services to homeless persons and those “at-risk” of homelessness.
- To assist the Texarkana Homeless Coalition and those agencies that are part of the coalition, serving special needs populations.

The City of Texarkana, Texas is a long-time advocate for ending homelessness. As such, the City is an active participant in the Texarkana Homeless Coalition. Staff lends their expertise and the City contributes countless hours to the assisting the Coalition in its endeavors to reduce duplication of services, benefit from efficient models of service delivery, and create economies of scale. Additionally, the City has partnered with homeless services providers to apply for Continuum of Care and Emergency Solutions Grant funds and works closely with the Texas Homeless Network to ensure Texarkana will one day end homelessness.

CDBG funding was used to meet outcomes associated with the Program Year 2017 Action Plan. Specifically, the City focused on building capacity in non-profits associated with the Homeless Coalition, its partnership with the Texas Homeless Network and Texas Balance of State Continuum of Care.

Future Action Plans will also incorporate the use of CDBG funding to meet goals and objectives related to ending homelessness.

Addressing the emergency shelter and transitional housing needs of homeless persons

Emergency Housing, Transitional Housing and Rapid Re-Housing:

- Randy Sams' Outreach Shelter for the Homeless (emergency shelter for 86 unaccompanied adults) provides services under ESG and CoC grants
- The Salvation Army, Texarkana, Arkansas (9 family rooms for up to 36 people and 25 beds for individual men)
- Domestic Violence Prevention, Inc. (emergency shelter for 17 unaccompanied adults, transitional supportive housing for 60 family members and 14 unaccompanied adults, program

transitioning to Rapid Rehousing model)

- ArkTex Council of Governments (ATCOG) provides services under the ESG grant
- Mission Texarkana provides services under CoC grant

The Randy Sams' Outreach Shelter provides the only available beds for people who are chronically homeless in Texarkana, Texas. The Salvation Army Homeless Shelters for Families, and Unaccompanied Men are located in Texarkana, Arkansas. Their facility is list here because they are the only local provider of shelter for homeless families in the region. Crossing state lines for shelter is problematic for many homeless persons because assistance is usually tied to state of residence.

Mission Texarkana (formerly Texarkana Friendship Center) provides services to the needy and homeless in downtown Texarkana. Mission Texarkana is a non-profit care provider rendering life sustaining assistance to the indigent and job training and placement for able bodied clients without regard to religious preference, political affiliation, sex, race, handicap or other classification. They feed an average of 300 people a day as well as providing groceries for over 20 families daily. Additionally, Mission Texarkana provides Rapid Rehousing to more than forty formerly homeless families through Continuum of Care grant as a partner to the City.

Special Health Services of Texas provides some support for HIV/AIDS patients in the region. Community Health Core (formerly Sabine Valley Health) plans to provide supportive housing and permanent supportive housing to homeless veterans and their families as well as supportive housing for MHMR clientele. Additionally, the City has partnered with homeless services providers to apply for Supportive Housing Funds and Emergency Solutions Grant funds and works closely with the Texas Homeless Network to ensure Texarkana will one day end homelessness.

CDBG funding was used to meet outcomes associated with the Program Year 2017 Action Plan. Specifically, the City focused on providing support through Public Services to non-profits associated with the Homeless Coalition, its partnership with the Texas Homeless Network and Texas Balance of State Continuum of Care. The City worked closely with Randy Sams Outreach Shelter and the Texarkana Friendship Center by administering the Continuum of Care Grant. The City made payments directly to the non-profit providers of Rapid Rehousing and Case Management services.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

The elderly, frail elderly, persons with disabilities, persons with alcohol or other drug addictions, persons with HIV/AIDS and their families, public housing residents, and victims of domestic violence present a range of complex problems that put them at greater risk of severe income limitations and homelessness.

These populations have a much more difficult time finding, securing, and maintaining adequate housing and necessary social services.

The City serves as the fiscal agent for a Continuum of Care (CoC) - Rapid Re-Housing grant administered through Randy Sams Outreach Center and Mission Texarkana. These agencies provided rapid housing and/or case management to approximately 148 individuals, including 29 children under the CoC grant. Of these participants, one head-of-household is a veteran and ten have physical or developmental disabilities.

The program moved from a Transitional Housing model to a Rapid Rehousing model as of March 1, 2015. In both cases, the program meets the needs of these residents by providing case management, counseling, life skills training, and assistance for job seekers. The program assists these persons and families learn self-sufficiency. These formerly homeless persons transition gradually to paying their own rents. They are considered permanently housed at the point that they are paying their own way.

CDBG funding was used to meet outcomes associated with the Program Year 2017 Action Plan. Specifically, the City focused on assisting three (3) non-profits under Public Services. The City worked closely with RSOS, Texarkana Homeless Coalition Vista program and Amachi Vision Corps to provide services such as Life Skills, Job Training and Youth Programs that are designed to improve the lives of homeless persons and provide help in gaining self sufficiency.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The primary goal for serving special needs populations is to assist public and nonprofit agencies in expanding and enhancing their provision of housing and services to the elderly, disabled and dually/multiply diagnosed, persons with HIV/AIDS, victims of domestic violence, and persons with addictions. The City recognizes services required by special-needs populations often overlap the housing needs and supportive services for the homeless as identified and addressed throughout the Consolidated Plan.

CDBG funding was used to meet outcomes associated with the Program Year 2017 Action Plan. Specifically, the City focused on assisting three (3) non-profits under Public Services. The City worked closely with RSOS, Texarkana Homeless Coalition Vista program and Amachi Vision Corps to provide services such as Life Skills, Job Training and Youth Programs that are designed to improve the lives of homeless persons and provide help in gaining self sufficiency. The City made payments directly to the non-profit providers of Public Services.

Future Action Plans will also incorporate the use of CDBG funding to meet goals and objectives related to ending homelessness.

Actions taken to address the needs of public housing

Texarkana, Texas and the Housing Authority of Texarkana (HATT) have made significant, meaningful strides toward ensuring that extremely-low, low-, and moderate-income citizens have access to safe, affordable housing. While these gains are meaningful, the city's goals have not been fully realized.

Public Housing currently has less than a 2% vacancy rate and maintains a Section 8 waiting list in excess of 800 families at any given time. Clearly, there is more work to be done to provide affordable housing in Texarkana, Texas. The City continues to assist the PHA in the acquisition of lots, demolition and clearance. Subsidized housing on the existing PHA site and the surrounding community is a part of the replacement housing. The Rosehill area continues to be a priority for the City, though the emphasis has shifted to the Beverly Target Area where the homes are primarily owner occupied or rentals and not public housing units.

Program Administration funds include time spent working with HATT to ensure quality public housing exists in Texarkana.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

HATT's community centers, an active communications program, and frequent, positive resident engagement encourages residents to seek out and use services offered and participate in the management of public housing in Texarkana, Texas. HATT transitioned to a referral-based system ensuring that public housing residents have access to services provided by federal, state, local, and/or non-profit agencies, including educational resources like GED preparation and computer skills training through the Literacy Council, vocational and job training programs offered through Workforce Solutions, Texarkana Community College, and Texas A&M Texarkana, financial management skills training, child care, and other relevant support services.

These programs help to connect residents to information that can help them to obtain better paying jobs and greater financial literacy. By buying down some of the mortgages of homes built with Hope VI funds, and providing information on home purchasing options to residents, HATT can improve home ownership rates in some of the poorest neighborhoods in the city. Staff continues to work closely with HATT to improve resident engagement and homeownership.

Additionally, the City continues to educate lenders and HATT personnel on the availability of First Time Home Buyer Down Payment Assistance through the City's CDBG program.

CDBG funding was used to meet outcomes associated with the Program Year 2017 Action Plan in Public

Housing as Administrative planning funds. Future Action Plans may incorporate the use of CDBG funding to meet goals and objectives related support of Public Housing.

Actions taken to provide assistance to troubled PHAs

HATT is an exemplary public housing authority and is not designated as troubled.

CR-35 - Other Actions 91.220(j)-(k); 91.320(i)-(j)

Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)

There are many factors that affect the cost and production or maintenance of housing affordable to extremely low-, low-, and moderate-income families (at or below 80% of Median Family Income (MFI)).

An analysis of these factors has aided the City in developing programs that reduce the adverse effects of these constraints on the supply and cost of housing.

Texarkana's policies were enacted to further the public welfare. Building codes and subdivision standards are required by law for the protection and general welfare of the community. These are routinely reviewed. Development impact fees are recovered from the developer to assure that the public costs of new developments are paid by that development. While recognizing the needs to adjust public policies to adapt to changing conditions, the City will continue to review policies periodically to determine whether they have become excessive or represent an unnecessary constraint on the development or maintenance of affordable housing.

The City has consistently addressed the barriers to Affordable Housing. Race and concentrations of poverty can be barriers to affordable housing in communities like Texarkana. Consequently, the City will continue to develop new strategies to ameliorate these types of barriers to affordable housing. The City is implementing the following strategies to address barriers like these:

- Substantial down payments required to purchase new or existing homes – First time home buyer Assistance program, lender education, work with Coalition partners on Financial Education classes; provide educational materials at National Night Out and other community events;
- Availability of credit to low and moderate income persons with credit problems – lender education, work with Coalition partners on Financial Education classes, provide educational materials at National Night Out and other community events;

- Availability of decent affordable single-family units and affordable rental properties – work with developers to redevelop troubled neighborhoods, actively marketing properties that would expand the stock of decent affordable single family homes and rental properties.

Community Development Block Grant funds have been administered at the City of Texarkana, Texas by the Department of Planning and Community Development. In order to more effectively administer this program and meet the goals of the CDBG program, which includes addressing barriers to affordable housing, the City reorganized several departments whose jurisdictions and expertise lend themselves to a more robust program. The Department of Planning and Community Development now incorporates planning, zoning, and economic development along with grants management and community development.

Consideration of barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting affordable housing is integral to the City's efforts to improve the livability of the city. The City of Texarkana considers the impacts of any changes to zoning, fees, taxes, land use controls, growth limitations, and other policies that could impact affordable housing when projects are brought to the City Council for consideration. Each issue is evaluated by professional staff, applicable commissions, and no less than three briefings on every item occur before the duly elected City Council votes on any issue.

The City developed a new Ten Year Comprehensive Plan that will guide the City's policies, taxes, fees, and codes for the next ten years. Any plan passed by the City Council will address barriers to affordable housing. As part of that effort, the City will conduct a new Analysis of Impediments to Fair Housing

Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)

The most significant actions Texarkana has taken to address obstacles to meeting underserved needs has been to reach out and engage residents, renters, and owners of businesses and homes in Texarkana, especially those in the Downtown, Rosehill and Beverly Target areas and continue working closely with the Homeless Coalition.

Having a significant staff presence in troubled communities, working side-by-side to improve the livability of neighborhoods, residents, business owners, and social service agency personnel continues to provide City staff with the background understanding of unfiltered real needs and desires of community members.

Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)

The City of Texarkana emphasizes lead-based paint (LBP) counseling and awareness in all of its programs. The city informs interested persons of homebuyers assistance and housing rehabilitation of lead paint hazards as well as identifying and abating lead-based paint hazards during the housing rehabilitation process. When lead-based paint is identified, the appropriate lead hazard control methods

are incorporated into the rehabilitation project. The City has integrated lead hazard education, evaluation, and reduction activities into its existing housing programs.

The City also maintains a continued focus on the hazards of lead-based paint and the need for lead-based paint testing of potential rehabilitation projects. Additionally, the City has continued to work with public service agencies caring for or providing services to children to reduce lead-based hazards in the community. Based on 2010 information from the Texas Department of State Health Services, 25 out of 1,123 Texarkana children under the age of 6 years tested for elevated blood lead levels were found to have elevated levels at 10mcg/dl or greater.

The following strategies related to the City's CDBG program are ongoing:

- Provide public information and education regarding lead-based paint via the City's website, publications and presentations.
- Integration of lead hazard evaluation and reduction activities into all housing activities or activities that would disturb the ground in potentially lead contaminated areas.
- Provide training and certification opportunities for Staff to manage lead-based paint impacted projects.
- Collaboration with EPA Brownfields Region 6 Office to maintain current information for all Staff involved in CDBG and/or housing projects.

Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)

Texarkana has taken direct action to help reduce poverty in the city. Key actions include:

- Identification of two Target Area in Qualified Census Tracts – Downtown and Beverly
- Emphasis on Economic Development in Downtown and Beverly Target areas. Three loans have been made through the RLF program during the current Con Plan period.
- Economic Development Services is now under Planning and Community Development, ensuring seamless efforts between redevelopment, community development, and economic development.
- Networking: Housing Authority of Texarkana, Workforce Development Office, Local Banking Institutions and the Homeless Coalition to identify local service providers that offer education and job training services, material services, child care services, transportation and other services, the absence of which could prevent poverty level families from securing and keeping steady employment.
- Collaboration: members of the Homeless Coalition, Mission Texarkana, local banking institutions, ATCOG & RSOS - resulted in a robust programs addressing root causes of poverty. These classes include domestic relationships, self-esteem, parenting, education classes (ESL & GED classes), and job search classes and support, including job referral service, a computer lab, resume service, and job interview preparation.

Actions taken to develop institutional structure. 91.220(k); 91.320(j)

The City of Texarkana, Texas coordinates and administers CDBG programs, projects & activities including housing, homelessness prevention, & non-housing community development through its Planning and Community Development Department. Planning and Community Development (PCD) manages an average of 3 million dollars per year in federal state & local funds. The City has reorganized this department to incorporate the City's economic development, planning, zoning, & sustainability functions.

In order to more effectively manage these functions and strengthen institutional structure, the City hired a new departmental director, hired a new city planner and planner II, brought zoning into the department & instituted new grants management procedures for grants tracking & reporting. Current staff continue to obtain training through HUD's CPD office and new staff will also receive training.

Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)

The Department acts as a liaison with other city departments, community groups, public institutions, non-profit organizations & private industry to share information, identify resources & opportunities & coordinate activities to the greatest extent possible. Staff is represented in the local CoC actively participates on the Homeless Coalition & provides capacity building to at least two agencies on the Coalition.

Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)

The City identified the following strategies to overcome any obstacles impediments to affordable housing & is implementing subsequent strategies to address possible barriers:

- Substantial down payments required to purchase new or existing homes – First time home buyer Assistance program, lender education, work with Coalition partners on Financial Education classes; provide educational materials at National Night Out & other community events;
- Availability of credit to low & moderate income persons with credit problems – lender education, work with Coalition partners on Financial Education classes, provide educational materials at National Night Out & other community events;
- Availability of decent affordable single-family units & affordable rental properties – work with developers to redevelop troubled neighborhoods, actively marketing properties that would expand the stock of decent affordable single family homes & rental properties.

CDBG funds are administered by the city's Planning & Community Development department. The city

reorganized several departments whose jurisdictions & expertise lend themselves to a more robust program & now incorporates planning, zoning, economic development, grants management & community development. Consideration of barriers such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees & charges, growth limitations, & policies affecting affordable housing is integral to the City's efforts to improve the livability of the city. The City considers the impacts of any changes to zoning, fees, taxes, land use controls, growth limitations, & other policies that could impact affordable housing when projects are brought to the City Council for consideration. Each issue is evaluated by professional staff, applicable commissions, & briefings on every item occur before the duly elected City Council votes on any issue. The City developed a new Ten Year Comprehensive Plan this year that will guide the City's policies, taxes, fees, & codes for the next ten years. Any plan passed by the City Council will address barriers to affordable housing. The city conducted a new Analysis of Impediments to Fair Housing during the creation of the 2018-2022 Consolidated Plan. The City will continue to:

- Maintain flexibility in zoning and building requirements when appropriate to allow for infill housing development & to provide technical assistance to developers of affordable housing;
- Display posters in city office buildings & provide information on the website;
- Monitor city-sponsored projects for equal access & compliance of the Fair Housing Act & Building Department officials monitor code compliance to Fair Housing standards;
- Hold periodic Public Hearings providing information & requesting public comment on fair housing or related issues;
- Provide homebuyer & homeowner education, including fair housing information;
- Conduct outreach efforts to for-profit & non-profit builders & developers through funding & technical assistance to increase the supply of decent, affordable housing within low to moderate income neighborhoods;
- Meet with local lenders & home builders to encourage the use of non-traditional client loan-qualifying & loan products to better serve the needs of homebuyer households with challenges that preclude conventional qualification;
- Conduct public outreach regarding availability of housing & housing assistance including translation of housing application materials into Spanish, & maintains bi-lingual staff in order to assist applicants and clients who are not English-proficient;
- Support local Continuum of Care efforts for homeless populations;
- Work with local agencies that provide financial case management & credit counseling;
- Research the possibility of adopting a Fair Housing ordinance to ensure that fair housing options are available to its citizens.

CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

The City of Texarkana continuously monitors programs and activities to ensure compliance with City/State/Federal regulations & policies. Monitoring focuses on the following areas:

Financial: PCD & Finance staff work closely to ensure that funds drawn down are used for authorized activities on approved projects. Activities agreements, expense documentation, & approvals must be in place for funds to be expended. The City ensures a system of checks & balances & that staff requesting payments of funds are not authorized to approve them. The City is also subject to an annual single audit, conducted by an independent accounting firm.

Environmental: All projects & individual activities are subject to a review of environmental impacts prior to funding approval. Remediation of impacts is implemented where required & projects unable to meet environmental requirements are abandoned or alternative locations or solutions are sought.

Programmatic: Results &/or impacts are expected of all projects. Staff is charged with monitoring progress toward CDBG program goals on a regular basis. Accomplishments & outcome data is entered into IDIS by staff. Ability to reimburse funds is tied directly to reporting of accomplishments.

Sub-Recipient Monitoring: The City currently has no sub-recipients for the CDBG program.

Labor Standards: The City of Texarkana monitors labor standards for all CDBG funded projects. Labor requirements are included in all bid documents & discussed again during the required pre-construction conference. Contractor payments are not processed until all required forms are submitted & verified to be accurate and correct.

Minority Business Outreach: Purchasing standards are closely monitored to maximize the number of minority & women owned businesses utilized. The City uses the State of Texas Purchasing System when local minority & women owned businesses are not available.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.

The City of Texarkana gave notice that the DRAFT of the Community Development Block Grant 2017 Program Year *Consolidated Annual Performance Evaluation Report (CAPER)* would be available for public review & comment at the dates & times listed below. All interested persons or groups were encouraged

to review the DRAFT CAPER & formally present their comments for inclusion in this report. The CAPER DRAFT could be reviewed during the 15 Day Public Comment Period at the following location during regular business hours:

Comment Period: November 25 – December 10, 2018

Texarkana, Texas City Hall
Department Planning & Community Development
220 Texas Boulevard
Texarkana, Texas 75501

The DRAFT CAPER was also available on the Texarkana, Texas website (www.ci.texarkana.tx.us) for the duration of the comment period.

These meetings were conducted in accordance with the Texas Open Meetings Law (V.T.C.A. Government Code 551) & in accordance with the Americans with Disabilities Act 42 USC 12101 (1991). The facility is wheelchair accessible & handicap parking is available. Requests for sign interpretive services are available upon request, which must be received at least 48 hours prior to the meeting. Spanish translation was available.

Citizen comments are included as an attachment to this document.

CR-45 - CDBG 91.520(c)

Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.

The most significant changes that have occurred in Texarkana's program objectives have been the exclusion of Non-CDBG Funded projects and activities from the Five Year Consolidated Plan & Annual Action Plan.

Moving from city led to volunteer-driven neighborhood association clean-up projects staff at the city have been able to forge stronger relationships that will prove invaluable as the City continues to work at transforming Beverly from a Target Area to a desirable neighborhood.

The short term impact of excluding Non-CDBG funds on the CAPER is the creation of perception that the program is not meeting its targets and goals. In the past, the City has included outcomes associated with projects funded with Non-CDBG funding sources like Texas Department of Housing and Community Affairs to meet Housing goal indicators. For example, the City included four Housing Rehabilitation projects in the Consolidated Plan funded through TDHCA & administered through City staff. Those funds are now not available & the City has been directed to remove those programs from the City's expected outcomes. However, even though these no longer exist as projects in HUD's database system (called IDIS – the Integrated Disbursement & Information System) due to the way IDIS archives projects associated with these plans, the expected outcomes still appear in this report.

Another important change to the City's planning is that the City was able to partner with the Texas Department of Transportation to provide needed ADA improvements to sidewalks & curbs for its downtown infrastructure projects, allowing the City to leverage these CDBG dollars.

Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?

No

[BEDI grantees] Describe accomplishments and program outcomes during the last year.

Attachment

PR26

Public Hearing Notice

DRAFT

Attachment: 2018-142 ATTH 01 CAPER PY2017 draft (1976 : 2018-142 RES Consolidated Annual Performance Evaluation Report)

	Office of Community Planning and Development	DATE:	11-09-18
	U.S. Department of Housing and Urban Development	TIME:	11:26
	Integrated Disbursement and Information System	PAGE:	1
	PR26 - CDBG Financial Summary Report		
	Program Year 2017		

TEXARKANA, TX

PART I: SUMMARY OF CDBG RESOURCES

01 UNEXPENDED CDBG FUNDS AT END OF PREVIOUS PROGRAM YEAR	1,036,426.90
02 ENTITLEMENT GRANT	284,774.00
03 SURPLUS URBAN RENEWAL	-
04 SECTION 108 GUARANTEED LOAN FUNDS	512,000.00
05 CURRENT YEAR PROGRAM INCOME	20,524.68
05A CURRENT YEAR SECTION 108 PROGRAM INCOME (FOR SI TYPE)	-
06 FUNDS RETURNED TO THE LINE-OF-CREDIT	270,802.89
06A FUNDS RETURNED TO THE LOCAL CDBG ACCOUNT	-
07 ADJUSTMENT TO COMPUTE TOTAL AVAILABLE	-
08 TOTAL AVAILABLE (SUM, LINES 01-07)	2,124,528.47

PART II: SUMMARY OF CDBG EXPENDITURES

09 DISBURSEMENTS OTHER THAN SECTION 108 REPAYMENTS AND PLANNING/ADMINISTRATION	811,799.57
10 ADJUSTMENT TO COMPUTE TOTAL AMOUNT SUBJECT TO LOW/MOD BENEFIT	-
11 AMOUNT SUBJECT TO LOW/MOD BENEFIT (LINE 09 + LINE 10)	811,799.57
12 DISBURSED IN IDIS FOR PLANNING/ADMINISTRATION	61,059.74
13 DISBURSED IN IDIS FOR SECTION 108 REPAYMENTS	514,859.33
14 ADJUSTMENT TO COMPUTE TOTAL EXPENDITURES	-
15 TOTAL EXPENDITURES (SUM, LINES 11-14)	1,387,718.64
16 UNEXPENDED BALANCE (LINE 08 LINE 15)	736,809.83

PART III: LOW/MOD BENEFIT THIS REPORTING PERIOD

17 EXPENDED FOR LOW/MOD HOUSING IN SPECIAL AREAS	-
18 EXPENDED FOR LOW/MOD MULTI-UNIT HOUSING	512,000.00
19 DISBURSED FOR OTHER LOW/MOD ACTIVITIES	299,799.57
20 ADJUSTMENT TO COMPUTE TOTAL LOW/MOD CREDIT	-
21 TOTAL LOW/MOD CREDIT (SUM, LINES 17-20)	811,799.57
22 PERCENT LOW/MOD CREDIT (LINE 21/LINE 11)	100.00%

LOW/MOD BENEFIT FOR MULTI-YEAR CERTIFICATIONS

23 PROGRAM YEARS (PY) COVERED INCERTIFICATION	PY: PY: PY:
24 CUMULATIVE NET EXPENDITURES SUBJECT TO LOW/MOD BENEFIT CALCULATION	-
25 CUMULATIVE EXPENDITURES BENEFITING LOW/MOD PERSONS	-
26 PERCENT BENEFIT TO LOW/MOD PERSONS (LINE 25/LINE 24)	0.00%

PART IV: PUBLIC SERVICE (PS) CAP CALCULATION

27 DISBURSED IN IDIS FOR PUBLIC SERVICES	39,664.05
28 PS UNLIQUIDATED OBLIGATIONS AT END OF CURRENT PROGRAM YEAR	-
29 PS UNLIQUIDATED OBLIGATIONS AT END OF PREVIOUS PROGRAM YEAR	-
30 ADJUSTMENT TO COMPUT TOTAL PS OBLIGATIONS	-
31 TOTAL PS OBLIGATIONS (LINE 27 + LINE 28 - LINE 29 + LINE 30)	39,664.05
32 ENTITLEMENT GRANT	284,774.00
33 PRIOR YEAR PROGRAM INCOME	20,095.06
34 ADJUSTMENT TO COMPUTE TOTAL SUBJECT TO PS CAP	-
35 TOTAL SUBJECT TO PS CAP (SUM, LINES 32-34)	304,869.06
36 PERCENT FUNDS OBLIGATED FOR PS ACTIVITIES (LINE 31/LINE 35)	13.01%

PART VI: PLANNING AND ADMINISTRATION (PA) CAP

37 DISBURSED IN IDIS FOR PLANNING/ADMINISTRATION	64,991.48
38 PA UNLIQUIDATED OBLIGATIONS AT END OF CURRENT PROGRAM YEAR	-
39 PA UNLIQUIDATED OBLIGATIONS AT END OF PREVIOUS PROGRAM YEAR	3,931.74
40 ADJUSTMENT TO COMPUTE TOTAL PA OBLIGATIONS	-
41 TOTAL PA OBLIGATIONS (LINE 37 + LINE 38 - LINE 39 + LINE 40)	61,059.74
42 ENTITLEMENT GRANT	284,774.00
43 CURRENT YEAR PROGRAM INCOME	20,524.68
44 ADJUSTMENT TO COMPUTE TOTAL SUBJECT TO PA CAP	-
45 TOTAL SUBJECT TO PA CAP (SUM, LINES 42-44)	305,298.68
46 PERCENT FUNDS OBLIGATED FOR PA ACTIVITIES (LINE 41/LINE 45)	20.00%

LEGAL NOTICE PUBLIC HEARING

The City of Texarkana, Texas hereby gives notice that the DRAFT of the Community Development Block Grant 2017 Program Year *Consolidated Annual Performance Evaluation Report (CAPER)* will be available for public review/comment. The Department of HUD requires all recipients of CDBG funds to submit an annual report. All interested persons or groups are encouraged to review the DRAFT CAPER & formally present their comments for inclusion in this report.

The CAPER DRAFT can be reviewed during the 15 Day Public Comment Period at the following location during regular business hours between November 25 & December 10, 2018:

Texarkana, Texas City Hall

220 Texas Boulevard

Texarkana, Texas 75501

The DRAFT CAPER is also available on the Texarkana, Texas website (www.ci.texarkana.tx.us).

The City will hold a City Council Meeting on November 26, 2018 & Public Hearing for the CAPER will occur on December 10, 2018. Citizens are asked to present their comments at this Public Hearing or to submit written comments to the City by 5:00 p.m. December 10, 2018.

These meetings are conducted in accordance with the Texas Open Meetings Law (V.T.C.A. Government Code 551) & in accordance with the Americans with Disabilities Act 42 USC 12101 (1991). The facility is wheelchair accessible & handicap parking is available. Requests for sign interpretive services are available upon request, which must be received at least 48 hours prior to the meeting.



CITY OF

TEXARKANA
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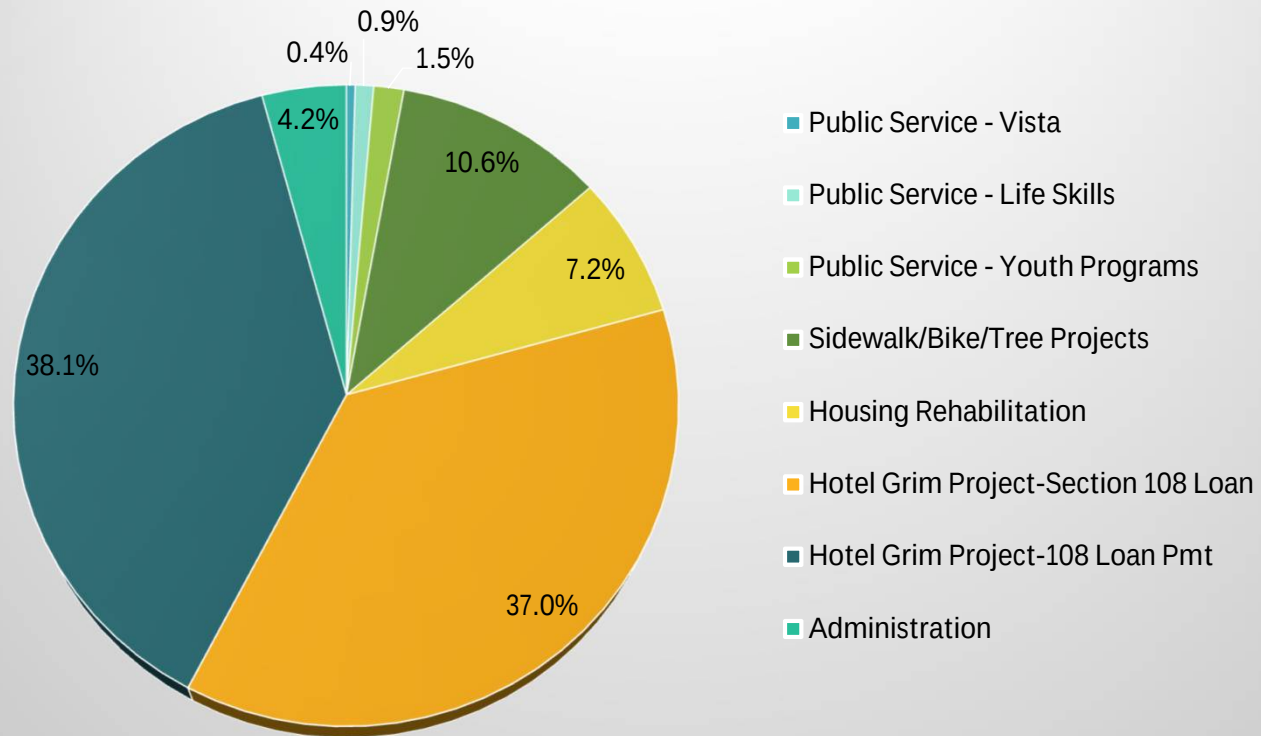
CDBG CAPER Report

CDBG CAPER Report

- The annual report includes expenditures and accomplishments for the 2017 Community Development Block Grant (CDBG) Action Plan (October 1, 2017 -- September 30, 2018)
- Public Comment Period (November 25th – December 10th, 2018)
- Public Hearing on Monday, December 10th



Community Development Block Grant Projects



Project/Activity	Status	Amount Spent
Public Service - Vista	Completed	\$6,001.04
Public Service - Life Skills	Completed	\$12,739.26
Public Service - Youth Programs	Completed	\$20,923.75
Sidewalk/Bike/Tree Projects	Completed	\$147,244.81
Housing Rehabilitation	Completed	\$99,559.91
Hotel Grim Project-Section 108 Loan	Completed	\$512,000.00
Hotel Grim Project-108 Loan Pmt	Completed	\$528,190.13
Administration	Completed	\$58,578.98
TOTAL		\$1,385,237.88



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:

Update Date: 11/20/2018 9:26 AM

Lead Department: Fire Department **Action Officer:** Eric Schlotter, Fire Chief
Subject: Ordinance No. 2018-145 amending Chapter 18 of the Code of Ordinances to allow for residential outdoor burning by permit and amending the master fee list to include a residential outdoor burning fee.

Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

Item Schedule

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

Updates/History of Briefing:

"NOT APPLICABLE"

Executive Summary and Background Information:

The item before you is an ordinance that if passed would amend chapter 18 of the Code of Ordinances to allow for residential outdoor burning by permit.

Residential outdoor burning has not been allowed in the City since 2008. Recently, there has been discussion about how to allow or permit some form of residential outdoor burning to accommodate those citizens who have a difficult time maintaining their property.

If passed this ordinance would allow for a maintenance burning for residential properties by permit, which means property owners could burn the yard waste produced by their property. The changes would require an annual permit which would have a cost of \$50, and a site visit by a member of the Fire Marshal's office prior to approval. During the site visit the Fire Marshal could make site specific stipulations of how the process must be handled, such as requiring a barrel or not allowing burning on certain days. This flexibility will allow the fire department to be as flexible as possible in accommodating the needs of our citizens without compromising safety.

There are no proposed changes to the current commercial development burning permit process or cost.

Potential Options:

- Pass the ordinance as presented
- Reject the ordinance
- Reject and request changes

Fiscal Implications:

If passed this ordinance would result in an increase in general revenue as a result of the new permit fee.

City of Texarkana, Texas

Staff Recommendation:

Staff recommends passage.

Advisory Board/Committee Review:

“NONE”

Board/Committee Recommendation:

“NOT APPLICABLE”

Advisory Board/Committee Meeting Date and Minutes:

“NOT APPLICABLE”

Attachments

- a. 2018-145 ORD Outdoor burning (DOCX)
- b. 2018-145 ATTH 01 Sec. 18.14. Outdoor burning revised (DOC)
- c. 2018-145 ATTH 02 Sec. 18.7. Permit fees not required revised (DOC)
- d. 2018-145 Goals & Perspectives (DOCX)

Staff Coordination

Fire Department	Eric Schlotter 11/19/2018 3:47 PM	Department Head Review	Completed	
Municipal Prosecutor	Jennifer Evans 11/19/2018 3:53 PM	Asst. City Attorney Review	Skipped	
City Attorney 3:53 PM	Jennifer Evans	City Attorney Review	Skipped	11/19/2018
Deputy City Manager - Review	Kyle Dooley Completed	Kyle Dooley 11/20/2018 8:12 AM	Deputy City Manager	
City Manager 8:58 AM	Jennifer Evans	City Manager Review	Completed	11/20/2018
City Council 6:00 PM	Jennifer Evans	Meeting	Completed	11/26/2018

Meeting History

11/26/18	City Council	MOVED FORWARD	Next: 12/10/18
Eric Schlotter briefed this agenda item.			

PUBLISH

ORDINANCE NO. 2018 - 145

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, AMENDING CHAPTER 18, "FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES", OF THE CODE OF ORDINANCES OF THE CITY OF TEXARKANA, TEXAS, BY ADDING A DEFINITION OF "MAINTENANCE BURNING" TO SECTION 18-14(a), AMENDING SECTION 18-14(n) PROVIDING FOR COMMERCIAL OUTDOOR BURNING AND RESIDENTIAL OUTDOOR BURNING EXCEPTIONS, AMENDING SECTION 18-14(p)(6) CLARIFYING THE DISTANCE REQUIREMENT FOR COMMERCIAL OUTDOOR BURNING, AMENDING SECTION 18-7 AUTHORIZING PERMIT FEES, AND AMENDING THE MASTER FEE LIST TO ADD A FEE FOR A RESIDENTIAL OUTDOOR BURNING PERMIT; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council has expressed a desire to amend Chapter 18 of the Code of Ordinances to provide for permitted residential outdoor burning; and

WHEREAS, City Staff submits and recommends amendments to Chapter 18 which would authorize residential outdoor burning, distinguish the permitting for residential outdoor burning from commercial outdoor burning, clarify the applicability of the distance requirement for commercial outdoor burning, authorizing permit fees, and adding a fee for a residential outdoor burning permit to the Master Fee List.

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

SECTION 1: That Section 18-14(a) of the Code of Ordinances of the City of Texarkana, Texas, is hereby amended to add the following definition:

Maintenance burning means the burning of on-site property wastes such as limbs, branches, leaves, pine needles, or other natural waste from routine property clean-up activities.

SECTION 2: That Section 18-14(n) of the Code of Ordinances of the City of Texarkana, Texas, is hereby amended in its entirety to read as follows:

(n) *Exception for permitted burning; generally.* At the discretion of the fire chief or designated representative, outdoor burning may be allowed. Commercial outdoor burning shall only be permitted for the purpose of a "land clearing operation" as defined in this code. Residential outdoor burning shall only be permitted for the purpose of "maintenance burning" as defined in this code. Outdoor burning is not allowed within the fire limits of the city.

SECTION 3: That Section 18-14(p)(6) of the Code of Ordinances of the City of Texarkana, Texas, is hereby amended in its entirety to read as follows:

Attachment: 2018-145 ORD Outdoor burning (1978 : 2018-145 ORD Residential Outdoor Burning Requirements)

PUBLISH

(6) Ensure piles will be not less than 300 feet from any residential, recreational, commercial, or industrial area except those located on the property where burning is taking place (for commercial outdoor burning only).

SECTION 4: That Section 18-7 of the Code of Ordinances of the City of Texarkana, Texas, is hereby amended in its entirety to read as follows:

Sec. 18-7. - Permit fees.

There shall be an annual, nonrefundable fee for any permit authorized by this chapter in an amount as established by the city council, from time to time, and on file in the city secretary's office or city website; provided, however, that no fees shall be collected for any permit required or authorized by any section or provision of the Fire Prevention Code adopted by section 18-4.

SECTION 5: That the Master Fee List is hereby amended to add a Fifty Dollar (\$50.00) fee for residential outdoor burning permits.

SECTION 6: That 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 7: That this Ordinance shall be in full force and effect on January 2, 2019.

PASSED AND APPROVED in Regular Council Session on this the **10th day of December, 2018.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR

Sec. 18-14. - Outdoor burning.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bonfire means a large outdoor fire utilized for recreational or ceremonial purposes.

Chimney means a single opening, moveable, outdoor fireplace design with a stack or chimney to draft air into a fire and smoke to be drawn out the top of the stack.

Extinguished means the absence of any visible flames, glowing coals, heat or smoke.

Land clearing operation means the uprooting, cutting, or clearing of vegetation in connection with conversion for the construction of buildings, rights-of-way, residential, commercial, or industrial development, or the clearing of vegetation to enhance property value, access, or production; land clearing operation does not include the maintenance burning of on-site property wastes such as fallen limbs, branches, or leaves, or other waste from routine property clean-up activities, nor does it include burning following clearing for ecological restoration.

Fire pit means a place or structure designed and approved for the burning of combustible material that does not have a flue, chimney or duct and the combustion gases are emitted directly into the atmosphere.

Maintenance burning means the burning of on-site property wastes such as limbs, branches, leaves, pine needles or other natural waste from routine property clean-up activities.

Open burning means a fire or smoldering combustible material which is not contained completely within an approved container, but shall not include charcoal, gas or electric grills and smokers.

Outdoor fireplace means an enclosed and permanently affixed outdoor fire receptacle which incorporates a permanently affixed chimney or flue and is constructed of brick, rock or other masonry material.

Portable outdoor fireplace means a movable container that is commercially manufactured and designed with a chamber to hold an outdoor fire, used for heat or light, but not for cooking. A portable outdoor fireplace must be equipped with a screen capable of preventing burning embers from escaping.

Recreational fire means a fire for the purpose of cooking, obtaining warmth, or viewing for pleasure.

Responsible party means the property owner or occupant that causes or allows a recreational fire to be ignited or maintained on their property.

- (b) *Prohibition of open burning.* No person may cause, suffer, or allow any open burning within the city limits, except as allowed by permit, recreational fires and firefighter training as specified in this chapter.
- (c) *Exception for recreational fires; generally.* Recreational fires in an approved container are allowed. Any person may burn acceptable fuels in an approved container for the purpose of cooking, viewing for pleasure, or obtaining warmth, on property owned or occupied by such person. Fires must meet the requirements as listed in this section. No permit is required for such fires. Recreational fires are not allowed at any time a burn ban is in effect in accordance with section 18-93. Recreational fires are not allowed within the fire limits of the city.
- (d) *Recreational fires; approved containers.*
- (1) Approved containers for recreational fires are chimneys, fire pits, outdoor fireplaces, and portable outdoor fireplaces.
 - (2) Chimneys and portable outdoor fireplaces must be commercially manufactured for that specific purpose. Outdoor fireplaces and fire pits may be commercially manufactured or site built.

- (3) Approved containers must have enclosed sides made from bricks, concrete blocks, heavy gauge metal or other suitable noncombustible material.
- (4) Approved containers must have a spark arrestor mesh screen to contain sparks. Screens shall be of expanded metal (or equivalent noncombustible material) with openings no larger than one-half inch.
- (5) Width of approved containers must not exceed three feet at its widest point.
- (6) Walls of approved containers cannot exceed two feet in height measured from the floor of the fire area to the top of the wall, excluding any chimney.
- (7) Approved containers must be set upon or built into the bare ground or a noncombustible material such as brick, stone or concrete.
- (e) *Recreational fires; fuels.* Acceptable fuels are clean, dry, seasoned firewood; charcoal; or commercially manufactured compressed fire logs. The following listed items are not acceptable fuels and shall not be burned:
 - (1) Commercial or domestic waste, trash or garbage.
 - (2) Leaves, pine needles or grass clippings.
 - (3) Lumber (treated or untreated), construction debris.
 - (4) Yard debris, unless it meets the definition of firewood or kindling.
 - (5) Flammable or combustible liquids.
 - (6) Electrical insulation, plastics, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber must not be burned.
- (f) *Recreational fires; responsible party responsibilities.* The responsible party shall:
 - (1) Remain in charge of the fire or keep a competent adult in charge of the fire.
 - (2) Ensure flame height is maintained at three feet or less.
 - (3) Ensure that the fire does not create a risk of fire or damage to persons or property.
 - (4) Extinguish all burning material immediately upon receipt of a complaint regarding the permitted burning, subject to the discretion and direction of the fire chief or designee.
 - (5) Have a means of extinguishing the fire on hand at all times while the fire is burning.
 - (6) Ensure the fire is extinguished, leaving only cold ashes, before supervision of the fire ends.
- (g) *Recreational fires; acceptable locations.*
 - (1) For approved containers other than fire pits, a minimum clearance of at least ten feet shall be maintained from buildings, property lines, trees, overhead power lines, combustible fences, combustible decks, or any combustible material.
 - (2) Fire pits shall have a minimum clearance of at least 25 feet from buildings, property lines, trees, overhead power lines, combustible fences, combustible decks or any combustible material.
 - (3) Recreational fires shall not be located over a natural gas line or under overhead utility lines.
- (h) *Recreational fires; fire department authority.* The fire chief or designated representative, shall have authority to enter private property where a recreational fire is burning to ensure the safety of said fire, to investigate a reported nuisance, or to ensure compliance with this section. The fire department representative shall have authority to extinguish or to have extinguished said fire if the fire is creating a danger, is creating a nuisance, or is in violation of this section.
- (i) *Exception for bonfires; generally.* At the discretion of the fire chief or designated representative, bonfires may be allowed. Bonfires must meet the "General Requirements for Allowable Outdoor

Burning" as specified in Texas Commission on Environmental Quality (TCEQ) regulations in the Tex. Admin. Code ch. 30, section 111.219, except that burning shall be allowed outside the time limits specified therein. Bonfires are not allowed within the fire limits of the city.

(j) *Bonfires; permit required.*

- (1) A permit shall be required prior to allowing a bonfire.
- (2) Before issuing a permit, the fire chief or designee shall inspect the proposed bonfire site and ensure compliance with applicable rules.
- (3) Any permit issued under this section shall specify the approved location, the acceptable fuels, the date and time approved, and any special conditions applicable to this bonfire.
- (4) The responsible party receiving the permit shall ensure the permit is available on the scene of the bonfire for the duration of the event.
- (5) The fire chief or designee, at their discretion, may require standby fire services prior to issuing a bonfire permit.

(k) *Bonfires; responsible party responsibilities.* The responsible party shall:

- (1) Remain in charge of the fire or keep a competent adult in charge of the fire.
- (2) Ensure that the fire does not create a risk of fire or damage to persons or property.
- (3) Extinguish all burning material immediately upon receipt of a complaint regarding the permitted burning, subject to the discretion and direction of the fire chief or designee.
- (4) Have a means of extinguishing the fire on hand at all times while the fire is burning.
- (5) Ensure the fire is extinguished, leaving only cold ashes, before supervision of the fire ends.

(l) *Bonfires; fuels.* Acceptable fuels are clean, dry, seasoned firewood; logs, limbs, pallets, lumber (not treated lumber), or other wood products. Small quantities of flammable or combustible liquids approved by the fire chief or designee, may be used for igniting the fire. The following listed items are not acceptable fuels and shall not be burned:

- (1) Commercial or domestic waste, trash or garbage.
- (2) Treated lumber, construction debris.
- (3) Flammable or combustible liquids (except as specified for ignition).
- (4) Electrical insulation, plastics, asphaltic materials, potentially explosive materials, chemical wastes, and items containing natural or synthetic rubber.

(m) *Exception for firefighter training; generally.* Open burning may be conducted for firefighter training. Burning for firefighter training must be conducted in accordance with Texas Commission on Environmental Quality (TCEQ) regulations in the Tex. Admin. Code ch. 30, section 111.205 "Exception for Fire Training".

(n) *Exception for permitted burning; generally.* At the discretion of the fire chief or designated representative, outdoor burning may be allowed. Commercial outdoor burning shall only be permitted for the purpose of a "land clearing operation" as defined in this code. Residential outdoor burning shall only be permitted for the purpose of "maintenance burning" as defined in this code. Outdoor burning is not allowed within the fire limits of the city.

(o) *Outdoor burning; permit required .*

- (1) A permit shall be required prior to allowing outdoor burning.
- (2) Before issuing a permit, the fire chief or designee shall inspect the proposed outdoor burning site and ensure compliance with applicable rules.
- (3) Any permit issued under this section shall specify the approved location, the acceptable fuels, the date and time approved, and any special conditions applicable to this outdoor burning.

- (4) The responsible party receiving the permit shall ensure the permit is available on the scene of the fire for the duration of the event.
- (5) The fire chief or designee, at their discretion, may require standby fire services prior to issuing an outdoor burning permit.
- (p) *Outdoor burning; responsible party responsibilities* . The responsible party shall:
 - (1) Remain on site and in charge of the fire or keep a competent adult on site and in charge of the fire.
 - (2) Ensure the fire does not create a risk of damage to person or property.
 - (3) Immediately upon receipt of a complaint regarding the permitted burning, all burning material shall be extinguished.
 - (4) Have equipment on site to control and extinguish the fire.
 - (5) Not commence burning when wind speed is predicted to be less than six mph or greater than 23 mph.
 - (6) Ensure piles will be not less than 300 feet from any residential, recreational, commercial, or industrial area except those located on the property where burning is taking place (for commercial outdoor burning only).
 - (7) Ensure burning will start no earlier than one hour after sunrise, and be completed no later than one hour before sunset.
 - (8) Ensure the fire will be extinguished if the fire escapes control.
 - (9) Be responsible and liable for any damages.
- (q) *Outdoor burning; fuels* . Only trees, brush, and other plant materials may be burned. The following listed items are not acceptable fuels and shall not be burned.
 - (1) Electrical insulation, plastic, heavy oil, asphaltic material, chemical waste, construction or demolition material, or items that contain rubber.
 - (2) Old tires shall not be used to start fires.
- (r) *Outdoor burning; appeals*. Persons who are denied burning permits may appeal by filing a written notice of appeal with the city secretary. The appeal must be filed within ten days after receipt of the notice of denial. The city manager or his/her designee shall hear and determine the appeal, and the decision of the city manager or his/her designee shall be final.
- (s) *Penalty for violation*. Any person violating any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction, in the municipal court of the city, shall be fined not more than \$2,000.00. Each day of any such violation shall be deemed to be a separate offense.

(Code 1961, § 9-13; Ord. No. 226-08, § 1, 10-27-2008; Ord. No. [2015-135](#), §§ 1—3, 1-25-2016; Ord. No. [2017-045](#), §§ 1—3, 5-8-2017)

2018-145 ATTH 02

Sec. 18-7. - Permit fees not required.

There shall be an annual, nonrefundable fee for any permit authorized by this chapter in an amount as established by the city council, from time to time, and on file in the city secretary's office or city website; provided, however, that no fees shall be collected for any permit required or authorized by any section or provision of the Fire Prevention Code adopted by section 18-4.

