



Rescheduled Regular Meeting of the Board of Directors

City of Texarkana, Arkansas
216 Walnut Street

Agenda - Monday, November 16, 2020 - 4:00 PM

THIS WILL BE A VIRTUAL MEETING HOSTED BY ZOOM AND WILL BE STREAMED LIVE ON THE CITY'S YOUTUBE PAGE.

<https://www.youtube.com/channel/UC2zU02o8zTodtzQ8IuiWL2Q>

Call to Order

Roll Call

CONSENT

1. Approval of the minutes of the regular rescheduled meeting November 2, 2020. (CCD)
2. Adopt a Resolution making appointments to the Historic District Commission. Jamie Simmons for the current vacant term of 1/17/2018----2021 and the reappointment of Doris Davis for the term of 1/17/2020----2023. (CCD)

REGULAR

3. Adopt a Resolution authorizing the issuance by the City of Texarkana, Arkansas Public Facilities Board of its Bond Anticipation Note and its taxable lease Revenue Bonds, Series 2020. (PFB) City Planner Mary Beck
4. Adopt an Ordinance authorizing the execution and delivery of a Lease Agreement and Interlocal Cooperation Agreement between the City of Texarkana, Arkansas Public Facilities Board, the City of Texarkana, Arkansas, and Miller County, Arkansas. (PFB) City Planner Mary Beck and Jim Fowler, Rose Law Firm

An emergency clause is requested. An emergency clause requires a separate and distinct vote of the board and is valid only if there is a two-thirds vote of approval by the Board.

5. Adopt an Ordinance authorizing the City Manager to purchase an ABI Force Z23 Infield Groomer Laser Grader for the Public Works Department Parks Division. (PWD) Adam Dalby, Sports Manager

An emergency clause is requested. An emergency clause requires a separate and distinct vote of the board and is valid only if there is a two-thirds vote of approval by the Board.

6. SECOND READING - Adopt an Ordinance repealing Ordinance No. H-123, as amended, modified, or codified, dissolving the Advertising and Promotion Commission of the City of

Texarkana, Arkansas, and repealing the levy of corresponding gross receipts tax. (BOD) (This ordinance is sponsored by Director Steven Hollibush)

CITIZEN COMMUNICATION - TO HAVE PUBLIC COMMENTS READ DURING THE MEETING, PLEASE SUBMIT THEM BY 10:00 AM, MONDAY, NOVEMBER 16, 2020, TO HEATHER SOYARS, CITY CLERK AT heather.soyars@txkusa.org.

A limit of five (5) minutes per person is allotted for citizens to express their concerns to the Board of Directors, with a maximum of fifty (50) minutes reserved for Citizens Communication. The Board of Directors cannot respond to citizens' concerns during this time.

NEXT MEETING DATE: Monday, December 7, 2020

ADJOURN



CITY OF TEXARKANA, AR BOARD OF DIRECTORS

AGENDA TITLE:	Approval of the minutes of the regular rescheduled meeting November 2, 2020. (CCD)
AGENDA DATE:	November 2, 2020
ITEM TYPE:	Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Other <input checked="" type="checkbox"/> : Minutes
DEPARTMENT:	City Clerk Department
PREPARED BY:	Heather Soyars, City Clerk
REQUEST:	Approval of meeting minutes.
EMERGENCY CLAUSE:	N/A
SUMMARY:	Approval of meeting minutes
EXPENSE REQUIRED:	N/A
AMOUNT BUDGETED:	N/A
APPROPRIATION REQUIRED:	N/a
RECOMMENDED ACTION:	The City Clerk recommends Board approval.
EXHIBITS:	Meeting minutes.



Rescheduled Regular Meeting of the Board of Directors

City of Texarkana, Arkansas
216 Walnut Street

Minutes - Monday, November 02, 2020 - 4:00 PM

**THIS VIRTUAL MEETING WAS HOSTED BY ZOOM AND STREAMED LIVE ON
THE CITY'S YOUTUBE PAGE.**

<https://www.youtube.com/channel/UC2zU02o8zTodtzQ8IuiWL2Q>

Mayor Allen Brown called the meeting to order at 4:00 PM.

PRESENT: Mayor Allen Brown, Assistant Mayor Ward 1 Linda Teeters, Ward 2 Director Laney J. Harris, Ward 3 Director Steven Hollibush, Ward 5 Director Barbara S. Miner, and Ward 6 Director Terri Peavy.

ALSO PRESENT: City Manager Dr. Kenny Haskin, City Attorney George Matteson, City Clerk Heather Soyars and Deputy City Clerk Jenny Narens.

ABSENT: Director Ward 4 Ulysses Brewer.