(Code 1961, § 9-5; Ord. of 9-11-1956, § 1; Ord. No. 57-67, § 2, 5-8-1967)

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

Version: A

Update Date: 12/4/2018 4:20 PM

Briefing Sheet

Lead Department: Planning and Community Development **Action Officer:** David Orr, Planning & Community Development Director

Subject: Resolution No. 2018-143 considering a Texas Department of Housing and Community Affairs (TDHCA) housing tax credit development application for the Reserve at Cowhorn.

Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

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

NOT APPLICABLE

Executive Summary and Background Information:

The City of Texarkana, Texas, has received requests for resolutions of support for the Texas Department of Housing and Community Affairs (TDHCA) 2019 Competitive 9% Housing Tax Credits Competition.

MVAH Development LLC and Reserve at Cowhorn LLC are requesting a resolution of support from the City of Texarkana and a de minimis financial contribution from the City for the purposes of scoring under the TDHCA 2019 QAP.

This de minimis contribution sought is currently a fee waiver for City permit or tap fees in the amount of \$500, but MVAH Development LLC and Reserve at Cowhorn LLC are open to entertain other options from the City that will meet the funding criteria set in the 2019 TDHCA QAP.

Potential Options:

- Approve
- Deny

Fiscal Implications:

\$500 in fee waivers or other in-kind contribution

Staff Recommendation:

Staff recommends a resolution of "support" for the tax credit application.

The property is properly zoned with Planned Development (PD) Multiple Family-2. However, the applicant should be aware that support for this project will be contingent on the approval of a site plan through the Planning & Zoning process.

City of Texarkana, Texas

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. 2018-143 RES TDHCA Tax Credit Application Reserve at Cowhorn (DOCX)
- b. 2018-143 ATTH 01 MVAH Reserve at Cowhorn Response 11.21.18 (PDF)
- c. 2018-143 ATTH 02 MVAH- Reserve at Cowhorn (Aerial) (PDF)
- d. 2018-143 ATTH 03 MVAH- Reserve at Cowhorn (Zoning) (PDF)
- e. 2018-143 ATTH 04 Harvard JC for Housing - Overcoming Opposition to MF Rental (PDF)
- f. 2018-143 ATTH 05 Harvard Joint Center for Housing Studies Releases State of the Nation (PDF)
- g. 2018-143 ATTH 06 Housing Tax Credit Introduction - MVAH Texarkana Tx (PDF)
- h. 2018-143 ATTH 07 TDHCA Housing Tax Credits & Schedule (PDF)
- i. 2018-143 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	Vicky Coopwood	Department Head Review
Skipped	11/20/2018 11:42 AM	
City Attorney	Jennifer Evans	Review
2:54 PM	Skipped	11/19/2018
Deputy City Manager - Kyle Dooley	Vicky Coopwood	Deputy City Manager
Review	Skipped	11/20/2018 11:42 AM
City Manager	Vicky Coopwood	City Manager Review
11:42 AM	Skipped	11/20/2018
City Council	Jennifer Evans	Meeting
6:00 PM	Completed	11/26/2018

Meeting History

11/26/18 City Council MOVED FORWARD Next: 12/10/18
 David Orr briefed this agenda item. Darren Smith, of MVAH Partners, provided information related to the development of the housing proposal. Richard Reynolds, of Reynolds Realty, made additional comments concerning the proposed project.

RESOLUTION NO. 2018-143

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ISSUING _____ FOR THE SUBMISSION OF AN APPLICATION TO THE 2019 COMPETITIVE HOUSING TAX CREDIT (HTC) PROGRAM THROUGH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) BY RESERVE AT COWHORN LLC, FOR THE PROJECT KNOWN AS "RESERVE AT COWHORN" LOCATED AT 5300 COWHORN CREEK ROAD; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Reserve at Cowhorn LLC has proposed a development for affordable rental housing at 5300 Cowhorn Creek Rd named Reserve at Cowhorn in the City of Texarkana in Bowie County and

WHEREAS, Reserve at Cowhorn LLC has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2019 Competitive 9% Housing Tax Credits for Reserve at Cowhorn.

IT IS HEREBY RESOLVED BY THE City Council of the City of Texarkana, Texas that:

Section 1. As provided for in §11.3(b) of the Qualified Allocation Plan ("QAP"), it is expressly acknowledged and confirmed that the City of Texarkana has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds.

Section 2. The City of Texarkana, acting through its governing body, hereby confirms that it _____ the proposed Reserve at Cowhorn to be located at 5300 Cowhorn Creek Rd in Texarkana in Bowie County and that this formal action has been taken to put on record the opinion expressed by the City of Texarkana December 10, 2018, and

Section 3. In accordance with §11.9(d)(2) of the QAP, the City hereby commits to an in-kind contribution to the Housing in the form of an in-kind contribution such as a grant or contribution of other value for the benefit of the Housing, and

Section 4. This support does not relinquish any procedures or rights the City might have in the rezoning process, nor does it alleviate any requirement to submit and follow all applicable applications, procedures and policies with the City and the Planning and Zoning Commission.

Section 5. For and on behalf of the Governing Body, Bob Bruggeman, Mayor, is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

Section 6. This Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this **10th day of December, 2018.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR



Letter of Interest

November 15th, 2018

City of Texarkana
220 Texas Boulevard
Texarkana, TX 75501

RE: City of Texarkana Support Package – Reserve at Cowhorn

Thank you for the opportunity to provide information for an application of support / de minimis financial support from the City of Texarkana. MVAH Development (“MVAH”) is a leader in mixed-finance and innovative community development. We are proposing partnering with companies and individuals that have worked on dozens of developments



together, including Reserve at Cowhorn LLC (Owner), MVAH Development (Developer / Team Leader), MVAH Management (Property Manager), BDCL Architects (Architect), and the Tidwell Group (Accountant). MVAH Development LLC also confirms that itself and all affiliates **are in good standing with both HUD and TDHCA** and that the Respondent nor any affiliate is currently currently debarred by either HUD or TDHCA. We commit to perform the work expeditiously. Below is a brief outline of MVAH Development’s qualifications.

MVAH Development (MVAH) is a for-profit developer resulting from a 2018 spin-off from **Miller-Valentine Group**, a successful real estate company founded in 1963. MVAH is an experienced developer of multifamily affordable housing. MVAH is a Cincinnati and Charlotte-based, nationally recognized, affordable housing company. MVAH consists of the principals and key development staff of the affordable housing branch of Miller-Valentine Group. Affordable Housing Finance magazine ranked MVAH as 3rd on the list of the Top 50 Affordable Housing Developers and 34th of the Top 50 Affordable Housing Owners in 2016.



MVAH began developing affordable housing in 1993. Since then MVAH has developed more than 7,000 affordable housing units ranging across a broad spectrum of housing types: multi-story apartment properties for families and seniors, villas, single-family developments, rehabs, adaptive reuse of existing buildings in large and small communities. MVAH has a singular focus on developing quality affordable housing for those who need it most. This includes over 85 affordable housing properties in 15 states, including a track-record of success in the State of Texas.

MVAH has received multiple awards in recognition of its successful affordable housing development business. We creatively approach the financing of projects, using multiple sources of funding as a matter of course to supplement awards of tax credits. These include HOME, FHLB's Affordable Housing Program, HUD and USDA programs, NSP and many others. MVAH has built strong, ongoing relationships with key lenders, syndicators, Housing Finance Agencies, and other public agencies that allow them to identify solutions to complex financing issues, secure the funding, and develop high quality development.

MVAH has dedicated itself to be the partner of choice for innovative and active governments and institutions. Cities, Housing Authorities, faith-based institutions, and key community stakeholders such as the Medina Metropolitan Housing Authority, Fort Worth Housing Solutions, Fort Worth Housing Finance Corporation, Housing Authority of the City of El Paso, the cities of Dayton and Delaware, OH, as well as others have chosen MVAH Development as their partner when undertaking complex new projects. We differentiate ourselves by our commitment to execute on community goals such as local hiring, green environmental standards, contextual design, collaboration in planning, development and service provision, partnership development and our ability to execute developments that help implement communities' revitalization plans which directly benefit the neighborhoods in which we work. The result has been recognition for these communities and for our partners which helps accelerate the momentum of progress and the community's enthusiasm for revitalization. We believe our success is measured by the legacy we create in the communities we serve, and our development team is committed to development for the City of Texarkana.

MVAH Development provides guarantees on equity, debt, and construction completion for the large majority of its affordable housing developments. Additionally, MVAH Development prides itself in being a stakeholder in the communities in which we develop. MVAH owns a large percentage of the affordable housing units we develop, meaning MVAH has a proven track record of operating affordable housing properties through lease-up, stabilization, and beyond. MVAH Development leverages its relationship



with banking institutions and if necessary has access to lines of credit and pre-development capital/loans.

Should you have any questions or concerns please do not hesitate to contact us. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B. McGeady', is written over a light blue horizontal line.

Brian McGeady
Managing Partner

Primary Contact Name: Darren Smith, SVP of
Development

Address: 8506 Carrie Lane, Rowlett, Texas 75089

Phone Number: 214.316.3107 Fax: N/A

Email Address: Darren.smith@mvahpartners.com

Address: 9100 Centre Pointe Drive, Suite 210, West
Chester, OH 45069

Phone Number: 513.964.1141 Fax: N/A

Email Address: brian.mcgeady@mvahpartners.com

Alternate Contact Name: Brian McGeady, Managing
Partner



Funding Request

MVAH Development LLC and Reserve at Cowhorn LLC are requesting a resolution of support from the City of Texarkana and a de minimis financial contribution from the City for the purposes of scoring under the TDHCA 2019 QAP.

This de minimis contribution sought is currently a fee waiver for City permit or tap fees in the amount of \$500, but MVAH Development LLC and Reserve at Cowhorn LLC are open to entertain other options from the City that will meet the funding criteria set in the 2019 TDHCA QAP.



Experience Certificate / Statement

Development Team Overview

Developer, MVAH Development LLC (Team Leader)

MVAH Development will lead the Development Team. MVAH Development works closely with MVAH Management, BDCL Architects, and the Tidwell Group. This highly experienced, integrated team enables the successful (high quality, on time, and within program requirements) execution of multiple tax credit and other housing related transactions at various stages in the development process each year, across multiple states.

The *MVAH Development* team has demonstrated capacity to successfully meet program guidelines on all developments currently in the development process, under construction, and in the future business pipeline. This experience includes a half-dozen developments financed by TDHCA, and an understanding of Texas and local requirements. MVAH Development has approximately 20 employees and 3 will be dedicated to the proposed projects. These individuals are Darren Smith (Developer) and Justin Gregory (Financial Analyst). Darren will be Texas based, primarily working out of Dallas. Justin will be based out of Cincinnati.

Darren Smith, Head of Development – Southwest Region, MVAH Development

Throughout Darren's career, he has been successful in executing more than \$1 Billion in total development cost of multi-family housing projects throughout the country. His ability to work with non-profit, government agencies, and for-profit partners has been instrumental in his success. His experience has involved projects that included but not limited to traditional bank financing, HUD, Freddie, Fannie, and loan assumptions.



Other programs essential in his success include LIHTC Section 42, Workforce Housing structures, Tax-Exempt Bond Financing, HOME funds, CDBG funds, Historic Preservation, Brownfield credits, Solar Energy credits, and city & county subordinate funds. Darren has been involved in all facets of the development process including site selection, strategic planning, feasibility analysis, site contract & acquisition, entitlements & zoning changes, negotiations with all third-party professionals. Focused on



bringing projects in on-time and on-budget begins with identification of General Contractors, bidding, and managing construction through completion all while strategically developing and implementing a lease-up and stabilization plan. Focused on fairness, Win-Win situations creates the best environment when issues inevitably occur. Team is always the best approach. Working within the LIHTC development environment, Darren will utilize his skill set and outreach experience as the HUB within the development. Through Auxano Development, LLC not only will Darren serve as the HUB, he will also bring his 20 plus years affordable/workforce development experience to the Team.



Justin Gregory, Financial Analyst, MVAH Development

Joining MVAH in 2014, Mr. Gregory is a financial analyst in the Southwest and Southeast region of the United States for MVAH Development. Justin is responsible for the underwriting and day-to-day management of lender and investor relations for developments that are headed by Darren.

Mr. Gregory has been involved with the development of approximately 1,000 multi-family housing units consisting of 9% LIHTC affordable housing, and 4% bond financed affordable housing. Justin is based in Cincinnati, Ohio and will serve as an additional point of contact for the development team and as the person who will coordinate with Investors and Lenders.

Justin holds a Bachelors of Business Administration in Economics and Finance from the University of Dayton.

Brian McGeady, Managing Partner, MVAH Development

Mr. McGeady guides the short and long-term acquisition and development activities of MVAH Management and Development, overseeing the affordable housing operations in over 18 states. He is responsible for strategic planning, financing, feasibility analysis, and the creation of strategic housing partnerships with non-profit and for-profit organizations.

Mr. McGeady joined MVAH in 1999 where he has been involved in the development and financing of more than 6,500 apartment units in Ohio, Indiana, Pennsylvania,





Michigan, Tennessee, Kentucky, Iowa, and North Carolina. Brian is based in Cincinnati and currently has time commitments in overseeing MVAH Development's development pipeline.

Adding to his experience, he spent nearly 2 years with Paramount Financial Group underwriting more than \$150 million of equity investment for tax credit properties. Brian's role for the development will be to provide an additional point of contact for the developer services. Brian has the capacity to be an additional point of contact for this conversion process and to offer strategic advice to the other development partners.



Michael Riechman, Managing Partner, MVAH Development

Michael Riechman is founding member and Managing Partner of MVAH Management and Development, an affordable housing developer, owner, and operator. Prior to MVAH Partners, he was a member of the Executive Team of Miller-Valentine Group and responsible for the Investment Management platform that includes capital raising, investment structuring, investor relations, property management, asset management, accounting and compliance.

Prior to joining Miller-Valentine, Michael was a Senior Managing Director and head of the Affordable Housing equity group at Centerline Capital Group. Prior to Centerline, he was with RBC Capital Markets where he spent eight years, most recently as Managing Director responsible for tax credit investments. There he led the tax credit syndication platform that included: originations and syndications, investments, pricing and structuring. The syndication platform had an annual investment volume of approximately \$600 Million.



Manager, MVAH Management LLC (Management Company)

MVAH Management will work with MVAH Development to facilitate its management of the development projects, including lease-up through project stabilization.

MVAH Management has been managing LIHTC properties since 1994. It currently manages over 5,000 units, over ninety-five



percent of which are restricted affordable units. MVAH Management manages all developments that MVAH Development currently owns. MVAH Management and Development share key principals and leadership, to give both companies a focused goal and vision. MVAH Management does manage several properties that have mixed-income units and a mixed-income component. MVAH Management, is responsible for compliance with regulations governing property management related to all housing funding programs utilized in MVAH developments, including LIHTC, NSP, HOME, RAD, Section 811, Section 8, 221(d)(4) and other HUD programs.

MVAH Management believes that proper training of its property managers is critical to a property's success and is heavily invested in training its property managers on an ongoing basis. MVAH Management is knowledgeable of TDHCA property management and compliance requirements and currently third party manages several properties in Texas. MVAH Management is currently in good standing with TDHCA and there are no barriers to the Development Team receiving awards of tax credits in Texas. MVAH Management's Director of Regulatory Compliance will help oversee operations to ensure that TDHCA and HUD agency requirements are met. Regional property management staff assigned to the Texas sub-region will oversee the staffing and operations of these projects. They have a staff able and ready to work on these developments.

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Architect, BDCL Architects

Formed in January of 2018, BDCL Architects, PC was created to provide the highest level of Architecture support and service for MVAH Development - one of the leading developers and managers of affordable housing in the country. The BDCL team's experience represents a wide breadth of knowledge in both the market-rate and affordable housing industries.

For almost 20 years, BDCL team members have been designing housing for residents which include projects across a broad spectrum of housing. This includes types such as single-family homes, townhomes, senior villas, multi-story senior & family, garden walkups, and adaptive reuse.



BDCL Architects is owned and managed by Kirk Paisley. He utilizes his knowledge of over a decade of experience to reach success in both tax credit awards and completion of low-income housing tax credit projects. Their only client is MVAH Development; allowing BDCL to give focus specifically to MVAH Development's pipeline.

Kirk Paisley, AIA, CSI, CDT, LEED AP, President and Owner, BDCL Architects

Kirk runs all day to day activities of the firm. Over nearly the past 20 years, Kirk has been working on housing projects for residents including the past 12 years focused on affordable housing projects in 16 different states. During that time Kirk worked as a third-party consultant for the largest tax credit syndicator in Ohio serving as a construction inspector on LIHTC projects throughout the state. Kirk brings with this experience in affordable housing his expert knowledge in the topics of sustainability, accessibility and building codes. He utilizes these skills to manage the BDCL team while they bring projects to fruition.



Accountant, Tidwell Group

Today, Tidwell Group is widely recognized as a national provider of audit, tax and consulting services to several industries across the country. Tidwell Group continues to pursue the mission of growing and protecting client interests. Surviving various economic downturns and the challenges and opportunities of organic growth, Tidwell Group has emerged with a strong position in the accounting industry as a trusted advisor in the business arena.

Tidwell currently is the sole auditor and accounting consultant firm that MVAH Development utilizes for its entire development pipeline and portfolio. Tidwell Group has a regional office located in Austin and provides all 10% test, cost certification packages, and portfolio auditing services that MVAH Development uses for its Texas developments. This has proven to be a strong partnership as both firms





use their Texas specific expertise to deliver documentation to TDHCA that meets its requirements. Tidwell currently provides services for all 85+ developments in MVAH's portfolio.

J. Barry Tidwell, CPA, CVA, Firm Managing Partner, Tidwell Group

J. Barry Tidwell is the Managing Partner of Tidwell Group. At Tidwell Group, Barry is responsible for resource allocation, acquisition of talent and expertise and client service within the firm and industries in which the firm focuses.

Prior to his current position, Mr. Tidwell was the Managing Principal of the Birmingham Office of Reznick Group, a top 12 accounting firm in the United States. Mr. Tidwell was the CEO of Tidwell DeWitt LLC, a regional business advisory and accounting firm, named the fastest growing accounting firm in the United States in 2007 by Inside Public Accounting.

He has numerous years of experience in public accounting and consulting with both regional and local accounting firms, as well as joint ventures with international public accounting firms. Barry leads the firm's National focus and spends his time on capital markets, strategic mergers, tax planning, and transactions-with a concentration and specialty in the tax credit arena. He works to continually structure mergers and acquisitions to achieve maximum benefit for the clients and investors. This includes consulting in buying and selling GP and LP interests.

MVAH Owner / General Partner Portfolio of TEXAS Developments 2012 - 2018

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Dewetter Two (RAD)	El Paso, TX	TX	178	Rad Conversion / Acq. Rehab	\$39,143,344	2018	4% LIHTC, Bonds, Freddie TEL, RAD HAP
Sandoval Two (RAD)	El Paso, TX	TX	274	Rad Conversion / Acq. Rehab	\$49,934,543	2017	4% LIHTC, Bonds, 221(d)(4), RAD HAP Contract
Cramer Three (RAD)	El Paso, TX	TX	426	Rad Conversion / Acq. Rehab	\$97,115,884	2017	4% LIHTC, Bonds, 221(d)(4), RAD HAP Contract
Reserve at Hagan	Whitehouse, TX	TX	72	New Construction Market-Rate Units	\$12,140,501	2016	9% LIHTC, RD 538
Reserve at Quebec	Fort Worth	TX	296	New Construction Market-Rate Units	\$46,875,362	2015	9% LIHTC, HOME
Reserve at Engel Road	New Braunfels	TX	96	New Construction	\$16,325,484	2015	9% LIHTC, HOME
Oak Ridge Apartments	Nolanville	TX	48	New Construction	\$6,908,205	2013	9% LIHTC, HOME
Reserve at McAlister Senior Living (RAD)	Fort Worth	TX	124	New Construction / Market-Rate Units	\$17,512,161	2013	9% LIHTC
Silversage Point at Western Center (RAD)	Fort Worth	TX	120	New Construction	\$17,340,454	2012	9% LIHTC

**MVAH Owner / General Partner Portfolio of Comparable Developments
2010 - 2018**

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Booneville Homes	Booneville, IN	IN	44	New Construction	\$10,818,001	2018	9% LIHTC, FHLB AHP, IHCD Development
Cicero Senior Lofts	Chicago, IL	IL	62	New Construction	\$20,498,287	2018	9% LIHTC, Chicago HOME
Francis Senior Lofts	Jackson, MI	MI	45	New Construction	\$9,151,579	2018	9% LIHTC, FHLB AHP
Broadway Lofts	Gary, IN	IN	32	New Construction	\$9,406,754	2018	9% LIHTC, Gary HOME, IHCD Development Fund, RHF Funding, FHLB AHP
Omega Senior Lofts	Dayton, OH	OH	81	New Construction	\$13,587,247	2018	9% LIHTC
Oregon Senior Lofts	Dayton, OH	OH	81	New Construction	\$13,735,443	2018	9% LIHTC, FHLB AHP
RiverWorks Lofts	Riverside, OH	OH	61	New Construction	\$12,166,168	2018	9% LIHTC, HDAP, Abatement Loan, HOME Loan, NeighborWorks Loan
Dewetter Two (RAD)	El Paso, TX	TX	178	Rad Conversion / Acq. Rehab	\$39,143,344	2018	4% LIHTC, Bonds, Freddie TEL, RAD HAP Contract

**MVAH Owner / General Partner Portfolio of Comparable Developments
2010 - 2018**

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Cypress Lofts	Cypress Lofts, IA	IA	51	New Construction / Market-Rate Units	\$9,591,632	2017	9% LIHTC, Workforce Housing Credit, NeighborWorks Grant, Abatement Loan
Enclave II	Winston-Salem, NC	NC	96	New Construction	\$14,351,264	2017	9% LIHTC, NSP, HOME Loan, WHLP Loan
Hampshire Landing II	Joplin, MO	MO	48	New Construction / Market-Rate Units	\$7,411,024	2017	9% LIHTC, MHDC Perm Loan
Sandoval Two (RAD)	El Paso, TX	TX	274	Rad Conversion / Acq. Rehab	\$49,934,543	2016	4% LIHTC, Bonds, 221(d)(4), RAD HAP Contract
Cramer Three (RAD)	El Paso, TX	TX	426	Rad Conversion / Acq. Rehab	\$97,115,884	2016	4% LIHTC, Bonds, 221(d)(4), RAD HAP Contract
4th Avenue Lofts	Clinton, IA	IA	43	New Construction Market-Rate Units	\$9,233,675	2016	9% LIHTC, Workforce Housing Credit, TIF Grant
Carriage Trails II	Dayton, OH	OH	43	New Construction	\$9,334,968	2016	9% LIHTC
Harrison Lofts	Muscatine, IA	IA	52	New Construction Market-Rate Units	\$9,780,987	2016	9% LIHTC, Workforce Housing Credit, TIF Grant

**MVAH Owner / General Partner Portfolio of Comparable Developments
2010 - 2018**

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Renaissance Pointe	Fort Wayne, IN	IN	50	Acq. Rehab.	\$14,470,142	2016	HOME, IHCD Development Fund, FHLB AHP, 9% LIHTC, Historic Tax Credits
Reserve at Hagan	Whitehouse, TX	TX	72	New Construction Market- Rate Units	\$12,140,501	2016	9% LIHTC, RD 538
Riverside Senior Lofts	Dayton, OH	OH	48	New Construction	\$9,287,163	2016	9% LIHTC, OHFA Loan, HOME Loan
South Court Senior Villas	Medina, OH	OH	40	New Construction	\$9,375,485	2016	9% LIHTC, OHFA Loan
Vine Street Lofts	Jasper, IN	IN	62	Acq. Rehab.	\$13,680,726	2016	9% LIHTC, Dubois County - EDIT, City of Jasper Fund, IHCD Development Fund, Indiana IEDC Fund
Reserve at Quebec	Fort Worth	TX	296	New Construction Market- Rate Units	\$46,875,362	2015	9% LIHTC, HOME
Centerville Senior Lofts	Centerville	IA	44	New Construction / Market-Rate Units	\$7,334,029	2015	9% LIHTC, HOME, Senior Revolving Loan, Workforce Housing Credit

**MVAH Owner / General Partner Portfolio of Comparable Developments
2010 - 2018**

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Keokuk Senior Lofts	Keokuk	IA	45	New Construction / Market-Rate Units	\$7,734,561	2015	9% LIHTC, HOME, Senior Revolving Loan, Workforce Housing Credit
Lofts at Jasper	Jasper	IN	67	New Construction	\$13,020,776	2015	9% LIHTC, IHCD, Development Fund, AHP
Market Street Lofts	East Liverpool	OH	45	New Construction	\$9,269,398	2015	9% LIHTC
Mulberry Street Properties	Harrisburg	PA	50	New Construction	\$13,124,060	2015	9% LIHTC
Reserve at Engel Road	New Braunfels	TX	96	New Construction	\$16,325,484	2015	9% LIHTC, HOME
Southridge Senior Lofts	Des Moines	IA	52	New Construction / Market-Rate Units	\$8,906,949	2015	9% LIHTC, HOME, Senior Revolving Loan, Workforce Housing Credit, Polk County Housing Trust Fund
Whitehouse Townhomes	Whitehouse	OH	55	New Construction	\$11,059,038	2015	9% LIHTC
Burkett Place	North Strabane	PA	48	New Construction	\$10,408,869	2014	9% LIHTC, NeighborWorks, Historic Tax Credit, HIT Foundation
Cape's Landing Apartments	Fayetteville	NC	96	New Construction	\$11,602,660	2014	9% LIHTC, North Carolina State Tax Credit
Galena Estates	Galena	KS	40	New Construction	\$6,659,552	2014	9% LIHTC, AHP
Morton Senior Residence	Morton	IL	61	Acq. Rehab.	\$9,932,741	2014	9% LIHTC

**MVAH Owner / General Partner Portfolio of Comparable Developments
2010 - 2018**

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Residences at Eagles Point	Eaton	OH	40	Acq. Rehab. / Mixed Use	\$9,709,856	2014	9% LIHTC
Roosevelt Homes II	Dayton	OH	30	New Construction	\$9,466,044	2014	9% LIHTC
The Lofts at St. Joseph's	Huntingburg	IN	45	New Construction	\$8,587,910	2014	9% LIHTC, AHP, IHCD Development Fund
The Reserve at Davisson Run	Clarksburg	WV	35	New Construction	\$7,529,956	2014	9% LIHTC, HOME,
Ashley Grove Apartments	Mount Orab	OH	43	New Construction	\$7,812,082	2013	9% LIHTC, RD 538
Harbor Town Landing	Perrysburg	OH	69	New Construction	\$10,948,990	2013	9% LIHTC, RD 538 Loan
Newton Senior Residence	Newton	IA	53	New Construction	\$8,479,362	2013	9% LIHTC, AHP, HOME, City of Newton
Oak Ridge Apartments	Nolanville	TX	48	New Construction	\$6,908,205	2013	9% LIHTC, HOME
Park Lofts at Huntington	Huntington	IN	59	New Construction	\$11,444,505	2013	9% LIHTC, City of Huntington HOME, IHCD Development Fund
Reserve at McAlister Senior Living (RAD)	Fort Worth	TX	124	New Construction / Market-Rate Units	\$17,512,161	2013	9% LIHTC



Brief Financing Narrative / Plan

There will be a permanent mortgage (first lien position) in the amount of \$2,250,000. The interest rate will be 6.00%, amortized over a 30-year period with a 30-year term.

The equity will be advanced from a tax credit investor in the amount of \$13,798,620. The syndication proceeds are based on a price of \$0.92 per dollar of tax credits, use of the 9% rate, a 130% basis boost, and a 99.99% ownership interest, applied to the projected allocation of \$1,500,000.

Any shortfall between the sources and uses of funds will be filled by the developer deferring a portion of the developer fee to make the development financially feasible. The payment of the developer note will be based on the cash flow of the development and will not bear interest. It is anticipated that the deferred developer note will be in the amount of \$461,279 and will have a term of 12 years.

**RESERVE AT COWHORN
GENERAL INFORMATION**

File Name:	M:_U_Drive\Residential\Potential Deals\2019\Texas\Reserve at Cowhorn\Texarkana Support Application\[100318 Reserve at Cowhorn Road.xlsx]		
Analyst:	Gregory		
Developer:	Smith		
Project Name:	Reserve at Cowhorn		
Project Type:	New Construction		
Credit Type:	Low Income		
Projections Start Date	12/01/19	Depreciation	
Base Year	2019	Building	27.5
Construction Start	12/01/19	Tax Exempt Use, disproportionate allocation	-- -
Construction Completed/Placed in Service	03/01/21	Residential Personal Property	5.0
Construction Period in months	15	Site Improvements	15.0
Earlier of Rent Up Begins or First Building Delivered	12/01/20	Commercial % of Total Building	0.00%
Last Unit Occupied	08/28/21	Bonus Depreciation	No 0.00%
Sales Assumptions		Credit Prices	<u>Price</u>
Projections Sale Date	12/31/19	Federal Low Income Credit	Yes 0.9200
Cap Rate	7.5%	Federal Historic Credits	No
Sales Cost	3.0%	State Low Income Credits	No
Sale Assumption Used in Projections	Dollar Over Mortgage	State Historic Credits	No
Total Number of Units	84	Credit Rate	% <u>Date</u>
Total Revenue Producing Units	84	Federal Low Income Credit	9.00%
Number of Residential Buildings	4		
Number of Community Buildings	1	Tax Credit Begins	
Tax Rate	21.00%	Federal Low Income Credit	Dec-21
Tax Rate - Sale	21.00%	Low Income Tax Credit Allocation	
General Partner	Tax Exempt?	Maximum Credits Allowed	1,408,905
	No	Do HUD 221 D3 Limits Apply to the Basis?	No
		QCT/DDA	Yes
		Applicable Fraction (Lower of the Unit/Sq Ft Percentage)	100.00%
		Use 266ii Election to Calculate Const. Interest	no
	Escalation	Vacancy	
	Initial Year	Initial Year	
LIHTC Rental Income	0.00%	0.00%	
Market Rate Income	N/A	N/A	
Commercial Income	N/A	N/A	
Other Income	0.00%		
Operating Expenses	0.00%		

**RESERVE AT COWHORN
SOURCE AND USE OF FUNDS**

Description		% of Total Sources	Rate	Term (Months)	Amortization	Monthly Debt Service	Annual Debt Service
Limited Partner- Historic Tax Credit Equity	-						
Limited Partner- Low Income Housing Tax Credit Equity	12,960,629	82.70%					
Perm	2,250,000	14.36%	6.00%	360	360	13,490	161,879
Deferred Developer Fee	25.76% 461,279	2.94%	0.00%	180	180	2,563	30,752
Total Sources:	<u>15,671,908</u>	<u>100.00%</u>					

	Per Unit	Acquisition Basis	Low Income Eligible Const/Rehab Basis
Acquisition Costs			
Building Acquisition	-	-	-
Land	1,383,030 16,465	-	-
Construction Costs			
Residential Structures	8,235,485 98,041	-	8,235,485
Non - Residential Structures	-	-	-
On-Site Improvements	-	-	-
Off-Site Improvements	-	-	-
Personal Property	-	-	-
Construction Contingency	5.00% 411,774 4,902	-	411,774
General Requirements	518,835 6,177	-	603,156
Builder Profit	518,835 6,177	-	603,156
Builder Overhead	172,945 2,059	-	201,052
Water / Sewer / Impact Fees	100,000 1,190	-	100,000
Builder's Risk Insurance / Bond(s)	120,000 1,429	-	120,000
Permits & City Fee	55,000 655	-	55,000
Transaction Costs			
Architectural Fees	295,736 3,521	-	295,736
Engineering Fees	125,000 1,488	-	125,000
Third Party Studies (Enviro / Historic)	35,000 417	-	35,000
Taxes During Construction	100,000 1,190	-	100,000
Soft Cost Contingency	100,000 1,190	-	100,000
Cost Certification / Audit	40,000 476	-	40,000
Legal - General Legal	60,000 714	-	60,000
Legal - Partnership and Related	60,000 714	-	-
Tax Credit Fees - Reservation	56,356 671	-	-
Tax Credit Fees - Compliance	-	-	-
Tax Credit Fees - Application	4,120 49	-	-
Syndication	25,000 298	-	-
Market Study	7,500 89	-	7,500
Appraisal	7,500 89	-	7,500
Building Inspection Fee	750 9	-	-
Extension Fee	2,500 30	-	-
Construction Inspections	27,600 329	-	27,600
Materials Testing	63,000 750	-	63,000
Financing Costs			
Perm Origination Fee	154,606 1,841	-	-
Construction loan orig fee	125,200 1,490	-	125,200
Title & Recording - Construction & Perm	67,125 799	-	-
Horizon Predevelopment Loan Interest	20,000 238	-	20,000
Operating Reserve	254,311 3,028	-	-
Construction Interest	498,708 5,937	-	483,780
Other Costs			
New Construction/Rehab - Developer Fee	1,790,991 21,321	-	2,004,000
Rent Up	75,000 893	-	-
Marketing	35,000 417	-	-
Clubhouse Furniture	120,000 1,429	-	120,000
Supportive Service Start Up	5,000 60	-	-
Total Uses:	<u>15,671,908 186,570</u>	<u>-</u>	<u>13,943,939</u>

Total Construction Contract Costs

9,566,100

\$626,847
\$2,028,000 \$709,800

The estimates of costs set forth in this document are based on current estimates of labor and materials generally available in the market. These costs are not guaranteed and are subject to change at any time and without notice. The owner acknowledges it has made its decision on this project based on its own, independent evaluation of the proposed project.

11/21/2018

**RESERVE AT COWHORN
OPERATING ASSUMPTIONS - INCOME**

LIHTC Rental Income

Apartment	Type	Baths	# of Units	Sq. Ft./Unit	Total Sq. Ft.	% of AMI	Max Gross Rent	Utility Allow	Actual Net Rent	Actual Gross Rent	Rent Per Sq/Ft	Annual Rent/Unit	Annual Rent/Unit Type
One Bedroom		1.0	2	763	1,526	30%	318	75	243	318	0.318	2,916	5,832
One Bedroom		1.0	7	763	5,341	50%	530	75	455	530	0.596	5,460	38,220
One Bedroom		1.0	7	763	5,341	60%	636	75	561	636	0.735	6,732	47,124
					-		-	-	-	-	-	-	-
Two Bedroom		2.0	5	967	4,835	30%	381	100	281	381	0.291	3,372	16,860
Two Bedroom		2.0	18	967	17,406	50%	636	100	536	636	0.554	6,432	115,776
Two Bedroom		2.0	21	967	20,307	60%	763	100	663	763	0.686	7,956	167,076
					-		-	-	-	-	-	-	-
Three Bedroom		2.0	3	1,141	3,423	30%	441	125	316	441	0.277	3,792	11,376
Three Bedroom		2.0	10	1,141	11,410	50%	735	125	610	735	0.535	7,320	73,200
Three Bedroom		2.0	11	1,141	12,551	60%	882	125	757	882	0.663	9,084	99,924
			84	978	82,140				571		0.586	53,064	575,344

Number of required Home Units

0

LIHTC Occupancy Restricted**Market Rate Rental Income N/A**

Apartment	Baths	# of Units	Sq. Ft./Unit	Total Sq. Ft.	Gross Rent	Rent Per Sq/Ft	Annual Rent/Unit	Annual Rent/Unit Type
One Bedroom	1.0			-		-	-	-
Two Bedroom	2.0			-		-	-	-
Three Bedroom	2.0			-		-	-	-
		0	#DIV/0!	0	0	#DIV/0!	0	0

Commercial Income**N/A****Other Income**

	Units	Monthly Amount	Monthly Income	Annual Rent/Space	Vacancy	Monthly Net Income
Misc Income	84	\$10.00	840	10,080	7.50%	777
			840	10,080	7.50%	777

**RESERVE AT COWHORN
OPERATING ASSUMPTIONS - EXPENSES**

Operating Expenses

Description	Subject Property	
	Annual Expense	Annual Expense/Unit
Property Management Fee	28,769	342
ADVERTISING/MARKETING	8,400	100
ADMINISTRATIVE	12,600	150
BUILDING/SERVICES	2,500	30
GROUND'S COST	29,400	350
MAINTENANCE COST	16,800	200
PAYROLL COST	88,200	1,050
TURNOVER COST	21,000	250
UTILITIES	58,800	700
Project Operating Expenses	266,469	3,172
Real Estate Taxes	12,600	150
Insurance	25,200	300
TDHCA Compliance Fees	3,360	40
Supportive Service Contract	15,000	179
Franchise Tax	3,114	37
Audit	-	-
PSH Units	-	-
Non Operating Expenses	59,274	706
Total Trended Expenses	325,743	3,878
Non Trended Expenses		
Bridge Loan Fees	-	-
Ongoing Compliance Fees	-	-
Fixed Tax Payment	-	-
Total Non Trended Expenses	-	-
Replacement Reserves	21,000	250
	346,743	4,128
Asset Management Fee	5,000	60

Reserves

	Per Unit	Annual Expense	Thru
Replacement Reserve	250	21,000	2021
		21,630	2022
		22,279	2023
increase amt every		1	
withdrawn every		3	
interest		3.00%	
Inflation Factor		3.00%	2021 - 2023
Inflation Start Year		2018	2022

Upfront Operating Reserves

Months of Operating Expenses/Debt Service	6
interest	3.00%

Cash Flow Priorities

Priority	Fee Type	Am	Condition
1	Property Management Fee	5.00%	of effective gross inc
2	Asset Management Fee	5,000	Fixed Fee Amount
3	Deferred Developer Fee	100.00%	of available cash flow
4	Incentive Mgmt Fee	90.00%	of available cash flow
5	Fee I	0.00%	of available cash flow
6	Fee II	0.00%	of available cash flow
7	Fee III	0.00%	of available cash flow
8	Fee IV	0.00%	of available cash flow

**RESERVE AT COWHORN
PROJECTED CASH FLOW - NOI**

Year	Gross Affordable Rental Income	Gross Market Rental Income	Gross Commercial Income	Net Other Income	Vacancy	Effective Gross Rental Income	Operating Expenses	Property Management Fee	Real Estate Taxes	Non-Trended Expenses	Total Expenses	Net Operating Income	Replacement Reserves	Total Construction Debt Service	Total Permanent Debt Service	USDA Fee	Cash Flow	DSC
2019	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2020	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2021	143,847	-	-	2,331	(10,789)	135,389	(142,187)	(6,769)	(12,978)	-	(161,934)	(26,545)	(5,250)	(5,500)	-	-	(37,295)	(5.78)
2022	586,896	0	0	9,510	(44,017)	552,389	(292,905)	(27,619)	(13,367)	-	(333,892)	218,497	(21,630)		(94,429)	0	102,438	2.08
2023	598,632	-	-	9,701	(44,897)	563,435	(301,692)	(28,172)	(13,768)	-	(343,632)	219,803	(22,279)		(161,879)	-	35,645	1.22
2024	610,605	-	-	9,895	(45,795)	574,704	(310,743)	(28,735)	(14,181)	-	(353,660)	221,044	(22,947)		(161,879)	-	36,218	1.22
2025	622,817	-	-	10,093	(46,711)	586,198	(320,065)	(29,310)	(14,607)	-	(363,982)	222,216	(23,636)		(161,879)	-	36,702	1.23
2026	635,273	-	-	10,294	(47,645)	597,922	(329,667)	(29,896)	(15,045)	-	(374,609)	223,314	(24,345)		(161,879)	-	37,090	1.23
2027	647,979	-	-	10,500	(48,598)	609,880	(339,557)	(30,494)	(15,496)	-	(385,548)	224,333	(25,075)		(161,879)	-	37,379	1.23
2028	660,938	-	-	10,710	(49,570)	622,078	(349,744)	(31,104)	(15,961)	-	(396,809)	225,269	(25,827)		(161,879)	-	37,563	1.23
2029	674,157	-	-	10,925	(50,562)	634,520	(360,236)	(31,726)	(16,440)	-	(408,403)	226,117	(26,602)		(161,879)	-	37,636	1.23
2030	687,640	-	-	11,143	(51,573)	647,210	(371,044)	(32,361)	(16,933)	-	(420,337)	226,873	(27,400)		(161,879)	-	37,594	1.23
2031	701,393	-	-	11,366	(52,604)	660,154	(382,175)	(33,008)	(17,441)	-	(432,624)	227,530	(28,222)		(161,879)	-	37,429	1.23
2032	715,421	-	-	11,593	(53,657)	673,357	(393,640)	(33,668)	(17,965)	-	(445,273)	228,085	(29,069)		(161,879)	-	37,137	1.23
2033	729,729	-	-	11,825	(54,730)	686,824	(405,449)	(34,341)	(18,504)	-	(458,294)	228,530	(29,941)		(161,879)	-	36,711	1.23
2034	744,324	-	-	12,062	(55,824)	700,561	(417,613)	(35,028)	(19,059)	-	(471,699)	228,862	(30,839)		(161,879)	-	36,144	1.22
2035	759,210	-	-	12,303	(56,941)	714,572	(430,141)	(35,729)	(19,630)	-	(485,500)	229,072	(31,764)		(161,879)	-	35,429	1.22
Total	9,518,859	-	-	154,251	(713,914)	8,959,196	(5,146,860)	(447,960)	(241,377)	-	(5,836,196)	3,122,999	(374,827)	(5,500)	(2,198,852)	-	543,821	

The estimates of income and expenses set forth in this document are based on experience operating similar properties and are provided by the owner. Past performance is not a guarantee of future performance. The owner acknowledges it has made its decision on this project based on its own independent evaluation of the project.

**RESERVE AT COWHORN
SYNDICATION INFORMATION**

Capital Contributions

Limited Partner- Low Income Housing Tax Credit Equity			
Date of	Amount	Event	Percentage
Dec-19	1,296,063	Admission	10.00%
Dec-19		Construction Start	0.00%
		25% Construction	0.00%
Jul-20	648,031	50% Construction	5.00%
		75% Construction	0.00%
Mar-21	9,072,440	100% Construction	70.00%
Jun-22	1,620,079	Conversion	12.50%
Sep-22	324,016	8,609	2.50%
Totals	<u>12,960,629</u>		<u>100.00%</u>

Limited Partner- Historic Tax Credit Equity			
Date of	Amount	Event	Percentage
12/2019		Admission	
12/2019		Construction Start	
01/1900		25% Construction	
07/2020		50% Construction	
01/1900		75% Construction	
03/2021	0	100% Construction	100.00%
06/2022		Conversion	
09/2022		8609	
Totals	<u>-</u>		<u>100.00%</u>

Managing Member

Limited Partner- Low Income State Tax Credit Equity

Limited Partner- Historic State Tax Credit Equity

Allocation Percentages	Through 2031	2032 through 2036	Thereafter
Profit			
State Investor	0.00%	0.00%	0.00%
Federal Investor	99.99%	99.99%	99.99%
General Partner	0.01%	0.01%	0.01%
Loss			
State Investor	0.00%	0.00%	0.00%
Federal Investor	99.99%	99.99%	99.99%
General Partner	0.01%	0.01%	0.01%
Cash Flow			
State Investor	0.00%	0.00%	0.00%
Federal Investor	10.00%	10.00%	10.00%
General Partner	90.00%	90.00%	90.00%
Sale			
State Investor	0.00%	0.00%	0.00%
Federal Investor	15.00%	15.00%	15.00%
General Partner	85.00%	85.00%	85.00%
Federal Credits			
State Investor	0.00%	0.00%	0.00%
Federal Investor	99.99%	99.99%	99.99%
General Partner	0.01%	0.01%	0.01%

11/21/2018

**RESERVE AT COWHORN
CALCULATION OF TAX CREDITS**

	<u>New and Rehab Credit</u>	<u>Acquisition Credit</u>	<u>Total LIHTC Credits</u>
Eligible Costs	13,943,939	0	13,943,939
Historic Tax Credit	0		
	0		
Subtotal	<u>13,943,939</u>		
HUD 221D 3 Limit	<u>0</u>		
Adjusted Eligible Basis	13,943,939		
Applicable Fraction	<u>100.00%</u>	<u>100.00%</u>	
Qualified Basis	13,943,939	0	13,943,939
DDA/QCT Basis Boost	<u>130.00%</u>	<u>100.00%</u>	
Eligible Basis	18,127,121	0	18,127,121
Credit Rate	<u>9.00%</u>	<u>0.00%</u>	
Total Calculated Credit	1,631,441	0	1,631,441
Maximum Credit	1,408,905	0	
Tax Credit Allocated	<u>1,408,905</u>	-	1,408,905
Annual Credit to Investors	1,408,764	0	1,408,764
Credit Price	0.920	0.920	
Tax Credit Equity	<u><u>12,960,629</u></u>	<u><u>0</u></u>	<u><u>12,960,629</u></u>

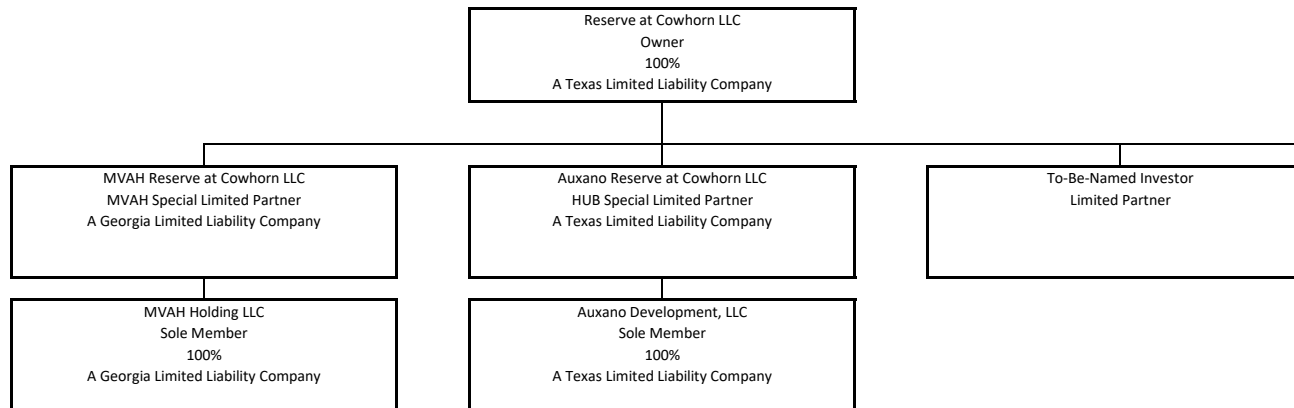
Attachment: 2018-143 ATTH 01 MVAH Reserve at Cowhorn Response 11.21.18 (1979 : 2018-143 RES



Organizational Chart & Owner's Ownership Structure

A proposed Owner's Ownership Structure Chart have been included in this section.

Reserve at Cowhorn
Ownership Organizational Chart





Evidence of Readiness

Evidence of site control has been included in this section.



October 1, 2018

Richard Reynolds
Reynolds Realty Management, Inc.

Re: Letter of Interest for the purchase of Land located at/near 5300 Block of Cowhorn Creek Road, Texarkana, Texas 75503

Mr. Reynolds,

MVAH Holding LLC is interested in developing multi-family apartments at/near 5300 Block of Cowhorn Creek Road, Texarkana, Texas 75503 . The above referenced site presents a possible opportunity for the project. Outlined below are proposed terms upon which MVAH Holding LLC may be willing to enter into an agreement to purchase the property.

Purchaser:	MVAH Holding LLC
Premises:	Approximately 12.979 +/- acres located on/near 5300 Block of Cowhorn Creek Road, Texarkana, Texas 75503
Earnest Money:	\$25,000 -- refundable to Purchaser upon Agreement termination; applicable to the Purchase Price in the event of Closing; to be held by an escrow agent/ title company ("Escrow Agent") chosen by Purchaser.
Purchase Price:	\$800,100 Lump Sum \$2.50 per square foot, subject to forthcoming survey
Due Diligence Period:	The Due Diligence Period shall commence upon full execution of the Agreement, and Purchaser shall have 120 days to conduct inspections of the Premises as Purchaser deems necessary and to perform its due diligence in order to confirm the feasibility of the Premises for Purchaser's intended use. Purchaser's obligation to close shall be subject to Purchaser's approval or waiver, in its sole discretion, of certain contingencies, including, without limitation, title, survey, zoning, environmental, etc. Purchaser shall have the unqualified right to terminate the Agreement at any time and for any reason on or before the end of the Due Diligence Period (as it may be extended) and receive a refund of the Earnest Money.



Extension Period:	Purchaser shall have the right to extend the Due Diligence Period for 3 additional periods of sixty (60) days each. Extension is exercised upon advance written notice to Seller prior to the expiration of the Due Diligence Period or extension thereof (if applicable) and payment of a \$7,500 Extension Fee to Escrow Agent which shall be applicable to the Purchase Price, but non-refundable in the event of termination except in the event of a Seller default.
Intended Use:	The Purchaser intends to develop up to 130 housing units using LIHTC funding.
Purchase Agreement:	All the terms and conditions of the proposed transaction will be included in a Purchase Agreement to be negotiated, agreed and executed by the parties. Neither party intends to be bound by any oral or written statements or correspondence concerning the Purchase Agreement arising during the course of negotiations, notwithstanding that the same be expressed in terms of signifying a partial, preliminary or interim agreement between the parties.
Closing:	Closing shall take place no later than thirty (30) days from the end of the Due Diligence Period as extended.
Extension Period:	Purchaser shall have the right to extend the Closing Period for 2 additional periods of sixty (60) days each. Closing Extension is exercised upon advance written notice to Seller prior to the expiration of the Due Diligence Period or extension thereof (if applicable) and payment of a \$30,000 Extension Fee to Escrow Agent which shall be applicable to the Purchase Price, but non-refundable in the event of termination except in the event of a Seller default.
Exclusivity	You agree that for a period of 30 days after the date of this letter, neither you nor your affiliates or agents shall initiate, solicit, encourage, directly or indirectly, or accept any offer or proposal, regarding the possible acquisition by any person other than MVAH Holding LLC.
Confidentiality	Each party to this Letter of Interest agrees to keep the terms and provisions strictly confidential and agree that neither shall disclose such information or the terms and provisions of this Letter of Interest to any person or entity.



Not Binding:

THIS LETTER OF INTEREST DOES NOT CONSTITUTE OR CREATE, AND SHALL NOT BE DEEMED TO CONSTITUTE OR CREATE, ANY LEGALLY BINDING OR ENFORCEABLE OBLIGATION ON THE PART OF EITHER PARTY TO THIS LETTER OF INTEREST.

I am happy to discuss this proposal with you in further detail at your convenience. Thank you again for the opportunity to submit this proposal.

Sincerely,

A handwritten signature in blue ink that reads 'Darren Smith'.

Darren Smith
MVAH Holding LLC

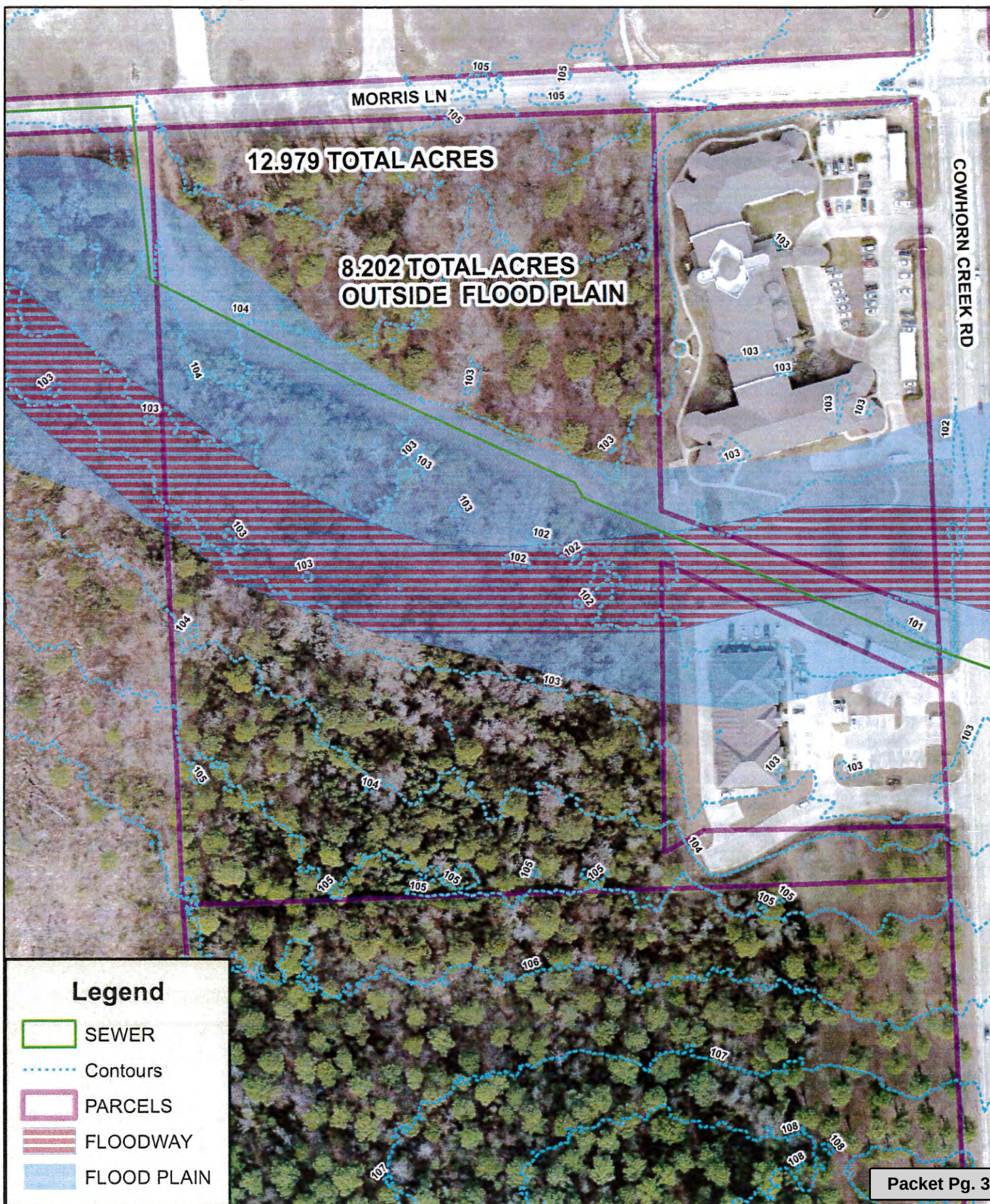
Accepted / Acknowledged:

A handwritten signature in blue ink, followed by the date '11/12/18' written in blue ink.

[Seller Name]

[Date]

0 0.025 0.05 0.1 Miles



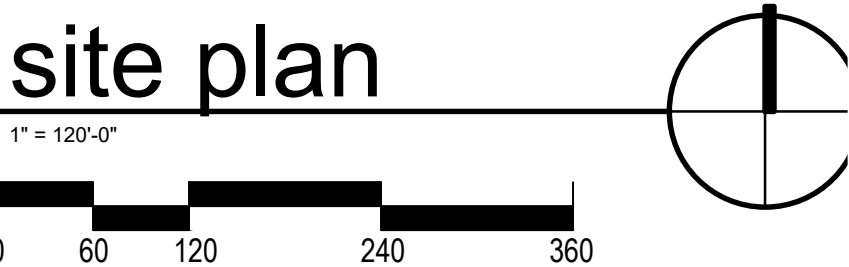


Preliminary Site Plan

A site plan for the proposed development of Reserve at Cowhorn has been included in this section.



2018-143 ATTH 01		6.8.b
PROPOSED UNIT MIX:		TOTAL:
1 BEDROOM / 1 BATH - 16 UNITS		96 UNITS
2 BEDROOM / 2 BATH - 56 UNITS		2-STORY GARDEN
3 BEDROOM / 2 BATH - 24 UNITS		
SITE AREA =		APPROX. 12.8 ACRES
SITE PARKING =		210 PARKING SPACES PROVIDED
		234 PARKING SPACES REQUIRED



RESERVE AT COWHORN
texarkana, texas

11.15.1:
preliminary site plan.



Project Description and General Information

Reserve at Cowhorn involves the new construction of 84 walkup-style units, all of which are affordable.

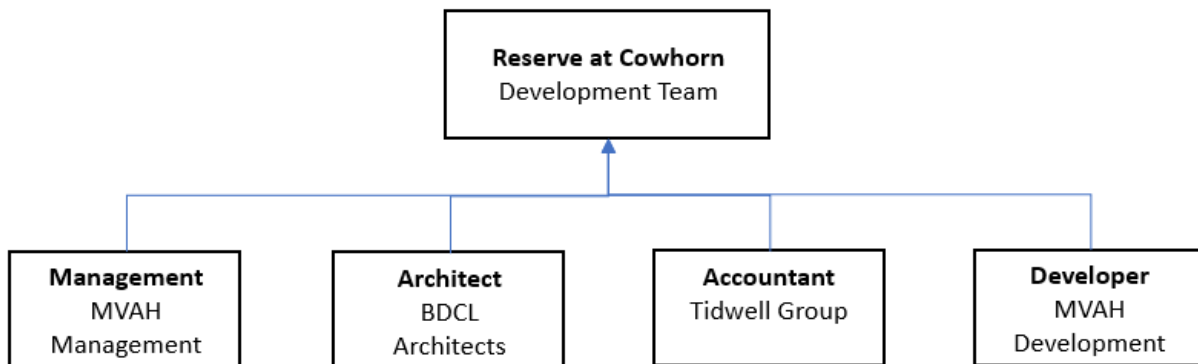
The proposed rental community will target a family demographic.

The proposed rent schedule is located below:

LIHTC Rental Income

Apartment	Type	Baths	# of Units	Sq. Ft./Unit	Total Sq. Ft.	% of AMI	Max Gross Rent	Utility Allow	Actual Net Rent	Actual Gross Rent	Rent Per Sq/Ft	Annual Rent/Unit	Annual Rent/Unit Type
One Bedroom		1.0	2	763	1,526	30%	318	75	243	318	0.318	2,916	5,832
One Bedroom		1.0	7	763	5,341	50%	530	75	455	530	0.596	5,460	38,220
One Bedroom		1.0	7	763	5,341	60%	636	75	561	636	0.735	6,732	47,124
Two Bedroom		2.0	5	967	4,835	30%	381	100	281	381	0.291	3,372	16,860
Two Bedroom		2.0	18	967	17,406	50%	636	100	536	636	0.554	6,432	115,776
Two Bedroom		2.0	21	967	20,307	60%	763	100	663	763	0.686	7,956	167,076
Three Bedroom		2.0	3	1,141	3,423	30%	441	125	316	441	0.277	3,792	11,376
Three Bedroom		2.0	10	1,141	11,410	50%	735	125	610	735	0.535	7,320	73,200
Three Bedroom		2.0	11	1,141	12,551	60%	882	125	757	882	0.663	9,084	99,924
			84	978	82,140				571		0.586	53,064	575,388

The proposed LIHTC development team is:





AMENITIES AND SERVICES

Planned amenities include:

Development Amenities

- Community Center / Building
- Fitness Center
- Computer/Business Center
- On-site Laundry Facility
- Covered Exterior Gathering Area
- Resident Lounges/Seating Areas
- Fenced Community Garden

Unit Amenities

- Central A/C
- Coat Closet
- Dishwasher / Refrigerator
- Washer and Dryer Hookups
- Stoves
- Microwaves

Preliminary Social / Supportive Services

- Quarterly financial planning courses (i.e., homebuyer education, credit counseling, investing advice, retirement plans, etc.); courses must be offered through an on-site instructor.
- GED preparation classes (shall include an instructor providing on-site course work and exam)
- Quarterly health and nutritional courses
- Twice monthly arts, crafts, and other recreational activities such as Book Clubs and creative writing classes
- Annual income tax preparation (offered by an income tax prep service)
- Twice monthly on-site social events (i.e., potluck dinners, game night, sing-a-longs, movie nights, birthday parties, etc)
- Weekly exercise classes



LIHTC Project Information

MVAH has experience with a diverse combination of approaches to housing and community revitalization, and has successfully planned, developed, rehabilitated and managed mixed-use, mixed income and transit-oriented developments, historic rehabilitations, market rate housing, and work-force housing. MVAH Developments serve many demographics including families, seniors, the military and populations requiring supportive services. Below are recent and specific examples of similar projects

that MVAH has successfully developed, completed, and managed.



Project One: Reserve at Quebec

Through a strategic partnership with Fort Worth Housing Finance Corporation, an arm of the City of Fort Worth, Reserve at Quebec represents the first mixed-income development in the City of Fort Worth to include market-rate, affordable, and supportive housing units. As a component of the city's plan to end homelessness, MVAH

Development was selected as the development partner due to their track record of success, ability to deliver units on time and under budget, strength of the firm's in-house management team, and respected reputation throughout the industry. Also, in Fort Worth, MVAH Development is partnering with the Fort Worth Housing Solutions to bring RAD conversion units into its existing Reserve at McAlister and Reserve at Western Center developments, as well as provide project based vouchers for its Reserve at Quebec development.

Consisting of 296 units, with a total cost of approximately \$47M, Reserve at Quebec includes 264 affordable units, 16 supportive housing units, and 16 market rate units. This Class "A" community

includes a resort style pool, business center, state-of-the-art fitness center, community/activity room,





and leasing center. The property provides free after-school care, health and wellness classes, and financial literacy classes. For the supportive housing units, a case worker work individually with residents to help with life skills, job training and placement, transportation, and medical assistance. The development opened in May of 2018 and is currently in its lease-up period. The development received financing from HUD, through a 221(d)(4) loan, non-competitive housing tax credits from TDHCA, a \$3.5 million HOME Loan from the City of Fort Worth, who heavily supported the development, and tax credit equity from Berkshire Hathaway. The development qualifies for a real estate tax exemption provided by the Fort Worth Housing Finance Corporation.

Project Two: Sandoval Two, Cramer Three, and Dewetter Two

In December of 2016, MVAH was selected by the Housing Authority of the City of El Paso ("HACEP") to be their



Development Partner for three tranches of its portfolio-wide RAD conversion. MVAH is currently developing Sandoval Two, Cramer Three, and Dewetter Two for HACEP. Sandoval Two is a 274-unit redevelopment of two scattered-site townhome developments, Sandoval Apartments and Valle Verde Apartments. Cramer Three is 426-unit redevelopment of the Cramer Apartments, Guillen Apartments, and MLK Apartments, also all in a townhouse style. Dewetter Two is a 178-unit redevelopment of the single-family housing development Dewetter Apartments, and the townhouse style Kathy White Apartments. These redevelopments are gut rehab developments of housing that were originally constructed during the 1970s. The redevelopment incorporates green elements and a redesign of large housing units to make better use of the available space and incorporate modern accessibility features. All three tranches are 4% tax credit developments funded through the Texas Department of Housing and Community Affairs. Additionally, all three tranches will be managed and owned by HACEP long-term, but developed, financed and constructed by MVAH. Sandoval Two and Cramer Three are utilizing a 221(d)(4) loan from HUD, while Dewetter Two will be financed using the Freddie TEL program. The tax credit equity for Sandoval Two is provided by Bank of America, while the tax credit equity for Cramer Three and Dewetter Two will be provided by PNC. HACEP is receiving acquisition credits on all three



transactions and is using a ground lease structure to receive a real estate tax exemption. Sandoval Two is currently under construction while Cramer Three is scheduled to close in middle of September 2018. Dewetter Two will close by the end of the 2018. In total, the El Paso RAD conversions represent over \$185 million in development of 878 units that will all close in a two-year timeframe. This redevelopment showcases the ability to leverage public-private partnerships to help redevelop and truly transform an area.



Project Three: Mulberry Street Properties

A 50-unit new construction affordable housing community located in Harrisburg, PA., this development will be one the most visible housing developments occurring in the City of Harrisburg and fulfills a key mission of the new Mayor to remove

blight from the city. The development has been written in the city's new comprehensive plan and will serve as the anchor project for MulDer Square revitalization effort in Allison Hill led by the City of Harrisburg. The Harrisburg Redevelopment Authority is contributing two of the three sites at no cost. The development is a partnership between MVAH Development and the HHA.

The development is located on three scattered sites in the South Allison Hill neighborhood; approximately 1-mile from the Pennsylvania State Capital Building. The community will include 22 one-bedroom units, 14 two-bedroom units and 14 three-bedroom units. The property will also feature two community spaces. Additionally, 2,570 sq. ft. of neighborhood retail space will be provided on the ground floor of one of the multi-story buildings. The social service package will be provided by Tri County Community Action, who has offices in the immediate neighborhood.

Two of the three proposed sites are being donated by the Harrisburg Redevelopment Authority (HRA) MVAH will act as the development mentor for the HHA through stabilization of the development. The location of the development connecting downtown Harrisburg to Allison Hill will be one of the most visible developments in the City of Harrisburg and will eliminate blight along this corridor in the community. This development is a cornerstone of the MulDer Square project envisioned by the Harrisburg Redevelopment. The development targets nearly all the identified goals of the 2009 South



Allison Hill/Mt. Pleasant Neighborhood Strategic Plan. The development received further financing from NDC and Fulton Bank, in the form of a perm mortgage and tax credit equity. The development is under construction and will be completed in November of 2018.

Project Four: Reserve at Engel Road

Reserve at Engel Road is a 96-unit family affordable housing development in New Braunfels, Texas which has completed construction. The development is comprised of four apartment buildings and a community club house. It contains a mix of one, two, and three-bedroom units. The development was built on the frontage road of I-35 and is near neighborhood amenities. The development received a \$833,000 loan from the City of New Braunfels, who heavily supported the development, and competitive housing tax credits from TDHCA. The development features an attractive southwestern exterior style and tile roof. The development received further financing from Citibank and RBC Capital, in the form of a perm mortgage and tax credit equity.

Project Five: Reserve at McAlister

Reserve at McAlister is a 124-unit affordable housing development for seniors located in Fort Worth, Texas. The development, consisting of three buildings with first floor community space connected by a walkway, completed construction in 2016 and is fully stabilized. Reserve at McAlister was developed in conjunction with Albatross Development and includes four market rate units. The development features a mixture of one and two-bedroom units and received competitive housing tax credits from TDHCA. The development is partnering with Fort Worth Housing Solutions to receive RAD units as part of the Fort Worth Housing Solutions on-going RAD conversion of their portfolio and was heavily supported by the City of Fort Worth, Fort Worth Housing Solutions, and the local community. The development received further financing from Hudson Housing and Capital One, in the form of a perm mortgage and tax credit equity.

Project Six: Oak Ridge Apartments

Oak Ridge Apartments is a senior multi-family development of 48 affordable units in Nolanville, Texas, a community that is a ten-minute drive from Fort Hood. The development completed construction in 2016 and is fully stabilized. The development consists of two residential buildings and a clubhouse. Three of the units, in addition to being income restricted, are reserved for individuals with special needs.



Additionally, Oak Ridge Apartments features a strong partnership between MVRD and Albatross Development, LLC, a Historically Underutilized Business as recognized by The Texas Comptroller of Public Accounts. The development received a HOME Loan and competitive housing tax credits from TDHCA. The development received further financing from Hudson Housing and Capital One, in the form of a perm mortgage and tax credit equity.

Project Seven: Reserve at Western Center

Reserve at Western Center is a 120-unit family affordable housing development in Fort Worth, Texas which completed construction in 2014 and is currently stabilized. The development is comprised of six apartment buildings and a community club house. It contains a mix of one, two, and three-bedroom units and received City of Fort Worth HOME funds, in addition to competitive housing tax credits from TDHCA. The development is partnering with Fort Worth Housing Solutions to receive RAD units as part of the Fort Worth Housing Solutions on-going RAD conversion of their portfolio. The development was heavily supported by the City of Fort Worth, Fort Worth Housing Solutions, and the local community. The development received further financing from Bank of America, in the form of a perm mortgage and tax credit equity.



Photos of Recent Relevant Developments

The next several pages of these submit contain full-color photos that showcase our representative Texas developments that have completed construction.

Reserve at Quebec Fort Worth, Texas

2018-143 ATTH 01



MVAH
PARTNERS

Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Silversage Point at Western Center Fort Worth, Texas

2018-143 ATTH 01



MVAH
PARTNERS

Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Pinecrest Walkertown, North Carolina



Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Newton Place Newton, Iowa



Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Hamburg Senior Living Hamburg, Kentucky

2018-143 ATTH 01



Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Patterson Pointe Bloomington, Indiana



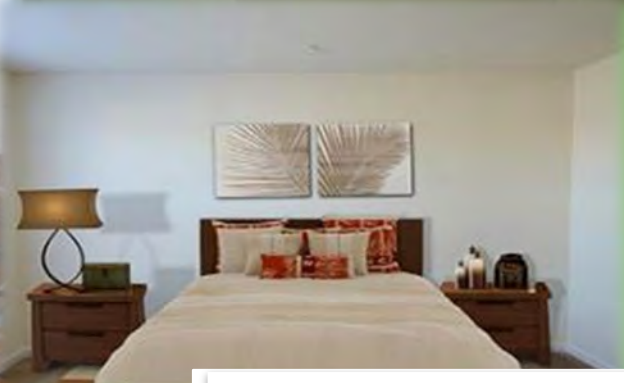
Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Residence at Washington Street Kokomo, Indiana

2018-143 ATTH 01



MVAH
PARTNERS

Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Projects Currently Under Construction or in Pipeline to Close

2018-143 ATTH 01



Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107



Client References

MVAH Development

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(937) 277-8149

tbete@smdcd.org

Fort Worth Housing Finance Corporation (Community Partner)

Chad LaRoque, Housing Development & Grants Manager
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Chad.Laroque@fortworthtexas.gov

Medina Metropolitan Housing Authority (Housing Authority)

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(330) 725-7531

skip@mmha.org

RBC Capital Markets (Tax Credit Investor)

Brian Flanagan, Director (Tax Credit Equity Group)
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brian.flanagan@rbc.com

MVAH Management

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Tim Bete, President
(937) 277-8149

tbete@smdcd.org

Fort Worth Housing Finance Corporation (Community Partner)

Chad LaRoque, Housing Development & Grants Manager
(817) 392-2661

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Medina Metropolitan Housing Authority (Housing Authority)

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brian.flanagan@rbc.com

BDCL Architects

Ohio Capital Corporation for Housing (Tax Credit Investor)

Joe Erdeljac, Construction Manager
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jerdeljac@occh.com

Ohio Housing Finance Agency (Housing Finance Agency)

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KCraig@ohiohome.org

St. Mary Development Corporation (Nonprofit Development Partner)

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(937) 277-8149

tbete@smdcd.org

Tidwell Group

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Kenneth Naylor, Chief Operating Officer
(305) 357-4700

knaylor@apcommunities.com

The Commonwealth Companies (Client)

Bernard Boka, VP of Finance
(920) 922-8170

bbolka@commonwealthco.net

Delphi Affordable Housing Group (Client)

Dan O'Dea, President and Founder
(512) 494-8200

Dan@delphihousing.com



(512) 383-5470

lisa@saigebrook.com

PK Housing & Management (Client)

Chris Potterpin, Manager

(517) 347-9662

cpotterpin@pkhousing.com

Saigebrook Development, LLC (Client)

Lisa Stephens, Owner

Rainbow Housing Assistance Corporation (Client)

Flynann Janisse, Executive Director

(602) 903-1843

fjanisse@rainbowhousing.org



Development Timeline

A proposed development timeline that includes the expected completion date if credits are awarded has been included with this section.

Reserve at Cowhorn Development Timeline					
Month	Year	Days	Cumulative	TDHCA	P&S
Nov	2018	30	30		120 day due diligence
Dec	2018	31	61		
Jan	2019	31	92	Pre-Application Due	
Feb	2019	28	120		
Mar	2019	31	151	Full-Appication Due	
April	2019	30	181	Preliminary Scoring Log	
May	2019	31	212		
June	2019	30	242	Updated Scoring Log	
July	2019	31	273	Award Announcement	
Aug	2019	31	304	Full Design Starts	
Sept	2019	30	334	Zoning	
Oct	2019	31	365		
Nov	2019	30	395		
Dec	2019	31	426	Construction Starts	
March	2021	450	876	Construction Completion	
April	2021	240	1116	Lease-up	

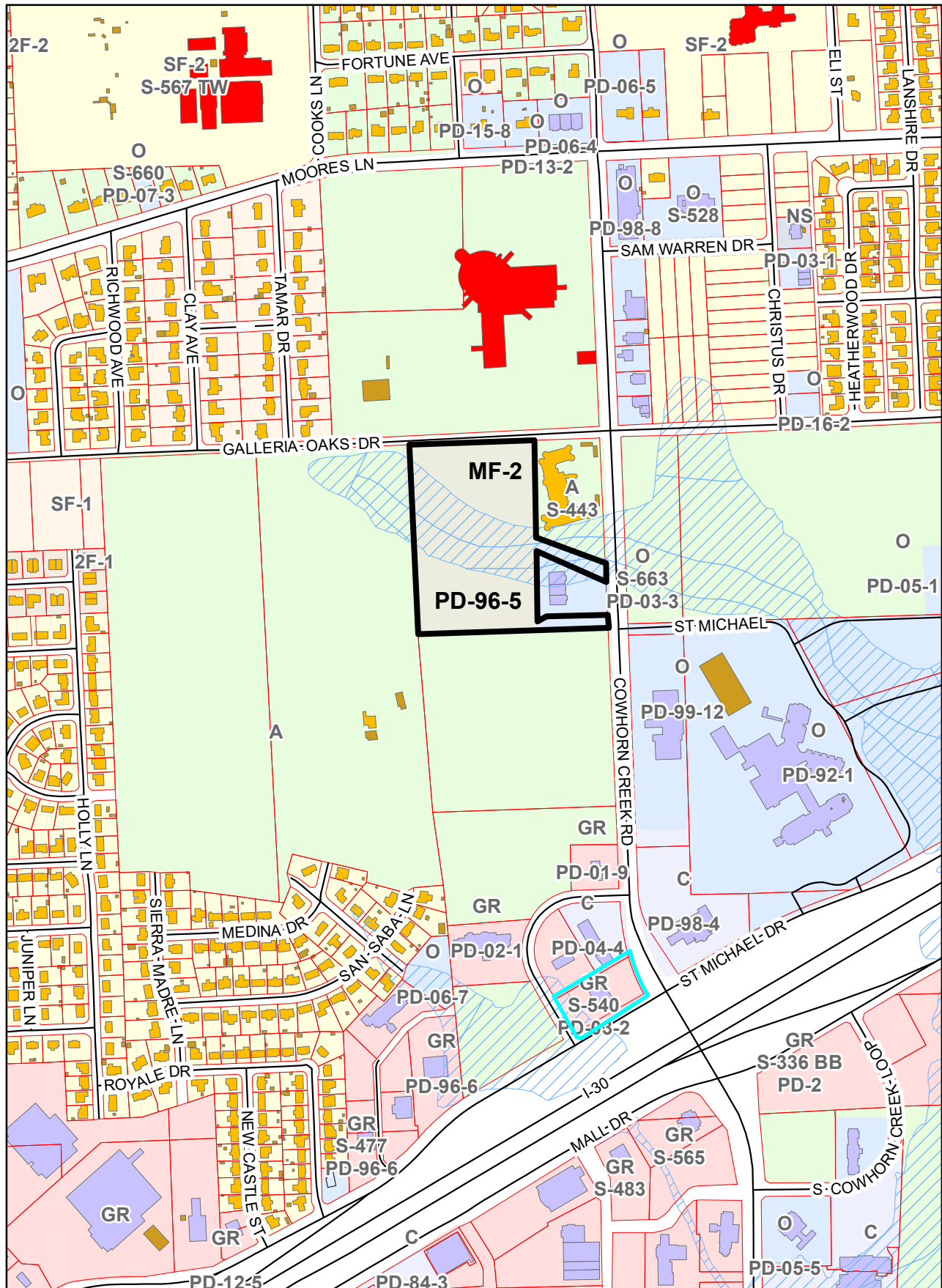
MVAH- Reserve at Cowhorn



1:3,000



MVAH- Reserve at Cowhorn



1:8,000



**Joint Center for Housing Studies
Harvard University**

Overcoming Opposition to Multifamily Rental Housing
Mark Obrinsky and Debra Stein
March 2007
RR07-14

Prepared for
Revisiting Rental Housing: A National Policy Summit
November 2006

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Any opinions expressed are those of the author and not those of the Joint Center for Housing Studies of Harvard University or of any of the persons or organizations providing support to the Joint Center for Housing Studies.

I. Introduction and Background

Resistance to multifamily rental housing is a growing phenomenon in communities around the country. Indeed, opposition to any type of new housing development has become so pervasive that the area of community resistance has spawned its own vocabulary. Multifamily housing is characterized by some citizens as a “NIMBY” project (Not in My Backyard). Apartments are condemned as “LULUs” (“Locally Unwanted Land Uses”). We even have “CAVEs” (Citizens Against Virtually Everything) and they want “BANANAs” (to Build Absolutely Nothing Anywhere Near Anyone).

Putting whimsical acronyms aside, citizen resistance to multifamily rental housing is not a humorous issue. In fact, community opposition to these development projects runs smack up against powerful demographic trends. Population growth in the U.S. continues at a high level – certainly in comparison with other developed countries – and will require considerable new residential construction.¹ Even a brief examination makes this clear.

The U.S. population is expected to increase over the next 20 years at an average annual rate of 0.83 percent – which would result in a cumulative increase of 23 percent, or 68 million people. This figure is twice the size of today’s most populous state, California, which has almost 34 million people. In fact, the projected number of new residents in the next two decades is larger than the number of people who currently live in the Northeast (54 million), Midwest (64 million), or West (64 million). Clearly, population growth is an issue of critical importance for the U.S.

What’s more, the growth in households will be even greater than population growth itself. The average size of a household has been dropping for more than a century. In 1900, an average of 4.6 people lived in each household. By 2004, there was an average of only 2.6 people per household. While this decline is partly the result of families having fewer children, it is mainly the result of changing household composition. In 1960, single-person households made up 13 percent of all households, while married couples with children made up another 44 percent. The share of single-person households has doubled since then while the number of married couples with children has fallen to only 23 percent. Married couples without children remain the most common type of household, as they have been since 1982, even though their

¹ Of the nine countries that will account for half the world’s population growth from 2005-2050, the only developed nation is the U.S. See: United Nations, *World Population Prospects: The 2004 Revision*, vol. 3, p. xv. Available at: <http://www.un.org/esa/population/publications/WPP2004/2004EnglishES.pdf>

share of the total has waned a bit over that time. The Joint Center for Housing Studies projects that average household size will decline a bit more before stabilizing.²

The upshot is that the demand for new housing units is likely to increase faster than the population itself is projected to grow. Extending the Joint Center for Housing Studies' projections for 2020 another decade suggests that between 2005 and 2030, the number of households will rise by almost 30 percent – that is, 33 million new households.

The number of additional housing units needed by 2030 is actually greater than 33 million, however, because an estimated 17 million existing housing units will fall out of the housing stock due to deterioration or destruction.³ Thus, some 50 million new housing units will have to be added to the stock between 2005-2030. This is both a daunting challenge and a ray of hope – we have an opportunity to shape future development and determine the character of the built environment in which we will live and work.

What is at issue is not whether these new residences will get built, but rather where they will get built and what kind of residences they will be. Put differently: what kind of communities should we build?

The traditional suburban development model features low-density housing built in cul-de-sacs, neighborhoods separated from strip malls, big box retailers, and office parks along roads with ever-increasing traffic.⁴ But compact development – especially sustainable communities that promote accessible transportation choices, higher density, mixed-use and mixed-income development, and attractive design – have attracted growing interest. The age structure and household composition of the new households will surely tilt demand further in this direction.

Multifamily rental housing has long been an important part of the constellation of housing choices for families and individuals. It plays an increasingly important role in “workforce housing,” providing homes for our nation’s teachers, firefighters, police officers, health care workers, and public employees. These vital workers contribute to the community, but their incomes are often less than what is required to support a comfortable, middle-class life.

² The Joint Center’s forecast is that the overall headship rate will continue to rise somewhat before stabilizing, but the overall headship rate is just the inverse of the average household size.

³ Authors’ interpolation based on Arthur C. Nelson, “Toward A New Metropolis: The Opportunity to Rebuild America,” Brookings Institution Metropolitan Policy Program, December 2004.

⁴ This view is proposed by Bruce Katz and Andy Altman, “An Urban Age in a Suburban Nation?” Presentation to Urban Age Conference, New York City, February 25, 2005.

Nonetheless, there is continuing resistance to higher density housing, to rental housing, and to low-income housing. Such resistance, if successful, may bring about a less-than-optimal result; in particular, it would mean fewer multifamily rental properties than would otherwise occur.

This paper seeks to examine the nature of that resistance, the reasons behind it, and how it can be overcome.

In general, people who support multifamily rental housing tend to want the new benefits that come from responsible development. They may be excited about the creation of new and affordable housing, new community rooms or other public amenities, or new jobs or tax revenues from associated retail. By comparison, people who oppose land use proposals tend to do so because they like their community the way it is and don't want any change. Opponents don't want more traffic, lower property values, more children crowding the schools, or a changed community character, and they believe that the proposed apartment project will worsen their existing lifestyles. Potential opponents and potential supporters are completely different audiences, with completely different interests. Sponsors of multifamily rental housing must therefore engage in two distinct community outreach campaigns: one aimed at minimizing neighborhood opposition, one aimed at mobilizing public support. We begin with the former.

II. Opposition to Multifamily Rental Housing In General

Forms of Opposition

Opposition to multifamily rental housing is expressed in many ways. Most fundamental, perhaps, are attitudes. Whether founded in facts, the expression of an underlying bias, or the mechanism for pursuing perceived self-interest, such attitudes are inevitably where opposition begins.

Attitudes lead to actions. There are two broad kinds: (1) actions in opposition to specific projects or proposals; and (2) actions against a whole class of housing. Actions against specific projects may be initiated by residents of nearby communities, and can include such things as private calls to local officials, speaking out at public hearings, writing letters to the editor, organizing among community groups, and even picketing the proposed site. Local officials may also act to prevent or restrict multifamily housing – for example, there are jurisdictions in which

multifamily housing is nominally permitted, but every actual application for a building permit gets denied.

Opposition can also be woven into the fabric of regulations, ordinances, and planning documents. Overcoming such opposition typically requires far greater effort, as it requires overturning such statutes.

To be effective, proponents of multifamily housing need to address all areas. Analyzing the extent and effect of the bias against apartments in the local regulations around the country is beyond the scope of this paper. Nonetheless, we offer some comments on this aspect of the problem at the end of this section.

In any case, the starting point is dealing with misperceptions about multifamily rental housing.

Setting the Record Straight

Resistance to multifamily rental housing comes from a variety of sources, including planning or zoning officials, local politicians, civic leaders in communities in which the housing is to be located, proximate neighbors who live or work near the apartment buildings, and other members of the general public. This section focuses on the facts behind the most common arguments made by opponents of new apartment developments, while the following section examines the underlying concerns behind anti-housing claims and how stakeholder claims can be addressed.

Anti-apartment stakeholders tend to rely on similar arguments to keep multifamily rental housing out of their communities. These claims include:

- Multifamily apartments lower the value of single-family homes in the neighborhood.
- People who live in apartments are less desirable neighbors and more likely to engage in crime or other anti-social behavior.
- Apartments overburden schools, produce less revenue for local governments, and require more infrastructure support
- Higher-density housing creates traffic congestion and parking problems.

We will examine each of these, and also offer broader general comments about residential development and the environment.

Fiscal Burden

Opponents of multifamily housing often claim that apartment residents impose higher expenditures for local government services. The point is most commonly made with reference to schools, although other local government infrastructure services are mentioned as well.

Opponents assume that apartments contain more school-age children than single-family houses do, and therefore put greater strain on local school districts. In an era of tight school budgets, this is an understandable concern. Let's begin by reviewing the data.

On average, 100 single-family owner-occupied houses include 51 school-age children. By contrast, apartments are attractive to single people, couples without children, and empty nesters, which is why 100 apartment units average just 31 children. The disparity is even greater when considering only new construction: 64 children per 100 new single-family houses vs. 29 children per 100 new apartment units. Wealthier apartment dwellers have even fewer children (12 children per 100 households for residents earning more than 120 percent of the area median income, AMI), while less wealthy residents earning less than 80 percent of AMI still have fewer children (37 per household) than single-family homes.⁵

Opponents often ignore how much revenue apartments bring in to the local government.⁶ In fact, apartment owners often pay more in property taxes than owners of single-family houses.⁷ That's because in most jurisdictions, apartments are treated as commercial real estate, which is taxed at higher rates than single-family houses in most states. Although there are many complications in such comparisons, one simple approach is to look at the "effective tax rate," defined as the ratio of property tax to property value. For apartments in urban areas the effective tax rate averages 48-54 basis points more than single-family houses: 1.91 percent for apartments, compared with 1.37-1.43 percent for single-family houses.⁸

⁵ All figures are NMHC tabulations of data from the American Housing Survey. See Research Notes, "Apartments and Schools," NMHC, August 24, 2001, available at:

www.nmhc.org/Content/ServeContent.cfm?ContentItemID=2620&IssueID=80. A recent study using data from the 2001 Residential Finance Survey suggests a smaller differential, though one that has grown over time. See Jack Goodman, "Houses, Apartments, and the Incidence of Property Taxes," *Housing Policy Debate*, Vol. 17, Issue 1, 2006.

⁶ Apartment residents also contribute to the general economy by buying local goods and services. See *Research Notes*, "Apartment Residents and the Local Economy," NMHC, May 3, 2002.

⁷ See Jack Goodman, "Houses, Apartments, and the Incidence of Property Taxes," *Housing Policy Debate* Vol. 17, Issue 1, 2006.

⁸ Authors' calculations based on Minnesota Taxpayers Association, *50-State Property Tax Comparison Study*, St. Paul, MN, April 2006, p. vii. See also Alan Mallach, "Housing and Suburbs: Fiscal and Social Impact of Multifamily Development." Department of Housing and Urban Development: Washington DC, 1974.

Thus, apartments actually pay more in taxes and have fewer school children on average than single-family houses. In other words, it may be more accurate to say that apartment residents are subsidizing the public education of the children of homeowners than the reverse.

Two contrary points need to be addressed. First, some might argue that the fact that apartments contain fewer school-aged children than single-family houses has more to do with location little than with the nature of apartments. That is, apartments built in jurisdictions with first-rate schools might be designed to be more attractive to families (e.g., by having more bedrooms) and therefore house more children. Second, opponents of multifamily housing may point to the fact that 100 apartment units will probably still have more school-aged children than 10 single-family homes built at the same site.

Additional research would be helpful in clarifying the first point. A recent study made a related point. It agreed that newly built multifamily properties “have not contributed significantly to the rise in school enrollments” and that “it is very unlikely that new multi-family housing has produced a negative fiscal impact on cities and towns.”⁹ It argues, however, that the reason for this is that these properties were never designed to house families with children. That is, these apartments and condos consist mainly of one- and two-bedroom residences, for the express purpose of meeting the fiscal impact challenge developers often face, namely ensuring that their developments won’t hurt local fiscal matters. The researchers rightly note that this approach ends up pitting fiscal policy against housing policy – that is, the kind of residential developments that are approved are not what might be required by local households, but rather what the local budget is willing to bear.

We conclude from this that at least some of the opposition to multifamily housing actually has nothing to do with housing *per se*, but rather with limiting the number of school-aged children who would otherwise “burden” local finances.

Even in areas with high quality schools, we suspect that the mix of apartment units the market would offer (absent any pressure, in either direction, from local officials) would still feature fewer units with three or more bedrooms than would be provided by single-family housing. With few, if any, exceptions, the market for conventional apartments with three or more bedrooms historically has been much thinner than the market for one- and two-bedroom units;

⁹ Judith Barrett and John Connery, *Housing the Commonwealth’s School-Age Children*. Citizens’ Housing and Planning Association Research Study, August 2003, p. 2.1. www.chapa.org/pdf/HousingSchoolAgeChildren.pdf

for this reason, three-bedroom floor plans tend to be a small portion of the total unit count. With average household size not expected to increase, it's hard to see why this would change.

Regarding the second point, without the apartment building in the neighborhood, the other 90 households will presumably have to move to some other local area, thereby burdening some other school district. This is a classic NIMBY point of view, and leads inexorably to the idea that the best development is actually no development, as this wouldn't "burden" the school district at all. Such an argument might hold sway among some local residents, but it offers no help to local and regional planners who are trying to manage current and projected growth in the most beneficial ways.

The issue needs to be framed more broadly. The total number of schoolchildren in any large region (or for the U.S. as a whole) is surely not determined by the number and type of housing units available. The question, then, is: where will they be housed and educated? Whether a jurisdiction chooses to permit multifamily rental housing or not, that question must still be answered.

Beyond that, the latest household projections from the Joint Center show that households with children under 18 years of age will make up only a small fraction of the total increase. Specifically, more than 80 percent of the increase in the number of households from 2005-2015 will come from married couples with no children plus single-person households.¹⁰ To some extent, therefore, the key issue may not be whether new housing developments impose a burden on local schools, but rather whether communities will develop the kind of housing that would attract households without children.

With other types of infrastructure, high-density development actually is more efficient than low-density development. By their very nature, longer sewer lines and sprawling utility (water, gas, and electric) supply systems are more costly; traditional development patterns also dictate expensive road construction. In addition, local governments must provide fire and police protection (as well as other services) over a larger area. By contrast, compact development benefits from economies of scale and geographic scope – and these benefits are large, potentially saving more than \$125 billion in the 2000-2025 time frame.¹¹

¹⁰ Authors' calculations based on George S. Masnick and Eric S. Belsky, "Revised Interim Joint Center Household Projections," Cambridge, MA, 2006, pp. 31-32.

¹¹ Mark Muro and Robert Puentes, "Investing In A Better Future: A Review of the Fiscal and Competitive Advantages of Smarter Growth Development Patterns." Washington, DC: Brookings Institution Center on Urban

Thus, rather than imposing a greater burden on local governments, higher density developments like apartments are actually more fiscally prudent than traditional suburban sprawl.

Traffic

Does compact development really cause an increase in traffic congestion and parking problems, as opponents often claim? To residents of the neighborhood where such development might take place, an increase in congestion seems self-evident – but only by comparing an apartment development to the status quo (i.e., no development). The proper comparison, however, is to the impact on congestion of an equal number of new single-family units.

On average, apartment residents own fewer cars than single-family homeowners: the latter average two cars per household compared with only one for the former.¹² Beyond that, single-family housing generates more automobile trips per household, as evidenced in the table below.

Automobile Trips Per Housing Unit			
	<i>Single-family detached</i>	<i>Apartment</i>	<i>Difference</i>
Weekday	9.57	6.72	42%
peak AM hour	0.77	0.55	40%
peak PM hour	1.02	0.67	52%
Saturday	10.10	6.39	58%
peak hour	0.94	0.52	81%
Sunday	8.78	5.86	50%
peak hour	0.86	0.51	69%
Source: Institute of Transportation Engineers, <i>Trip Generation, 7th Edition</i> (Washington, DC: 2003), Volume 2, pp. 268-332.			

On weekdays, a single-family detached house generates 42 percent more trips than does a unit in an apartment. The difference is even greater on the weekend: 58 percent more trips on Saturdays, and 50 percent more trips on Sundays. This large difference is seen not only in the

and Metropolitan Policy, March 2004. The authors take note of possible countervailing costs, such as the higher load placed on roads and sewer lines in more densely populated areas. See also Richard M. Haughey, *Higher-Density Development: Myth and Fact*. Washington, DC: Urban Land Institute, 2005.

¹² Jack Goodman, “Apartments and Parking,” *Research Notes*. NMHC: Washington, DC, January 28, 2000.

totals, but also at the peak hours, morning and afternoon, weekdays and weekends. By any measure, it is clear that single-family houses generate more automobile traffic than apartments – or any other type of housing. In explaining why single-family houses produce the most traffic, the Institute of Transportation Engineers noted that they are the largest units in size, with the most residents, but also pointed out that they had “more vehicles per unit than other residential land uses; they were generally located farther away from shopping centers, employment areas and other trip attractors than other residential land uses; and they generally have fewer alternate modes of transportation available, because they were typically not as concentrated as other residential land uses.”¹³ Though written not as a policy document, but rather simply a straightforward, quantitative analysis, this is a good summary of the reasons why compact development engenders less traffic than sprawl.

Interestingly, single-family owners use their cars more often than apartment residents use theirs. On average, cars in single-family houses make 18 percent more trips during the week, 31 percent more trips on Saturday, and 41 percent more trips on Sunday than cars owned by apartment residents.¹⁴

Thus, not only are there more cars per household in single-family houses than apartments, each of those cars generate more traffic – and a higher demand for parking spaces at retail stores, offices, schools, and other facilities.

It could be argued that the difference in automobile ownership and use is determined less by property type than by geography. For example, residents of garden apartments near major highways in suburban areas lacking much public transportation are far more likely to own and use cars than are residents of apartments located near high-speed rail lines and subways. Although we know of no studies that have tried to quantify the impact of geography on this, it seems evident that there is an important property-type effect. Consider the reverse situation, namely residential development near a transportation node such as a subway station. The number of single-family detached houses that can be built within walking distance of the station is clearly much less than the number of multifamily residences – whether for-rent or for-sale – that can be built there. To take advantage of the transit nodes, it simply makes sense to take advantage of the fact that compact, higher-density housing is inherently better suited to such development.

¹³ Institute of Transportation Engineers, *Trip Generation*, 7th Edition (Washington, DC: 2003), Volume 2, p. 268.

¹⁴ *Ibid.*, pp. 287-295 and pp. 324-332.

Property Values

Concerns that multifamily rental housing will lower the value of their single-family houses has driven many residents to oppose new apartment developments in or near their neighborhoods. Proposals for low-income apartments are especially likely to trigger property value concerns, but even market rate rental housing can give rise to arguments that apartments lower property values and damage the community's reputation. Local officials often echo these property value claims, either because they believe lower property values will injure their communities tax base or reputation or because they want to sound responsive to constituent concerns.

The fear that housing density will hurt property values seems to be primarily based on anecdotes. By contrast, most research has come to a different conclusion: in general, neither multifamily rental housing, nor low-income housing, causes neighboring property values to decline.

Two studies have taken a macro look at home values and house appreciation near multifamily housing properties. One study focused on “working communities” throughout the nation – neighborhoods of predominantly low- and moderate-income working households. The study looked at data from the 2000 US Census and compared house values in those communities with the share of multifamily housing in those communities. The conclusion: working communities with multifamily dwellings actually have *higher* property values than other types of working communities. In other words, the average value of owner-occupied houses was highest in working communities with the most multifamily units. In fact, among working communities, “the high multifamily areas had the highest home values, the mixed-stock areas the next highest, and the single-family areas had the lowest.”¹⁵ The study also noted a similar phenomenon with respect to income: among working communities, higher household income was positively associated with the share of multifamily housing.¹⁶

The other macro analysis compared the rate of property value appreciation for houses with multifamily housing nearby with the appreciation rate for houses with no multifamily housing nearby. Houses with apartments nearby actually enjoy a slightly higher appreciation rate than houses that don't have apartments nearby. Homes that are not located in multifamily areas appreciated at an average annual rate of 3.59 percent between 1987 and 1997, compared with a

¹⁵ Alexander von Hoffman, Eric Belsky, James DeNormandi, and Rachel Bratt, “America's Working Communities and the Impact of Multifamily Housing,” Cambridge, MA: Joint Center for Housing Studies, 2004, p. 17.