CONSENT

Assistant Mayor Teeters made the motion to adopt the Consent agenda, Seconded by Director Peavy. The motion carried and the following items were approved:

1. Approval of the minutes of the regular rescheduled meeting October 19, 2020. (CCD)
2. Resolution No. 2020-38 authorized the City Manager to sell a parcel of land currently owned by the City of Texarkana, Arkansas, described as Lot 2 in Block 3, Meadow Lane Addition, to Carl Caldwell. (ADMIN)

REGULAR

3. Adopt a Resolution No. 2020-39 approved the FY 2021 Budget. (FIN)

Finance Director TyRhonda Henderson said the Advertising and Promotion Fund Budget was included but the Bi-State Justice Fund Budget had not been approved by the Intergovernmental Advisory Committee and Texarkana Water Utilities Budget had not been approved by the Board of Directors and were not included in the City's Budget. She gave a brief PowerPoint presentation which included the following highlights of the General Fund Year End 2020 Budget: expenditure growth was expected to exceed revenue growth and the estimated fund balance at year end was \$5,470,673. The General Fund balance at end of 2021, was estimated to be \$3.9 million with 67 days of expenditures in unrestricted fund balance. General Fund departments were not required to cut expenditures in the FY 2021 Budget and included a 2.5% Cost of Living Adjustment (COLA)

for all employees; additional personnel for the Animal Care and Adoption Center and the Public Works Streets Department; and the Bi-State Justice Building contribution decreased by \$602, 242. Capital Outlay consisted of a new copier for the Finance Department, computers, camera systems, body cameras, and vehicles for the Police Department; and tools, a HVAC unit, washer, staff cars, and a pumper and brush truck for the Fire Department; a truck for the Animal Care and Adoption Center and Agencies included \$750,000 for drainage improvement and \$232,000 for economic development. The Public Works Fund Budget included projects for drainage improvement: Joey Lane washout; and road improvements for Sanderson Lane, Tennessee Road, E. 46th Street and Jefferson Avenue.

Director Peavy said she was pleased all City employees would receive a 2.5% COLA.

Director Harris said he wanted to know where the drainage improvements would be made. He wanted drainage improvements in his ward and not north of town. He made a motion to table this item until the next meeting due to the proposed ordinance to dissolve the Advertising and Promotion Commission (A&P) and repealing the levy of corresponding gross receipts tax because the A&P Budget was included in the City's Budget.

Mayor Brown said this was a proactive budget and it had been many years since the City had included capital.

Assistant Mayor Teeters said Nix Creek ran through multiple City wards and all wards were affected by the flooding.

Mayor Brown said the A&P Budget had been approved by the A&P Commission and the proposed ordinance to dissolve the commission and tax did not have any bearing on the City's Budget.

Director Harris made a motion to table the resolution to adopt the City's Budget.

Mayor Brown declared the motion failed for lack of a second.

Motion to adopt the resolution made by Director Peavy, Seconded by Director Hollibush.

Voting Yea: Mayor Brown, Assistant Mayor Teeters, Director Hollibush, Director Miner, and Director Peavy.

Voting Nay: Director Harris.

The motion carried 5-1 and the Mayor declared the resolution adopted.

4. Tabled – An Ordinance repealing Ordinance No. H-123, as amended, modified, or codified, dissolving the Advertising and Promotion Commission of the City of Texarkana, Arkansas, and repealing the levy of corresponding gross receipts tax. (BOD) (This ordinance was sponsored by Director Steven Hollibush)

Director Hollibush said the taxes provided little if any benefit to local businesses and the A&P Commission had mismanaged the funds. He said the fund propped up a few businesses and nonprofits, and those businesses and nonprofits were a benefit to the City. He said the A&P was not formed to support nonprofits, but to advertise and promote the City.

Director Harris said he could see getting rid of the hamburger tax, but the city needed to keep the hotel tax. He also recommended to increase the A&P Commission by adding another Board member and two restaurant owners.

Assistant Mayor Teeters said many cities in Arkansas had an A&P tax. A&P funded youth sports tournaments and put heads in beds. She said the tax was collected from the citizens and then turned over to the City. Restaurant owners were not out one penny.

Mayor Brown said he would not support the ordinance for various reasons. He said the tax generated money for the City and the A&P had contractual obligations which would be enforced and would bring heartache to the City. He said the tax also supported the City's Parks and Recreation Department.

Director Peavy said there were numerous radio and TV advertisements in Little Rock, Arkansas, and the ad agency won an award for them. She said she would be in favor of having a workshop to restructure the A&P tax and how the money was distributed.

Director Miner said being on the A&P Commission was a difficult job, trying to allocate the funds to so many different entities.

Motion to suspend the rules and place the ordinance on its first reading in abbreviated form made by Director Hollibush, Seconded by Director Harris.

Voting Yea: Mayor Brown, Assistant Mayor Teeters, Director Harris, Director Hollibush, Director Miner, and Director Peavy.

The motion carried 6-0 and the ordinance was read the first time in abbreviated form.

Motion to suspend the rules and place the ordinance on its second reading in abbreviated form made by Director Hollibush.

Mayor Brown declared the motion failed due to the lack of a second.

CITIZEN COMMUNICATION

Jennifer Strayhorn, Texarkana Public Library, thanked the Board for the diligent work they provided to the citizens of Texarkana, Arkansas.

Keith Laing, Texarkana, Arkansas, restaurant owner was not present at the meeting, but the Mayor summarized Mr. Laing's emailed comments stated Mr. Laing supported dissolving the Advertising and Promotion Commission and repealing the A&P tax. (Mr. Laing's full statement attached.)

Harvey Woods, 904 E. 12th Street, said the hamburger tax gave the Texas-side an advantage over our restaurants