¹⁶ Ibid., p. 16.

higher appreciation rate of 3.96 percent for houses near multifamily buildings. For the 1997-1999 period, the figures were 2.66 percent and 2.90 percent, respectively.¹⁷

Case studies examining individual sites and metro areas have been used in six recent research works to get a more detailed picture of the effects of multifamily and/or subsidized single-family properties. These studies measured the possible impact of a range of property types on surrounding property values, including the potential impacts of conventional apartments, mixed-income multifamily rentals, low-income housing tax credit developments, and federally-assisted rental housing projects. Researchers measured a variety of relevant characteristics, including house price, price per square foot, house price appreciation, time on the market, and the ratio of sales price to asking price in order to assess “the worst-case scenarios of multi-family intrusion into a single-family neighborhood.” Their conclusions:

“We find that large, dense, multi-family rental developments...do not negatively impact the sales price of nearby single-family homes.”¹⁸

“We find that if located properly with attractive landscaping and entranceways, adverse price effects can be minimized and sometimes can add value. In the long term, such apartment complexes probably raise the overall value of detached homes relative to their absence.”¹⁹

“To this point, our results for Wisconsin are generally consistent with results in other studies: we have not been able to find evidence that Section 42 developments cause property values to deteriorate. The exception is Milwaukee County, where properties that are distant from the developments seem to appreciate more rapidly, although the magnitude of the effect is small. We have found no evidence of an impact in Waukesha and Ozaukee, and find evidence that properties in Madison near Section 42 developments appreciate *more* rapidly.”²⁰

There is “little or no evidence to support the claim that tax-credit rental housing for families has a negative impact on the market for owner-occupied housing in the surrounding area...Rather than negative impact, the evidence suggests to us that the various housing submarkets surrounding the tax-credit properties in our study performed

¹⁷ National Association of Home Builders, “Multifamily Market Outlook,” Washington, DC, November 2001, pp. 3-4.

¹⁸ Henry O. Pollakowski, David Ritchay, and Zoe Weinrobe, “Effects of Mixed-Income, Multi-family Housing Developments on Single-family Housing Values,” Cambridge, MA: MIT Center For Real Estate, April 2005, p. xiii.

¹⁹ Arthur C. Nelson and Mitch Moody, “Apartments and Detached Home Values,” *On Common Ground*, National Association of Realtors, 2003. See also: Nelson and Moody, “Price Effects of Apartments on Nearby Single-family Detached Residential Homes,” Virginia Tech University, 2003.

²⁰ Richard K. Green, Stephen Malpezzi, and Kiat-Ying Seah, “Low Income Housing Tax Credit Housing Developments and Property Values,” Madison, WI: The Center for Urban Land Economics Research: 2002, p. 4.

normally, exhibiting similar levels of variability before and after tax-credit construction, and responding to supply and demand forces in similar fashion as the larger market.”²¹

“In sum, assisted housing of various types: (i) had positive or insignificant effects on residential property values nearby in higher-value, less vulnerable neighborhoods, unless it exceeded thresholds of spatial concentration or facility scale; (ii) evinced more modest prospects for positive property value impacts in lower-value, more vulnerable neighborhoods, and strength of frequently negative impacts was directly related to the concentration of sites and scale of the facilities.”²²

“In sum, the presence or proximity of subsidized housing made no difference in housing values as measured by relative price behavior in a dynamic market.”²³

Some of these studies find examples where single-family houses located near apartments either experienced lower prices or lower appreciation rates than houses located further away. But for residents in neighborhoods near proposed apartment developments – and for local officials who represent them – it is important to understand that proposed multifamily housing rental developments do not generally lower property values in surrounding areas.

Social Interaction and Crime

Opponents of rental housing often argue that while people who own their homes are invested in the long-term success and safety of a community, people who rent apartments are merely short-term transients and therefore less desirable neighbors. That view has a long history and probably seems so unremarkable, so obvious, that proof is unnecessary. Nonetheless, some researchers have tried to discover whether homeownership creates a positive social benefit compared to rental housing. While the scope of their research is rather broad, for present purposes we focus on two aspects: (i) renters vs. owners as neighbors (citizens); and (ii) renters and crime.²⁴

The view that renters are not as engaged in their communities as owners seems to arise from the two apparent characteristics of renters: (i) by definition, they don’t own their own residence, hence are thought to have less of a “stake” in the community; and (ii) they tend to

²¹ Maxfield Research Inc., “A Study of the Relationship Between Affordable Family Rental Housing and Home Values in the Twin Cities,” Minneapolis, MN: Family Housing Fund, September 2000, p. 102.

²² George Galster, “A Review of Existing Research On the Effects of Federally Assisted Housing Programs on Neighboring Residential Property Values,” Detroit, MI: Wayne State University: September 2002, p. 26.

²³ Joyce Siegel, *The House Next Door*, Innovative Housing Institute, 1999. www.inhousing.org/house1.htm.

²⁴ For a good, critical summary of the scope of such research, see William M. Rohe, Shannon Van Zandt, and George McCarthy, “The Social Benefits and Costs of Home Ownership: A Critical Assessment of the Research,” in Nicolas P. Retsinas and Eric S. Belsky, eds., *Low-Income Homeownership: Examining the Unexamined Goal* (Washington, DC: Brookings Institution Press, 2002).

move more often. These characteristics are seen as making them transitory residents, perhaps more akin to visitors than to long-term residents.

But there are also countervailing forces. For example, single-family renters do not tear down old houses and replace them with “McMansions,” a phenomenon that can greatly alter neighborhoods, in ways that are not always desired by the existing residents.

In addition, it is important to recognize that housing tenure is different from residential stability. Housing tenure refers to how long an individual has lived in one place, while neighborhood stability reflects the quality, cohesion and safety of a community. It is the latter that may be the key factor: “Between 4 and 92 percent of the effect of homeownership and citizenship is operating primarily because homeownership is associated with lower mobility rates.”²⁵ Stability itself is relative: in Western Europe, for example, many renters have lower turnover rates than U.S. homeowners. To the degree that there may be positive benefits from lower turnover, then the focus ought to be on increasing residential stability rather than trying to restrict choice of tenure.²⁶

Neighborhood residents may be less interested in distinguishing the exact cause than in ensuring the best outcome, and for many, promoting homeownership rather than renting seems an effective way to do so. In fact, that turns out not to be the case:

- Apartment residents are almost twice as likely to socialize with their neighbors as owners of single-family houses (33 percent vs. 17 percent).
- Apartment residents are just as likely as house owners to be involved in structured social groups like sports teams, book clubs, and the like (22 percent for sports groups, 10-11 percent for other groups).
- Apartment residents are only slightly less likely to attend religious services at least once a month (44 percent vs. 55 percent).
- Just like single-family owners, apartment residents identify closely with the town or city they live in (60 percent for apartment residents vs. 64 percent for single-family owners).

²⁵ Denise DiPasquale and Edward L. Glaeser, “Incentives and Social Capital: Are Homeowners Better Citizens?” *Journal of Urban Economics*, Vol. 45, Nr. 2 (March 1999).

²⁶ Apgar notes that disentangling the many factors that influence behavior in order to isolate the impact of tenure alone is exceedingly complex. See: William Apgar, Rethinking Rental Housing: Expanding the Ability of Rental Housing to Serve as a Pathway to Economic and Social Opportunity,” Joint Center for Housing Studies Working Paper W04-11, December 2004.

- Almost half (46 percent) of apartment residents feel close to the neighborhood they live in. This is not as high a share as for single-family owners (65 percent), but still sizable.
- Apartment residents are virtually as interested in politics and national affairs as house owners are (66 percent vs. 70 percent).

The one area in which apartment residents noticeably lag house owners is in local elections: 47 percent of apartment residents say they “always vote” or “sometimes miss one,” compared with 78 percent of single-family owners.²⁷

Put simply, these objective measures undermine the notion that apartment residents somehow don’t care much about, and don’t involve themselves in, the communities in which they live. On the contrary, they tend to be at least as socially engaged as other Americans.

As important as these things are in helping to shape the character of a neighborhood, it stands to reason that they can easily be negated by an increase in criminal activity. Is there any truth to the idea that crime follows in the wake of apartment development?

It turns out that there have been very few studies that address this issue. A study conducted for the Arizona Multihousing Association concluded that the perception of higher crime associated with multifamily housing results from counting police calls by address. Hence an apartment property with 100 or more units at the same address may be wrongly compared to one single-family residence. “In actuality, when police data is analyzed on a per unit basis, the rate of police activity in apartment communities is no worse than in single family subdivisions, and in many cases, is lower than in single family areas.”²⁸

In a similar vein, studies of Irving, Texas, and Anchorage, Alaska, found no connection between crime and housing density. The former used geographic information systems (GIS) analysis to supplement more conventional approaches, and determined that “high density and multi-family development are not necessarily associated with high crime rate, but socioeconomic status is.”²⁹ The latter study reached a similar conclusion: “These data show no relationship

²⁷ NMHC tabulations of microdata from the General Social Survey. See: Jack Goodman, “Apartment Residents As Neighbors and Citizens,” *Research Notes*, Washington, DC: National Multi Housing Council, June 1999.

²⁸ Elliott D. Pollack and Company, “Economic & Fiscal Impact of Multi-family Housing,” Phoenix: Arizona Multihousing Association, 1996, Part II.

²⁹ Jianling Li and Jack Rainwater, “The Real Picture of Land-Use Density and Crime: A GIS Application,” available at: <http://gis.esri.com/library/userconf/proc00/professional/papers/PAP508/p508.htm>

between housing density and delinquency...The observed correlation coefficients between housing density and the six criminological measures were all small in magnitude (very close to “0”), statistically significant...and in some cases in the opposite direction predicted by the hypothesis of a direct relationship between housing density and crime.”³⁰

The Multifamily Record: Conclusion

Further research would certainly be welcome. Even so, we think the available research is fairly strong that multifamily rental housing: (1) does not impose greater costs on local governments; (2) does it increase traffic and parking problems; (3) when well-designed and appropriate to the neighborhood, does not reduce (and may even enhance) property values; and (4) does not inherently attract residents who are less neighborly or more apt to engage in (or attract) criminal activity.

This evidence may be sufficient for planners and many public officials – particularly those who have already come to understand the benefits of greater housing choice, mixed-use and mixed-income residences, transit-oriented development, and pedestrian-friendly communities. Two obstacles remain: codified restrictions on multifamily developments and individual opposition to specific multifamily projects.

Experience suggests that opponents who live near apartment developments are often hard to convince. For some, opposition to apartments may be more emotional than analytical. As one opponent put it: “We don’t want renters. We just don’t want them...”³¹ For many, anecdotes trump statistics.

For this reason, marshalling statistics is a necessary step, but not usually a sufficient one. Instead, proponents need to overcome opposition to individual proposed developments. Before turning to this, we take a brief look at how opposition to multifamily rental housing in general has been codified, thereby adding another hurdle for proponents.

³⁰ University of Alaska Justice Center, “The Strength of Association: Housing Density and Delinquency,” *Anchorage Community Indicators*, series 3A, No. 1, available at: <http://justice.uaa.alaska.edu/indicators/series03/aci03a1.housing.pdf>

³¹ See “From Parking to Mixed-Use,” *Montgomery Gazette*, September 28, 2005, at: www.gazette.net/stories/092805/bethnew205622_31894.shtml

Regulatory Restriction on Multifamily Housing in General

Opposition to multifamily rental housing has a long history. More than a century ago, the notoriously poor living conditions associated with tenement houses led not only to a movement to reform and improve such dwellings, it also led to a movement to prevent further apartment construction. Opponents drew on two key tools to block new multifamily buildings: restrictive building codes that made multifamily construction uneconomic; and zoning – in particular, the creation of single-family-only districts.³²

These and other tools are still being used.³³ The most common regulations involve zoning and/or comprehensive land use planning. More recently, policies to restrict, manage, or even prevent further growth – from impact fees to “urban containment” to outright moratoria – have been added to the mix. Given the sheer number of local land use areas, even collecting comprehensive data on residential development restrictions is difficult. Assessing the impact of these regulations is even more difficult for at least two reasons. First, the devil may indeed be in the details, so that any overview or summary analysis is likely to be flawed. Second, some jurisdictions may, on a fairly routine basis, grant waivers or exemptions for certain kinds of developments, with the result that the regulation on the books is not the de facto regulation.

Recent research analyzing density restrictions in local jurisdictions making up the 50 largest metropolitan areas concluded that a hypothetical 2-story, 40-unit apartment property on 5 acres of land would be prohibited outright in about 30 percent of such jurisdictions. Residential developments with densities of more than 30 units per acre are prohibited in all but 12 percent of local jurisdictions. To be sure, these jurisdictions encompass 48 percent of the population of these metro areas. Even so, it is clearly a significant restriction.³⁴ Such restrictions not only reduce the range of housing options available to local residents – in particular, most restrictions tend to favor lower-density over higher-density developments – they also make housing more expensive.³⁵

³² Kenneth Baar, “The National Movement to Halt the Spread of Multifamily Housing, 1890-1926” *Journal of the American Planning Association*, Chicago: Winter 1992.

³³ A good compendium of such restrictions is contained in: “Regulatory Barriers to Affordable Housing,” *Cityscape*, Vol. 8, Nr. 1 (2005).

³⁴ Rolf Pendall, Robert Puentes, and Jonathan Martin, “From Traditional to Reformed: A Review of the Land Use Regulations in the Nation’s 50 Largest Metropolitan Areas.” Metropolitan Policy Program, The Brookings Institution, Washington, DC: August 2006. http://www.brookings.edu/metro/pubs/20060802_Pendall.pdf

³⁵ See for example: John M. Quigley and Larry A. Rosenthal, “The Effects of Land Use Regulation on the Price of Housing: What Do We Know? What Can We Learn?”, *Cityscape*, Vol. 8, Nr. 1 (2005) and Edward L. Glaeser and Joseph Gyourko, “The Impact of Building Restrictions on Housing Affordability,” *Economic Policy Review*, Federal Reserve Bank of NY, New York, NY: June 2003.

How can regulations that inhibit development of multifamily rental housing be reduced or eliminated? This is an area which could greatly benefit by further investigation.³⁶ For now, we offer two assessments. First, to change the regulations, we must first change the attitudes of either local officials, the public at large, or both. In this respect, efforts to change regulations parallel other efforts to overcome resistance to apartments. Second, while the comprehensive land use plan can be used to restrict multifamily housing, it can also be a valuable tool in promoting such housing. For example, Arlington County, Virginia, has been successful in implementing high-density, transit-oriented development. In addition to far-sighted planners, the Arlington approach has been to foster extensive public debate about policy impacts and benefits (hence also public “buy-in” of the results of the process), maintaining continuity of policy through both election and market cycles, and clearly formulating implementation tools at the same time as policy enactment.³⁷

III. Opposition to Specific Multifamily Projects

Reducing or eliminating regulatory impediments may hold the greatest promise for increasing the acceptance of multifamily rental housing. But it also is likely to take the longest time to accomplish. In the meantime, it is important to counter opposition to individual apartment projects, to win support for proposed multifamily rental developments, and to turn pro-apartment attitudes into pro-apartment action.³⁸

Public Information

A significant amount of resistance to multifamily rental housing is based on lack of information, misperceptions, or exaggerated fears of project impacts.³⁹ Providing clear, accurate information about a proposed housing project is a critical part of a successful outreach campaign.⁴⁰

³⁶ Indeed, some research is currently underway. The Urban Land Institute and the National Multi Housing Council are collaborating to produce a compact development “toolkit” for localities.

³⁷ Michael Pawlukiewicz and Deborah L. Myerson, “ULI/NMHC/AIA Joint Forum on Housing Density,” *ULI Land Use Policy Forum Report*, Urban Land Institute: Washington, DC, 2002. <http://tinyurl.com/rd5y9>

³⁸ Debra Stein, “Creating a Community Outreach Plan,” *Developments Magazine*, March 2006.

³⁹ See *Creating Successful Communities: A New Housing Paradigm*, National Multi Housing Council/National Apartment Association: Washington, D.C., 2002, and Richard Haughey, *High-Density Housing: Myths and Facts*, Urban Land Institute: Washington, D.C., 2005, for rebuttals to common misperceptions about multifamily and rental housing. For a free downloadable PowerPoint presentation on rental housing, see “Rethinking Density to Create Stronger, Healthier Communities” from the National Multi Housing Council: www.nmhc.org/Content/ServeContent.cfm?contentItemID=3423.

- **Misperceptions about the project.** Citizens may misunderstand the fundamental nature of the housing proposal. For instance, neighbors may erroneously believe a sponsor is building “Section 8 apartments” rather than “eight apartments.” The project definition must be carefully spelled out so that neighbors understand what type of project is proposed in their backyard.
- **Misperceptions about residents.** Many citizens have misperceptions or stereotypical expectations about the kinds of people who live in rental housing. They also have negative misperceptions about the type of behavior that rental residents are likely to engage in. Many Americans, for instance, consider wealth to be an indication of responsible hard work, self-discipline, and moral worth. The flip side of this perspective is the belief that people who earn less money or who reside in less lavish homes must be lazy and irresponsible.⁴¹ Citizens often expect rental residents to be bad neighbors likely to engage in anti-social behavior such as crime, graffiti, loud parties, non-maintenance of property, and so on.⁴²
- Neighbors are much more likely to support a multifamily rental housing project when they understand that rental residents are people very similar to themselves. Many sponsors point to examples of pro-social workers likely to become apartment residents: local police officers, firefighters or teachers whose salaries make rental housing an attractive option. Responsible management of rental housing, including on-site management and resident rules, can also ensure that residents behave in appropriate ways.⁴³
- **Misperceptions about the sponsor.** Lack of information about the project sponsor and the sponsor’s track record of building or managing safe, similar projects can lead to

⁴⁰ Providing data is most likely to change opinions when the audience is willing to engage in rational evaluation of objective facts. Where respondents do not have the time, interest, or ability to engage in systematic evaluation of the facts, then subjective simple rules of thumb such as “everyone hates the project” and “lawyers always lie” become more important. For a discussion of rational, emotional and peripheral persuasion, see Debra Stein, “Garnering Support for Homebuilding,” *Builder and Developer Magazine*, June 2006, Vol. 16, No. 6.

⁴¹ Conservatives tend to rate individualistic causes of poverty such as laziness as 50 percent more important than social causes such as the unavailability of affordable housing. Bernard Weiner, *Human Motivation: Metaphors, Theories and Research*, Sage Publications: Thousand Oaks, CA, 1992.

⁴² A multifamily for-sale project in California’s Silicon Valley provided an interesting reminder that poverty is a relative, not an absolute concept. The proposed units would be sold at one-third the median sales price of the surrounding single-family neighborhood, and existing residents loudly protested that their new neighbors were likely to be bad neighbors. These condos actually sold for \$900,000 apiece, while the average home within the super-luxury enclave was valued at \$3.2 million. While multifamily residents were not “poor” by any absolute economic standard, they were relatively “poor-er” than existing mansionaires, and therefore presumed to be less acceptable as neighbors.

⁴³ Debra Stein, “The Ethics of Housing and NIMBYism,” *Affordable Housing Finance*, February 2006.

NIMBY resistance to multifamily housing. The message that “the sponsor has a history of management safe, similar projects” is highly effective to win support for controversial, dense housing.

- ***Misperception about other people’s opinions.*** One of the most influential causes of resistance to multifamily rental housing is the misperception that “everyone hates the project.” No one likes to be criticized by their peers, so even pro-housing neighbors will repress their enthusiasm if they are under the mistaken impression that “everyone else” opposes the proposed rental housing project.⁴⁴ That is why it is critical to get the message out that the proposed housing project is supported by some portion of the community. You don’t need majority support for the planned housing project, but you do need pro-housing neighbors to know that they are not alone in their support for the apartment project.⁴⁵

There are several factors involved in providing the public with information that reduces anti-housing attitudes and promotes pro-housing attitudes. The source of information must be deemed sufficiently expert, trustworthy, and likeable.⁴⁶ Message factors such as the number and order of arguments impact the effectiveness of information. Audience factors such as an individual’s attention or perception of what “everybody else” thinks clearly affect whether information alone will resolve opposition to multifamily rental housing. Finally, there is a wide range of communication channels to choose from to disseminate information to the public, including briefings, presentations, advertising, direct mail, and media interviews.⁴⁷

Providing clear, accurate information about a proposed multifamily rental housing project is a crucial part of a community outreach campaign. However, public information can also be seen

⁴⁴ For a discussion of the contagious “bandwagon” effect of repressed opinion, see Elizabeth Noelle-Neumann, *The Spiral of Silence: Public Opinion – Our Social Skin*. University of Chicago Press: Chicago, 1993. For an excellent overview of the relationship between public opinion and private opinion or behavior, see Theodore L. Glasser and Charles T. Salmon, eds., *Public Opinion and the Communication of Consent*, Guildford Press: New York, 1995.

⁴⁵ In a series of conformity tests conducted in the 1950s by Solomon Asch, 94 percent of respondents were willing to express an unpopular minority viewpoint when there was at least one other person publicly agreeing with them. By comparison, only 70 percent of participants were willing to express a minority opinion in the absence of social support. See Philip Zimbardo and Michael Leippe, *The Psychology of Attitude Change and Social Influence*, McGraw Hill: Boston, 1991.

⁴⁶ For a discussion of credibility, see Debra Stein, “The Truth About Credibility,” *Public Management Magazine*, June 2001.

⁴⁷ Carl Hovland’s “Yale Chain of Response Model” describes the many variables involved in effective persuasion. See Roxane Lulof, *Persuasion: Context, People, and Messages*, Gorusch Scarisbrick Publishers: Scottsdale, Arizona, 1991.

as very condescending. When a sponsor sends out a letter inviting residents to, “Come to a meeting so we can tell you what we’re doing in the neighborhood,” citizens may interpret the invitation as actually saying, “We unilaterally made decisions that affect you but we only have a patronizing obligation to tell you about those decisions after the fact.” As important as it is to give information to the public, it is usually more sensitive to focus on how you want to elicit feedback, ideas and suggestions from the public.

Public Participation

Too much resistance to multifamily rental housing arises because sponsors fail to demonstrate the real respect they feel for neighbors. An insensitive project sponsor may implicitly hear, “I am important and you didn’t treat me with respect. I therefore have to oppose your proposal in order to discredit you and to discredit your disrespectful opinion of me.”⁴⁸

While it is always important to treat neighbors with respect, it is especially important to do so when dealing with controversial housing projects. There are several specific measures you can take to demonstrate respect and reduce anti-housing attitudes and action:⁴⁹

- **Empower citizens.** Citizens will often “just say no” to a housing proposal simply because they feel it was developed without their input. Involving citizens early in the planning process can help avoid this unnecessary resistance. The conventional scenario involves merely *informing* neighbors of plans made or being made by other people. *Consulting* with residents involves eliciting their ideas and making it clear how that input will affect the project sponsor’s final plans. When housing sponsors and residents engage in *joint decision-making*, all stakeholders collectively evaluate different alternatives to mutually identify the best scenario.⁵⁰
- **Respect each individual’s unique needs.** Everyone likes to feel that they stand out from the crowd, and everyone wants to know that their unique needs are respected. Recognize that each neighbor has distinct concerns: “Since you live right next to the site, the new apartment building will be more visible to you than to your neighbors.”

⁴⁸ Someone who sees themselves as an important community leader will “lose face” if ignored or disrespected. D.B. Bromley, *Reputation, Image and Impression Management*, John Wiley & Sons: Chichester, England, 1993.

⁴⁹ Debra Stein, “Credibility, Respect and Power: Sending the Right Non-Verbal Signals,” *The Commissioner Magazine*, American Planning Association, Fall 2006.

⁵⁰ See Deborah Myerson, *Involving the Community in Neighborhood Planning*, Urban Land Institute: Washington, D.C., 2005.

- **Use personal names.** Name tags, sign-in sheets and self-introductions help personalize each neighbor and make it easier to learn and use each person's name. When neighbors are treated as respected individuals, they are less likely to engage in hostile mob conduct such as booing or hissing at meetings.
- **Make a lot of eye contact,** especially when listening. When you're talking to a large audience, don't engage in "machine gun" head-turning where your eyes barely sweep over the audience's heads in a mechanical way. Instead, make personal eye contact with one individual at a time, creating a respectful, personal relationship with each person you look at before you establish eye contact with another audience member.⁵¹
- **Engage in active listening.** Once a citizen has made a statement, use your own words to reflect back what you have heard before responding or offering an advocacy message ("It sounds like you are afraid that rental residents may not maintain their gardens"). You don't have to agree with what you have heard, but demonstrating that you have understood a neighbor's arguments shows that you have listened respectfully.

Outreach Tools

There are several outreach tools available to help sponsors communicate information to and elicit public input from citizens:⁵²

- *Unilateral materials* such as flyers, advertising and websites are used to convey information to the public in a one-way stream.
- *Bilateral outreach* such as one-on-one phone calls and briefings allow the housing sponsor to target messages to each listener and to simultaneously get feedback and elicit a commitment of support for the project.
- *Invitational events* such task forces, citizen advisory committees (CAC), and coffee-and-donut living room events are limited to a clearly-defined list of participants.
- *Multiparty events* such as community meetings or public workshops tend to focus on the exchange of opinion rather than public education or conflict resolution. Sponsors

⁵¹ For detailed instructions on the direction, duration and frequency of effective eye contact, see http://www.gcastrategies.com/books_articles/tips.php.

⁵² See James L. Creighton, *The Public Participation Handbook: Making Better Decisions Through Citizen Involvement*, Jossey-Bass: San Francisco, 2005 and Douglas Porter, *Breaking the Development Logjam: New Strategies for Building Community Support*, Urban Land Institute: Washington, D.C., 2006 for excellent outreach strategies and resources.

who need to meet with several dozen or even several hundred citizens should consider invitational events, roundtables, open houses, or other events with smaller, more manageable audiences.

- *Press relations* are important to avoid inaccurate press that could make misperceptions even more credible.

Building Support for Multifamily Rental Housing

It often isn't enough to simply keep a cap on opposition. Public expressions of support are often required to turn a proposal for multifamily rental housing into an approved project. Where rules against ex parte contact with public officials prevent a sponsor from directly lobbying a politician for a vote, citizen-lobbyists are needed to persuade officials to adopt favorable opinions about the housing proposal. Even when public officials already have pro-housing attitudes, pro-housing attitudes don't necessarily guarantee pro-housing action, so nervous politicians often need visible voter support before actually voting "yes" for a controversial multifamily housing proposal.⁵³

There are four steps to build support that works: identification of potential supporters; attitude recruitment; action mobilization and hearing management.⁵⁴

Identifying Potential Supporters

There are several different audiences of potential supporters, and the first step of any supporter development campaign is to identify who can be tapped for assistance:

- *Direct beneficiaries* are people who will make money on the project: the developer, the contractor, consultants, construction workers, and so on. While these supporters do not make credible witnesses at the microphone, they can sign petitions, send letters of support, make phone calls, and so on.
- *Indirect beneficiaries* gain from general improvements in the local economy arising from the project. Local merchants, for example, can benefit from increased pedestrian activity

⁵³ Debra Stein, "Preparing Your Lobbying Plan," *Land Development Magazine*, Fall 2005.

⁵⁴ Debra Stein, "Community Support – A Strategic Plan to Turn Out the Troops," *Urban Land Magazine*, December 1997. See also Debra Stein, "Turning Pro-Project Attitudes to Pro-Project Action," *The NIMBY Advisor*, January 2006, www.nimbyadvisor.com.

from new rental residents, while major employers seeking affordable housing for their workers can also benefit from multifamily housing in the community.

- *Project users* are another major audience of potential supporters. Whether it is potential renters or residents of future commercial or retail space, users make highly credible witnesses.
- Many people have already made a *public commitment* to help create housing for those in need. Getting people to think about themselves in terms of their religious or charitable affiliations is more likely to result in a project endorsement than allowing citizens to think about themselves only as property owners likely to be impacted by a housing development.
- *Special interest groups* either tend to generally support any kind of development or to support one particular component of the project. Many groups, for instance, support higher-density housing, including county farm bureaus, open space advocates, and transit advocates.
- Finally, support can be drawn from people who will suffer *relational consequences* if they don't step up and support the rental housing proposal: friends or relatives of future residents; the builder's employees or vendors; and others people whose continued personal relationship with a committed supporter tomorrow depends upon helping out today.

Recruiting Supporters

Within a housing context, a community member who signs a petition, fills out an endorsement card, or even attends a neighborhood coffee is substantially more likely to testify in favor of a project than someone who never makes an initial commitment. Before asking potential supporters to attend a public hearing or to make some other big pro-housing commitment, get your foot in the door with a much smaller request. Let's assume Mrs. Lee agrees to a minor, painless request such as signing a petition that says, "We need more housing in the community." When the housing sponsor later asks Mrs. Lee to endorse a particular housing proposal, she will feel pressured to comply with the later request or else look shamefully inconsistent. Having once agreed to the initial request, Mrs. Lee will start seeing herself as a cooperative and civic-minded ally, and as someone who actually cares about housing concerns and takes action to address them.⁵⁵

⁵⁵ See Robert Cialdini, *Influence: Science and Practice*, Allyn & Bacon, Boston, 2000 for a discussion of foot-in-the-door recruitment and door-in-the-face mobilization.

Mobilizing for the Hearing

The “foot-in-the-door” technique worked to get an initial commitment of support for a proposed apartment project. When hearing time rolls around, however, it’s time for the “door-in-the-face” approach. The door-in-the-face technique is initiated with a large request that may be rejected (“Will you come to a Planning Commission hearing on Tuesday afternoon and testify at in support of the proposed apartment complex?”). If the large request is accepted, then congratulations. If your first request is refused, then retreat to the smaller request you had in your back pocket all along (“Then will you call the chair of the Planning Commission and let her know you support the project?”). Compared to the first request, the second request will seem much smaller, more reasonable, and easier to agree to.

Managing the Public Hearing

There are several things you can do to maximize the impact supporters can make during a public hearing for a multifamily housing project:⁵⁶

- ***Provide key messages.*** Your allies need to know what to say before they stand up to testify. Providing a one-page fact sheet or list of bulleted talking points helps ensure that witnesses emphasize the key messages you want decision-makers to focus on. Reassure citizen-witnesses that it is OK to sound nervous; politicians are more impressed by sincere-sounding citizens than by the slickest professional mouthpiece.
- ***Arrange the order of your speakers.*** Ideally, pro-housing witnesses should be alternated or interspersed between anti-housing speakers. Interrupting a stream of hostile testimony with positive messages and clear rebuttals breaks the momentum of anti-rental neighbors and avoids the impression of overwhelming opposition to the project. You also want to ask a few of the most compelling, golden-tongued speakers to testify first so they can inspire later witnesses and guide subsequent testimony. Reporters who must leave the hearing early to meet their deadlines can also pick up quotable quotes from the most persuasive advocates when those witnesses speak at the beginning of the hearing.
- ***Encourage supporters to look supportive.*** Your allies (including your own team members) can express pro-housing enthusiasm even when sitting still. Encourage

⁵⁶ Debra Stein, “Managing the Public Hearing for Maximum Impact,” *Land Development Magazine*, Fall 1999.

project allies to smile and nod at appropriate moments. If there is an impressive crowd of supporters in the room, ask them to raise their hands or wear buttons to identify themselves as project advocates.

- ***Try to speak last.*** You want to be the last voice the decision-makers hear before they cast their votes. By speaking last, you can rebut attacks made by earlier speakers and ensure that pro-housing messages are fresh in the officials' minds when it comes time to make a decision. If necessary, reserve some of your originally allocated speaking time to provide a summary of your views after all citizens have testified. If you cannot secure rebuttal time for yourself, try to hold at least one persuasive supporter in reserve to speak at the end of the hearing who can summarize pro-project messages.

IV. Conclusion

The bias against multifamily rental housing must be overcome if America is to meet its housing needs in an environmentally sustainable and economically realistic manner.

Misperceptions, exaggerations and unfounded beliefs contaminate civic discussions about apartment development, yet anti-housing resistance can be rationally addressed by providing evidence about rental housing and its real, not imagined, impacts. Attitudes about apartments aren't solely derived from objective facts, however. Emotions, values, and even peripheral factors such as what "everybody else thinks" play important parts in the development of pro-housing and anti-housing attitudes, and must play a part in any developer's community outreach activities.

It will take more than mere opinions to create enough housing to meet the nation's growing population demands. Pro-housing attitudes need to be translated into pro-housing action. That means persuading planners and politicians to support policies and regulations to encourage the construction of new apartments. Since public officials are responsive to the demands of their constituents and community members, this also involves mobilizing citizens to support pro-apartment policies and actual apartment buildings in their own backyards. Perhaps, in the future, acronyms like RAMBY (Rental Apartments in My Backyard) will replace NIMBY in discussions about the creation of multifamily rental housing.

Harvard Joint Center for Housing Studies Releases State of the Nation's Housing 2018

The Joint Center for Housing Studies of Harvard University (JCHS) released [*The State of the Nation's Housing 2018*](#) on June 19. This year's release marks the 30th anniversary of this annual report, which examines national trends in housing market conditions. Since the study's inaugural release in 1988, the number of households burdened by housing costs in America has risen by nearly 14 million. The lack of affordability, high housing cost burdens, and inadequate federal assistance are serious issues for the lowest income renters. The report documents the dramatic increases in rents compared to incomes in the U.S. since 1960, during which median earnings increased 5% while rents rose 61%. The number of low income families increased by 6 million nationally since 1988, while the number of apartments renting below \$800, affordable to households making \$32,000 or less, declined by more than 2.5 million between 1990 and 2016.

According to the report, the share of renter households declined slightly from 2016 to 2017, from 36.6% to 36.1%. The share of renters decreased in more affordable metro areas in the South, but remained elevated in larger, high-cost metro areas. Multifamily construction is higher than at any point since the 1970s and construction is slightly outpacing demand. Vacancy rates were up 0.3% in the first quarter of 2018 compared to a year earlier.

Despite an overall softening of the overall rental market, however, the market is not serving the lowest income households. In 2016, only 35 available rental units were affordable for every 100 extremely low income (ELI) renter households, those earning less than the poverty level or 30% of the area median income (AMI). There is a nationwide shortage of more than 7.2 million rental homes affordable and available to ELI renter households.

Near-record numbers of renter households remain cost-burdened, paying more than 30% of their income for housing. In 2016, approximately 20.8 million households were cost-burdened and 11.0 million were severely cost-burdened, spending more than half of their incomes on housing. According to the report, 80% of renters making less than \$30,000 per year are cost-burdened. The lowest income cost-burdened households are left with few resources for other necessities like food, transportation, and healthcare. For these cost-burdened renter households, an emergency expense or unexpected loss of income could result in eviction and homelessness. After a decline of 14% between 2010 and 2016, the homeless population increased by 3,800 people in 2017.

Despite the increasing need, federal rental assistance is grossly insufficient. Only one out of every four very low income (VLI) renter households, those at or below 50% AMI, receives

housing assistance. From 1987 to 2015, the number of VLI households grew by 6 million, while the number receiving housing assistance increased by only 950,000. The share of these households receiving assistance declined from 29% to 25%.

The report also discusses the state of homeownership in the U.S. The national homeownership rate increased to 64.2% by the fourth quarter of 2017 from a 50-year low of 62.9% in the second quarter of 2016. The current homeownership rate is comparable to that of the late-1980s and mid-1990s. Though the homeownership rate appears to have stabilized, other challenges remain. Issues such as tight credit, limited inventory, potential increases in interest rates, and student debt could constrain further growth in homeownership, especially for low and moderate income households. Homeownership rates for younger households and black households are near 30-year lows, and the ownership disparity between black and white homeowners is growing.

The State of the Nation's Housing 2018 can be found at: <https://bit.ly/2I2W7EG>
Read NLIHC's press release on the report at: <http://nlihc.org/press/releases/10890>

<https://nlihc.org/article/harvard-joint-center-housing-studies-releases-state-nation-s-housing-2018>

A BRIEF DESCRIPTION OF THE HOUSING TAX CREDIT PROGRAM



In the beginning:

- ▣ The program was born in 1986 out of the changes in the tax code under Ronald Reagan
- ▣ The program is regulated under the Internal Revenue Code – Section 42

The result:

- ▣ Congress had to find a way to incentivize individuals to invest in real estate that would not create a rent burden on individuals and family's making less than the Area Median Income (AMI)
- ▣ That incentive is a dollar for dollar tax credit for an investor in the housing credit development

IRS Program

- ▣ The Treasury Department thru the IRS delegated the responsibility of managing the program to State Housing Finance Agencies
- ▣ In Texas – The Texas Department of Housing and Community Affairs (TDHCA) – is responsible for the management, compliance, and inspection of the program and its housing developments



TDHCA

- ▣ TDHCA manages the Federal Housing Tax Credit Program through the State's 9% & 4% Credit Program
 - 9% Tax Credit
 - ▣ A competitive application process
 - ▣ Designed for New Construction or Substantial Rehabilitation
 - ▣ Scoring criteria range from financial feasibility, various indicators of local support, size, **quality of development**, amenities and services to be provided to the tenants, economic health of the community, and more
 - ▣ Scoring reflects requirements found in state law and program rules; the program rules are known as the Qualified Allocation Plan



TDHCA - Compliance

- ▣ TDHCA has a dedicated compliance department solely for the purpose of making sure its housing programs maintain and follow the federal and state regulations and laws. This is accomplished through but not limited to:
 - Annual reporting of tenant certification data
 - Annual submission of monitoring reports. Punitive sanctions and fines for failure to submit on a timely basis
 - Physical inspection of projects upon completion of construction
 - Follow-up physical inspections to ensure development projects are maintained and kept at a high standard
 - Enforcement policy in conjunction with federal policy that could enforce punishment including but not limited to: conviction & prison time, fines, and sanctions
- ▣ In addition to State oversight, City's will have building and operational code enforcement which must be adhered. Failure to maintain development projects can lead to penalties and fines. Additionally, City's can and will report program non-compliance to TDHCA

How does the program calculate rental restrictions?

- ▣ “Housing burdened” is defined as “any household that is paying greater than 30% of the total household income for gross housing cost”

.... more than 2 million urban Texan households, most of them renters, are considered financially burdened by housing costs because they spend 30 percent or more of their income on housing — and more than 950,000 of them spend more than half of their income on housing costs.

Experts and a litany of academic studies say that Americans who spend that much of their income to keep a roof over their heads have a harder time climbing out of poverty or moving up the socioeconomic ladder.

“There are so many other budgetary pressures, and the more you spend on housing, the less you can spend in other areas that impact your family’s ability to succeed,” said Mandy DeMayo, executive director of the housing advocacy group HousingWorks Austin.

Source: Texas Tribune



Texas – Texarkana

Bowie County

Per Novogradic & Associates

Year 2018(effective 04/01/18)

4 - Person AMI \$52,200

Persons/Bedroom 1.5 Persons/Bedroom

Income Limits for 2018

Based on MTSP Limits	30%	40%	50%	60%	80%
1 Person	11,880	15,840	19,800	23,760	31,680
2 Person	13,560	18,080	22,600	27,120	36,160
3 Person	15,270	30,360	25,450	30,540	40,720
4 Person	16,950	22,600	28,250	33,900	45,200
5 Person	18,330	24,440	30,550	36,660	48,880

LIHTC Rent Limits for 2018

(Based on 2018 MTSP/VLI Limits)

Bedrooms (People)	30%	40%	50%	60%	80%
Efficiency (1.0)	297	396	495	594	792
1 Bedroom (1.5)	318	424	530	636	848
2 Bedroom (3.0)	381	509	636	763	1,018
3 Bedroom (6.0)	441	588	735	882	1,176
4 Bedroom (4.5)	492	656	820	984	1,312



Area Tenant Profile

- ▣ Tenant/Household whom is gainfully employed
 - Types of tenants & salary eligible for residency (varies with household size)
 - ▣ Teacher Aide avg - \$26,191
 - ▣ Nurse - \$39,265
 - ▣ Teacher - \$46,108
 - ▣ Fire & Rescue - \$45,827
 - ▣ Police Officer - \$44,880
 - ▣ City Support Staff - \$44,717
 - ▣ Public Safety - \$34,000
 - ▣ Admin Assistant - \$29,364
 - ▣ Healthcare Worker - \$28,000
 - ▣ Local Service Worker (restaurant) - \$ 22,080 plus tips
 - ▣ Local Service Worker (retail) - \$ 26,520

Texas – Texarkana

Bowie County

Area Information:

- City population – 37,389
- Texarkana MSA – 149,765
- Texas net population increase – 1,178/day
- Median Age – 35.7 years
- Median Household Gross Income - \$38,292
- 52.48% of Texarkana, Tx Area households are Housing Overburdened – This number will likely increase as the Metro Area continues to grow.
- Estimated growth per decade – 6%

Sources

<http://harvard-cga.maps.arcgis.com/apps/MapSeries/index.html?appid=ea1929b8f2bf482dadad173a3f62c27e>

http://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf

<https://datausa.io/profile/geo/texarkana-tx/#housing>

<http://worldpopulationreview.com/us-cities/texarkana-tx-population/>

<https://affordablehousingonline.com/housing-search/Texas/Texarkana#income>

<https://www.ci.texarkana.tx.us/DocumentCenter/View/747/Comprehensive-Plan-Appendix-B-Demographic-Analysis?bidId=>



City Benefits of Housing Credit Development Projects

▣ Economic Investment

- Assists the City with its housing needs by providing quality income based housing. Thus forcing absentee landlords who have neglected their properties to react and further invest into their properties
- Improves the age of housing stock. In many cases, tenants are forced to live in older less maintained properties due to rising housing demand and cost
- A Typical 100 unit new construction development project will bring approximately \$20 Million dollars of investment to the area.
- That investment has the propensity to spur additional development in the area given the area has added an additional 100 rooftops with working tenants
- Development projects increase surrounding property value. An immediate \$20 Million dollar income producing investment in a localized area
- Development projects add to the local economy. Additional working families needing the services and goods offered in the local community.
- The development will bring additional jobs to the local community



Misperceptions

Housing Credit Development Projects

Research from Harvard Joint Center for Housing Studies-

▣ Property Value Decline

- “working communities with multifamily dwellings actually have higher property values than other types of working communities. In other words, the average value of owner-occupied houses was highest in working communities with the most multifamily units. In fact, among working communities, “the high multifamily areas had the highest home values, the mixed-stock areas the next highest, and the single-family areas had the lowest.” The study also noted a similar phenomenon with respect to income: among working communities, higher household income was positively associated with the share of multifamily housing”

▣ Impact to School

- On average, 100 single-family owner-occupied houses include 51 school-age children. By contrast, apartments are attractive to single people, couples without children, and empty nesters, which is why 100 apartment units average just 31 children. The disparity is even greater when considering only new construction: 64 children per 100 new single-family houses vs. 29 children per 100 new apartment units. Wealthier apartment dwellers have even fewer children (12 children per 100 households for residents earning more than 120 percent of the area median income, AMI), while less wealthy residents earning less than 80 percent of AMI still have fewer children (37 per household) than single-family homes.

▣ School Funding

- Thus, apartments actually pay more in taxes and have fewer school children on average than single-family houses. In other words, it may be more accurate to say that apartment residents are subsidizing the public education of the children of homeowners than the reverse.



Housing Credit Development Projects

- continued

☐ Crime

- “studies of Irving, Texas, and Anchorage, Alaska, found no connection between crime and housing density. The former used geographic information systems (GIS) analysis to supplement more conventional approaches, and determined that “high density and multi-family development are not necessarily associated with high crime rate, but socioeconomic status is.”

☐ Social Interaction

- Apartment residents are almost twice as likely to socialize with their neighbors as owners of single-family houses (33 percent vs. 17 percent).
- Apartment residents are just as likely as house owners to be involved in structured social groups like sports teams, book clubs, and the like (22 percent for sports groups, 10-11 percent for other groups).

☐ There's No Housing Burden In our City

- Near-record numbers of renter households remain cost-burdened, paying more than 30% of their income for housing. In 2016, approximately 20.8 million households were cost-burdened and 11.0 million were severely cost-burdened, spending more than half of their incomes on housing. According to the report, 80% of renters making less than \$30,000 per year are cost-burdened.

SOURCE

http://www.jchs.harvard.edu/sites/default/files/rr07-14_obrinsky_stein.pdf

<https://nlihc.org/article/harvard-joint-center-housing-studies-releases-state-nation-s-housing-2018>



Economic Misperceptions

Housing Credit Development Projects Reserve at Cowhorn

- ▣ Current Annual Taxes of Proposed Development Site: \$149.20 (\$11.50 per acre)
- ▣ Annual Tax Estimate of Fully Developed Reserve at Cowhorn: \$12,600 (\$970.80 per acre)

- ▣ Average Resident Rent Is \$571
- ▣ 84 Housing Units

- ▣ Total Development Costs of Reserve at Cowhorn: \$15,671,908
- ▣ Construction Costs (Labor + Materials) of Reserve at Cowhorn: \$8,235,485

- ▣ Estimated Portion of Construction Costs Attributable to Labor: \$4,941,291

- ▣ Number of Full-time Positions at Reserve at Cowhorn: Two
 - One Community Manager
 - One Service Technician



Economic Misperceptions

Housing Credit Development Projects Reserve at Summerhill

- ▣ Current Annual Taxes of Proposed Development Site: \$5,169.33 (\$224.46 per acre)
- ▣ Annual Tax Estimate of Fully Developed Reserve at Summerhill: \$19,600 (\$851.06 per acre)

- ▣ Average Resident Rent Is \$636
- ▣ 98 Housing Units

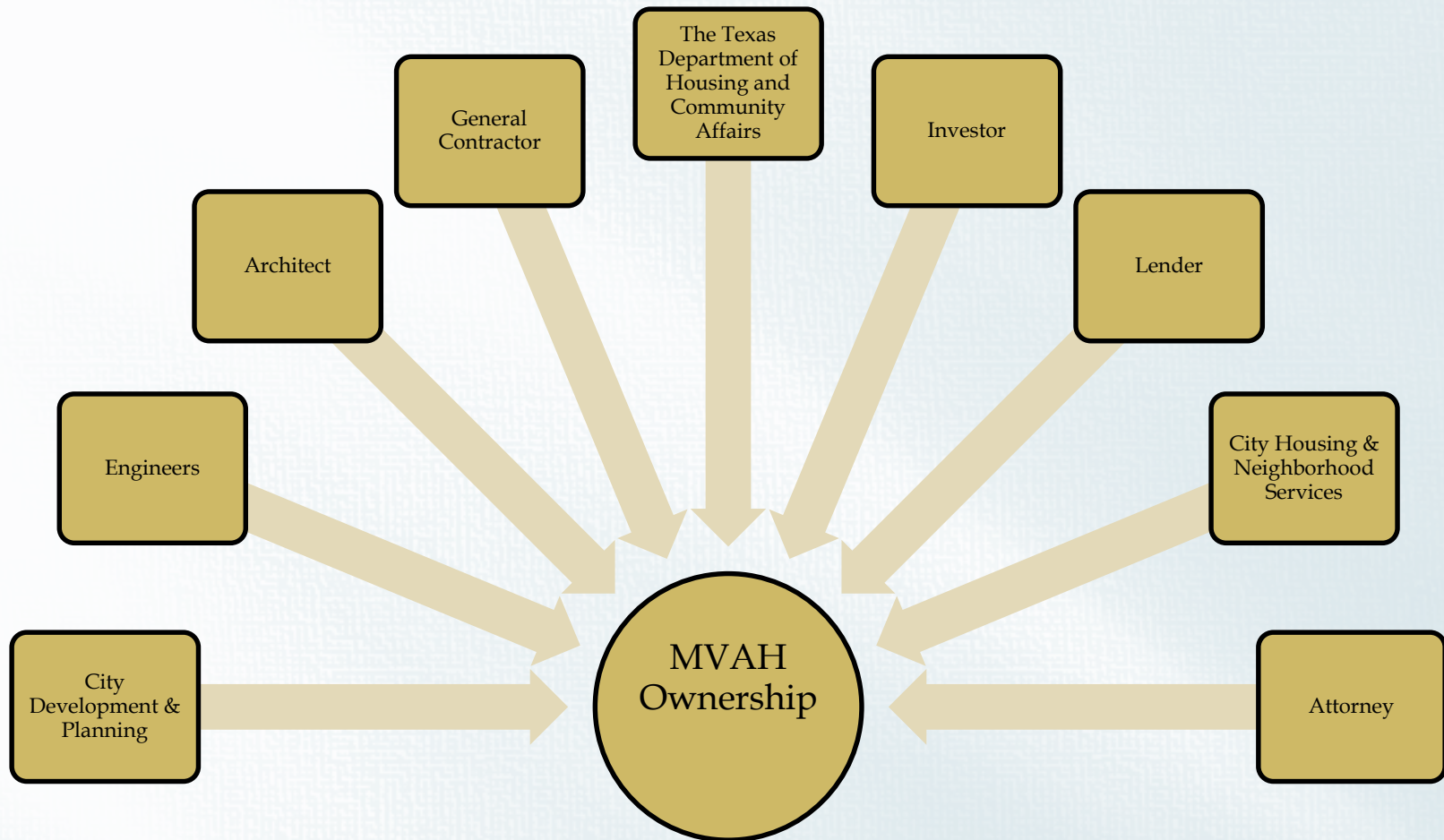
- ▣ Total Development Costs of Reserve at Summerhill: \$17,380,941
- ▣ Construction Costs (Labor + Materials) of Reserve at Summerhill: \$9,580,794

- ▣ Estimated Portion of Construction Costs Attributable to Labor: \$5,748,476

- ▣ Number of Full-time Positions at Reserve at Summerhill: Two
 - One Community Manager
 - One Service Technician



The Development Team



Any Questions?

Darren Smith
Head of Development
(214) 501-5618

Darren.Smith@mvahpartners.com

Justin Gregory
Financial Analyst
(513) 964-1152

Justin.Gregory@mvahpartners.com



Multifamily Finance
Division
Announcements[Apply for Funds](#)[NOFAs & Rules](#)[Multifamily Finance Staff](#)

Multifamily Programs

[9% Housing Tax Credits](#)[4% Housing Tax Credits](#)[Multifamily Bonds](#)[Multifamily Direct Loan](#)[Special Funding Initiatives](#)

Resources

[Multifamily FAQs](#)[Community Information](#)[TDHCA Public Comment
Center](#)[Multifamily Archives](#)[Underwriting Reports](#)[Asset Management](#)[CMTS](#)[Housing Contract System](#)[Section 811 Project Rental
Assistance Program](#)

Free file viewers
(To view and print PDF,
DOC, XLS, PPT and PPS
files)

9% HTC Pre-Application Basics

The 9% Housing Tax Credit (HTC) application process has two parts: (1) a voluntary Pre-Application, and (2) a mandatory Application. The information below offers a basic overview of the Pre-Application process. For specific details regarding HTC Pre-Applications and Applications, please refer to the [Qualified Allocation Plan \(QAP\)\(PDF\)](#).

Purpose

- The purpose of the HTC Pre-Application is to enable Applicants interested in pursuing an award of housing tax credits to assess generally their competition in a given region or subregion.
- Based on an understanding of the potential competition, Applicants can make a better and more informed decision whether they wish to proceed to prepare and submit an Application.
- Submission of a pre-application affords applicants the opportunity to achieve additional points on the full application.

Pre-Application Content

- Location of the proposed development site along with evidence that the applicant owns the site or has a contract to purchase the land;
- Applicant's name, address, individual contact name, and phone number;
- Development name, address, city, and county;
- Statement that the Applicant is submitting an application to TDHCA and certifying to an understanding of the applicable rules;
- Development attributes, i.e., new construction, reconstruction, adaptive reuse, or rehabilitation;
- Approximate total number of units and approximate total number of low-income units;
- Self-score form indicating estimated score of the full Application based on several selection criteria.

Process

- Pre-Applications must be submitted to the Department by a defined deadline, which is usually in early January.
- A Pre-Application fee is required (\$10 per unit)
- Only one Pre-Application may be submitted by an Applicant for each site.
- Department Pre-Application review is limited; not all issues of eligibility and threshold are reviewed.
 - Acceptance by staff of a Pre-Application does not ensure that an Applicant satisfies all Application eligibility, threshold or selection requirements.
 - Department rejection of a Pre-Application does not preclude an Applicant from submitting an Application.

Pre-Application Threshold Criteria

- Notification letters must be sent to all of the following individuals and entities in the area containing the development by e-mail, fax or mail with registered receipt return or similar tracking mechanism:
 - State Senator;
 - State Representative;
 - Mayor of municipality;
 - All city council members;
 - County judge;
 - All county commissioners;
 - School district superintendent;
 - School district board of trustees' presiding officer;
 - Neighborhood organizations whose boundaries contain the development site;
- Each such notice must include, at a minimum, all of the following:
 - Applicant's name, address, individual contact name, phone number;
 - Development name, address, city, county;
 - Statement that the Applicant is submitting a request for HTC's with TDHCA;
 - Development attributes, i.e., new construction, reconstruction, adaptive reuse, or rehabilitation;
 - Development type, i.e., single family homes, duplex, apartments, townhomes, high-rise etc.; and
 - Approximate total number of units and approximate total number of low-income units.

Pre-Application Results

- TDHCA posts online by late January:
 - Pre-Application Log (a spreadsheet that reflects some content of each Pre-Application received by the Department)
 - Individually imaged Pre-Applications
- Only Pre-Applications which have satisfied all of the Pre-Application Threshold Criteria requirements will be eligible for Pre-Application points on the full Application.
- The scores of the Pre-Applications released on the Pre-Applications Submission Log do not represent a commitment on the part of the Department or its Board to allocate tax credits to any development and only represent the scores reflected in the Applicant's self-score form.
- Inclusion of a development on the Pre-Applications Submission Log does not ensure Pre-Application points.

Typical Schedule

January:	Application acceptance period begins
January-June:	Public comments accepted by TDHCA*
January:	Pre-Application deadline
End of February/ Early March	Applications due to TDHCA
July:	TDHCA Board awards 9% HTC's

For the current year's calendar dates, refer to the Qualified Allocation Plan.

***Public comment** does not impact the Pre-Application score but is highly valued by staff and the governing Board. TDHCA welcomes input during the public comment period, although only specific forms of public comment may impact the score of a full application.

Reasonable accommodations will be made for persons with disabilities and language assistance will be made available for persons with limited English proficiency.

2018-143 ATTH 07

[Site Policies](#)



[Top of Page](#)

Attachment: 2018-143 ATTH 07 TDHCA Housing Tax Credits & Schedule (1979 : 2018-143 RES TDHCA Tax Credit Dev App Reserve at Cowhorn)

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:

Update Date: 12/4/2018 4:36 PM

Lead Department: Planning and Community Development **Action Officer:** David Orr, Planning & Community Development Director

Subject: Resolution No. 2018-144 considering a Texas Department of Housing and Community Affairs (TDHCA) housing tax credit development application for the Reserve at Summerhill.

Briefing: 12/10/2018 **Public Hearing:** 12/10/2018 **Council Vote:** 12/10/2018

Item Schedule

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

Updates/History of Briefing:

NOT APPLICABLE

Executive Summary and Background Information:

MVAH Development LLC and Reserve at Summerhill LLC are requesting a resolution of support from the City of Texarkana and a de minimis financial contribution from the City for the purposes of scoring under the TDHCA 2019 QAP.

This de minimis contribution sought is currently a fee waiver for City permit or tap fees in the amount of \$500, but MVAH Development LLC and Reserve at Summerhill LLC are open to entertain other options from the City that will meet the funding criteria set in the 2019 TDHCA QAP.

Potential Options:

- Approve
- Deny

Fiscal Implications:

\$500 in fee waivers and/or other in-kind contribution

Staff Recommendation:

Staff recommends a resolution of "no objection" to the tax credit application rather than "support" for the application due to several factors.

This property currently lacks the proper zoning for the proposed use. This project will be contingent on rezoning approval through the Planning & Zoning process from the current Single Family-2 and Agriculture to Multiple Family zoning.

Additionally, staff has concerns regarding the need for additional transportation infrastructure at this location in coordination with TXDOT.

City of Texarkana, Texas

Advisory Board/Committee Review:

NONE

Board/Committee Recommendation:

NOT APPLICABLE

Advisory Board/Committee Meeting Date and Minutes:

NOT APPLICABLE

Attachments

- a. 2018-144 RES TDHCA Tax Credit Application Reserve at Summerhill (DOCX)
- b. 2018-144 ATTH 01 MVAH Reserve at Summerhill Response 11.21.18 (PDF)
- c. 2018-144 ATTH 02 MVAH- Reserve at Summerhill (Aerial) (PDF)
- d. 2018-144 ATTH 03 MVAH- Reserve at Summerhill (Zoning) (PDF)
- e. 2018-144 ATTH 04 Harvard JC for Housing - Overcoming Opposition to MF Rental (PDF)
- f. 2018-144 ATTH 05 Harvard Joint Center for Housing Studies Releases State of the Nation (PDF)
- g. 2018-144 ATTH 06 Housing Tax Credit Introduction - MVAH Texarkana Tx (PDF)
- h. 2018-144 ATTH 07 TDHCA Housing Tax Credits & Schedule (PDF)
- i. 2018-144 Goals & Perspectives (DOCX)

Staff Coordination

Planning and Community Development	David Orr	Department Head Review
Completed	11/16/2018 3:39 PM	
City Attorney	Jennifer Evans	Review
2:54 PM		Skipped 11/19/2018
City Attorney	Jennifer Evans	Review
3:41 PM		Skipped 11/16/2018
Deputy City Manager - Kyle Dooley	Kyle Dooley	Deputy City Manager
Review	Completed	11/20/2018 8:09 AM
City Manager	Jennifer Evans	City Manager Review
9:33 AM		Completed 11/21/2018
City Council	Jennifer Evans	Meeting
6:00 PM		Completed 11/26/2018

Meeting History

11/26/18 City Council MOVED FORWARD Next: 12/10/18
 David Orr briefed this agenda item. Darren Smith, of MVAH Partners, provided information related to the development of the housing proposal.

RESOLUTION NO. 2018-144

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEXARKANA, TEXAS, ISSUING _____ FOR THE SUBMISSION OF AN APPLICATION TO THE 2019 COMPETITIVE HOUSING TAX CREDIT (HTC) PROGRAM THROUGH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) BY RESERVE AT COWHORN LLC, FOR THE PROJECT KNOWN AS "RESERVE AT SUMMERHILL" LOCATED AT 6225 SUMMERHILL ROAD; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Reserve at Summerhill LLC has proposed a development for affordable rental housing at 6225 Summerhill Road named Reserve at Summerhill in the City of Texarkana in Bowie County; and

WHEREAS, Reserve at Summerhill LLC has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2019 Competitive 9% Housing Tax Credits for Reserve at Summerhill.

IT IS HEREBY RESOLVED BY THE City Council of the City of Texarkana, Texas, that:

Section 1. As provided for in §11.3(b) of the Qualified Allocation Plan ("QAP"), it is expressly acknowledged and confirmed that the City of Texarkana has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds.

Section 2. The City of Texarkana, acting through its governing body, hereby confirms that it _____ the proposed Reserve at Summerhill to be located at 6225 Summerhill Rd in Texarkana in Bowie County and that this formal action has been taken to put on record the opinion expressed by the City of Texarkana December 10, 2018, and

Section 3. In accordance with §11.9(d)(2) of the QAP, the City hereby commits to an in-kind contribution to the Housing in the form of an in-kind contribution such as a grant or contribution of other value for the benefit of the Housing, and

Section 4. This support does not relinquish any procedures or rights the City might have in the rezoning process, nor does it alleviate any requirement to submit and follow all applicable applications, procedures and policies with the City and the Planning and Zoning Commission.

Section 5. For and on behalf of the Governing Body, Bob Bruggeman, Mayor, is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

Section 6. This Resolution shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED in Regular Council Session on this **10th day of December, 2018.**

ATTEST:

JENNIFER EVANS, CITY SECRETARY

BOB BRUGGEMAN, MAYOR



Letter of Interest

November 15th, 2018

City of Texarkana
220 Texas Boulevard
Texarkana, TX 75501

RE: City of Texarkana Support Package – Reserve at Summerhill

Thank you for the opportunity to provide information for an application of support / de minimis financial support from the City of Texarkana. MVAH Development (“MVAH”) is a leader in mixed-finance and innovative community development. We are proposing partnering with companies and individuals that have worked on dozens of developments



together, including Reserve at Summerhill LLC (Owner), MVAH Development (Developer / Team Leader), MVAH Management (Property Manager), BDCL Architects (Architect), and the Tidwell Group (Accountant). MVAH Development LLC also confirms that itself and all affiliates **are in good standing with both HUD and TDHCA** and that the Respondent nor any affiliate is currently currently debarred by either HUD or TDHCA. We commit to perform the work expeditiously. Below is a brief outline of MVAH Development’s qualifications.

MVAH Development (MVAH) is a for-profit developer resulting from a 2018 spin-off from **Miller-Valentine Group**, a successful real estate company founded in 1963. MVAH is an experienced developer of multifamily affordable housing. MVAH is a Cincinnati and Charlotte-based, nationally recognized, affordable housing company. MVAH consists of the principals and key development staff of the affordable housing branch of Miller-Valentine Group. Affordable Housing Finance magazine ranked MVAH as 3rd on the list of the Top 50 Affordable Housing Developers and 34th of the Top 50 Affordable Housing Owners in 2016.



MVAH began developing affordable housing in 1993. Since then MVAH has developed more than 7,000 affordable housing units ranging across a broad spectrum of housing types: multi-story apartment properties for families and seniors, villas, single-family developments, rehabs, adaptive reuse of existing buildings in large and small communities. MVAH has a singular focus on developing quality affordable housing for those who need it most. This includes over 85 affordable housing properties in 15 states, including a track-record of success in the State of Texas.

MVAH has received multiple awards in recognition of its successful affordable housing development business. We creatively approach the financing of projects, using multiple sources of funding as a matter of course to supplement awards of tax credits. These include HOME, FHLB's Affordable Housing Program, HUD and USDA programs, NSP and many others. MVAH has built strong, ongoing relationships with key lenders, syndicators, Housing Finance Agencies, and other public agencies that allow them to identify solutions to complex financing issues, secure the funding, and develop high quality development.

MVAH has dedicated itself to be the partner of choice for innovative and active governments and institutions. Cities, Housing Authorities, faith-based institutions, and key community stakeholders such as the Medina Metropolitan Housing Authority, Fort Worth Housing Solutions, Fort Worth Housing Finance Corporation, Housing Authority of the City of El Paso, the cities of Dayton and Delaware, OH, as well as others have chosen MVAH Development as their partner when undertaking complex new projects. We differentiate ourselves by our commitment to execute on community goals such as local hiring, green environmental standards, contextual design, collaboration in planning, development and service provision, partnership development and our ability to execute developments that help implement communities' revitalization plans which directly benefit the neighborhoods in which we work. The result has been recognition for these communities and for our partners which helps accelerate the momentum of progress and the community's enthusiasm for revitalization. We believe our success is measured by the legacy we create in the communities we serve, and our development team is committed to development for the City of Texarkana.

MVAH Development provides guarantees on equity, debt, and construction completion for the large majority of its affordable housing developments. Additionally, MVAH Development prides itself in being a stakeholder in the communities in which we develop. MVAH owns a large percentage of the affordable housing units we develop, meaning MVAH has a proven track record of operating affordable housing properties through lease-up, stabilization, and beyond. MVAH Development leverages its relationship



with banking institutions and if necessary has access to lines of credit and pre-development capital/loans.

Should you have any questions or concerns please do not hesitate to contact us. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B. McGeady', is written over a light blue horizontal line.

Brian McGeady
Managing Partner

Primary Contact Name: Darren Smith, SVP of
Development

Address: 8506 Carrie Lane, Rowlett, Texas 75089

Phone Number: 214.316.3107 Fax: N/A

Email Address: Darren.smith@mvahpartners.com

Address: 9100 Centre Pointe Drive, Suite 210, West
Chester, OH 45069

Phone Number: 513.964.1141 Fax: N/A

Email Address: brian.mcgeady@mvahpartners.com

Alternate Contact Name: Brian McGeady, Managing
Partner



Funding Request

MVAH Development LLC and Reserve at Summerhill LLC are requesting a resolution of support from the City of Texarkana and a de minimis financial contribution from the City for the purposes of scoring under the TDHCA 2019 QAP.

This de minimis contribution sought is currently a fee waiver for City permit or tap fees in the amount of \$500, but MVAH Development LLC and Reserve at Summerhill LLC are open to entertain other options from the City that will meet the funding criteria set in the 2019 TDHCA QAP.



Experience Certificate / Statement

Development Team Overview

Developer, MVAH Development LLC (Team Leader)

MVAH Development will lead the Development Team. MVAH Development works closely with MVAH Management, BDCL Architects, and the Tidwell Group. This highly experienced, integrated team enables the successful (high quality, on time, and within program requirements) execution of multiple tax credit and other housing related transactions at various stages in the development process each year, across multiple states.

The *MVAH Development* team has demonstrated capacity to successfully meet program guidelines on all developments currently in the development process, under construction, and in the future business pipeline. This experience includes a half-dozen developments financed by TDHCA, and an understanding of Texas and local requirements. MVAH Development has approximately 20 employees and 3 will be dedicated to the proposed projects. These individuals are Darren Smith (Developer) and Justin Gregory (Financial Analyst). Darren will be Texas based, primarily working out of Dallas. Justin will be based out of Cincinnati.

Darren Smith, Head of Development – Southwest Region, MVAH Development

Throughout Darren's career, he has been successful in executing more than \$1 Billion in total development cost of multi-family housing projects throughout the country. His ability to work with non-profit, government agencies, and for-profit partners has been instrumental in his success. His experience has involved projects that included but not limited to traditional bank financing, HUD, Freddie, Fannie, and loan assumptions.



Other programs essential in his success include LIHTC Section 42, Workforce Housing structures, Tax-Exempt Bond Financing, HOME funds, CDBG funds, Historic Preservation, Brownfield credits, Solar Energy credits, and city & county subordinate funds. Darren has been involved in all facets of the development process including site selection, strategic planning, feasibility analysis, site contract & acquisition, entitlements & zoning changes, negotiations with all third-party professionals. Focused on



bringing projects in on-time and on-budget begins with identification of General Contractors, bidding, and managing construction through completion all while strategically developing and implementing a lease-up and stabilization plan. Focused on fairness, Win-Win situations creates the best environment when issues inevitably occur. Team is always the best approach. Working within the LIHTC development environment, Darren will utilize his skill set and outreach experience as the HUB within the development. Through Auxano Development, LLC not only will Darren serve as the HUB, he will also bring his 20 plus years affordable/workforce development experience to the Team.



Justin Gregory, Financial Analyst, MVAH Development

Joining MVAH in 2014, Mr. Gregory is a financial analyst in the Southwest and Southeast region of the United States for MVAH Development. Justin is responsible for the underwriting and day-to-day management of lender and investor relations for developments that are headed by Darren.

Mr. Gregory has been involved with the development of approximately 1,000 multi-family housing units consisting of 9% LIHTC affordable housing, and 4% bond financed affordable housing. Justin is based in Cincinnati, Ohio and will serve as an additional point of contact for the development team and as the person who will coordinate with Investors and Lenders.

Justin holds a Bachelors of Business Administration in Economics and Finance from the University of Dayton.

Brian McGeady, Managing Partner, MVAH Development

Mr. McGeady guides the short and long-term acquisition and development activities of MVAH Management and Development, overseeing the affordable housing operations in over 18 states. He is responsible for strategic planning, financing, feasibility analysis, and the creation of strategic housing partnerships with non-profit and for-profit organizations.

Mr. McGeady joined MVAH in 1999 where he has been involved in the development and financing of more than 6,500 apartment units in Ohio, Indiana, Pennsylvania,





Michigan, Tennessee, Kentucky, Iowa, and North Carolina. Brian is based in Cincinnati and currently has time commitments in overseeing MVAH Development's development pipeline.

Adding to his experience, he spent nearly 2 years with Paramount Financial Group underwriting more than \$150 million of equity investment for tax credit properties. Brian's role for the development will be to provide an additional point of contact for the developer services. Brian has the capacity to be an additional point of contact for this conversion process and to offer strategic advice to the other development partners.



Michael Riechman, Managing Partner, MVAH Development

Michael Riechman is founding member and Managing Partner of MVAH Management and Development, an affordable housing developer, owner, and operator. Prior to MVAH Partners, he was a member of the Executive Team of Miller-Valentine Group and responsible for the Investment Management platform that includes capital raising, investment structuring, investor relations, property management, asset management, accounting and compliance.

Prior to joining Miller-Valentine, Michael was a Senior Managing Director and head of the Affordable Housing equity group at Centerline Capital Group. Prior to Centerline, he was with RBC Capital Markets where he spent eight years, most recently as Managing Director responsible for tax credit investments. There he led the tax credit syndication platform that included: originations and syndications, investments, pricing and structuring. The syndication platform had an annual investment volume of approximately \$600 Million.



Manager, MVAH Management LLC (Management Company)

MVAH Management will work with MVAH Development to facilitate its management of the development projects, including lease-up through project stabilization.

MVAH Management has been managing LIHTC properties since 1994. It currently manages over 5,000 units, over ninety-five



percent of which are restricted affordable units. MVAH Management manages all developments that MVAH Development currently owns. MVAH Management and Development share key principals and leadership, to give both companies a focused goal and vision. MVAH Management does manage several properties that have mixed-income units and a mixed-income component. MVAH Management, is responsible for compliance with regulations governing property management related to all housing funding programs utilized in MVAH developments, including LIHTC, NSP, HOME, RAD, Section 811, Section 8, 221(d)(4) and other HUD programs.

MVAH Management believes that proper training of its property managers is critical to a property's success and is heavily invested in training its property managers on an ongoing basis. MVAH Management is knowledgeable of TDHCA property management and compliance requirements and currently third party manages several properties in Texas. MVAH Management is currently in good standing with TDHCA and there are no barriers to the Development Team receiving awards of tax credits in Texas. MVAH Management's Director of Regulatory Compliance will help oversee operations to ensure that TDHCA and HUD agency requirements are met. Regional property management staff assigned to the Texas sub-region will oversee the staffing and operations of these projects. They have a staff able and ready to work on these developments.

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Architect, BDCL Architects

Formed in January of 2018, BDCL Architects, PC was created to provide the highest level of Architecture support and service for MVAH Development - one of the leading developers and managers of affordable housing in the country. The BDCL team's experience represents a wide breadth of knowledge in both the market-rate and affordable housing industries.

For almost 20 years, BDCL team members have been designing housing for residents which include projects across a broad spectrum of housing. This includes types such as single-family homes, townhomes, senior villas, multi-story senior & family, garden walkups, and adaptive reuse.



BDCL Architects is owned and managed by Kirk Paisley. He utilizes his knowledge of over a decade of experience to reach success in both tax credit awards and completion of low-income housing tax credit projects. Their only client is MVAH Development; allowing BDCL to give focus specifically to MVAH Development's pipeline.

Kirk Paisley, AIA, CSI, CDT, LEED AP, President and Owner, BDCL Architects

Kirk runs all day to day activities of the firm. Over nearly the past 20 years, Kirk has been working on housing projects for residents including the past 12 years focused on affordable housing projects in 16 different states. During that time Kirk worked as a third-party consultant for the largest tax credit syndicator in Ohio serving as a construction inspector on LIHTC projects throughout the state. Kirk brings with this experience in affordable housing his expert knowledge in the topics of sustainability, accessibility and building codes. He utilizes these skills to manage the BDCL team while they bring projects to fruition.



Accountant, Tidwell Group

Today, Tidwell Group is widely recognized as a national provider of audit, tax and consulting services to several industries across the country. Tidwell Group continues to pursue the mission of growing and protecting client interests. Surviving various economic downturns and the challenges and opportunities of organic growth, Tidwell Group has emerged with a strong position in the accounting industry as a trusted advisor in the business arena.

Tidwell currently is the sole auditor and accounting consultant firm that MVAH Development utilizes for its entire development pipeline and portfolio. Tidwell Group has a regional office located in Austin and provides all 10% test, cost certification packages, and portfolio auditing services that MVAH Development uses for its Texas developments. This has proven to be a strong partnership as both firms





use their Texas specific expertise to deliver documentation to TDHCA that meets its requirements. Tidwell currently provides services for all 85+ developments in MVAH's portfolio.

J. Barry Tidwell, CPA, CVA, Firm Managing Partner, Tidwell Group

J. Barry Tidwell is the Managing Partner of Tidwell Group. At Tidwell Group, Barry is responsible for resource allocation, acquisition of talent and expertise and client service within the firm and industries in which the firm focuses.

Prior to his current position, Mr. Tidwell was the Managing Principal of the Birmingham Office of Reznick Group, a top 12 accounting firm in the United States. Mr. Tidwell was the CEO of Tidwell DeWitt LLC, a regional business advisory and accounting firm, named the fastest growing accounting firm in the United States in 2007 by Inside Public Accounting.

He has numerous years of experience in public accounting and consulting with both regional and local accounting firms, as well as joint ventures with international public accounting firms. Barry leads the firm's National focus and spends his time on capital markets, strategic mergers, tax planning, and transactions-with a concentration and specialty in the tax credit arena. He works to continually structure mergers and acquisitions to achieve maximum benefit for the clients and investors. This includes consulting in buying and selling GP and LP interests.

MVAH Owner / General Partner Portfolio of TEXAS Developments 2012 - 2018

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Dewetter Two (RAD)	El Paso, TX	TX	178	Rad Conversion / Acq. Rehab	\$39,143,344	2018	4% LIHTC, Bonds, Freddie TEL, RAD HAP
Sandoval Two (RAD)	El Paso, TX	TX	274	Rad Conversion / Acq. Rehab	\$49,934,543	2017	4% LIHTC, Bonds, 221(d)(4), RAD HAP Contract
Cramer Three (RAD)	El Paso, TX	TX	426	Rad Conversion / Acq. Rehab	\$97,115,884	2017	4% LIHTC, Bonds, 221(d)(4), RAD HAP Contract
Reserve at Hagan	Whitehouse, TX	TX	72	New Construction Market-Rate Units	\$12,140,501	2016	9% LIHTC, RD 538
Reserve at Quebec	Fort Worth	TX	296	New Construction Market-Rate Units	\$46,875,362	2015	9% LIHTC, HOME
Reserve at Engel Road	New Braunfels	TX	96	New Construction	\$16,325,484	2015	9% LIHTC, HOME
Oak Ridge Apartments	Nolanville	TX	48	New Construction	\$6,908,205	2013	9% LIHTC, HOME
Reserve at McAlister Senior Living (RAD)	Fort Worth	TX	124	New Construction / Market-Rate Units	\$17,512,161	2013	9% LIHTC
Silversage Point at Western Center (RAD)	Fort Worth	TX	120	New Construction	\$17,340,454	2012	9% LIHTC

**MVAH Owner / General Partner Portfolio of Comparable Developments
2010 - 2018**

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Booneville Homes	Booneville, IN	IN	44	New Construction	\$10,818,001	2018	9% LIHTC, FHLB AHP, IHCD Development
Cicero Senior Lofts	Chicago, IL	IL	62	New Construction	\$20,498,287	2018	9% LIHTC, Chicago HOME
Francis Senior Lofts	Jackson, MI	MI	45	New Construction	\$9,151,579	2018	9% LIHTC, FHLB AHP
Broadway Lofts	Gary, IN	IN	32	New Construction	\$9,406,754	2018	9% LIHTC, Gary HOME, IHCD Development Fund, RHF Funding, FHLB AHP
Omega Senior Lofts	Dayton, OH	OH	81	New Construction	\$13,587,247	2018	9% LIHTC
Oregon Senior Lofts	Dayton, OH	OH	81	New Construction	\$13,735,443	2018	9% LIHTC, FHLB AHP
RiverWorks Lofts	Riverside, OH	OH	61	New Construction	\$12,166,168	2018	9% LIHTC, HDAP, Abatement Loan, HOME Loan, NeighborWorks Loan
Dewetter Two (RAD)	El Paso, TX	TX	178	Rad Conversion / Acq. Rehab	\$39,143,344	2018	4% LIHTC, Bonds, Freddie TEL, RAD HAP Contract

**MVAH Owner / General Partner Portfolio of Comparable Developments
2010 - 2018**

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Cypress Lofts	Cypress Lofts, IA	IA	51	New Construction / Market-Rate Units	\$9,591,632	2017	9% LIHTC, Workforce Housing Credit, NeighborWorks Grant, Abatement Loan
Enclave II	Winston-Salem, NC	NC	96	New Construction	\$14,351,264	2017	9% LIHTC, NSP, HOME Loan, WHLP Loan
Hampshire Landing II	Joplin, MO	MO	48	New Construction / Market-Rate Units	\$7,411,024	2017	9% LIHTC, MHDC Perm Loan
Sandoval Two (RAD)	El Paso, TX	TX	274	Rad Conversion / Acq. Rehab	\$49,934,543	2016	4% LIHTC, Bonds, 221(d)(4), RAD HAP Contract
Cramer Three (RAD)	El Paso, TX	TX	426	Rad Conversion / Acq. Rehab	\$97,115,884	2016	4% LIHTC, Bonds, 221(d)(4), RAD HAP Contract
4th Avenue Lofts	Clinton, IA	IA	43	New Construction Market-Rate Units	\$9,233,675	2016	9% LIHTC, Workforce Housing Credit, TIF Grant
Carriage Trails II	Dayton, OH	OH	43	New Construction	\$9,334,968	2016	9% LIHTC
Harrison Lofts	Muscatine, IA	IA	52	New Construction Market-Rate Units	\$9,780,987	2016	9% LIHTC, Workforce Housing Credit, TIF Grant

**MVAH Owner / General Partner Portfolio of Comparable Developments
2010 - 2018**

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Renaissance Pointe	Fort Wayne, IN	IN	50	Acq. Rehab.	\$14,470,142	2016	HOME, IHCD Development Fund, FHLB AHP, 9% LIHTC, Historic Tax Credits
Reserve at Hagan	Whitehouse, TX	TX	72	New Construction Market- Rate Units	\$12,140,501	2016	9% LIHTC, RD 538
Riverside Senior Lofts	Dayton, OH	OH	48	New Construction	\$9,287,163	2016	9% LIHTC, OHFA Loan, HOME Loan
South Court Senior Villas	Medina, OH	OH	40	New Construction	\$9,375,485	2016	9% LIHTC, OHFA Loan
Vine Street Lofts	Jasper, IN	IN	62	Acq. Rehab.	\$13,680,726	2016	9% LIHTC, Dubois County - EDIT, City of Jasper Fund, IHCD Development Fund, Indiana IEDC Fund
Reserve at Quebec	Fort Worth	TX	296	New Construction Market- Rate Units	\$46,875,362	2015	9% LIHTC, HOME
Centerville Senior Lofts	Centerville	IA	44	New Construction / Market-Rate Units	\$7,334,029	2015	9% LIHTC, HOME, Senior Revolving Loan, Workforce Housing Credit

**MVAH Owner / General Partner Portfolio of Comparable Developments
2010 - 2018**

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Keokuk Senior Lofts	Keokuk	IA	45	New Construction / Market-Rate Units	\$7,734,561	2015	9% LIHTC, HOME, Senior Revolving Loan, Workforce Housing Credit
Lofts at Jasper	Jasper	IN	67	New Construction	\$13,020,776	2015	9% LIHTC, IHCD, Development Fund, AHP
Market Street Lofts	East Liverpool	OH	45	New Construction	\$9,269,398	2015	9% LIHTC
Mulberry Street Properties	Harrisburg	PA	50	New Construction	\$13,124,060	2015	9% LIHTC
Reserve at Engel Road	New Braunfels	TX	96	New Construction	\$16,325,484	2015	9% LIHTC, HOME
Southridge Senior Lofts	Des Moines	IA	52	New Construction / Market-Rate Units	\$8,906,949	2015	9% LIHTC, HOME, Senior Revolving Loan, Workforce Housing Credit, Polk County Housing Trust Fund
Whitehouse Townhomes	Whitehouse	OH	55	New Construction	\$11,059,038	2015	9% LIHTC
Burkett Place	North Strabane	PA	48	New Construction	\$10,408,869	2014	9% LIHTC, NeighborWorks, Historic Tax Credit, HIT Foundation
Cape's Landing Apartments	Fayetteville	NC	96	New Construction	\$11,602,660	2014	9% LIHTC, North Carolina State Tax Credit
Galena Estates	Galena	KS	40	New Construction	\$6,659,552	2014	9% LIHTC, AHP
Morton Senior Residence	Morton	IL	61	Acq. Rehab.	\$9,932,741	2014	9% LIHTC

**MVAH Owner / General Partner Portfolio of Comparable Developments
2010 - 2018**

Name	City	St.	Unit#	Construction Type	Cost	Year	Financing
Residences at Eagles Point	Eaton	OH	40	Acq. Rehab. / Mixed Use	\$9,709,856	2014	9% LIHTC
Roosevelt Homes II	Dayton	OH	30	New Construction	\$9,466,044	2014	9% LIHTC
The Lofts at St. Joseph's	Huntingburg	IN	45	New Construction	\$8,587,910	2014	9% LIHTC, AHP, IHCD Development Fund
The Reserve at Davisson Run	Clarksburg	WV	35	New Construction	\$7,529,956	2014	9% LIHTC, HOME,
Ashley Grove Apartments	Mount Orab	OH	43	New Construction	\$7,812,082	2013	9% LIHTC, RD 538
Harbor Town Landing	Perrysburg	OH	69	New Construction	\$10,948,990	2013	9% LIHTC, RD 538 Loan
Newton Senior Residence	Newton	IA	53	New Construction	\$8,479,362	2013	9% LIHTC, AHP, HOME, City of Newton
Oak Ridge Apartments	Nolanville	TX	48	New Construction	\$6,908,205	2013	9% LIHTC, HOME
Park Lofts at Huntington	Huntington	IN	59	New Construction	\$11,444,505	2013	9% LIHTC, City of Huntington HOME, IHCD Development Fund
Reserve at McAlister Senior Living (RAD)	Fort Worth	TX	124	New Construction / Market-Rate Units	\$17,512,161	2013	9% LIHTC



Brief Financing Narrative / Plan

There will be a permanent mortgage (first lien position) in the amount of \$3,300,000. The interest rate will be 6.00%, amortized over a 30-year period with a 30-year term.

The equity will be advanced from a tax credit investor in the amount of \$13,798,620. The syndication proceeds are based on a price of \$0.92 per dollar of tax credits, use of the 9% rate, a 130% basis boost, and a 99.99% ownership interest, applied to the projected allocation of \$1,500,000.

Any shortfall between the sources and uses of funds will be filled by the developer deferring a portion of the developer fee to make the development financially feasible. The payment of the developer note will be based on the cash flow of the development and will not bear interest. It is anticipated that the deferred developer note will be in the amount of \$282,321 and will have a term of 12 years.

RESERVE AT SUMMERHILL GENERAL INFORMATION

File Name:	M:_U_Drive\Residential\Potential Deals\2019\Texas\Reserve at Summerhill\Texarkana Support Application\[100318 Reserve at Summerhill 9%.xl				
Analyst:	Gregory				
Developer:	Smith				
Project Name:	Reserve at Summerhill	Depreciation			
Project Type:	New Construction	Building		27.5	
Credit Type:	Low Income	Tax Exempt Use, disproportionate allocation	--	-	

Projections Start Date	12/01/19
Base Year	2019
Construction Start	12/01/19
Construction Completed/Placed in Service	03/01/21
Construction Period in months	15
Earlier of Rent Up Begins or First Building Delivered	
Last Unit Occupied	

Depreciation		
Building		27.5
Tax Exempt Use, disproportionate allocation	--	-
Residential Personal Property		5.0
Site Improvements		15.0
Commercial % of Total Building		0.00%
Bonus Depreciation	No	0.00%

Credit Prices		<u>Price</u>
Federal Low Income Credit	Yes	0.9200
Federal Historic Credits	No	
State Low Income Credits	No	
State Historic Credits	No	

Sales Assumptions	
Projections Sale Date	12/31/35
Cap Rate	7.5%
Sales Cost	3.0%
Sale Assumption Used in Projections	Dollar Over Mortgage

Credit Rate	%	Date
Federal Low Income Credit	9.00%	

Total Number of Units	98
Total Revenue Producing Units	98
Number of Residential Buildings	1
Number of Community Buildings	1

Tax Credit Begins	
Federal Low Income Credit	Dec-21

Tax Rate	21.00%
Tax Rate - Sale	21.00%

General Partner	Tax Exempt?	No

Low Income Tax Credit Allocation	
Maximum Credits Allowed	1,500,000

Do HUD 221 D3 Limits Apply to the Basis?	No
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QCT/DDA	Yes
Applicable Fraction (Lower of the Unit/Sq Ft Percentage)	100.00%

Use 266ii Election to Calculate Const. Interest	no
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	Escalation	Vacancy
	Initial Year	Initial Year
LIHTC Rental Income	0.00%	0.00%
Market Rate Income	N/A	N/A
Commercial Income	N/A	N/A
Other Income	0.00%	
Operating Expenses	0.00%	

**RESERVE AT SUMMERHILL
SOURCE AND USE OF FUNDS**

Description		% of Total Sources	Rate	Term (Months)	Amortization	Monthly Debt Service	Annual Debt Service
Limited Partner- Historic Tax Credit Equity	-						
Limited Partner- Low Income Housing Tax Credit Equity	13,798,620	79.39%					
Perm	3,300,000	18.99%	6.00%	360	360	19,785	237,422
Deferred Developer Fee	14.01% 282,321	1.62%	0.00%	180	180		
Total Sources:	<u>17,380,941</u>	<u>100.00%</u>					

	Per Unit	Acquisition Basis	Low Income Eligible Const/Rehab Basis
Acquisition Costs			
Building Acquisition	-	-	-
Land	1,125,000 11,480	-	-
Construction Costs			
Residential Structures	9,580,794 97,763	-	9,580,794
Non - Residential Structures	-	-	-
On-Site Improvements	-	-	-
Off-Site Improvements	-	-	-
Personal Property	-	-	-
Construction Contingency	5.00% 479,040 4,888	-	479,040
General Requirements	603,590 6,159	-	603,156
Builder Profit	603,590 6,159	-	603,156
Builder Overhead	201,196 2,053	-	201,052
Water / Sewer / Impact Fees	100,000 1,020	-	100,000
Builder's Risk Insurance / Bond(s)	120,000 1,224	-	120,000
Permits & City Fee	55,000 561	-	55,000
Transaction Costs			
Architectural Fees	344,046 3,511	-	344,046
Engineering Fees	125,000 1,276	-	125,000
Third Party Studies (Enviro / Historic)	35,000 357	-	35,000
Taxes During Construction	100,000 1,020	-	100,000
Soft Cost Contingency	100,000 1,020	-	100,000
Cost Certification / Audit	40,000 408	-	40,000
Legal - General Legal	60,000 612	-	60,000
Legal - Partnership and Related	60,000 612	-	-
Tax Credit Fees - Reservation	60,000 612	-	-
Tax Credit Fees - Compliance	-	-	-
Tax Credit Fees - Application	4,120 42	-	-
Syndication	25,000 255	-	-
Market Study	7,500 77	-	7,500
Appraisal	7,500 77	-	7,500
Building Inspection Fee	750 8	-	-
Extension Fee	2,500 26	-	-
Construction Inspections	27,600 282	-	27,600
Materials Testing	63,000 643	-	63,000
Financing Costs			
Perm Origination Fee	162,986 1,663	-	-
Construction loan orig fee	136,300 1,391	-	136,300
Title & Recording - Construction & Perm	74,743 763	-	-
Horizon Predevelopment Loan Interest	20,000 204	-	20,000
Operating Reserve	293,142 2,991	-	-
Construction Interest	513,958 5,244	-	502,428
Other Costs			
New Construction/Rehab - Developer Fee	2,014,586 20,557	-	2,004,000
Rent Up	75,000 765	-	-
Marketing	35,000 357	-	-
Clubhouse Furniture	120,000 1,224	-	120,000
Supportive Service Start Up	5,000 51	-	-
Total Uses:	<u>17,380,941 177,357</u>	<u>-</u>	<u>15,434,572</u>

The estimates of costs set forth in this document are based on current estimates of labor and materials generally available in the market. These costs are not guaranteed and are subject to change at any time and without notice. The owner acknowledges it has made its decision on this project based on its own, independent evaluation of the proposed project.

11/21/2018

RESERVE AT SUMMERHILL **OPERATING ASSUMPTIONS - INCOME**

LIHTC Rental Income

Apartment	Type	Baths	# of Units	Sq. Ft./Unit	Total Sq. Ft.	% of AMI	Max Gross Rent	Utility Allow	Actual Net Rent	Actual Gross Rent	Rent Per Sq/Ft	Annual Rent/Unit	Annual Rent/Unit Type
One Bedroom		1.0	2	763	1,526	30%	318	67	251	318	0.329	3,012	6,012
One Bedroom		1.0	8	763	6,104	50%	530	67	463	530	0.607	5,556	44,448
One Bedroom		1.0	6	763	4,578	60%	636	67	569	636	0.746	6,828	40,968
One Bedroom		1.0	4	763	3,052	80%	848	67	761	828	0.997	9,132	36,528
Two Bedroom		2.0	5	967	4,835	30%	381	84	297	381	0.307	3,564	17,820
Two Bedroom		2.0	20	967	19,340	50%	636	84	552	636	0.571	6,624	132,480
Two Bedroom		2.0	15	967	14,505	60%	763	84	679	763	0.702	8,148	122,220
Two Bedroom		2.0	10	967	9,670	80%	1,018	84	914	998	0.945	10,968	109,680
Three Bedroom		2.0	3	1,141	3,423	30%	441	103	338	441	0.296	4,056	12,168
Three Bedroom		2.0	12	1,141	13,692	50%	735	103	632	735	0.554	7,584	91,008
Three Bedroom		2.0	9	1,141	10,269	60%	882	103	779	882	0.683	9,348	84,132
Three Bedroom		2.0	4	1,141	4,564	80%	1,176	103	1,053	1,156	0.923	12,636	50,544
			98	975	95,558				636		0.656	87,456	748,032

Number of required Home Units

0

LIHTC Occupancy Restricted

Market Rate Rental Income N/A

Apartment	Baths	# of Units	Sq. Ft./Unit	Total Sq. Ft.	Gross Rent	Rent Per Sq/Ft	Annual Rent/Unit	Annual Rent/Unit Type
One Bedroom	1.0			-		-	-	-
Two Bedroom	2.0			-		-	-	-
Three Bedroom	2.0			-		-	-	-
		0	#DIV/0!	0	0	#DIV/0!	0	0

Commercial Income N/A

Other Income

	Units	Monthly Amount	Monthly Income	Annual Rent/Space	Vacancy	Monthly Net Income
Misc Income	98	\$10.00	980	11,760	7.50%	907
			980	11,760	7.50%	907

**RESERVE AT SUMMERHILL
OPERATING ASSUMPTIONS - EXPENSES**

Operating Expenses

Description	Subject Property	
	Annual Expense	Annual Expense/Unit
Property Management Fee	37,401	382
ADVERTISING/MARKETING	9,800	100
ADMINISTRATIVE	14,700	150
BUILDING/SERVICES	2,500	26
GROUNDS COST	34,300	350
MAINTENANCE COST	19,600	200
PAYROLL COST	102,900	1,050
TURNOVER COST	24,500	250
UTILITIES	68,600	700
Project Operating Expenses	314,301	3,207
Real Estate Taxes	19,600	200
Insurance	29,400	300
TDHCA Compliance Fees	3,920	40
Supportive Service Contract	15,000	153
Franchise Tax	4,041	41
Non Operating Expenses	71,961	734
Total Trended Expenses	386,262	3,941
Non Trended Expenses		
Bridge Loan Fees		-
Ongoing Compliance Fees		-
Fixed Tax Payment		-
Total Non Trended Expenses	-	-
Replacement Reserves	24,500	250
	410,762	4,191
Asset Management Fee	5,000	51

Reserves

	Per Unit	Annual Expense	Thru
Replacement Reserve	250	24,500	2021
		25,235	2022
		25,992	2023
increase amt every		1	
withdrawn every		3	
interest		3.00%	
Inflation Factor		3.00%	2021 - 2023
Inflation Start Year		2018	2022

Upfront Operating Reserves

Months of Operating Expenses/Debt Service	6
interest	3.00%

Cash Flow Priorities

Priority	Fee Type	Am	Condition
1	Property Management Fee	5.00%	of effective gross incc
2	Asset Management Fee	5,000	Fixed Fee Amount
3	Deferred Developer Fee	100.00%	of available cash flow
4	Incentive Mgmt Fee	90.00%	of available cash flow
5	Fee I	0.00%	of available cash flow
6	Fee II	0.00%	of available cash flow
7	Fee III	0.00%	of available cash flow
8	Fee IV	0.00%	of available cash flow

**RESERVE AT SUMMERHILL
PROJECTED CASH FLOW - NOI**

Year	Gross Affordable Rental Income	Gross Market Rental Income	Gross Commercial Income	Net Other Income	Vacancy	Effective Gross Rental Income	Operating Expenses	Property Management Fee	Real Estate Taxes	Non-Trended Expenses	Total Expenses	Net Operating Income	Replacement Reserves	Total Construction Debt Service	Total Permanent Debt Service	USDA Fee	Cash Flow	DSC
2019	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2020	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2021	160,290	-	-	2,331	(12,022)	150,599	(164,631)	(7,530)	(20,188)	-	(192,349)	(41,749)	(5,250)	(4,708)	-	-	(51,708)	(9.98)
2022	752,603	-	-	10,945	(56,445)	707,102	(339,139)	(35,355)	(20,794)	-	(395,288)	311,815	(24,892)	-	(138,496)	-	148,427	2.07
2023	778,236	0	0	11,317	(58,368)	731,186	(349,313)	(36,559)	(21,417)	-	(407,290)	323,896	(25,992)	-	(237,422)	0	60,482	1.25
2024	793,801	-	-	11,544	(59,535)	745,809	(359,792)	(37,290)	(22,060)	-	(419,143)	326,667	(26,772)	-	(237,422)	-	62,473	1.26
2025	809,677	-	-	11,775	(60,726)	760,726	(370,586)	(38,036)	(22,722)	-	(431,344)	329,381	(27,575)	-	(237,422)	-	64,384	1.27
2026	825,870	-	-	12,010	(61,940)	775,940	(381,704)	(38,797)	(23,403)	-	(443,904)	332,036	(28,402)	-	(237,422)	-	66,212	1.28
2027	842,388	-	-	12,250	(63,179)	791,459	(393,155)	(39,573)	(24,106)	-	(456,833)	334,626	(29,254)	-	(237,422)	-	67,949	1.29
2028	859,235	-	-	12,495	(64,443)	807,288	(404,950)	(40,364)	(24,829)	-	(470,143)	337,145	(30,132)	-	(237,422)	-	69,592	1.29
2029	876,420	-	-	12,745	(65,732)	823,434	(417,098)	(41,172)	(25,574)	-	(483,843)	339,591	(31,036)	-	(237,422)	-	71,133	1.30
2030	893,949	-	-	13,000	(67,046)	839,903	(429,611)	(41,995)	(26,341)	-	(497,947)	341,956	(31,967)	-	(237,422)	-	72,567	1.31
2031	911,828	-	-	13,260	(68,387)	856,701	(442,499)	(42,835)	(27,131)	-	(512,465)	344,235	(32,926)	-	(237,422)	-	73,887	1.31
2032	930,064	-	-	13,525	(69,755)	873,835	(455,774)	(43,692)	(27,945)	-	(527,411)	346,424	(33,914)	-	(237,422)	-	75,088	1.32
2033	948,665	-	-	13,796	(71,150)	891,311	(469,448)	(44,566)	(28,783)	-	(542,796)	348,515	(34,931)	-	(237,422)	-	76,162	1.32
2034	967,639	-	-	14,072	(72,573)	909,138	(483,531)	(45,457)	(29,647)	-	(558,635)	350,503	(35,979)	-	(237,422)	-	77,102	1.32
2035	986,991	-	-	14,353	(74,024)	927,320	(498,037)	(46,366)	(30,536)	-	(574,939)	352,381	(37,058)	-	(237,422)	-	77,901	1.33
Total	12,337,655	-	-	179,420	(925,324)	11,591,751	(5,959,268)	(579,588)	(375,475)	-	(6,914,330)	4,677,421	(436,080)	(4,708)	(3,224,982)	-	1,011,650	

The estimates of income and expenses set forth in this document are based on experience operating similar properties and are provided by the owner. Past performance is not a guarantee of future performance. The owner acknowledges it has made its decision on this project based on its own independent evaluation of the project.

**RESERVE AT SUMMERHILL
SYNDICATION INFORMATION**

Capital Contributions

Limited Partner- Low Income Housing Tax Credit Equity			
Date of	Amount	Event	Percentage
Dec-19	1,379,862	Admission	10.00%
Dec-19		Construction Start	0.00%
		25% Construction	0.00%
Jul-20	689,931	50% Construction	5.00%
		75% Construction	0.00%
Mar-21	9,659,034	100% Construction	70.00%
Jun-22	1,724,828	Conversion	12.50%
Sep-22	344,966	8,609	2.50%
Totals	<u>13,798,620</u>		<u>100.00%</u>

Limited Partner- Historic Tax Credit Equity			
Date of	Amount	Event	Percentage
12/2019		Admission	
12/2019		Construction Start	
01/1900		25% Construction	
07/2020		50% Construction	
01/1900		75% Construction	
03/2021	0	100% Construction	100.00%
06/2022		Conversion	
09/2022		8609	
Totals	<u>-</u>		<u>100.00%</u>

Managing Member

Limited Partner- Low Income State Tax Credit Equity

Limited Partner- Historic State Tax Credit Equity

Allocation Percentages	Through 2031	2032 through 2036	Thereafter
Profit			
State Investor	0.00%	0.00%	0.00%
Federal Investor	99.99%	99.99%	99.99%
General Partner	0.01%	0.01%	0.01%
Loss			
State Investor	0.00%	0.00%	0.00%
Federal Investor	99.99%	99.99%	99.99%
General Partner	0.01%	0.01%	0.01%
Cash Flow			
State Investor	0.00%	0.00%	0.00%
Federal Investor	10.00%	10.00%	10.00%
General Partner	90.00%	90.00%	90.00%
Sale			
State Investor	0.00%	0.00%	0.00%
Federal Investor	15.00%	15.00%	15.00%
General Partner	85.00%	85.00%	85.00%
Federal Credits			
State Investor	0.00%	0.00%	0.00%
Federal Investor	99.99%	99.99%	99.99%
General Partner	0.01%	0.01%	0.01%

11/21/2018

**RESERVE AT SUMMERHILL
CALCULATION OF TAX CREDITS**

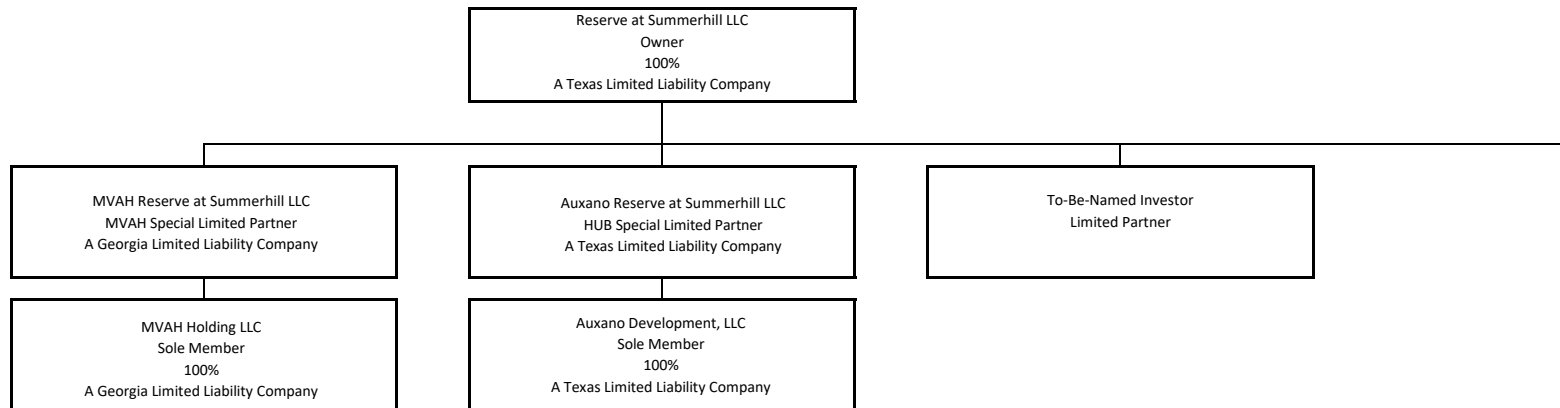
	<u>New and Rehab Credit</u>	<u>Acquisition Credit</u>	<u>Total LIHTC Credits</u>
Eligible Costs	15,434,572	0	15,434,572
Historic Tax Credit	0		
	0		
Subtotal	<u>15,434,572</u>		
HUD 221D 3 Limit	<u>0</u>		
Adjusted Eligible Basis	15,434,572		
Applicable Fraction	<u>100.00%</u>	<u>100.00%</u>	
Qualified Basis	15,434,572	0	15,434,572
DDA/QCT Basis Boost	<u>130.00%</u>	<u>100.00%</u>	
Eligible Basis	20,064,943	0	20,064,943
Credit Rate	<u>9.00%</u>	<u>0.00%</u>	
Total Calculated Credit	1,805,845	0	1,805,845
Maximum Credit	1,500,000	0	
Tax Credit Allocated	<u>1,500,000</u>	-	1,500,000
Annual Credit to Investors	1,499,850	0	1,499,850
Credit Price	0.920	0.920	
Tax Credit Equity	<u><u>13,798,620</u></u>	<u><u>0</u></u>	<u><u>13,798,620</u></u>



Organizational Chart & Owner's Ownership Structure

A proposed Owner's Ownership Structure Chart have been included in this section.

Reserve at Summerhill
Ownership Organizational Chart





Evidence of Readiness

Evidence of site control has been included in this section.

Purchase and Sale Agreement

This Purchase and Sale Agreement (this "Agreement") is effective as of November 1, 2018, by MVAH Holding LLC, a Georgia limited liability company, or its successors and assigns (the "Purchaser") and Steitler Properties LLC, a Texas limited liability company, (the "Seller").

In consideration of the mutual promises and conditions contained in this Agreement, the parties agree as follows:

1. **Definitions.** Unless otherwise stated in this Agreement, all of the capitalized words in this Agreement have the meanings set forth in the Exhibit A hereof, or in other provision of this Agreement.

2. **Property Description.** On the Closing Date and subject to the performance of all conditions precedent contained in this Agreement, Purchaser agrees to purchase from Seller, and Seller agrees to sell and deliver possession to Purchaser, on the Closing Date, all of Seller's right, title, and interest in and to the Property, free and clear of all Encumbrances, except for the Permitted Encumbrances. If necessary, the exact legal description of the Property, in accordance with Section 5.1, shall be substituted for the legal description of the Property attached hereto as Exhibit B and attached to the Deed. Seller agrees that, if any portion of the total acreage of the Property cannot be used due to the existence of any Encumbrance, the legal description of the Property shall be adjusted and additional unencumbered acreage reasonably acceptable to both Purchaser and Seller shall be added so that Purchaser will be able to use the Property for the Purchaser's Intended Use.

3. **Purchase Price; Deposit; Prorations.**

3.1. **Purchase Price.** The purchase price for all of Seller's right, title, and interest in and to the Property (the "Purchase Price") is One Million One Hundred Twenty-five Thousand Dollars (\$1,125,000.00).

3.2. **Deposit.** Within ten (10) days after the date of this Agreement, Purchaser shall deliver to Chicago Title, 14755 Preston Road, Suite 600, Dallas, TX 75254, Attn: Title Escrow Department, which shall act as the escrow agent for the Closing (the "Title Company"), an earnest money deposit, in the amount of Twenty-five Thousand Dollars (\$25,000.00), to be held in an interest-bearing account and in accordance with the terms of this Agreement (the "Deposit"). Interest earned on the Deposit shall be considered part of the Deposit, if any. If Purchaser is unsuccessful in receiving an award of housing tax credits (either 9% or 4%, at Purchaser's option) for the project that involves this Property and Agreement (as more fully described in Section 5.1.9, below), then in that event, Purchaser shall be entitled to terminate this agreement and the Deposit shall be immediately returned to Purchaser. However, in the event Purchaser receives an award of housing tax credits (either 9% or 4%, at Purchaser's option) the Deposit shall become non-refundable except as otherwise provided in this Agreement on the later to occur of (i) Tax Credit Funding; or (ii) the expiration of the Inspection Period and all Extensions thereof. Notwithstanding the foregoing, in the event of a Seller default the Deposit shall be returned to Purchaser. If Purchaser purchases the Property, such Deposit shall be either applied by the Title Company as a credit towards the Purchase Price or returned to Purchaser, as determined by Purchaser. If Purchaser fails to perform its obligations, or otherwise terminates this Agreement in violation of this Agreement, Seller shall be entitled to retain the Deposit and any paid Extension Fees as its sole and exclusive damages under this Agreement.

3.3. **Prorations.** The balance of the Purchase Price, after application of any credits or prorations set forth in this Agreement and the application of the Deposit if so determined by Purchaser under Section 3.2 above, shall be delivered by Purchaser in accordance with Section 4.3 of this

Agreement, by certified or official bank check or wire transfer to the order of the Title Company, subject to the prior delivery in escrow of all instruments of transfer and conveyance in accordance with this Agreement.

4. Closing Date; Closing Deliveries; Costs and Expenses.

4.1. Closing Date. Subject to the satisfaction of all terms and conditions of this Agreement, the closing under this Agreement shall take place as an escrow closing through the offices of the Title Company on a date that is within thirty (30) days after the expiration of the Inspection Period, as extended pursuant to this Agreement, as determined by Purchaser in its sole and absolute discretion, by providing notice to Seller. Purchaser shall have the option to extend the Closing Date for two (2) successive periods of sixty (60) days each provided Purchaser delivers to Seller a written notice of its exercise of the extension of the Closing Date prior to the expiration of the Inspection Period, as extended, and deposits with the Title Insurance Company an extension fee in the amount of Forty-five Thousand Dollars (\$45,000.00) for each extension (each, a "Closing Extension Fee"), which Closing Extension Fee(s) shall become non-refundable but credited against the Purchase Price at Closing except in the event of a Seller default in which event the Closing Extension Fee(s) shall be refunded to Purchaser.

4.2. Seller's Deliveries to Title Company. Subject to the conditions and obligations of this Agreement, Seller shall make the following deliveries to the Title Company or Purchaser, and perform the following acts, at least two (2) days prior to the Closing Date:

4.2.1. A duly executed general warranty deed, transferring to Purchaser any and all of Seller's right, title, and interest in and to the Property (the "Deed"), conveying fee simple, good and marketable title to the Property, free and clear of any and all Encumbrances, other than the Permitted Encumbrances applicable thereto, and containing any and all releases of dower, courtesy, homestead and/or other marital rights, if applicable, as required by state law.

4.2.2. Closing statement (the "Closing Statement"), prepared by the Title Company, executed by Seller, conforming to the proration and other relevant provisions of this Agreement.

4.2.3. A certificate of the members of Seller certifying copies of: (i) formation documents of Seller; (ii) all requisite resolutions or actions of Seller approving the execution and delivery of this Agreement and the consummation of the transactions contemplated herein; and (iii) the signature of each authorized representative of Seller.

4.2.4. A bill of sale, assignment of leases and such other documents as are necessary to convey to Purchaser all of Seller's right, title and interest in and to the Property other than the real property, including, without limitation, the Tangible Personal Property, Reports, Leases and Licenses, free and clear of any and all Encumbrances, other than the Permitted Encumbrances applicable thereto.

4.2.5. An affidavit with respect to mechanics' liens, certifying that there are no unpaid bills for services rendered or material furnished to the Property, and an agreement indemnifying the Title Company and Purchaser against claims for such services or materials.

4.2.6. Any and all other documents and instruments incidental to the transactions contemplated by this Agreement and reasonably requested by Purchaser, any Governmental Authority, or Title Company, including but not limited to: (a) the standard affidavit required by the Title Company for the removal of the standard preprinted exceptions from the title insurance policies; and (b) a Certificate of Non-Foreign Status or other evidence satisfactory to Purchaser and the Title Company confirming that Purchaser is not required to withhold or pay to the Internal Revenue Service any part of the "amount

realized" as such term is defined in the Internal Revenue Code of 1986, as amended, and the regulations promulgated pursuant thereto.

4.3. Purchaser's Deliveries to Title Company. Subject to the conditions and obligations of this Agreement, Purchaser shall make the following deliveries to the Title Company or Seller, and perform the following acts, at least two (2) days prior to the Closing Date, unless otherwise noted:

4.3.1. Closing Statement, executed by Purchaser.

4.3.2. Purchaser shall deliver the Purchase Price, as adjusted by this Agreement, to the Title Company, on or before the Closing Date.

4.3.3. A certificate of the members of Purchaser certifying copies of: (i) the formation documents of Purchaser; (ii) all requisite resolutions or actions of Purchaser approving the execution and delivery of this Agreement and the consummation of the transactions contemplated herein; and (iii) the signature of each authorized representative of Purchaser.

4.3.4. All other documents and instruments incidental to the transactions contemplated by this Agreement and reasonably requested by Seller or Title Company.

4.4. Costs and Expenses. Seller shall pay for the following expenses relative to this transaction: (i) its own attorneys' fees; (ii) one half of the Title Company's closing and escrow fees; and (iii) all costs and expenses of transferring and recording the deed of conveyance transferring fee simple title to the Property, subject only to the Permitted Encumbrances, including, but not limited to transfer fees, documentary stamp and/or conveyance taxes of transferring the Property. Purchaser shall pay for the following expenses relative to this transaction: (i) one half of the Title Company's closing and escrow fee; (ii) its own financing expenses, if any; (iii) its own attorneys' fees; (iv) all of the premium cost of an owner's policy of title insurance and endorsements; and (v) costs and expense of the Survey. Any additional costs or expenses shown on the Closing Statement shall be paid by the party who ordered such costs or expenses and shall be included on the Closing Statement, or else shall be split 50/50 between the Seller and the Purchaser.

5. Inspection Period; Seller's Deliverables.

5.1. Inspection Period. Purchaser, at Purchaser sole cost and expense, shall have from full execution of the Agreement until 5 p.m. EST on February 28, 2019 or such other date as mutually agreed upon by Seller and Purchaser (the "Inspection Period"), in which to conduct its due diligence review of the Property, testing, investigations and inspections of the physical aspects of the Property, and otherwise to determine the desirability and utility of the Property for Purchaser's intended use, as determined by Purchaser, in Purchaser's sole and absolute discretion, including but not limited to the following:

5.1.1. Zoning and Permits. Purchaser shall have confirmed that the Property is zoned to permit the construction of residential housing units (the "Purchaser's Intended Use"). If the Property must be rezoned for Purchaser's Intended Use, Seller agrees to cooperate with Purchaser in the rezoning process. Purchaser, at its cost and expense, shall have obtained, upon terms and conditions satisfactory to Purchaser, all necessary permits, licenses, variances and approvals (collectively, the "Permits") pertaining to the building, occupancy, signs, utilities, curb cuts, driveways (including ingress and egress to and from public thoroughfares), zoning, use, environmental controls, and any other permits which, in the sole judgment of Purchaser, are necessary for Purchaser's Intended Use. Seller agrees to execute any applications or other documents and make such other appearances as reasonably requested by Purchaser in order to obtain the Permits.

5.1.2. Utilities. Purchaser shall have confirmed that all utilities, including telephone, storm sewer, sanitary sewer, water, gas and electric (collectively, the "Utilities") have been adequately extended within satisfactory easements or rights-of-way to a location on the perimeter of the Property at which Purchaser can tap into and receive service without the imposition of tap-in charges to Purchaser other than tap-in charges which are customarily and normally charged in the locality in which the Property is located. Such Utilities shall be available in a size and pressure appropriate for Purchaser's Intended Use. Seller shall grant, or cause to be granted to Purchaser all necessary utility easements.

5.1.3. Easements. Purchaser shall have obtained at or prior to Closing all other easements or licenses deemed necessary by Purchaser upon terms and conditions acceptable to Purchaser. Seller agrees to reasonably cooperate with Purchaser in obtaining any such easements or licenses.

5.1.4. Lot Split. Purchaser may, at Purchaser's sole cost and expense, complete any subdivision or lot split of Seller's property which is necessary in order to convey the Property to Purchaser as a separate, transferable and taxable parcel. Purchaser may obtain, at Purchaser's sole cost, a certified survey, bearing a legal description, made by a licensed surveyor, showing the area, dimensions and location of the Property to the nearest monuments, streets, alleys or property, the location of all improvements, utilities and encroachments, the location of all proposed and recorded easements against or appurtenant to the Property, and not disclosing any condition rendering the Property unusable, in Purchaser's sole judgment, for the intended purpose of Purchaser. The Property shall not be located in a flood plain and the survey shall confirm that the Property totals 23.05 acres free of any easements or restrictions related to wetlands or waterways under the jurisdiction of the Army Corp. of Engineers, the State where the Property is located or any other governmental entity or agency.

5.1.5. Soil Tests. Purchaser shall obtain, at Purchaser's cost and expense, borings, percolation tests, toxic or hazardous substance tests and other tests (collectively, the "Soil Tests") showing that the Property is satisfactory, in Purchaser's sole judgment, for building foundations and the construction, operation and financing of the improvements which Purchaser may wish to make. Seller hereby grants to Purchaser, its agents or contractors, the right to enter upon the Property to make the Soil Tests and surveys; provided, however, that the tests and survey shall be conducted so as not to damage Seller's property.

5.1.6. Title Insurance. Purchaser shall have obtained a satisfactory Title Commitment in accordance with Section 6.1 of this Agreement.

5.1.7. Environmental Phase I and Related Testing. Purchaser, at Purchaser's cost and expense, shall have obtained a current satisfactory Phase I Environmental Audit of the Property and any other environmental testing which Purchaser deems reasonably necessary to evaluate potential environmental risks related to the Property.

5.1.8. Financial Feasibility. Purchaser must have determined, in its sole and absolute discretion, that the purchase and development of the Property for Purchaser's Intended Use is financially feasible.

5.1.9. Receipt of LIHTC Allocation. The Property shall have received an allocation of Section 42 Low Income Housing Tax Credits and/or Historic Tax Credits, if applicable, from the appropriate agency in an amount deemed sufficient by Purchaser, in its sole discretion.

5.1.10. Financing. Purchaser shall have obtained a binding commitment for debt and equity financing in amounts and on terms satisfactory to Purchaser in its sole and absolute discretion to use the Property in accordance with Purchaser's Intended Use.

5.1.11. Leases. Purchaser shall have received and reviewed all Leases as well as a rent roll for the Property, including a list of all security deposits and any delinquencies which Leases and rent roll shall be acceptable to Purchaser in its sole discretion.

5.1.12. Termination. If Purchaser determines in its sole and absolute discretion that the Property is not acceptable, Purchaser shall have the right for any reason or no reason either to: (a) terminate this Agreement by written notice to Seller on or before expiration of the Inspection Period, or any extensions thereof as mutually agreed upon by Seller and Purchaser and the Title Company shall immediately return the Deposit and any Extension Fee paid prior to termination to Purchaser and neither party shall have any further rights or obligations to the other under this Agreement, subject to the conditions set forth in Section 3.2 and 5.2; or (b) waive the requirements and/or contingencies regarding such due diligence review and proceed with this Agreement.

5.2. Extension of Inspection Period. Purchaser shall have the option to extend the Inspection Period for three (3) successive periods of sixty (60) days each provided Purchaser delivers to Seller a written notice of its exercise of the extension of the Inspection Period prior to the expiration of the Inspection Period, as extended, and deposits with the Title Insurance Company an extension fee in the amount of Forty-five Thousand Dollars (\$45,000.00) for each extension (each, an "Extension Fee"), which Extension Fee(s) shall become non-refundable but credited against the Purchase Price at Closing except in the event of a Seller default in which event the Extension Fee(s) shall be refunded to Purchaser.

5.3. As a material inducement to Purchaser's execution hereof, Purchaser and Seller agree that it would be impracticable and extremely difficult to fix actual damages in case of Purchaser's default. Seller agrees that the amount of the Deposit and any Extension Fee paid prior to default or Purchaser's notice to Seller of its intent to default is a reasonable estimate of such damages, and that Seller shall retain the Deposit and any paid Extension Fee as liquidated damages, and its sole remedy against Purchaser. Furthermore, Seller agrees that the amount of the Deposit and any paid Extension Fee is a sufficient remedy for such Purchaser default, Seller shall no longer have any cause of action or claim against Purchaser in law or in equity, including specific performance, and Purchaser shall be fully released from any action of Seller arising out of Purchaser's alleged breach of this Agreement. The parties further agree that the Deposit and any paid Extension Fee is a reasonable sum considering all of the circumstances of the transactions contemplated by this Agreement.

5.4. Seller's Deliverables. Within seven (7) days after the date of this Agreement, Seller agrees to provide Purchaser with copies of any and all environmental reports, wetlands permits, geotechnical reports, concurrency documents, plans and specifications, plans, bids, covenants, construction contracts, aerial photographs, development agreements, warranties, leases and rent roll, topos, correspondence, utility locations and capacity documents, traffic studies, surveys, title work commitments or policies, surveys, soil tests or other inspection reports regarding the Property which are in Seller's possession and any and all reports or information in Seller's possession affecting the Property. In addition and upon request by Purchaser, Seller shall within three (3) business days, shall deliver to Purchaser copies of any and all other due diligence items requested by Purchaser.

6. Title Commitment; Survey.

6.1. Title Commitment. Prior to thirty (30) days before the expiration of the Inspection Period as same may be extended, Purchaser may cause to be furnished to Purchaser, at Purchaser's costs

and expense, a title insurance report and commitment for an TLTA Owner's Title Insurance Policy in a coverage amount equal to the amount of the Purchase Price, from the Title Company (the "Title Commitment"), in which the Title Company commits that upon delivery and recordation of the Deed and other documents provided for in this Agreement, the Title Company will issue, at its usual rate, an TLTA Owner's Title Insurance Policy, insuring access to the Property and such other endorsements as Purchaser may request (the "Title Policy"). Title to the Property shall be good and marketable in fee simple in the name of Seller, as determined in accordance with the standards of the state bar association where the Property is located and free and clear of all Encumbrances other than Permitted Encumbrances. If the Title Commitment or the exceptions show that title is unmarketable, then Purchaser shall notify Seller of Purchaser's objections prior to the expiration of the Inspection Period. Seller shall undertake, with due diligence, to have the defects identified by Purchaser eliminated. If Seller is unable or unwilling to eliminate defects identified by Purchaser within fifteen (15) days, Seller shall notify Purchaser in writing, and Purchaser shall have the option, within fifteen (15) days of the written notice by Seller, to be exercised in Purchaser's sole discretion, to: (i) proceed with Closing of this transaction subject to such title defects; or (ii) terminate this Agreement, in which event the Title Company shall return to Purchaser the Deposit and any Extension Fees. Notwithstanding the foregoing, Purchaser shall have the right to object to any new title exceptions which are identified between the date of the Title Commitment and the Closing Date.

6.2. Survey. Prior to thirty (30) days before the expiration of the Inspection Period as same may be extended, Purchaser may cause to be delivered to Purchaser, a survey of the Property, at Purchaser's cost and expense (the "Survey").

7. Representations by Seller. As of the date of this Agreement and as of the Closing Date:

7.1. Title to Property. Seller represents that Seller has good, marketable and indefeasible fee simple title to the Property, free and clear of all Encumbrances of any nature except Permitted Encumbrances. The Property constitutes all of the Property necessary and sufficient to conduct the operations of the Property in accordance with Seller's past practices. On the Closing Date the Property shall be unoccupied and free of any lease or other right of possession or claim of right of possession by any person or entity other than Purchaser. No easements or other encumbrances affect the Property which would interfere, prevent or frustrate the use of the Property for Purchaser's Intended Use.

7.2. Authority and Organization. Seller represents that it is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of Texas, and has all requisite power and authority to carry on its business as it is presently being conducted. Seller represents that Seller has obtained or will obtain all necessary approvals to authorize the transaction and consummate the transfer of the Property as herein contemplated.

7.3. Enforceability. Seller represents that this Agreement has been duly authorized and approved by Seller, has been duly and validly executed and delivered by Seller and is a valid and legally binding agreement of Seller, enforceable against Seller in accordance with its terms, except to the extent that such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relative to or affecting the rights and remedies of creditors generally and by general principles of equity (regardless of whether in equity or at law). The execution and delivery of this Agreement have been duly authorized and validly executed and delivered by Seller, and will not: (i) constitute or result in the breach of or default under any oral or written agreement to which Seller is a party or which affects the Property; (ii) constitute or result in a violation of any order, decree or injunction with respect to which Seller and/or the Property is bound; (iii) cause or entitle any party to have a right to accelerate or declare a default under any oral or written agreement to which Seller is a party or which affects the Property; and or

(iv) violate any provision of any municipal, state or federal law, statutory or otherwise, to which Seller or the Property may be subject.

7.4. Transfer of Property; Compliance with Laws. Seller represents that on the Closing Date, Seller will transfer the Property and possession of the Property to Purchaser. Seller represents that the Property is in good standing and in compliance with all applicable covenants, conditions, restrictions, easements, laws, regulations, rules affecting the Property and for which the Property is subject. Seller represents that neither Seller nor the Property has received any notice of and there exist no known proceedings or investigations by any Governmental Authority against or affecting the Property.

7.5. Continued Compliance with Laws. The continued compliance with all legal requirements relating to the Property is not dependent on facilities located at any other property; and compliance by any other property with any legal requirements applicable to the other property is not dependent on the Property.

7.6. Property Rights. Seller represents that other than this Agreement, there are no outstanding options, contracts, commitments, warranties, pledges, agreements or other rights of any character entitling any Person to acquire any or all of the Property. Further, all service and maintenance contracts with respect to the Property will, unless Purchaser notifies Seller in writing during the Inspection Period that Purchaser intends to assume the same, be terminated by Seller, at Seller's cost, at Closing.

7.7. Litigation. There is no pending or threatened litigation, arbitration, administrative action or examination, claim, or demand whatsoever relating to the Property. No attachments, execution proceedings, liens, assignments or insolvency proceedings are pending or threatened against Seller or the Property or contemplated by Seller. Seller is not contemplating the institution of insolvency proceedings.

7.8. Eminent Domain. Seller has no knowledge of any pending or contemplated eminent domain, condemnation, or other governmental or quasi-governmental taking of any part or all of the Property, including, but not limited to, any action that would compromise access to the Property due to changes in public roads or impact the availability of utilities to the Property. Seller has no knowledge of any pending moratorium or other action which would impact construction on the Property.

7.9. Assessments/Tax Appeals. Seller has not been notified of any possible future improvements by any public authority, any part of the cost of which might be assessed against any part of the Property. Seller has not appealed the current tax valuation of the Property and has no knowledge of any existing or potential changes in the tax value of the Property.

7.10. Environmental. To the best of Seller's knowledge, Seller: (i) has not used the Property for the storage, treatment, generation, production or disposal of any toxic or hazardous waste, material or substance nor does Seller have knowledge of such use by others; (ii) has not caused or permitted and has no knowledge of the release of any toxic or hazardous waste, material or substance on or off site of the Property; (iii) has not received any notice from any governmental authority or other agency concerning the removal of any toxic or hazardous waste, material or substance from the Property; and (iv) has disclosed to Purchaser the location of all underground storage tanks on the Property, if any. No event has occurred with respect to the Property which would constitute a violation of any applicable environmental law, ordinance or regulation.

7.11. Zoning. The Property is zoned for multi-use use, including multi-family use in accordance with the Purchaser's Intended Use.

8. **Representations by Purchaser.** As of the date of this Agreement and as of the Closing Date:

8.1. **Authority and Organization.** Purchaser represents that it is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of Georgia, and has all requisite power and authority to carry out the transactions contemplated by this Agreement and has obtained all necessary approvals to authorize the transaction and consummate the transfer of the Property as herein contemplated.

8.2. **Enforceability.** This Agreement has been duly authorized and approved by Purchaser, has been duly and validly executed and delivered by Purchaser and is a valid and legally binding agreement of Purchaser, enforceable against Purchaser in accordance with its terms, except to the extent that such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relative to or affecting the rights and remedies of creditors generally and by general principles of equity (regardless of whether in equity or at law).

8.3. **No Conflict.** The execution, delivery and performance of this Agreement by Purchaser will not breach any statute or regulation of any Governmental Authority, and will not conflict with or result in a breach of or default under any of the terms, conditions or provisions of any order, writ, injunction, decree, agreement or instrument to which Purchaser is a party.

9. **Covenants of Seller.** Prior to the termination of this Agreement or the Closing Date, Seller covenants and agrees that it:

9.1. Shall not enter into any contract or agreement for the sale, lease, transfer, mortgage, casement, lien, encumbrance, hypothecation, pledge, or assignment of any of the Property or Seller's interest in the Property or any ownership interest in Seller.

9.2. Shall promptly notify Purchaser of any event, condition or circumstance occurring from the date hereof to the Closing Date that would constitute a violation or breach of this Agreement by Seller.

9.3. May, solely in connection with and as a necessary step in permitting the contemplated transaction to qualify as an Internal Revenue Code Section 1031, Like-Kind Exchange, restructure the manner in which the Property is held, provided, however, such restructuring shall not occur without the prior written approval of Purchaser.

9.4. Not enter into any contracts or other commitments regarding the Property, either with any Governmental Authority (including, but not limited to, zoning changes, site plan approvals, density shifts, or platting or replatting) or with any private person or party, without having first obtained the prior written consent of Purchaser thereto in each instance.

10. **Indemnification.** Each party to this Agreement shall indemnify and hold harmless and shall reimburse the other party to this Agreement and its respective officers, members, agents, and employees, for, any loss, liability, claim, damage, expense (including but not limited to, costs of investigation and defense and attorneys' fees), whether or not involving a third party claim, arising from or in connection with: (a) any material inaccuracy in any of such party's representations and warranties in this Agreement; or (b) any failure to perform or comply with any Agreement to be performed or complied with by it in this Agreement.

11. Remedies.

11.1. If Seller should fail to perform in accordance with this Agreement, or otherwise breach any of the terms, covenants, agreements, representations or warranties contained in this Agreement, then: (i) Purchaser may terminate this Agreement and upon such termination, the parties hereto shall be released from any and all obligations arising hereunder or as a result of their course of dealings and the Deposit and any Extension Fee(s) shall be immediately delivered to Purchaser; (ii) Seller agrees to reimburse Purchaser for all actual expenses and costs of Purchaser in connection with its due diligence regarding this Agreement and the purchase of the Property; and (iii) Purchaser may pursue any and all remedies available to Purchaser under law or equity, including the right of specific performance of the obligations of Seller hereunder.

11.2. If Purchaser should fail to perform in accordance with this Agreement, or otherwise breach any of the terms, covenants or agreements contained in this Agreement, then Seller may terminate this Agreement and upon such termination, the parties hereto shall be released from any and all obligations arising hereunder or as a result of their course of dealings and the Deposit and any Extension Fee paid prior to breach shall be immediately delivered to Seller, such sum being agreed upon as the sole damages for the failure of Purchaser to perform the duties, liabilities and obligations imposed on it by the terms and provisions of this Agreement. Seller agrees to accept and take the Deposit and paid Extension Fee as its total damages and relief as Seller's sole remedy hereunder.

12. Condemnation; Destruction. If, prior to the Closing Date, all or any significant portion of the Property is taken by eminent domain (or is the subject of a pending or contemplated taking which has not been consummated) or if a material part of the Property, including any means of ingress thereto or egress therefrom is damaged or destroyed by fire or other casualty prior to the Closing Date, Seller shall notify Purchaser of that fact, and Purchaser shall have the option to terminate this Agreement upon notice to Seller and not later than ten (10) days after receipt of Seller's notice; in which case, all obligations of Seller and Purchaser hereunder will be extinguished.

13. Assignment. Purchaser may assign its interest or rights or obligations in this Agreement to an affiliated entity of Purchaser, without the consent of Seller. Purchaser must obtain the consent of Seller to assign Purchaser's interest or rights or obligations in this Agreement to any individual or entity which is not an affiliated entity of Purchaser.

14. Notices. Either party may change its address by notice to the other party. Any notice provided or permitted to be given under this Agreement must be in writing and may be served: (i) by depositing the same in the United States mail or with a reputable nationwide delivery service, addressed to the party to be notified, postage prepaid, and overnight, registered or certified with return receipt requested; or (ii) by delivering by a national courier service. Notice given in accordance with (i) above shall be effective three (3) days after mailed. Notice given in accordance with (ii) above shall be effective upon delivery by the national courier at the address of the addressee. Notwithstanding the foregoing, notice pursuant to Paragraph 5.1.12 may be provided to Seller and its representative via email. For purposes of notice, the addresses of the parties shall be as follows:

Seller:

Steitler Properties LLC
927 N. Robinson Road
Texarkana, TX 75001
Attention: _____
Telephone: _____
Email: _____

with a copy to:

Legacy Group
210 North Stateline Avenue, Suite 502
Texarkana, Arkansas 71854
Attention: Michael Kelly
Telephone: 903-278-0818
Email: mike@texarkanalegacygroup.com

Purchaser:

MVAH Holding LLC
9100 Centre Pointe Drive, Suite 210
West Chester, OH 45069
Attention: Brian McGeady
Telephone: (513) 964-1141
Email: Brian.McGeady@mvahpartners.com

with a copy to:

Coats Rose, P.C.
14755 Preston Road, Suite 600
Dallas, TX 75254
Attention: Mattye Jones
Telephone: 972-419-8453
Email: mjones@coatsrose.com

Chicago Title Company
c/o Coats Rose, P.C.
14755 Preston Road, Suite 600
Dallas, TX 75254
Attention: Rebecca S. Brusilow
Telephone: 972-419-4710
Email: rbrusilow@coatsrose.com

Coldwell Banker Apex, Realtors
650 Beebalm Road, Ste 210
Garland, TX 75040
Attention: Janet Sebile
Telephone: (972) 840-1400
Email: jsebile@gmail.com

15. Entire Agreement and Amendments. This Agreement, together with the schedules and exhibits hereto, each of which is deemed to be a part hereof, contains the entire understanding between the parties hereto concerning the subject matter hereof and it is understood and agreed that all negotiations and agreements heretofore had between the parties are merged herein.

16. Amendment; Waiver. This Agreement may be amended, modified or supplemented only by an agreement in writing signed by all parties hereto. The parties agree that there are no oral agreements, understandings, representations or warranties that are not expressly set forth herein. Neither the failure nor any delay on the part of any party hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, or of any other right, power or remedy; nor shall any single or partial exercise of any right, power or remedy preclude any further or other exercise thereof, or the exercise of any right, power or remedy. Except as expressly provided herein, no waiver of any of the provisions of this

Agreement shall be valid unless it is in writing and signed by the party against whom it is sought to be enforced.

17. **Successors and Assigns.** The agreements and representations herein shall inure to the benefit of and shall be binding upon the heirs, executors, administrators, successors, and assigns of the respective parties.

18. **Time of Essence.** Time is of the essence of all provisions of this Agreement.

19. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State where the Property is located, without regard to conflicts of laws principles of that state. In the event of the bringing of any action or suit by either party against the other arising out of this Agreement, the party in whose favor final judgment shall be entered shall be entitled to recover from the other party all costs and expenses of suit, including reasonable attorney's fees.

20. **Counterparts; Facsimile.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered, shall constitute an original, but all of which together shall constitute but one instrument. Signatures transmitted by facsimile shall have the same effect as original signatures.

21. **Severability.** This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, but the extent of such invalidity or unenforceability does not destroy the basis of the bargain among the parties as expressed herein, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

22. **Captions and Headings.** The captions and headings of this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

23. **Multiple Sellers.** If two or more persons constitute this Agreement each as a seller, the word "Seller" shall be construed as if it reads "Sellers" throughout this Agreement.

24. **Acceptance.** In the event this Agreement is not signed simultaneously by Purchaser and Seller, it shall be considered to be an offer made by the party first executing it.

25. **Interpretation, No Presumption; Survival.** This Agreement has undergone drafts with the negotiated suggestions of all parties and therefore no presumption shall arise favoring any party by virtue of the authorship of this Agreement or any of its provisions. The parties hereto have been advised by their respective legal counsel regarding the form and substance of the provisions contained herein. The use of the word "including" in this Agreement means including, without limitation, the items following. All of the representations, warranties and covenants made in this Agreement shall survive the Closing.

26. **Date of Performance.** If the date for performance of any act under this Agreement falls on a Saturday, Sunday or federal holiday, the date for such performance shall automatically be extended to the first succeeding business day that is not a Saturday, Sunday or federal holiday.

27. **Pre-Closing Marketing.** Seller acknowledges that Purchaser will be applying for an award of Section 42 Low Income Housing Tax Credits, Senior Independent Living Tax Credits and/or Historic Tax Credits (the "Credits") to assist Purchaser in its purchase and/or operation of the Property. At such time

as Purchaser may be awarded such Credits, Seller agrees that Purchaser may begin to promote and market the Property by reasonable means that do not unduly interfere with the Seller's operation or ownership of the Property, including the placement of signage upon the Property and the open marketing of the Property for Purchaser's Intended Use.

28. **Apportionments.** Adjustments to the Purchase Price paid hereunder shall be made between Seller and Purchaser and shall be prorated as applicable upon the Closing Date. For purposes of all prorations provided for herein, Seller shall be responsible for all days prior to the Closing Date and Purchaser shall be responsible for the Closing Date and all days on or after the Closing Date. All prorations shall be made on a 365 day calendar year basis and the actual number of days in the month of the Closing Date.

28.1. All income and expense, including but not limited to applicable prepaid expenses, rents, cash adjustments, and accrued liabilities, attributable to the ownership of the Property, measured and prorated between Seller and Purchaser on an accrual basis until the Closing Date will be for the account of the Seller and on or after the Closing Date are for the account of the Purchaser.

28.2. Seller shall pay or credit against the Purchase Price all unpaid real estate taxes, including penalties and interest, for all tax years preceding the Closing Date, and shall credit a portion of such taxes for the tax year in which the Closing is held, prorated through the Closing Date. The proration of such taxes shall be based on a 365-day year and on the most recently available rate and valuation and the amount so computed and adjusted shall be final. Seller shall pay any special assessments which: (a) are a lien on the Property on the Closing Date, whether such assessments are past due, then due or thereafter to become due; or (b) are not a lien but are then known and will be payable in whole or in part after the Closing Date.

28.3. Seller is responsible for the payment of any and all agricultural tax recoupment charges and/or deferred real estate taxes for the Property.

28.4. Seller shall transfer to Purchaser any and all security deposits relating to any and all leases or other funds held in trust for tenants of the Property, if any.

29. **Brokers and Commission.** Except for Tejas Realty (the "Seller's Broker"), and Coldwell Banker, Apex (the "Purchaser's Broker", Seller's Broker and Purchaser's Broker, are collectively, the "Broker"), the parties acknowledge that no real estate agent, broker or company has been used in this transaction by either party and no party has taken any actions which would give rise to a claim for any commission. Purchaser and Seller each covenant and agree to defend, indemnify and save the other harmless from any actions, damages, fees, real estate commissions, costs and/or expenses (including reasonable attorneys' fees) resulting from or claimed to be due on account of the purchase and sale of the Property due to the acts of the other party, except for claims arising from the Purchaser's Broker or the Seller's Broker. These reciprocal indemnities shall include the costs of discharging any lien and the cost of defending any litigation, including reasonable attorney's fees (the party to be indemnified shall have the right to choose its own counsel). Seller has agreed to pay five percent (5%) of the gross sales price as a real estate commission with the commission to be divided equally between Seller's Broker and Purchaser's Broker.

30. **Operations Pending Closing.** Seller, at its expense, shall use reasonable efforts to maintain the Property until the Closing or sooner termination of this Agreement, substantially in its present condition and pursuant to Seller's normal course of business (such as maintenance obligations but not including extraordinary capital expenditures or expenditures not incurred in such normal course of business), subject to ordinary wear and tear, damage by fire or other casualty and condemnation. In addition, Seller shall deliver to Purchaser a copy of any written notice of default delivered by Seller to any Tenant.

[Signatures on the Next Page.]

Purchase and Sale Agreement

Signature Page

IN WITNESS WHEREOF, Seller and Purchaser have executed this Purchase and Sale Agreement as of the date listed above.

Seller:

Stietler Properties LLC
a Texas limited liability company

By: 

Print Name: Perry Stietler

Title: OWNER

Purchaser:

MVAH Holding LLC
a Georgia limited liability company

By: 

Print Name: Brian McGeady

Its: Authorized Signer

[End of Signatures.]

Purchase and Sale Agreement

Exhibit A

Definitions

For the purposes of this Agreement, the following terms shall have the following meanings:

"Appurtenances" mean all rights, privileges, easements, hereditaments, tenements and rights-of-way appurtenants to, or used in connection with, the beneficial use and enjoyment of the Property, including, without limitation, all right, title and interest, if any, of Seller in and to all water rights, open or proposed highways, streets, roads, roadways, avenues, alleys, sidewalks, easements, strips, gores or rights-of-way, ingress and egress, in, on, across, under, in front of, contiguous to, adjacent to, abutting, adjoining or otherwise benefiting the Property, both public and private.

"Closing Date" means a date that is within thirty (30) days after the expiration of the Inspection Period, as extended pursuant to this Agreement, on which date transfer of title to the Property from Seller to Purchaser shall be accomplished.

"Encumbrance" means any lien, pledge, mortgage, charge, deed of trust, security interest, claim, lease, charge, option, right of first refusal, easement, servitude, encroachment or other survey defect, transfer restriction, easements and restrictions related to wetlands and waterways, or other encumbrance of any nature whatsoever.

"Governmental Authority" or "Governmental Authorities" mean any government or political subdivision thereof, whether federal, state, local or foreign, or any agency or instrumentality of any such government or political subdivision, or any court or arbitration body, having authority over the Property.

"Improvements" mean all improvements, buildings, structures and fixtures currently located on the Property or to be located on the Property as of the Closing Date, excluding any fixtures owned by tenants, including, without limitation, all heating and air conditioning systems, parking facilities and services, refrigeration, ventilation or other utilities, facilities or services located on the Property or owned by Seller and used in connection with the Property, if any.

"Leases" mean each and every lease of space at the Property and any amendments thereto (a) in full force and effect as of the Effective Date and/or (b) executed by Seller after the Effective Date in compliance with the terms and provisions of this Agreement.

"Licenses" mean all of the following owned by Seller, any and all licenses, permits, certificates, consents, registrations, certifications, approvals, operating rights, service contracts, intellectual property, waivers and other authorizations, whether issued or granted by any Governmental Authority or by any other Person, with respect to the Property.

"Permitted Encumbrance" means: (a) any mortgage or related security documents on the Property to be released on or before the Closing Date; (b) easements and restrictions of record which do not interfere in any material respect with the ownership of the Property for Purchaser's Intended Use and to which the Purchaser has not objected; (c) liens for real property taxes not yet due and payable; and (d) other exceptions approved in writing by Purchaser.

"Person" means any individual, corporation, partnership, limited liability company, firm, joint venture, association, joint-stock company, trust, unincorporated organization, or other organization, whether or not a legal entity, and any Governmental Authority.

"Property" means that certain 23.02 acres of real property, net of any wetlands or waterways, located at 6225 Summerhill Road, Bowie County, Texarkana, Texas known as parcel nos. 15520003302 and 15520003300, and more particularly described in Exhibit B, together with all Improvements, Appurtenances, together with all of Seller's right, title and interest in and to the following: (i) the Tangible Personal Property; (ii) any and all signage, identifying names and all marketing materials of or associated with the real property; (iii) any and all Licenses; (iv) any and all Records; (v) goodwill, trademarks, trade names, service marks, telephone and facsimile numbers regarding the foregoing real property; (vi) all such other tangible or intangible property used or useful in the ownership of the Property; and (vii) any and all contracts, agreements, and other arrangements relating to the ownership of the foregoing real property, including any existing lease and any and all service contracts relating to third party service providers of the foregoing real property, as determined by Purchaser during the Inspection Period.

"Records" mean any and all books, lists, leases, documents, manuals, marketing information, databases, and specifications, architectural renderings, warranties, surveys, blue prints, floor plans, mylars, forms and records used in connection with the Property and/or any Improvements on the Property.

"Tangible Personal Property" means all furnishings, fixtures, furniture, artwork, apparatus, appliances, tools, machinery, accessories, equipment, and other tangible personal property of any type or description owned by Seller and used or held for use in connection with the ownership of the Property, if any.

"Tax Credit Funding" means the sale of housing tax credits to a tax credit investor as evidenced by the tax credit investor's entry into an amended and restated agreement of limited partnership.

Purchase and Sale Agreement

Exhibit B

Legal Description of the Property

Parcel 15520003302

MEP & P RWU CO A-428 2018-5273 05/21/18 2016-13042 11/07/16 BLK/TRACT 32, 32A
21.869 Acres

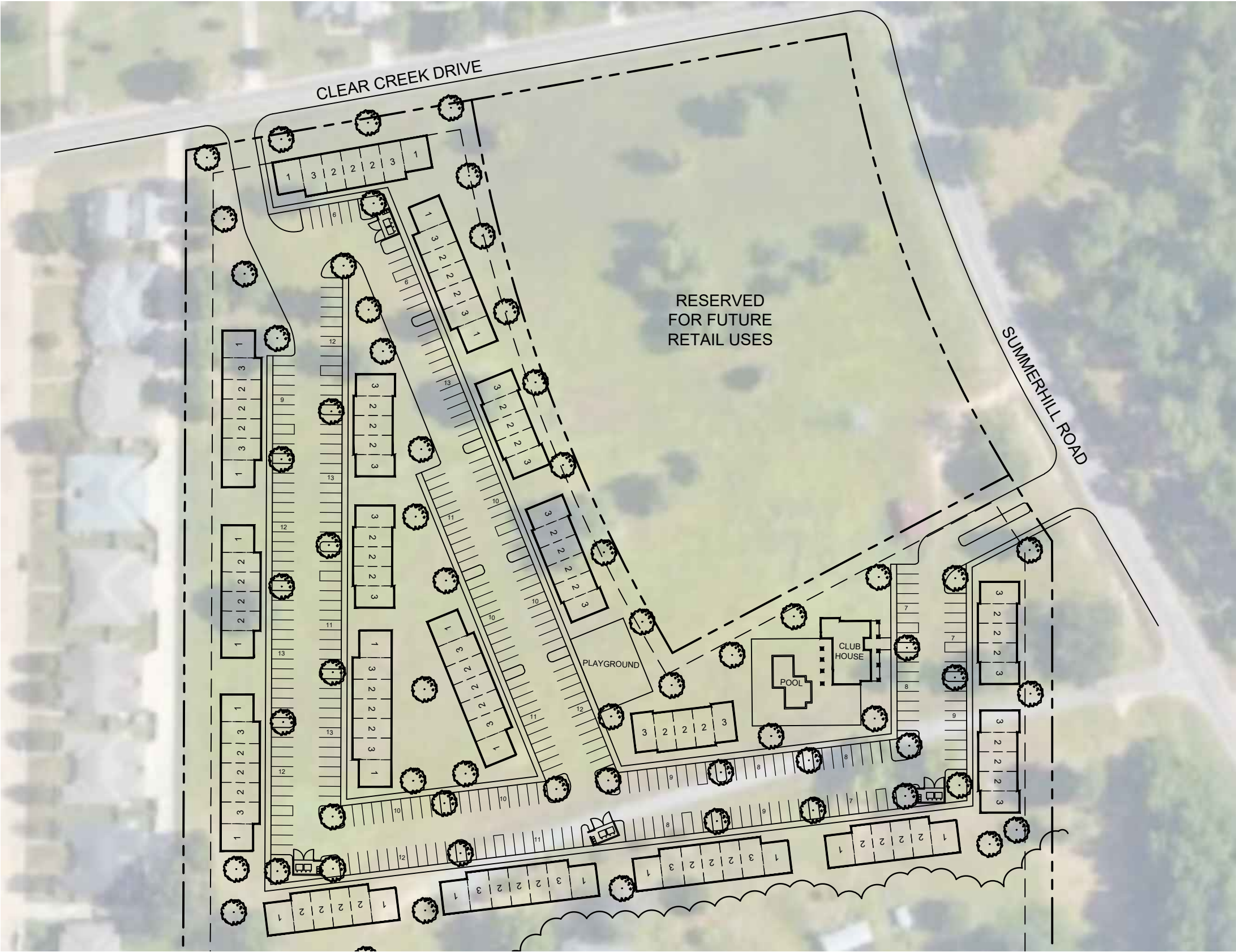
Parcel 15520003300

MEP 7 P RWY CO A-428 2016-9567 08/09/16 BLK/TRACT 32B
1.161 Acres

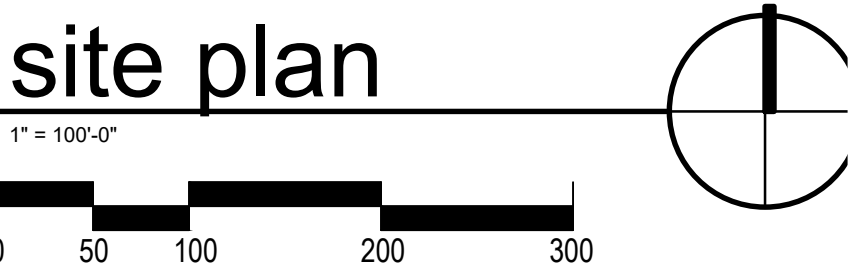


Preliminary Site Plan

A site plan for the proposed development of Reserve at Summerhill has been included in this section.



PROPOSED UNIT MIX:		2018-144 ATTH 01
1 BEDROOM / 1 BATH - 20 UNITS		TOTAL:
2 BEDROOM / 2 BATH - 59 UNITS		107 UNITS
3 BEDROOM / 2 BATH - 28 UNITS		1 & 2-STORY
		TOWNHOMES
SITE AREA =		APPROX. 22.4 ACRES
SITE PARKING =		307 PARKING SPACES PROVIDED
		263 PARKING SPACES REQUIRED



RESERVE AT SUMMERHILL
texarkana, texas

11.15.1:
preliminary site plan.



Project Description and General Information

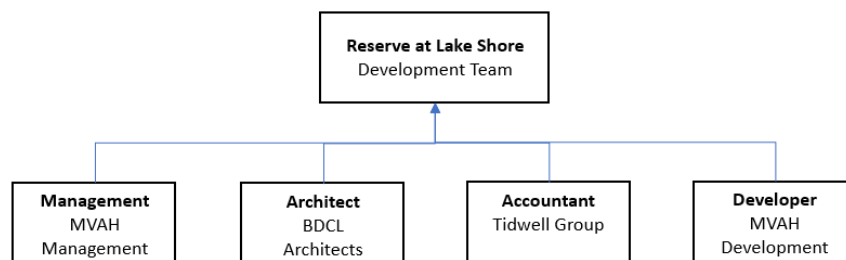
Reserve at Summerhill involves the new construction of 89 townhouse-style units. The proposed rental community will target a family demographic.

The proposed rent schedule is located below:

LIHTC Rental Income

Apartment	Type	Baths	# of Units	Sq. Ft./Unit	Total Sq. Ft.	% of AMI	Max Gross Rent	Utility Allow	Actual Net Rent	Actual Gross Rent	Rent Per Sq/Ft	Annual Rent/Unit	Annual Rent/Unit Type
One Bedroom		1.0	2	763	1,526	30%	318	67	251	318	0.329	3,012	6,024
One Bedroom		1.0	8	763	6,104	50%	530	67	463	530	0.607	5,556	44,448
One Bedroom		1.0	6	763	4,578	60%	636	67	569	636	0.746	6,828	40,968
One Bedroom		1.0	4	763	3,052	80%	848	67	781	828	0.997	9,132	36,528
Two Bedroom		2.0	5	967	4,835	30%	381	84	297	381	0.307	3,564	17,820
Two Bedroom		2.0	20	967	19,340	50%	636	84	552	636	0.571	6,824	132,480
Two Bedroom		2.0	15	967	14,505	60%	763	84	679	763	0.702	8,148	122,220
Two Bedroom		2.0	10	967	9,670	80%	1,018	84	914	998	0.945	10,968	109,680
Three Bedroom		2.0	3	1,141	3,423	30%	441	103	338	441	0.296	4,056	12,168
Three Bedroom		2.0	12	1,141	13,692	50%	735	103	632	735	0.554	7,584	91,008
Three Bedroom		2.0	9	1,141	10,269	60%	882	103	779	882	0.683	9,348	84,132
Three Bedroom		2.0	4	1,141	4,564	80%	1,176	103	1,053	1,156	0.923	12,636	50,544
			98	975	95,558				636		0.656	87,456	748,020

The proposed LIHTC development team is:





AMENITIES AND SERVICES

Planned amenities include:

Development Amenities

- Community Center / Building
- Fitness Center
- Computer/Business Center
- On-site Laundry Facility
- Covered Exterior Gathering Area
- Resident Lounges/Seating Areas
- Fenced Community Garden

Unit Amenities

- Central A/C
- Coat Closet
- Dishwasher / Refrigerator
- Washer and Dryer Hookups
- Stoves
- Microwaves

Preliminary Social / Supportive Services

- Quarterly financial planning courses (i.e., homebuyer education, credit counseling, investing advice, retirement plans, etc.); courses must be offered through an on-site instructor.
- GED preparation classes (shall include an instructor providing on-site course work and exam)
- Quarterly health and nutritional courses
- Twice monthly arts, crafts, and other recreational activities such as Book Clubs and creative writing classes
- Annual income tax preparation (offered by an income tax prep service)
- Twice monthly on-site social events (i.e., potluck dinners, game night, sing-a-longs, movie nights, birthday parties, etc)
- Weekly exercise classes



LIHTC Project Information

MVAH has experience with a diverse combination of approaches to housing and community revitalization, and has successfully planned, developed, rehabilitated and managed mixed-use, mixed income and transit-oriented developments, historic rehabilitations, market rate housing, and work-force housing. MVAH Developments serve many demographics including families, seniors, the military and populations requiring supportive services. Below are recent and specific examples of similar projects

that MVAH has successfully developed, completed, and managed.



Project One: Reserve at Quebec

Through a strategic partnership with Fort Worth Housing Finance Corporation, an arm of the City of Fort Worth, Reserve at Quebec represents the first mixed-income development in the City of Fort Worth to include market-rate, affordable, and supportive housing units. As a component of the city's plan to end homelessness, MVAH

Development was selected as the development partner due to their track record of success, ability to deliver units on time and under budget, strength of the firm's in-house management team, and respected reputation throughout the industry. Also, in Fort Worth, MVAH Development is partnering with the Fort Worth Housing Solutions to bring RAD conversion units into its existing Reserve at McAlister and Reserve at Western Center developments, as well as provide project based vouchers for its Reserve at Quebec development. Consisting of 296 units, with a total cost of approximately \$47M, Reserve at Quebec includes 264 affordable units, 16 supportive housing units, and 16 market rate units. This Class "A" community includes a resort style pool, business center, state-of-the-art fitness center, community/activity room,





and leasing center. The property provides free after-school care, health and wellness classes, and financial literacy classes. For the supportive housing units, a case worker work individually with residents to help with life skills, job training and placement, transportation, and medical assistance. The development opened in May of 2018 and is currently in its lease-up period. The development received financing from HUD, through a 221(d)(4) loan, non-competitive housing tax credits from TDHCA, a \$3.5 million HOME Loan from the City of Fort Worth, who heavily supported the development, and tax credit equity from Berkshire Hathaway. The development qualifies for a real estate tax exemption provided by the Fort Worth Housing Finance Corporation.

Project Two: Sandoval Two, Cramer Three, and Dewetter Two

In December of 2016, MVAH was selected by the Housing Authority of the City of El Paso ("HACEP") to be their



Development Partner for three tranches of its portfolio-wide RAD conversion. MVAH is currently developing Sandoval Two, Cramer Three, and Dewetter Two for HACEP. Sandoval Two is a 274-unit redevelopment of two scattered-site townhome developments, Sandoval Apartments and Valle Verde Apartments. Cramer Three is 426-unit redevelopment of the Cramer Apartments, Guillen Apartments, and MLK Apartments, also all in a townhouse style. Dewetter Two is a 178-unit redevelopment of the single-family housing development Dewetter Apartments, and the townhouse style Kathy White Apartments. These redevelopments are gut rehab developments of housing that were originally constructed during the 1970s. The redevelopment incorporates green elements and a redesign of large housing units to make better use of the available space and incorporate modern accessibility features. All three tranches are 4% tax credit developments funded through the Texas Department of Housing and Community Affairs. Additionally, all three tranches will be managed and owned by HACEP long-term, but developed, financed and constructed by MVAH. Sandoval Two and Cramer Three are utilizing a 221(d)(4) loan from HUD, while Dewetter Two will be financed using the Freddie TEL program. The tax credit equity for Sandoval Two is provided by Bank of America, while the tax credit equity for Cramer Three and Dewetter Two will be provided by PNC. HACEP is receiving acquisition credits on all three



transactions and is using a ground lease structure to receive a real estate tax exemption. Sandoval Two is currently under construction while Cramer Three is scheduled to close in middle of September 2018. Dewetter Two will close by the end of the 2018. In total, the El Paso RAD conversions represent over \$185 million in development of 878 units that will all close in a two-year timeframe. This redevelopment showcases the ability to leverage public-private partnerships to help redevelop and truly transform an area.



Project Three: Mulberry Street Properties

A 50-unit new construction affordable housing community located in Harrisburg, PA., this development will be one the most visible housing developments occurring in the City of Harrisburg and fulfills a key mission of the new Mayor to remove

blight from the city. The development has been written in the city's new comprehensive plan and will serve as the anchor project for MulDer Square revitalization effort in Allison Hill led by the City of Harrisburg. The Harrisburg Redevelopment Authority is contributing two of the three sites at no cost. The development is a partnership between MVAH Development and the HHA.

The development is located on three scattered sites in the South Allison Hill neighborhood; approximately 1-mile from the Pennsylvania State Capital Building. The community will include 22 one-bedroom units, 14 two-bedroom units and 14 three-bedroom units. The property will also feature two community spaces. Additionally, 2,570 sq. ft. of neighborhood retail space will be provided on the ground floor of one of the multi-story buildings. The social service package will be provided by Tri County Community Action, who has offices in the immediate neighborhood.

Two of the three proposed sites are being donated by the Harrisburg Redevelopment Authority (HRA) MVAH will act as the development mentor for the HHA through stabilization of the development. The location of the development connecting downtown Harrisburg to Allison Hill will be one of the most visible developments in the City of Harrisburg and will eliminate blight along this corridor in the community. This development is a cornerstone of the MulDer Square project envisioned by the Harrisburg Redevelopment. The development targets nearly all the identified goals of the 2009 South



Allison Hill/Mt. Pleasant Neighborhood Strategic Plan. The development received further financing from NDC and Fulton Bank, in the form of a perm mortgage and tax credit equity. The development is under construction and will be completed in November of 2018.

Project Four: Reserve at Engel Road

Reserve at Engel Road is a 96-unit family affordable housing development in New Braunfels, Texas which has completed construction. The development is comprised of four apartment buildings and a community club house. It contains a mix of one, two, and three-bedroom units. The development was built on the frontage road of I-35 and is near neighborhood amenities. The development received a \$833,000 loan from the City of New Braunfels, who heavily supported the development, and competitive housing tax credits from TDHCA. The development features an attractive southwestern exterior style and tile roof. The development received further financing from Citibank and RBC Capital, in the form of a perm mortgage and tax credit equity.

Project Five: Reserve at McAlister

Reserve at McAlister is a 124-unit affordable housing development for seniors located in Fort Worth, Texas. The development, consisting of three buildings with first floor community space connected by a walkway, completed construction in 2016 and is fully stabilized. Reserve at McAlister was developed in conjunction with Albatross Development and includes four market rate units. The development features a mixture of one and two-bedroom units and received competitive housing tax credits from TDHCA. The development is partnering with Fort Worth Housing Solutions to receive RAD units as part of the Fort Worth Housing Solutions on-going RAD conversion of their portfolio and was heavily supported by the City of Fort Worth, Fort Worth Housing Solutions, and the local community. The development received further financing from Hudson Housing and Capital One, in the form of a perm mortgage and tax credit equity.

Project Six: Oak Ridge Apartments

Oak Ridge Apartments is a senior multi-family development of 48 affordable units in Nolanville, Texas, a community that is a ten-minute drive from Fort Hood. The development completed construction in 2016 and is fully stabilized. The development consists of two residential buildings and a clubhouse. Three of the units, in addition to being income restricted, are reserved for individuals with special needs.



Additionally, Oak Ridge Apartments features a strong partnership between MVRD and Albatross Development, LLC, a Historically Underutilized Business as recognized by The Texas Comptroller of Public Accounts. The development received a HOME Loan and competitive housing tax credits from TDHCA. The development received further financing from Hudson Housing and Capital One, in the form of a perm mortgage and tax credit equity.

Project Seven: Reserve at Western Center

Reserve at Western Center is a 120-unit family affordable housing development in Fort Worth, Texas which completed construction in 2014 and is currently stabilized. The development is comprised of six apartment buildings and a community club house. It contains a mix of one, two, and three-bedroom units and received City of Fort Worth HOME funds, in addition to competitive housing tax credits from TDHCA. The development is partnering with Fort Worth Housing Solutions to receive RAD units as part of the Fort Worth Housing Solutions on-going RAD conversion of their portfolio. The development was heavily supported by the City of Fort Worth, Fort Worth Housing Solutions, and the local community. The development received further financing from Bank of America, in the form of a perm mortgage and tax credit equity.



Photos of Recent Relevant Developments

The next several pages of these submit contain full-color photos that showcase our representative Texas developments that have completed construction.

Reserve at Quebec Fort Worth, Texas

2018-144 ATTH 01



MVAH
PARTNERS

Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Silversage Point at Western Center Fort Worth, Texas

2018-144 ATTH 01



Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Pinecrest Walkertown, North Carolina



Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Newton Place Newton, Iowa



Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Hamburg Senior Living Hamburg, Kentucky

2018-144 ATTH 01



**MVAH
PARTNERS**

Empower People
Enhance Communities

Darren W. Smith
Development

8506 Carrie Lane
Rowlett, Texas 75089
O (214) 501-5618
F (214) 501-5619
C (214) 316-3107

Patterson Pointe Bloomington, Indiana



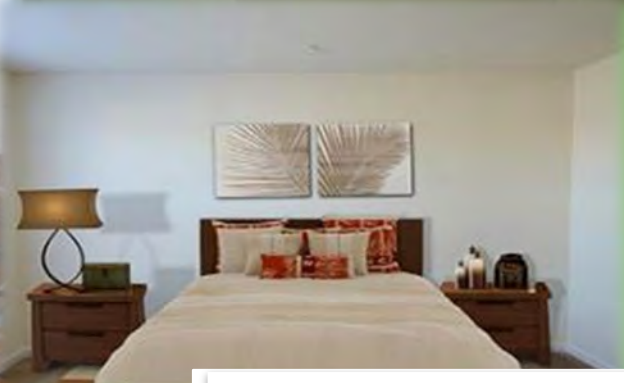
Empower People
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2018-144 ATTH 01



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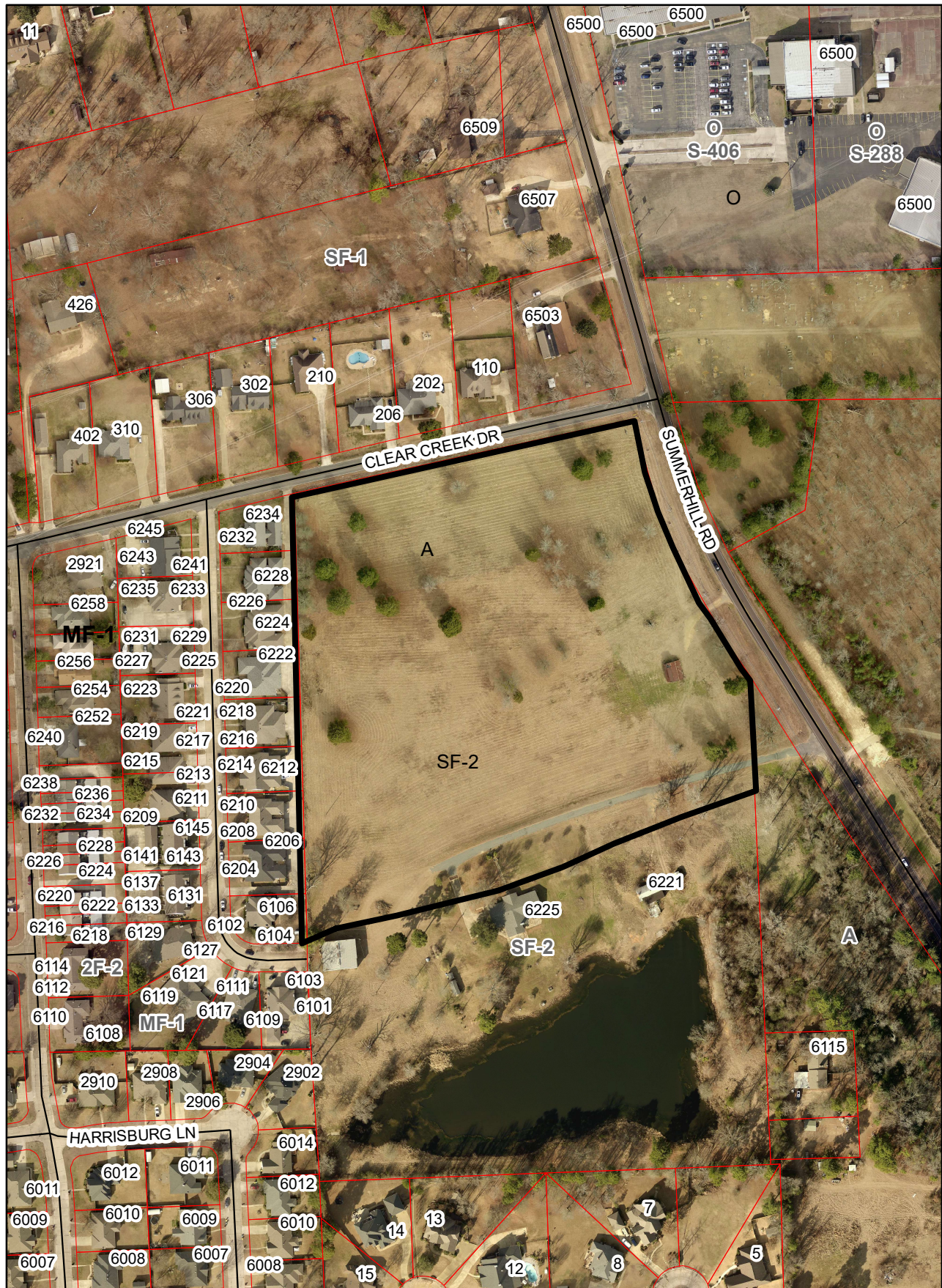


Development Timeline

A proposed development timeline that includes the expected completion date if credits are awarded has been included with this section.

Reserve at Summerhill Development Timeline					
Month	Year	Days	Cumulative	TDHCA	P&S
Nov	2018	30	30		120 day due diligence
Dec	2018	31	61		
Jan	2019	31	92	Pre-Application Due	
Feb	2019	28	120		
Mar	2019	31	151	Full-Appication Due	
April	2019	30	181	Preliminary Scoring Log	
May	2019	31	212		
June	2019	30	242	Updated Scoring Log	
July	2019	31	273	Award Announcement	
Aug	2019	31	304	Full Design Starts	
Sept	2019	30	334	Zoning	
Oct	2019	31	365		
Nov	2019	30	395		
Dec	2019	31	426	Construction Starts	
March	2021	450	876	Construction Completion	
April	2021	240	1116	Lease-up	

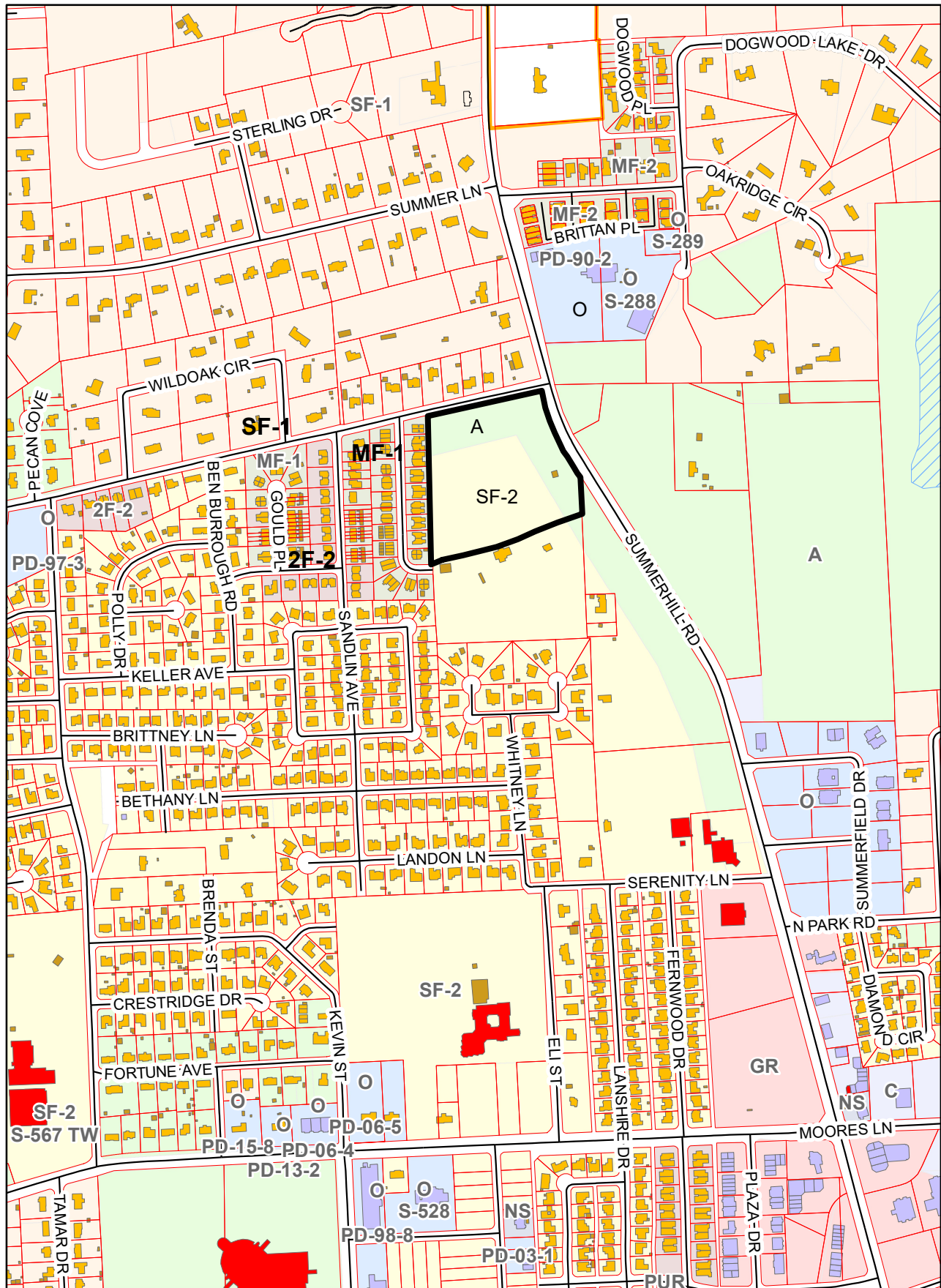
MVAH- Reserve at Summerhill



1:3,000



MVAH- Reserve at Summerhill



1:9,000



**Joint Center for Housing Studies
Harvard University**

**Overcoming Opposition to Multifamily Rental Housing
Mark Obrinsky and Debra Stein
March 2007
RR07-14**

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I. Introduction and Background

Resistance to multifamily rental housing is a growing phenomenon in communities around the country. Indeed, opposition to any type of new housing development has become so pervasive that the area of community resistance has spawned its own vocabulary. Multifamily housing is characterized by some citizens as a “NIMBY” project (Not in My Backyard). Apartments are condemned as “LULUs” (“Locally Unwanted Land Uses”). We even have “CAVEs” (Citizens Against Virtually Everything) and they want “BANANAs” (to Build Absolutely Nothing Anywhere Near Anyone).

Putting whimsical acronyms aside, citizen resistance to multifamily rental housing is not a humorous issue. In fact, community opposition to these development projects runs smack up against powerful demographic trends. Population growth in the U.S. continues at a high level – certainly in comparison with other developed countries – and will require considerable new residential construction.¹ Even a brief examination makes this clear.

The U.S. population is expected to increase over the next 20 years at an average annual rate of 0.83 percent – which would result in a cumulative increase of 23 percent, or 68 million people. This figure is twice the size of today’s most populous state, California, which has almost 34 million people. In fact, the projected number of new residents in the next two decades is larger than the number of people who currently live in the Northeast (54 million), Midwest (64 million), or West (64 million). Clearly, population growth is an issue of critical importance for the U.S.

What’s more, the growth in households will be even greater than population growth itself. The average size of a household has been dropping for more than a century. In 1900, an average of 4.6 people lived in each household. By 2004, there was an average of only 2.6 people per household. While this decline is partly the result of families having fewer children, it is mainly the result of changing household composition. In 1960, single-person households made up 13 percent of all households, while married couples with children made up another 44 percent. The share of single-person households has doubled since then while the number of married couples with children has fallen to only 23 percent. Married couples without children remain the most common type of household, as they have been since 1982, even though their

¹ Of the nine countries that will account for half the world’s population growth from 2005-2050, the only developed nation is the U.S. See: United Nations, *World Population Prospects: The 2004 Revision*, vol. 3, p. xv. Available at: <http://www.un.org/esa/population/publications/WPP2004/2004EnglishES.pdf>

share of the total has waned a bit over that time. The Joint Center for Housing Studies projects that average household size will decline a bit more before stabilizing.²

The upshot is that the demand for new housing units is likely to increase faster than the population itself is projected to grow. Extending the Joint Center for Housing Studies' projections for 2020 another decade suggests that between 2005 and 2030, the number of households will rise by almost 30 percent – that is, 33 million new households.

The number of additional housing units needed by 2030 is actually greater than 33 million, however, because an estimated 17 million existing housing units will fall out of the housing stock due to deterioration or destruction.³ Thus, some 50 million new housing units will have to be added to the stock between 2005-2030. This is both a daunting challenge and a ray of hope – we have an opportunity to shape future development and determine the character of the built environment in which we will live and work.

What is at issue is not whether these new residences will get built, but rather where they will get built and what kind of residences they will be. Put differently: what kind of communities should we build?

The traditional suburban development model features low-density housing built in cul-de-sacs, neighborhoods separated from strip malls, big box retailers, and office parks along roads with ever-increasing traffic.⁴ But compact development – especially sustainable communities that promote accessible transportation choices, higher density, mixed-use and mixed-income development, and attractive design – have attracted growing interest. The age structure and household composition of the new households will surely tilt demand further in this direction.

Multifamily rental housing has long been an important part of the constellation of housing choices for families and individuals. It plays an increasingly important role in “workforce housing,” providing homes for our nation’s teachers, firefighters, police officers, health care workers, and public employees. These vital workers contribute to the community, but their incomes are often less than what is required to support a comfortable, middle-class life.

² The Joint Center’s forecast is that the overall headship rate will continue to rise somewhat before stabilizing, but the overall headship rate is just the inverse of the average household size.

³ Authors’ interpolation based on Arthur C. Nelson, “Toward A New Metropolis: The Opportunity to Rebuild America,” Brookings Institution Metropolitan Policy Program, December 2004.

⁴ This view is proposed by Bruce Katz and Andy Altman, “An Urban Age in a Suburban Nation?” Presentation to Urban Age Conference, New York City, February 25, 2005.

Nonetheless, there is continuing resistance to higher density housing, to rental housing, and to low-income housing. Such resistance, if successful, may bring about a less-than-optimal result; in particular, it would mean fewer multifamily rental properties than would otherwise occur.

This paper seeks to examine the nature of that resistance, the reasons behind it, and how it can be overcome.

In general, people who support multifamily rental housing tend to want the new benefits that come from responsible development. They may be excited about the creation of new and affordable housing, new community rooms or other public amenities, or new jobs or tax revenues from associated retail. By comparison, people who oppose land use proposals tend to do so because they like their community the way it is and don't want any change. Opponents don't want more traffic, lower property values, more children crowding the schools, or a changed community character, and they believe that the proposed apartment project will worsen their existing lifestyles. Potential opponents and potential supporters are completely different audiences, with completely different interests. Sponsors of multifamily rental housing must therefore engage in two distinct community outreach campaigns: one aimed at minimizing neighborhood opposition, one aimed at mobilizing public support. We begin with the former.

II. Opposition to Multifamily Rental Housing In General

Forms of Opposition

Opposition to multifamily rental housing is expressed in many ways. Most fundamental, perhaps, are attitudes. Whether founded in facts, the expression of an underlying bias, or the mechanism for pursuing perceived self-interest, such attitudes are inevitably where opposition begins.

Attitudes lead to actions. There are two broad kinds: (1) actions in opposition to specific projects or proposals; and (2) actions against a whole class of housing. Actions against specific projects may be initiated by residents of nearby communities, and can include such things as private calls to local officials, speaking out at public hearings, writing letters to the editor, organizing among community groups, and even picketing the proposed site. Local officials may also act to prevent or restrict multifamily housing – for example, there are jurisdictions in which

multifamily housing is nominally permitted, but every actual application for a building permit gets denied.

Opposition can also be woven into the fabric of regulations, ordinances, and planning documents. Overcoming such opposition typically requires far greater effort, as it requires overturning such statutes.

To be effective, proponents of multifamily housing need to address all areas. Analyzing the extent and effect of the bias against apartments in the local regulations around the country is beyond the scope of this paper. Nonetheless, we offer some comments on this aspect of the problem at the end of this section.

In any case, the starting point is dealing with misperceptions about multifamily rental housing.

Setting the Record Straight

Resistance to multifamily rental housing comes from a variety of sources, including planning or zoning officials, local politicians, civic leaders in communities in which the housing is to be located, proximate neighbors who live or work near the apartment buildings, and other members of the general public. This section focuses on the facts behind the most common arguments made by opponents of new apartment developments, while the following section examines the underlying concerns behind anti-housing claims and how stakeholder claims can be addressed.

Anti-apartment stakeholders tend to rely on similar arguments to keep multifamily rental housing out of their communities. These claims include:

- Multifamily apartments lower the value of single-family homes in the neighborhood.
- People who live in apartments are less desirable neighbors and more likely to engage in crime or other anti-social behavior.
- Apartments overburden schools, produce less revenue for local governments, and require more infrastructure support
- Higher-density housing creates traffic congestion and parking problems.

We will examine each of these, and also offer broader general comments about residential development and the environment.

Fiscal Burden

Opponents of multifamily housing often claim that apartment residents impose higher expenditures for local government services. The point is most commonly voice with reference to schools, although other local government infrastructure services are mentioned as well.

Opponents assume that apartments contain more school-age children than single-family houses do, and therefore put greater strain on local school districts. In an era of tight school budgets, this is an understandable concern. Let's begin by reviewing the data.

On average, 100 single-family owner-occupied houses include 51 school-age children. By contrast, apartments are attractive to single people, couples without children, and empty nesters, which is why 100 apartment units average just 31 children. The disparity is even greater when considering only new construction: 64 children per 100 new single-family houses vs. 29 children per 100 new apartment units. Wealthier apartment dwellers have even fewer children (12 children per 100 households for residents earning more than 120 percent of the area median income, AMI), while less wealthy residents earning less than 80 percent of AMI still have fewer children (37 per household) than single-family homes.⁵

Opponents often ignore how much revenue apartments bring in to the local government.⁶ In fact, apartment owners often pay more in property taxes than owners of single-family houses.⁷ That's because in most jurisdictions, apartments are treated as commercial real estate, which is taxed at higher rates than single-family houses in most states. Although there are many complications in such comparisons, one simple approach is to look at the "effective tax rate," defined as the ratio of property tax to property value. For apartments in urban areas the effective tax rate averages 48-54 basis points more than single-family houses: 1.91 percent for apartments, compared with 1.37-1.43 percent for single-family houses.⁸

⁵ All figures are NMHC tabulations of data from the American Housing Survey. See Research Notes, "Apartments and Schools," NMHC, August 24, 2001, available at:

www.nmhc.org/Content/ServeContent.cfm?ContentItemID=2620&IssueID=80. A recent study using data from the 2001 Residential Finance Survey suggests a smaller differential, though one that has grown over time. See Jack Goodman, "Houses, Apartments, and the Incidence of Property Taxes," *Housing Policy Debate*, Vol. 17, Issue 1, 2006.

⁶ Apartment residents also contribute to the general economy by buying local goods and services. See *Research Notes*, "Apartment Residents and the Local Economy," NMHC, May 3, 2002.

⁷ See Jack Goodman, "Houses, Apartments, and the Incidence of Property Taxes," *Housing Policy Debate* Vol. 17, Issue 1, 2006.

⁸ Authors' calculations based on Minnesota Taxpayers Association, *50-State Property Tax Comparison Study*, St. Paul, MN, April 2006, p. vii. See also Alan Mallach, "Housing and Suburbs: Fiscal and Social Impact of Multifamily Development." Department of Housing and Urban Development: Washington DC, 1974.

Thus, apartments actually pay more in taxes and have fewer school children on average than single-family houses. In other words, it may be more accurate to say that apartment residents are subsidizing the public education of the children of homeowners than the reverse.

Two contrary points need to be addressed. First, some might argue that the fact that apartments contain fewer school-aged children than single-family houses has more to do with location little than with the nature of apartments. That is, apartments built in jurisdictions with first-rate schools might be designed to be more attractive to families (e.g., by having more bedrooms) and therefore house more children. Second, opponents of multifamily housing may point to the fact that 100 apartment units will probably still have more school-aged children than 10 single-family homes built at the same site.

Additional research would be helpful in clarifying the first point. A recent study made a related point. It agreed that newly built multifamily properties “have not contributed significantly to the rise in school enrollments” and that “it is very unlikely that new multi-family housing has produced a negative fiscal impact on cities and towns.”⁹ It argues, however, that the reason for this is that these properties were never designed to house families with children. That is, these apartments and condos consist mainly of one- and two-bedroom residences, for the express purpose of meeting the fiscal impact challenge developers often face, namely ensuring that their developments won’t hurt local fiscal matters. The researchers rightly note that this approach ends up pitting fiscal policy against housing policy – that is, the kind of residential developments that are approved are not what might be required by local households, but rather what the local budget is willing to bear.

We conclude from this that at least some of the opposition to multifamily housing actually has nothing to do with housing *per se*, but rather with limiting the number of school-aged children who would otherwise “burden” local finances.

Even in areas with high quality schools, we suspect that the mix of apartment units the market would offer (absent any pressure, in either direction, from local officials) would still feature fewer units with three or more bedrooms than would be provided by single-family housing. With few, if any, exceptions, the market for conventional apartments with three or more bedrooms historically has been much thinner than the market for one- and two-bedroom units;

⁹ Judith Barrett and John Connery, *Housing the Commonwealth’s School-Age Children*. Citizens’ Housing and Planning Association Research Study, August 2003, p. 2.1. www.chapa.org/pdf/HousingSchoolAgeChildren.pdf

for this reason, three-bedroom floor plans tend to be a small portion of the total unit count. With average household size not expected to increase, it's hard to see why this would change.

Regarding the second point, without the apartment building in the neighborhood, the other 90 households will presumably have to move to some other local area, thereby burdening some other school district. This is a classic NIMBY point of view, and leads inexorably to the idea that the best development is actually no development, as this wouldn't "burden" the school district at all. Such an argument might hold sway among some local residents, but it offers no help to local and regional planners who are trying to manage current and projected growth in the most beneficial ways.

The issue needs to be framed more broadly. The total number of schoolchildren in any large region (or for the U.S. as a whole) is surely not determined by the number and type of housing units available. The question, then, is: where will they be housed and educated? Whether a jurisdiction chooses to permit multifamily rental housing or not, that question must still be answered.

Beyond that, the latest household projections from the Joint Center show that households with children under 18 years of age will make up only a small fraction of the total increase. Specifically, more than 80 percent of the increase in the number of households from 2005-2015 will come from married couples with no children plus single-person households.¹⁰ To some extent, therefore, the key issue may not be whether new housing developments impose a burden on local schools, but rather whether communities will develop the kind of housing that would attract households without children.

With other types of infrastructure, high-density development actually is more efficient than low-density development. By their very nature, longer sewer lines and sprawling utility (water, gas, and electric) supply systems are more costly; traditional development patterns also dictate expensive road construction. In addition, local governments must provide fire and police protection (as well as other services) over a larger area. By contrast, compact development benefits from economies of scale and geographic scope – and these benefits are large, potentially saving more than \$125 billion in the 2000-2025 time frame.¹¹

¹⁰ Authors' calculations based on George S. Masnick and Eric S. Belsky, "Revised Interim Joint Center Household Projections," Cambridge, MA, 2006, pp. 31-32.

¹¹ Mark Muro and Robert Puentes, "Investing In A Better Future: A Review of the Fiscal and Competitive Advantages of Smarter Growth Development Patterns." Washington, DC: Brookings Institution Center on Urban

Thus, rather than imposing a greater burden on local governments, higher density developments like apartments are actually more fiscally prudent than traditional suburban sprawl.

Traffic

Does compact development really cause an increase in traffic congestion and parking problems, as opponents often claim? To residents of the neighborhood where such development might take place, an increase in congestion seems self-evident – but only by comparing an apartment development to the status quo (i.e., no development). The proper comparison, however, is to the impact on congestion of an equal number of new single-family units.

On average, apartment residents own fewer cars than single-family homeowners: the latter average two cars per household compared with only one for the former.¹² Beyond that, single-family housing generates more automobile trips per household, as evidenced in the table below.

Automobile Trips Per Housing Unit			
	<i>Single-family detached</i>	<i>Apartment</i>	<i>Difference</i>
Weekday	9.57	6.72	42%
peak AM hour	0.77	0.55	40%
peak PM hour	1.02	0.67	52%
Saturday	10.10	6.39	58%
peak hour	0.94	0.52	81%
Sunday	8.78	5.86	50%
peak hour	0.86	0.51	69%
Source: Institute of Transportation Engineers, <i>Trip Generation, 7th Edition</i> (Washington, DC: 2003), Volume 2, pp. 268-332.			

On weekdays, a single-family detached house generates 42 percent more trips than does a unit in an apartment. The difference is even greater on the weekend: 58 percent more trips on Saturdays, and 50 percent more trips on Sundays. This large difference is seen not only in the

and Metropolitan Policy, March 2004. The authors take note of possible countervailing costs, such as the higher load placed on roads and sewer lines in more densely populated areas. See also Richard M. Haughey, *Higher-Density Development: Myth and Fact*. Washington, DC: Urban Land Institute, 2005.

¹² Jack Goodman, "Apartments and Parking," *Research Notes*. NMHC: Washington, DC, January 28, 2000.

totals, but also at the peak hours, morning and afternoon, weekdays and weekends. By any measure, it is clear that single-family houses generate more automobile traffic than apartments – or any other type of housing. In explaining why single-family houses produce the most traffic, the Institute of Transportation Engineers noted that they are the largest units in size, with the most residents, but also pointed out that they had “more vehicles per unit than other residential land uses; they were generally located farther away from shopping centers, employment areas and other trip attractors than other residential land uses; and they generally have fewer alternate modes of transportation available, because they were typically not as concentrated as other residential land uses.”¹³ Though written not as a policy document, but rather simply a straightforward, quantitative analysis, this is a good summary of the reasons why compact development engenders less traffic than sprawl.

Interestingly, single-family owners use their cars more often than apartment residents use theirs. On average, cars in single-family houses make 18 percent more trips during the week, 31 percent more trips on Saturday, and 41 percent more trips on Sunday than cars owned by apartment residents.¹⁴

Thus, not only are there more cars per household in single-family houses than apartments, each of those cars generate more traffic – and a higher demand for parking spaces at retail stores, offices, schools, and other facilities.

It could be argued that the difference in automobile ownership and use is determined less by property type than by geography. For example, residents of garden apartments near major highways in suburban areas lacking much public transportation are far more likely to own and use cars than are residents of apartments located near high-speed rail lines and subways. Although we know of no studies that have tried to quantify the impact of geography on this, it seems evident that there is an important property-type effect. Consider the reverse situation, namely residential development near a transportation node such as a subway station. The number of single-family detached houses that can be built within walking distance of the station is clearly much less than the number of multifamily residences – whether for-rent or for-sale – that can be built there. To take advantage of the transit nodes, it simply makes sense to take advantage of the fact that compact, higher-density housing is inherently better suited to such development.

¹³ Institute of Transportation Engineers, *Trip Generation*, 7th Edition (Washington, DC: 2003), Volume 2, p. 268.

¹⁴ *Ibid.*, pp. 287-295 and pp. 324-332.

Property Values

Concerns that multifamily rental housing will lower the value of their single-family houses has driven many residents to oppose new apartment developments in or near their neighborhoods. Proposals for low-income apartments are especially likely to trigger property value concerns, but even market rate rental housing can give rise to arguments that apartments lower property values and damage the community's reputation. Local officials often echo these property value claims, either because they believe lower property values will injure their communities tax base or reputation or because they want to sound responsive to constituent concerns.

The fear that housing density will hurt property values seems to be primarily based on anecdotes. By contrast, most research has come to a different conclusion: in general, neither multifamily rental housing, nor low-income housing, causes neighboring property values to decline.

Two studies have taken a macro look at home values and house appreciation near multifamily housing properties. One study focused on “working communities” throughout the nation – neighborhoods of predominantly low- and moderate-income working households. The study looked at data from the 2000 US Census and compared house values in those communities with the share of multifamily housing in those communities. The conclusion: working communities with multifamily dwellings actually have *higher* property values than other types of working communities. In other words, the average value of owner-occupied houses was highest in working communities with the most multifamily units. In fact, among working communities, “the high multifamily areas had the highest home values, the mixed-stock areas the next highest, and the single-family areas had the lowest.”¹⁵ The study also noted a similar phenomenon with respect to income: among working communities, higher household income was positively associated with the share of multifamily housing.¹⁶

The other macro analysis compared the rate of property value appreciation for houses with multifamily housing nearby with the appreciation rate for houses with no multifamily housing nearby. Houses with apartments nearby actually enjoy a slightly higher appreciation rate than houses that don't have apartments nearby. Homes that are not located in multifamily areas appreciated at an average annual rate of 3.59 percent between 1987 and 1997, compared with a

¹⁵ Alexander von Hoffman, Eric Belsky, James DeNormandi, and Rachel Bratt, “America's Working Communities and the Impact of Multifamily Housing,” Cambridge, MA: Joint Center for Housing Studies, 2004, p. 17.

¹⁶ Ibid., p. 16.

higher appreciation rate of 3.96 percent for houses near multifamily buildings. For the 1997-1999 period, the figures were 2.66 percent and 2.90 percent, respectively.¹⁷

Case studies examining individual sites and metro areas have been used in six recent research works to get a more detailed picture of the effects of multifamily and/or subsidized single-family properties. These studies measured the possible impact of a range of property types on surrounding property values, including the potential impacts of conventional apartments, mixed-income multifamily rentals, low-income housing tax credit developments, and federally-assisted rental housing projects. Researchers measured a variety of relevant characteristics, including house price, price per square foot, house price appreciation, time on the market, and the ratio of sales price to asking price in order to assess “the worst-case scenarios of multi-family intrusion into a single-family neighborhood.” Their conclusions:

“We find that large, dense, multi-family rental developments...do not negatively impact the sales price of nearby single-family homes.”¹⁸

“We find that if located properly with attractive landscaping and entranceways, adverse price effects can be minimized and sometimes can add value. In the long term, such apartment complexes probably raise the overall value of detached homes relative to their absence.”¹⁹

“To this point, our results for Wisconsin are generally consistent with results in other studies: we have not been able to find evidence that Section 42 developments cause property values to deteriorate. The exception is Milwaukee County, where properties that are distant from the developments seem to appreciate more rapidly, although the magnitude of the effect is small. We have found no evidence of an impact in Waukesha and Ozaukee, and find evidence that properties in Madison near Section 42 developments appreciate *more* rapidly.”²⁰

There is “little or no evidence to support the claim that tax-credit rental housing for families has a negative impact on the market for owner-occupied housing in the surrounding area...Rather than negative impact, the evidence suggests to us that the various housing submarkets surrounding the tax-credit properties in our study performed

¹⁷ National Association of Home Builders, “Multifamily Market Outlook,” Washington, DC, November 2001, pp. 3-4.

¹⁸ Henry O. Pollakowski, David Ritchay, and Zoe Weinrobe, “Effects of Mixed-Income, Multi-family Housing Developments on Single-family Housing Values,” Cambridge, MA: MIT Center For Real Estate, April 2005, p. xiii.

¹⁹ Arthur C. Nelson and Mitch Moody, “Apartments and Detached Home Values,” *On Common Ground*, National Association of Realtors, 2003. See also: Nelson and Moody, “Price Effects of Apartments on Nearby Single-family Detached Residential Homes,” Virginia Tech University, 2003.

²⁰ Richard K. Green, Stephen Malpezzi, and Kiat-Ying Seah, “Low Income Housing Tax Credit Housing Developments and Property Values,” Madison, WI: The Center for Urban Land Economics Research: 2002, p. 4.

normally, exhibiting similar levels of variability before and after tax-credit construction, and responding to supply and demand forces in similar fashion as the larger market.”²¹

“In sum, assisted housing of various types: (i) had positive or insignificant effects on residential property values nearby in higher-value, less vulnerable neighborhoods, unless it exceeded thresholds of spatial concentration or facility scale; (ii) evinced more modest prospects for positive property value impacts in lower-value, more vulnerable neighborhoods, and strength of frequently negative impacts was directly related to the concentration of sites and scale of the facilities.”²²

“In sum, the presence or proximity of subsidized housing made no difference in housing values as measured by relative price behavior in a dynamic market.”²³

Some of these studies find examples where single-family houses located near apartments either experienced lower prices or lower appreciation rates than houses located further away. But for residents in neighborhoods near proposed apartment developments – and for local officials who represent them – it is important to understand that proposed multifamily housing rental developments do not generally lower property values in surrounding areas.

Social Interaction and Crime

Opponents of rental housing often argue that while people who own their homes are invested in the long-term success and safety of a community, people who rent apartments are merely short-term transients and therefore less desirable neighbors. That view has a long history and probably seems so unremarkable, so obvious, that proof is unnecessary. Nonetheless, some researchers have tried to discover whether homeownership creates a positive social benefit compared to rental housing. While the scope of their research is rather broad, for present purposes we focus on two aspects: (i) renters vs. owners as neighbors (citizens); and (ii) renters and crime.²⁴

The view that renters are not as engaged in their communities as owners seems to arise from the two apparent characteristics of renters: (i) by definition, they don’t own their own residence, hence are thought to have less of a “stake” in the community; and (ii) they tend to

²¹ Maxfield Research Inc., “A Study of the Relationship Between Affordable Family Rental Housing and Home Values in the Twin Cities,” Minneapolis, MN: Family Housing Fund, September 2000, p. 102.

²² George Galster, “A Review of Existing Research On the Effects of Federally Assisted Housing Programs on Neighboring Residential Property Values,” Detroit, MI: Wayne State University: September 2002, p. 26.

²³ Joyce Siegel, *The House Next Door*, Innovative Housing Institute, 1999. www.inhousing.org/house1.htm.

²⁴ For a good, critical summary of the scope of such research, see William M. Rohe, Shannon Van Zandt, and George McCarthy, “The Social Benefits and Costs of Home Ownership: A Critical Assessment of the Research,” in Nicolas P. Retsinas and Eric S. Belsky, eds., *Low-Income Homeownership: Examining the Unexamined Goal* (Washington, DC: Brookings Institution Press, 2002).

move more often. These characteristics are seen as making them transitory residents, perhaps more akin to visitors than to long-term residents.

But there are also countervailing forces. For example, single-family renters do not tear down old houses and replace them with “McMansions,” a phenomenon that can greatly alter neighborhoods, in ways that are not always desired by the existing residents.

In addition, it is important to recognize that housing tenure is different from residential stability. Housing tenure refers to how long an individual has lived in one place, while neighborhood stability reflects the quality, cohesion and safety of a community. It is the latter that may be the key factor: “Between 4 and 92 percent of the effect of homeownership and citizenship is operating primarily because homeownership is associated with lower mobility rates.”²⁵ Stability itself is relative: in Western Europe, for example, many renters have lower turnover rates than U.S. homeowners. To the degree that there may be positive benefits from lower turnover, then the focus ought to be on increasing residential stability rather than trying to restrict choice of tenure.²⁶

Neighborhood residents may be less interested in distinguishing the exact cause than in ensuring the best outcome, and for many, promoting homeownership rather than renting seems an effective way to do so. In fact, that turns out not to be the case:

- Apartment residents are almost twice as likely to socialize with their neighbors as owners of single-family houses (33 percent vs. 17 percent).
- Apartment residents are just as likely as house owners to be involved in structured social groups like sports teams, book clubs, and the like (22 percent for sports groups, 10-11 percent for other groups).
- Apartment residents are only slightly less likely to attend religious services at least once a month (44 percent vs. 55 percent).
- Just like single-family owners, apartment residents identify closely with the town or city they live in (60 percent for apartment residents vs. 64 percent for single-family owners).

²⁵ Denise DiPasquale and Edward L. Glaeser, “Incentives and Social Capital: Are Homeowners Better Citizens?” *Journal of Urban Economics*, Vol. 45, Nr. 2 (March 1999).

²⁶ Apgar notes that disentangling the many factors that influence behavior in order to isolate the impact of tenure alone is exceedingly complex. See: William Apgar, Rethinking Rental Housing: Expanding the Ability of Rental Housing to Serve as a Pathway to Economic and Social Opportunity,” Joint Center for Housing Studies Working Paper W04-11, December 2004.

- Almost half (46 percent) of apartment residents feel close to the neighborhood they live in. This is not as high a share as for single-family owners (65 percent), but still sizable.
- Apartment residents are virtually as interested in politics and national affairs as house owners are (66 percent vs. 70 percent).

The one area in which apartment residents noticeably lag house owners is in local elections: 47 percent of apartment residents say they “always vote” or “sometimes miss one,” compared with 78 percent of single-family owners.²⁷

Put simply, these objective measures undermine the notion that apartment residents somehow don’t care much about, and don’t involve themselves in, the communities in which they live. On the contrary, they tend to be at least as socially engaged as other Americans.

As important as these things are in helping to shape the character of a neighborhood, it stands to reason that they can easily be negated by an increase in criminal activity. Is there any truth to the idea that crime follows in the wake of apartment development?

It turns out that there have been very few studies that address this issue. A study conducted for the Arizona Multihousing Association concluded that the perception of higher crime associated with multifamily housing results from counting police calls by address. Hence an apartment property with 100 or more units at the same address may be wrongly compared to one single-family residence. “In actuality, when police data is analyzed on a per unit basis, the rate of police activity in apartment communities is no worse than in single family subdivisions, and in many cases, is lower than in single family areas.”²⁸

In a similar vein, studies of Irving, Texas, and Anchorage, Alaska, found no connection between crime and housing density. The former used geographic information systems (GIS) analysis to supplement more conventional approaches, and determined that “high density and multi-family development are not necessarily associated with high crime rate, but socioeconomic status is.”²⁹ The latter study reached a similar conclusion: “These data show no relationship

²⁷ NMHC tabulations of microdata from the General Social Survey. See: Jack Goodman, “Apartment Residents As Neighbors and Citizens,” *Research Notes*, Washington, DC: National Multi Housing Council, June 1999.

²⁸ Elliott D. Pollack and Company, “Economic & Fiscal Impact of Multi-family Housing,” Phoenix: Arizona Multihousing Association, 1996, Part II.

²⁹ Jianling Li and Jack Rainwater, “The Real Picture of Land-Use Density and Crime: A GIS Application,” available at: <http://gis.esri.com/library/userconf/proc00/professional/papers/PAP508/p508.htm>

between housing density and delinquency...The observed correlation coefficients between housing density and the six criminological measures were all small in magnitude (very close to “0”), statistically significant...and in some cases in the opposite direction predicted by the hypothesis of a direct relationship between housing density and crime.”³⁰

The Multifamily Record: Conclusion

Further research would certainly be welcome. Even so, we think the available research is fairly strong that multifamily rental housing: (1) does not impose greater costs on local governments; (2) does it increase traffic and parking problems; (3) when well-designed and appropriate to the neighborhood, does not reduce (and may even enhance) property values; and (4) does not inherently attract residents who are less neighborly or more apt to engage in (or attract) criminal activity.

This evidence may be sufficient for planners and many public officials – particularly those who have already come to understand the benefits of greater housing choice, mixed-use and mixed-income residences, transit-oriented development, and pedestrian-friendly communities. Two obstacles remain: codified restrictions on multifamily developments and individual opposition to specific multifamily projects.

Experience suggests that opponents who live near apartment developments are often hard to convince. For some, opposition to apartments may be more emotional than analytical. As one opponent put it: “We don’t want renters. We just don’t want them...”³¹ For many, anecdotes trump statistics.

For this reason, marshalling statistics is a necessary step, but not usually a sufficient one. Instead, proponents need to overcome opposition to individual proposed developments. Before turning to this, we take a brief look at how opposition to multifamily rental housing in general has been codified, thereby adding another hurdle for proponents.

³⁰ University of Alaska Justice Center, “The Strength of Association: Housing Density and Delinquency,” *Anchorage Community Indicators*, series 3A, No. 1, available at: <http://justice.uaa.alaska.edu/indicators/series03/aci03a1.housing.pdf>

³¹ See “From Parking to Mixed-Use,” *Montgomery Gazette*, September 28, 2005, at: www.gazette.net/stories/092805/bethnew205622_31894.shtml

Regulatory Restriction on Multifamily Housing in General

Opposition to multifamily rental housing has a long history. More than a century ago, the notoriously poor living conditions associated with tenement houses led not only to a movement to reform and improve such dwellings, it also led to a movement to prevent further apartment construction. Opponents drew on two key tools to block new multifamily buildings: restrictive building codes that made multifamily construction uneconomic; and zoning – in particular, the creation of single-family-only districts.³²

These and other tools are still being used.³³ The most common regulations involve zoning and/or comprehensive land use planning. More recently, policies to restrict, manage, or even prevent further growth – from impact fees to “urban containment” to outright moratoria – have been added to the mix. Given the sheer number of local land use areas, even collecting comprehensive data on residential development restrictions is difficult. Assessing the impact of these regulations is even more difficult for at least two reasons. First, the devil may indeed be in the details, so that any overview or summary analysis is likely to be flawed. Second, some jurisdictions may, on a fairly routine basis, grant waivers or exemptions for certain kinds of developments, with the result that the regulation on the books is not the de facto regulation.

Recent research analyzing density restrictions in local jurisdictions making up the 50 largest metropolitan areas concluded that a hypothetical 2-story, 40-unit apartment property on 5 acres of land would be prohibited outright in about 30 percent of such jurisdictions. Residential developments with densities of more than 30 units per acre are prohibited in all but 12 percent of local jurisdictions. To be sure, these jurisdictions encompass 48 percent of the population of these metro areas. Even so, it is clearly a significant restriction.³⁴ Such restrictions not only reduce the range of housing options available to local residents – in particular, most restrictions tend to favor lower-density over higher-density developments – they also make housing more expensive.³⁵

³² Kenneth Baar, “The National Movement to Halt the Spread of Multifamily Housing, 1890-1926” *Journal of the American Planning Association*, Chicago: Winter 1992.

³³ A good compendium of such restrictions is contained in: “Regulatory Barriers to Affordable Housing,” *Cityscape*, Vol. 8, Nr. 1 (2005).

³⁴ Rolf Pendall, Robert Puentes, and Jonathan Martin, “From Traditional to Reformed: A Review of the Land Use Regulations in the Nation’s 50 Largest Metropolitan Areas.” Metropolitan Policy Program, The Brookings Institution, Washington, DC: August 2006. http://www.brookings.edu/metro/pubs/20060802_Pendall.pdf

³⁵ See for example: John M. Quigley and Larry A. Rosenthal, “The Effects of Land Use Regulation on the Price of Housing: What Do We Know? What Can We Learn?”, *Cityscape*, Vol. 8, Nr. 1 (2005) and Edward L. Glaeser and Joseph Gyourko, “The Impact of Building Restrictions on Housing Affordability,” *Economic Policy Review*, Federal Reserve Bank of NY, New York, NY: June 2003.

How can regulations that inhibit development of multifamily rental housing be reduced or eliminated? This is an area which could greatly benefit by further investigation.³⁶ For now, we offer two assessments. First, to change the regulations, we must first change the attitudes of either local officials, the public at large, or both. In this respect, efforts to change regulations parallel other efforts to overcome resistance to apartments. Second, while the comprehensive land use plan can be used to restrict multifamily housing, it can also be a valuable tool in promoting such housing. For example, Arlington County, Virginia, has been successful in implementing high-density, transit-oriented development. In addition to far-sighted planners, the Arlington approach has been to foster extensive public debate about policy impacts and benefits (hence also public “buy-in” of the results of the process), maintaining continuity of policy through both election and market cycles, and clearly formulating implementation tools at the same time as policy enactment.³⁷

III. Opposition to Specific Multifamily Projects

Reducing or eliminating regulatory impediments may hold the greatest promise for increasing the acceptance of multifamily rental housing. But it also is likely to take the longest time to accomplish. In the meantime, it is important to counter opposition to individual apartment projects, to win support for proposed multifamily rental developments, and to turn pro-apartment attitudes into pro-apartment action.³⁸

Public Information

A significant amount of resistance to multifamily rental housing is based on lack of information, misperceptions, or exaggerated fears of project impacts.³⁹ Providing clear, accurate information about a proposed housing project is a critical part of a successful outreach campaign.⁴⁰

³⁶ Indeed, some research is currently underway. The Urban Land Institute and the National Multi Housing Council are collaborating to produce a compact development “toolkit” for localities.

³⁷ Michael Pawlukiewicz and Deborah L. Myerson, “ULI/NMHC/AIA Joint Forum on Housing Density,” *ULI Land Use Policy Forum Report*, Urban Land Institute: Washington, DC, 2002. <http://tinyurl.com/rd5y9>

³⁸ Debra Stein, “Creating a Community Outreach Plan,” *Developments Magazine*, March 2006.

³⁹ See *Creating Successful Communities: A New Housing Paradigm*, National Multi Housing Council/National Apartment Association: Washington, D.C., 2002, and Richard Haughey, *High-Density Housing: Myths and Facts*, Urban Land Institute: Washington, D.C., 2005, for rebuttals to common misperceptions about multifamily and rental housing. For a free downloadable PowerPoint presentation on rental housing, see “Rethinking Density to Create Stronger, Healthier Communities” from the National Multi Housing Council: www.nmhc.org/Content/ServeContent.cfm?contentItemID=3423.

- **Misperceptions about the project.** Citizens may misunderstand the fundamental nature of the housing proposal. For instance, neighbors may erroneously believe a sponsor is building “Section 8 apartments” rather than “eight apartments.” The project definition must be carefully spelled out so that neighbors understand what type of project is proposed in their backyard.
- **Misperceptions about residents.** Many citizens have misperceptions or stereotypical expectations about the kinds of people who live in rental housing. They also have negative misperceptions about the type of behavior that rental residents are likely to engage in. Many Americans, for instance, consider wealth to be an indication of responsible hard work, self-discipline, and moral worth. The flip side of this perspective is the belief that people who earn less money or who reside in less lavish homes must be lazy and irresponsible.⁴¹ Citizens often expect rental residents to be bad neighbors likely to engage in anti-social behavior such as crime, graffiti, loud parties, non-maintenance of property, and so on.⁴²
- Neighbors are much more likely to support a multifamily rental housing project when they understand that rental residents are people very similar to themselves. Many sponsors point to examples of pro-social workers likely to become apartment residents: local police officers, firefighters or teachers whose salaries make rental housing an attractive option. Responsible management of rental housing, including on-site management and resident rules, can also ensure that residents behave in appropriate ways.⁴³
- **Misperceptions about the sponsor.** Lack of information about the project sponsor and the sponsor’s track record of building or managing safe, similar projects can lead to

⁴⁰ Providing data is most likely to change opinions when the audience is willing to engage in rational evaluation of objective facts. Where respondents do not have the time, interest, or ability to engage in systematic evaluation of the facts, then subjective simple rules of thumb such as “everyone hates the project” and “lawyers always lie” become more important. For a discussion of rational, emotional and peripheral persuasion, see Debra Stein, “Garnering Support for Homebuilding,” *Builder and Developer Magazine*, June 2006, Vol. 16, No. 6.

⁴¹ Conservatives tend to rate individualistic causes of poverty such as laziness as 50 percent more important than social causes such as the unavailability of affordable housing. Bernard Weiner, *Human Motivation: Metaphors, Theories and Research*, Sage Publications: Thousand Oaks, CA, 1992.

⁴² A multifamily for-sale project in California’s Silicon Valley provided an interesting reminder that poverty is a relative, not an absolute concept. The proposed units would be sold at one-third the median sales price of the surrounding single-family neighborhood, and existing residents loudly protested that their new neighbors were likely to be bad neighbors. These condos actually sold for \$900,000 apiece, while the average home within the super-luxury enclave was valued at \$3.2 million. While multifamily residents were not “poor” by any absolute economic standard, they were relatively “poor-er” than existing mansionaires, and therefore presumed to be less acceptable as neighbors.

⁴³ Debra Stein, “The Ethics of Housing and NIMBYism,” *Affordable Housing Finance*, February 2006.

NIMBY resistance to multifamily housing. The message that “the sponsor has a history of management safe, similar projects” is highly effective to win support for controversial, dense housing.

- ***Misperception about other people’s opinions.*** One of the most influential causes of resistance to multifamily rental housing is the misperception that “everyone hates the project.” No one likes to be criticized by their peers, so even pro-housing neighbors will repress their enthusiasm if they are under the mistaken impression that “everyone else” opposes the proposed rental housing project.⁴⁴ That is why it is critical to get the message out that the proposed housing project is supported by some portion of the community. You don’t need majority support for the planned housing project, but you do need pro-housing neighbors to know that they are not alone in their support for the apartment project.⁴⁵

There are several factors involved in providing the public with information that reduces anti-housing attitudes and promotes pro-housing attitudes. The source of information must be deemed sufficiently expert, trustworthy, and likeable.⁴⁶ Message factors such as the number and order of arguments impact the effectiveness of information. Audience factors such as an individual’s attention or perception of what “everybody else” thinks clearly affect whether information alone will resolve opposition to multifamily rental housing. Finally, there is a wide range of communication channels to choose from to disseminate information to the public, including briefings, presentations, advertising, direct mail, and media interviews.⁴⁷

Providing clear, accurate information about a proposed multifamily rental housing project is a crucial part of a community outreach campaign. However, public information can also be seen

⁴⁴ For a discussion of the contagious “bandwagon” effect of repressed opinion, see Elizabeth Noelle-Neumann, *The Spiral of Silence: Public Opinion – Our Social Skin*. University of Chicago Press: Chicago, 1993. For an excellent overview of the relationship between public opinion and private opinion or behavior, see Theodore L. Glasser and Charles T. Salmon, eds., *Public Opinion and the Communication of Consent*, Guildford Press: New York, 1995.

⁴⁵ In a series of conformity tests conducted in the 1950s by Solomon Asch, 94 percent of respondents were willing to express an unpopular minority viewpoint when there was at least one other person publicly agreeing with them. By comparison, only 70 percent of participants were willing to express a minority opinion in the absence of social support. See Philip Zimbardo and Michael Leippe, *The Psychology of Attitude Change and Social Influence*, McGraw Hill: Boston, 1991.

⁴⁶ For a discussion of credibility, see Debra Stein, “The Truth About Credibility,” *Public Management Magazine*, June 2001.

⁴⁷ Carl Hovland’s “Yale Chain of Response Model” describes the many variables involved in effective persuasion. See Roxane Lulof, *Persuasion: Context, People, and Messages*, Gorusch Scarisbrick Publishers: Scottsdale, Arizona, 1991.

as very condescending. When a sponsor sends out a letter inviting residents to, “Come to a meeting so we can tell you what we’re doing in the neighborhood,” citizens may interpret the invitation as actually saying, “We unilaterally made decisions that affect you but we only have a patronizing obligation to tell you about those decisions after the fact.” As important as it is to give information to the public, it is usually more sensitive to focus on how you want to elicit feedback, ideas and suggestions from the public.

Public Participation

Too much resistance to multifamily rental housing arises because sponsors fail to demonstrate the real respect they feel for neighbors. An insensitive project sponsor may implicitly hear, “I am important and you didn’t treat me with respect. I therefore have to oppose your proposal in order to discredit you and to discredit your disrespectful opinion of me.”⁴⁸

While it is always important to treat neighbors with respect, it is especially important to do so when dealing with controversial housing projects. There are several specific measures you can take to demonstrate respect and reduce anti-housing attitudes and action:⁴⁹

- **Empower citizens.** Citizens will often “just say no” to a housing proposal simply because they feel it was developed without their input. Involving citizens early in the planning process can help avoid this unnecessary resistance. The conventional scenario involves merely *informing* neighbors of plans made or being made by other people. *Consulting* with residents involves eliciting their ideas and making it clear how that input will affect the project sponsor’s final plans. When housing sponsors and residents engage in *joint decision-making*, all stakeholders collectively evaluate different alternatives to mutually identify the best scenario.⁵⁰
- **Respect each individual’s unique needs.** Everyone likes to feel that they stand out from the crowd, and everyone wants to know that their unique needs are respected. Recognize that each neighbor has distinct concerns: “Since you live right next to the site, the new apartment building will be more visible to you than to your neighbors.”

⁴⁸ Someone who sees themselves as an important community leader will “lose face” if ignored or disrespected. D.B. Bromley, *Reputation, Image and Impression Management*, John Wiley & Sons: Chichester, England, 1993.

⁴⁹ Debra Stein, “Credibility, Respect and Power: Sending the Right Non-Verbal Signals,” *The Commissioner Magazine*, American Planning Association, Fall 2006.

⁵⁰ See Deborah Myerson, *Involving the Community in Neighborhood Planning*, Urban Land Institute: Washington, D.C., 2005.

- **Use personal names.** Name tags, sign-in sheets and self-introductions help personalize each neighbor and make it easier to learn and use each person's name. When neighbors are treated as respected individuals, they are less likely to engage in hostile mob conduct such as booing or hissing at meetings.
- **Make a lot of eye contact,** especially when listening. When you're talking to a large audience, don't engage in "machine gun" head-turning where your eyes barely sweep over the audience's heads in a mechanical way. Instead, make personal eye contact with one individual at a time, creating a respectful, personal relationship with each person you look at before you establish eye contact with another audience member.⁵¹
- **Engage in active listening.** Once a citizen has made a statement, use your own words to reflect back what you have heard before responding or offering an advocacy message ("It sounds like you are afraid that rental residents may not maintain their gardens"). You don't have to agree with what you have heard, but demonstrating that you have understood a neighbor's arguments shows that you have listened respectfully.

Outreach Tools

There are several outreach tools available to help sponsors communicate information to and elicit public input from citizens:⁵²

- *Unilateral materials* such as flyers, advertising and websites are used to convey information to the public in a one-way stream.
- *Bilateral outreach* such as one-on-one phone calls and briefings allow the housing sponsor to target messages to each listener and to simultaneously get feedback and elicit a commitment of support for the project.
- *Invitational events* such task forces, citizen advisory committees (CAC), and coffee-and-donut living room events are limited to a clearly-defined list of participants.
- *Multiparty events* such as community meetings or public workshops tend to focus on the exchange of opinion rather than public education or conflict resolution. Sponsors

⁵¹ For detailed instructions on the direction, duration and frequency of effective eye contact, see http://www.gcastrategies.com/books_articles/tips.php.

⁵² See James L. Creighton, *The Public Participation Handbook: Making Better Decisions Through Citizen Involvement*, Jossey-Bass: San Francisco, 2005 and Douglas Porter, *Breaking the Development Logjam: New Strategies for Building Community Support*, Urban Land Institute: Washington, D.C., 2006 for excellent outreach strategies and resources.

who need to meet with several dozen or even several hundred citizens should consider invitational events, roundtables, open houses, or other events with smaller, more manageable audiences.

- *Press relations* are important to avoid inaccurate press that could make misperceptions even more credible.

Building Support for Multifamily Rental Housing

It often isn't enough to simply keep a cap on opposition. Public expressions of support are often required to turn a proposal for multifamily rental housing into an approved project. Where rules against ex parte contact with public officials prevent a sponsor from directly lobbying a politician for a vote, citizen-lobbyists are needed to persuade officials to adopt favorable opinions about the housing proposal. Even when public officials already have pro-housing attitudes, pro-housing attitudes don't necessarily guarantee pro-housing action, so nervous politicians often need visible voter support before actually voting "yes" for a controversial multifamily housing proposal.⁵³

There are four steps to build support that works: identification of potential supporters; attitude recruitment; action mobilization and hearing management.⁵⁴

Identifying Potential Supporters

There are several different audiences of potential supporters, and the first step of any supporter development campaign is to identify who can be tapped for assistance:

- *Direct beneficiaries* are people who will make money on the project: the developer, the contractor, consultants, construction workers, and so on. While these supporters do not make credible witnesses at the microphone, they can sign petitions, send letters of support, make phone calls, and so on.
- *Indirect beneficiaries* gain from general improvements in the local economy arising from the project. Local merchants, for example, can benefit from increased pedestrian activity

⁵³ Debra Stein, "Preparing Your Lobbying Plan," *Land Development Magazine*, Fall 2005.

⁵⁴ Debra Stein, "Community Support – A Strategic Plan to Turn Out the Troops," *Urban Land Magazine*, December 1997. See also Debra Stein, "Turning Pro-Project Attitudes to Pro-Project Action," *The NIMBY Advisor*, January 2006, www.nimbyadvisor.com.

from new rental residents, while major employers seeking affordable housing for their workers can also benefit from multifamily housing in the community.

- *Project users* are another major audience of potential supporters. Whether it is potential renters or residents of future commercial or retail space, users make highly credible witnesses.
- Many people have already made a *public commitment* to help create housing for those in need. Getting people to think about themselves in terms of their religious or charitable affiliations is more likely to result in a project endorsement than allowing citizens to think about themselves only as property owners likely to be impacted by a housing development.
- *Special interest groups* either tend to generally support any kind of development or to support one particular component of the project. Many groups, for instance, support higher-density housing, including county farm bureaus, open space advocates, and transit advocates.
- Finally, support can be drawn from people who will suffer *relational consequences* if they don't step up and support the rental housing proposal: friends or relatives of future residents; the builder's employees or vendors; and others people whose continued personal relationship with a committed supporter tomorrow depends upon helping out today.

Recruiting Supporters

Within a housing context, a community member who signs a petition, fills out an endorsement card, or even attends a neighborhood coffee is substantially more likely to testify in favor of a project than someone who never makes an initial commitment. Before asking potential supporters to attend a public hearing or to make some other big pro-housing commitment, get your foot in the door with a much smaller request. Let's assume Mrs. Lee agrees to a minor, painless request such as signing a petition that says, "We need more housing in the community." When the housing sponsor later asks Mrs. Lee to endorse a particular housing proposal, she will feel pressured to comply with the later request or else look shamefully inconsistent. Having once agreed to the initial request, Mrs. Lee will start seeing herself as a cooperative and civic-minded ally, and as someone who actually cares about housing concerns and takes action to address them.⁵⁵

⁵⁵ See Robert Cialdini, *Influence: Science and Practice*, Allyn & Bacon, Boston, 2000 for a discussion of foot-in-the-door recruitment and door-in-the-face mobilization.

Mobilizing for the Hearing

The “foot-in-the-door” technique worked to get an initial commitment of support for a proposed apartment project. When hearing time rolls around, however, it’s time for the “door-in-the-face” approach. The door-in-the-face technique is initiated with a large request that may be rejected (“Will you come to a Planning Commission hearing on Tuesday afternoon and testify at in support of the proposed apartment complex?”). If the large request is accepted, then congratulations. If your first request is refused, then retreat to the smaller request you had in your back pocket all along (“Then will you call the chair of the Planning Commission and let her know you support the project?”). Compared to the first request, the second request will seem much smaller, more reasonable, and easier to agree to.

Managing the Public Hearing

There are several things you can do to maximize the impact supporters can make during a public hearing for a multifamily housing project:⁵⁶

- ***Provide key messages.*** Your allies need to know what to say before they stand up to testify. Providing a one-page fact sheet or list of bulleted talking points helps ensure that witnesses emphasize the key messages you want decision-makers to focus on. Reassure citizen-witnesses that it is OK to sound nervous; politicians are more impressed by sincere-sounding citizens than by the slickest professional mouthpiece.
- ***Arrange the order of your speakers.*** Ideally, pro-housing witnesses should be alternated or interspersed between anti-housing speakers. Interrupting a stream of hostile testimony with positive messages and clear rebuttals breaks the momentum of anti-rental neighbors and avoids the impression of overwhelming opposition to the project. You also want to ask a few of the most compelling, golden-tongued speakers to testify first so they can inspire later witnesses and guide subsequent testimony. Reporters who must leave the hearing early to meet their deadlines can also pick up quotable quotes from the most persuasive advocates when those witnesses speak at the beginning of the hearing.
- ***Encourage supporters to look supportive.*** Your allies (including your own team members) can express pro-housing enthusiasm even when sitting still. Encourage

⁵⁶ Debra Stein, “Managing the Public Hearing for Maximum Impact,” *Land Development Magazine*, Fall 1999.

project allies to smile and nod at appropriate moments. If there is an impressive crowd of supporters in the room, ask them to raise their hands or wear buttons to identify themselves as project advocates.

- ***Try to speak last.*** You want to be the last voice the decision-makers hear before they cast their votes. By speaking last, you can rebut attacks made by earlier speakers and ensure that pro-housing messages are fresh in the officials' minds when it comes time to make a decision. If necessary, reserve some of your originally allocated speaking time to provide a summary of your views after all citizens have testified. If you cannot secure rebuttal time for yourself, try to hold at least one persuasive supporter in reserve to speak at the end of the hearing who can summarize pro-project messages.

IV. Conclusion

The bias against multifamily rental housing must be overcome if America is to meet its housing needs in an environmentally sustainable and economically realistic manner.

Misperceptions, exaggerations and unfounded beliefs contaminate civic discussions about apartment development, yet anti-housing resistance can be rationally addressed by providing evidence about rental housing and its real, not imagined, impacts. Attitudes about apartments aren't solely derived from objective facts, however. Emotions, values, and even peripheral factors such as what "everybody else thinks" play important parts in the development of pro-housing and anti-housing attitudes, and must play a part in any developer's community outreach activities.

It will take more than mere opinions to create enough housing to meet the nation's growing population demands. Pro-housing attitudes need to be translated into pro-housing action. That means persuading planners and politicians to support policies and regulations to encourage the construction of new apartments. Since public officials are responsive to the demands of their constituents and community members, this also involves mobilizing citizens to support pro-apartment policies and actual apartment buildings in their own backyards. Perhaps, in the future, acronyms like RAMBY (Rental Apartments in My Backyard) will replace NIMBY in discussions about the creation of multifamily rental housing.

Harvard Joint Center for Housing Studies Releases State of the Nation's Housing 2018

The Joint Center for Housing Studies of Harvard University (JCHS) released [*The State of the Nation's Housing 2018*](#) on June 19. This year's release marks the 30th anniversary of this annual report, which examines national trends in housing market conditions. Since the study's inaugural release in 1988, the number of households burdened by housing costs in America has risen by nearly 14 million. The lack of affordability, high housing cost burdens, and inadequate federal assistance are serious issues for the lowest income renters. The report documents the dramatic increases in rents compared to incomes in the U.S. since 1960, during which median earnings increased 5% while rents rose 61%. The number of low income families increased by 6 million nationally since 1988, while the number of apartments renting below \$800, affordable to households making \$32,000 or less, declined by more than 2.5 million between 1990 and 2016.

According to the report, the share of renter households declined slightly from 2016 to 2017, from 36.6% to 36.1%. The share of renters decreased in more affordable metro areas in the South, but remained elevated in larger, high-cost metro areas. Multifamily construction is higher than at any point since the 1970s and construction is slightly outpacing demand. Vacancy rates were up 0.3% in the first quarter of 2018 compared to a year earlier.

Despite an overall softening of the overall rental market, however, the market is not serving the lowest income households. In 2016, only 35 available rental units were affordable for every 100 extremely low income (ELI) renter households, those earning less than the poverty level or 30% of the area median income (AMI). There is a nationwide shortage of more than 7.2 million rental homes affordable and available to ELI renter households.

Near-record numbers of renter households remain cost-burdened, paying more than 30% of their income for housing. In 2016, approximately 20.8 million households were cost-burdened and 11.0 million were severely cost-burdened, spending more than half of their incomes on housing. According to the report, 80% of renters making less than \$30,000 per year are cost-burdened. The lowest income cost-burdened households are left with few resources for other necessities like food, transportation, and healthcare. For these cost-burdened renter households, an emergency expense or unexpected loss of income could result in eviction and homelessness. After a decline of 14% between 2010 and 2016, the homeless population increased by 3,800 people in 2017.

Despite the increasing need, federal rental assistance is grossly insufficient. Only one out of every four very low income (VLI) renter households, those at or below 50% AMI, receives

housing assistance. From 1987 to 2015, the number of VLI households grew by 6 million, while the number receiving housing assistance increased by only 950,000. The share of these households receiving assistance declined from 29% to 25%.

The report also discusses the state of homeownership in the U.S. The national homeownership rate increased to 64.2% by the fourth quarter of 2017 from a 50-year low of 62.9% in the second quarter of 2016. The current homeownership rate is comparable to that of the late-1980s and mid-1990s. Though the homeownership rate appears to have stabilized, other challenges remain. Issues such as tight credit, limited inventory, potential increases in interest rates, and student debt could constrain further growth in homeownership, especially for low and moderate income households. Homeownership rates for younger households and black households are near 30-year lows, and the ownership disparity between black and white homeowners is growing.

The State of the Nation's Housing 2018 can be found at: <https://bit.ly/2I2W7EG>
Read NLIHC's press release on the report at: <http://nlihc.org/press/releases/10890>

<https://nlihc.org/article/harvard-joint-center-housing-studies-releases-state-nation-s-housing-2018>

A BRIEF DESCRIPTION OF THE HOUSING TAX CREDIT PROGRAM



In the beginning:

- ▣ The program was born in 1986 out of the changes in the tax code under Ronald Reagan
- ▣ The program is regulated under the Internal Revenue Code – Section 42

The result:

- ▣ Congress had to find a way to incentivize individuals to invest in real estate that would not create a rent burden on individuals and family's making less than the Area Median Income (AMI)
- ▣ That incentive is a dollar for dollar tax credit for an investor in the housing credit development

IRS Program

- ▣ The Treasury Department thru the IRS delegated the responsibility of managing the program to State Housing Finance Agencies
- ▣ In Texas – The Texas Department of Housing and Community Affairs (TDHCA) – is responsible for the management, compliance, and inspection of the program and its housing developments



TDHCA

- ▣ TDHCA manages the Federal Housing Tax Credit Program through the State's 9% & 4% Credit Program
 - 9% Tax Credit
 - ▣ A competitive application process
 - ▣ Designed for New Construction or Substantial Rehabilitation
 - ▣ Scoring criteria range from financial feasibility, various indicators of local support, size, quality of development, amenities and services to be provided to the tenants, economic health of the community, and more
 - ▣ Scoring reflects requirements found in state law and program rules; the program rules are known as the Qualified Allocation Plan



TDHCA - Compliance

- ▣ TDHCA has a dedicated compliance department solely for the purpose of making sure its housing programs maintain and follow the federal and state regulations and laws. This is accomplished through but not limited to:
 - Annual reporting of tenant certification data
 - Annual submission of monitoring reports. Punitive sanctions and fines for failure to submit on a timely basis
 - Physical inspection of projects upon completion of construction
 - Follow-up physical inspections to ensure development projects are maintained and kept at a high standard
 - Enforcement policy in conjunction with federal policy that could enforce punishment including but not limited to: conviction & prison time, fines, and sanctions
- ▣ In addition to State oversight, City's will have building and operational code enforcement which must be adhered. Failure to maintain development projects can lead to penalties and fines. Additionally, City's can and will report program non-compliance to TDHCA

How does the program calculate rental restrictions?

- ▣ “Housing burdened” is defined as “any household that is paying greater than 30% of the total household income for gross housing cost”

.... more than 2 million urban Texan households, most of them renters, are considered financially burdened by housing costs because they spend 30 percent or more of their income on housing — and more than 950,000 of them spend more than half of their income on housing costs.

Experts and a litany of academic studies say that Americans who spend that much of their income to keep a roof over their heads have a harder time climbing out of poverty or moving up the socioeconomic ladder.

“There are so many other budgetary pressures, and the more you spend on housing, the less you can spend in other areas that impact your family’s ability to succeed,” said Mandy DeMayo, executive director of the housing advocacy group HousingWorks Austin.

Source: Texas Tribune



Texas – Texarkana

Bowie County

Per Novogradic & Associates

Year 2018(effective 04/01/18)

4 - Person AMI \$52,200

Persons/Bedroom 1.5 Persons/Bedroom

Income Limits for 2018

Based on MTSP Limits	30%	40%	50%	60%	80%
1 Person	11,880	15,840	19,800	23,760	31,680
2 Person	13,560	18,080	22,600	27,120	36,160
3 Person	15,270	30,360	25,450	30,540	40,720
4 Person	16,950	22,600	28,250	33,900	45,200
5 Person	18,330	24,440	30,550	36,660	48,880

LIHTC Rent Limits for 2018

(Based on 2018 MTSP/VLI Limits)

Bedrooms (People)	30%	40%	50%	60%	80%
Efficiency (1.0)	297	396	495	594	792
1 Bedroom (1.5)	318	424	530	636	848
2 Bedroom (3.0)	381	509	636	763	1,018
3 Bedroom (6.0)	441	588	735	882	1,176
4 Bedroom (4.5)	492	656	820	984	1,312



Area Tenant Profile

- ▣ Tenant/Household whom is gainfully employed
 - Types of tenants & salary eligible for residency (varies with household size)
 - ▣ Teacher Aide avg - \$26,191
 - ▣ Nurse - \$39,265
 - ▣ Teacher - \$46,108
 - ▣ Fire & Rescue - \$45,827
 - ▣ Police Officer - \$44,880
 - ▣ City Support Staff - \$44,717
 - ▣ Public Safety - \$34,000
 - ▣ Admin Assistant - \$29,364
 - ▣ Healthcare Worker - \$28,000
 - ▣ Local Service Worker (restaurant) - \$ 22,080 plus tips
 - ▣ Local Service Worker (retail) - \$ 26,520



Texas – Texarkana

Bowie County

Area Information:

- City population – 37,389
- Texarkana MSA – 149,765
- Texas net population increase – 1,178/day
- Median Age – 35.7 years
- Median Household Gross Income - \$38,292
- 52.48% of Texarkana, Tx Area households are Housing Overburdened – This number will likely increase as the Metro Area continues to grow.
- Estimated growth per decade – 6%

Sources

<http://harvard-cga.maps.arcgis.com/apps/MapSeries/index.html?appid=ea1929b8f2bf482dadad173a3f62c27e>

http://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf

<https://datausa.io/profile/geo/texarkana-tx/#housing>

<http://worldpopulationreview.com/us-cities/texarkana-tx-population/>

<https://affordablehousingonline.com/housing-search/Texas/Texarkana#income>

<https://www.ci.texarkana.tx.us/DocumentCenter/View/747/Comprehensive-Plan-Appendix-B-Demographic-Analysis?bidId=>



City Benefits of Housing Credit Development Projects

▣ Economic Investment

- Assists the City with its housing needs by providing quality income based housing. Thus forcing absentee landlords who have neglected their properties to react and further invest into their properties
- Improves the age of housing stock. In many cases, tenants are forced to live in older less maintained properties due to rising housing demand and cost
- A Typical 100 unit new construction development project will bring approximately \$20 Million dollars of investment to the area.
- That investment has the propensity to spur additional development in the area given the area has added an additional 100 rooftops with working tenants
- Development projects increase surrounding property value. An immediate \$20 Million dollar income producing investment in a localized area
- Development projects add to the local economy. Additional working families needing the services and goods offered in the local community.
- The development will bring additional jobs to the local community



Misperceptions

Housing Credit Development Projects

Research from Harvard Joint Center for Housing Studies-

▣ Property Value Decline

- “working communities with multifamily dwellings actually have higher property values than other types of working communities. In other words, the average value of owner-occupied houses was highest in working communities with the most multifamily units. In fact, among working communities, “the high multifamily areas had the highest home values, the mixed-stock areas the next highest, and the single-family areas had the lowest.” The study also noted a similar phenomenon with respect to income: among working communities, higher household income was positively associated with the share of multifamily housing”

▣ Impact to School

- On average, 100 single-family owner-occupied houses include 51 school-age children. By contrast, apartments are attractive to single people, couples without children, and empty nesters, which is why 100 apartment units average just 31 children. The disparity is even greater when considering only new construction: 64 children per 100 new single-family houses vs. 29 children per 100 new apartment units. Wealthier apartment dwellers have even fewer children (12 children per 100 households for residents earning more than 120 percent of the area median income, AMI), while less wealthy residents earning less than 80 percent of AMI still have fewer children (37 per household) than single-family homes.

▣ School Funding

- Thus, apartments actually pay more in taxes and have fewer school children on average than single-family houses. In other words, it may be more accurate to say that apartment residents are subsidizing the public education of the children of homeowners than the reverse.



Housing Credit Development Projects

- continued

☐ Crime

- “studies of Irving, Texas, and Anchorage, Alaska, found no connection between crime and housing density. The former used geographic information systems (GIS) analysis to supplement more conventional approaches, and determined that “high density and multi-family development are not necessarily associated with high crime rate, but socioeconomic status is.”

☐ Social Interaction

- Apartment residents are almost twice as likely to socialize with their neighbors as owners of single-family houses (33 percent vs. 17 percent).
- Apartment residents are just as likely as house owners to be involved in structured social groups like sports teams, book clubs, and the like (22 percent for sports groups, 10-11 percent for other groups).

☐ There's No Housing Burden In our City

- Near-record numbers of renter households remain cost-burdened, paying more than 30% of their income for housing. In 2016, approximately 20.8 million households were cost-burdened and 11.0 million were severely cost-burdened, spending more than half of their incomes on housing. According to the report, 80% of renters making less than \$30,000 per year are cost-burdened.

SOURCE

http://www.jchs.harvard.edu/sites/default/files/rr07-14_obrinsky_stein.pdf

<https://nlihc.org/article/harvard-joint-center-housing-studies-releases-state-nation-s-housing-2018>



Economic Misperceptions

Housing Credit Development Projects Reserve at Cowhorn

- ▣ Current Annual Taxes of Proposed Development Site: \$149.20 (\$11.50 per acre)
- ▣ Annual Tax Estimate of Fully Developed Reserve at Cowhorn: \$12,600 (\$970.80 per acre)

- ▣ Average Resident Rent Is \$571
- ▣ 84 Housing Units

- ▣ Total Development Costs of Reserve at Cowhorn: \$15,671,908
- ▣ Construction Costs (Labor + Materials) of Reserve at Cowhorn: \$8,235,485

- ▣ Estimated Portion of Construction Costs Attributable to Labor: \$4,941,291

- ▣ Number of Full-time Positions at Reserve at Cowhorn: Two
 - One Community Manager
 - One Service Technician



Economic Misperceptions

Housing Credit Development Projects Reserve at Summerhill

- ▣ Current Annual Taxes of Proposed Development Site: \$5,169.33 (\$224.46 per acre)
- ▣ Annual Tax Estimate of Fully Developed Reserve at Summerhill: \$19,600 (\$851.06 per acre)

- ▣ Average Resident Rent Is \$636
- ▣ 98 Housing Units

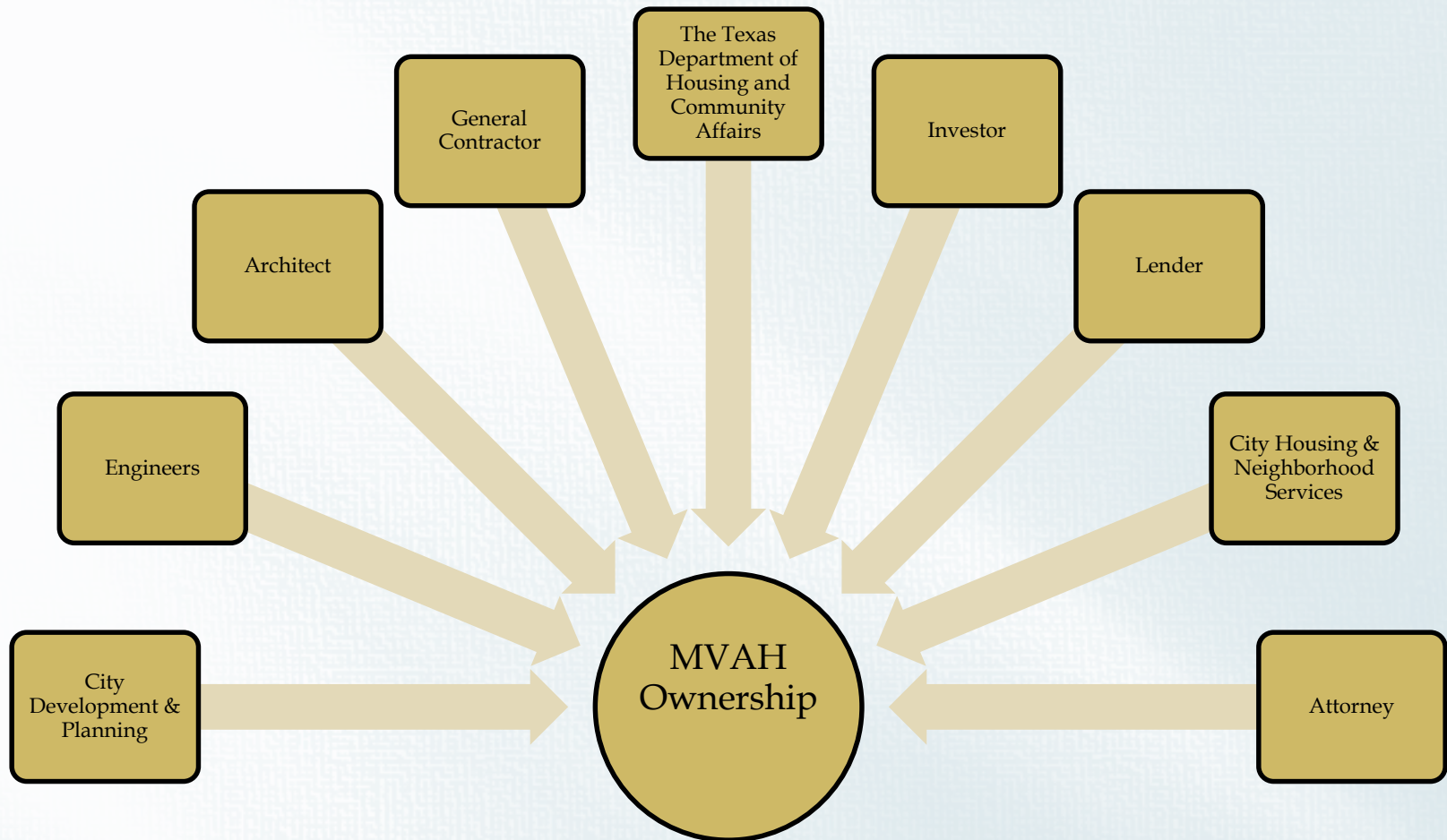
- ▣ Total Development Costs of Reserve at Summerhill: \$17,380,941
- ▣ Construction Costs (Labor + Materials) of Reserve at Summerhill: \$9,580,794

- ▣ Estimated Portion of Construction Costs Attributable to Labor: \$5,748,476

- ▣ Number of Full-time Positions at Reserve at Summerhill: Two
 - One Community Manager
 - One Service Technician



The Development Team



Any Questions?

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files)

9% HTC Pre-Application Basics

The 9% Housing Tax Credit (HTC) application process has two parts: (1) a voluntary Pre-Application, and (2) a mandatory Application. The information below offers a basic overview of the Pre-Application process. For specific details regarding HTC Pre-Applications and Applications, please refer to the [Qualified Allocation Plan \(QAP\)\(PDF\)](#).

Purpose

- The purpose of the HTC Pre-Application is to enable Applicants interested in pursuing an award of housing tax credits to assess generally their competition in a given region or subregion.
- Based on an understanding of the potential competition, Applicants can make a better and more informed decision whether they wish to proceed to prepare and submit an Application.
- Submission of a pre-application affords applicants the opportunity to achieve additional points on the full application.

Pre-Application Content

- Location of the proposed development site along with evidence that the applicant owns the site or has a contract to purchase the land;
- Applicant's name, address, individual contact name, and phone number;
- Development name, address, city, and county;
- Statement that the Applicant is submitting an application to TDHCA and certifying to an understanding of the applicable rules;
- Development attributes, i.e., new construction, reconstruction, adaptive reuse, or rehabilitation;
- Approximate total number of units and approximate total number of low-income units;
- Self-score form indicating estimated score of the full Application based on several selection criteria.

Process

- Pre-Applications must be submitted to the Department by a defined deadline, which is usually in early January.
- A Pre-Application fee is required (\$10 per unit)
- Only one Pre-Application may be submitted by an Applicant for each site.
- Department Pre-Application review is limited; not all issues of eligibility and threshold are reviewed.
 - Acceptance by staff of a Pre-Application does not ensure that an Applicant satisfies all Application eligibility, threshold or selection requirements.
 - Department rejection of a Pre-Application does not preclude an Applicant from submitting an Application.

Pre-Application Threshold Criteria

- Notification letters must be sent to all of the following individuals and entities in the area containing the development by e-mail, fax or mail with registered receipt return or similar tracking mechanism:
 - State Senator;
 - State Representative;
 - Mayor of municipality;
 - All city council members;
 - County judge;
 - All county commissioners;
 - School district superintendent;
 - School district board of trustees' presiding officer;
 - Neighborhood organizations whose boundaries contain the development site;
- Each such notice must include, at a minimum, all of the following:
 - Applicant's name, address, individual contact name, phone number;
 - Development name, address, city, county;
 - Statement that the Applicant is submitting a request for HTC's with TDHCA;
 - Development attributes, i.e., new construction, reconstruction, adaptive reuse, or rehabilitation;
 - Development type, i.e., single family homes, duplex, apartments, townhomes, high-rise etc.; and
 - Approximate total number of units and approximate total number of low-income units.

Pre-Application Results

- TDHCA posts online by late January:
 - Pre-Application Log (a spreadsheet that reflects some content of each Pre-Application received by the Department)
 - Individually imaged Pre-Applications
- Only Pre-Applications which have satisfied all of the Pre-Application Threshold Criteria requirements will be eligible for Pre-Application points on the full Application.
- The scores of the Pre-Applications released on the Pre-Applications Submission Log do not represent a commitment on the part of the Department or its Board to allocate tax credits to any development and only represent the scores reflected in the Applicant's self-score form.
- Inclusion of a development on the Pre-Applications Submission Log does not ensure Pre-Application points.

Typical Schedule

January:	Application acceptance period begins
January-June:	Public comments accepted by TDHCA*
January:	Pre-Application deadline
End of February/ Early March	Applications due to TDHCA
July:	TDHCA Board awards 9% HTC's

For the current year's calendar dates, refer to the Qualified Allocation Plan.

***Public comment** does not impact the Pre-Application score but is highly valued by staff and the governing Board. TDHCA welcomes input during the public comment period, although only specific forms of public comment may impact the score of a full application.

Reasonable accommodations will be made for persons with disabilities and language assistance will be made available for persons with limited English proficiency.

[Site Policies](#)



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City of Texarkana, Texas

Developing Perspectives and Goals Pending Approval by the City Council:

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

Perspectives and Goals Additional Comments:

NONE

Resource Impact:

Staff time required if item is approved: 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: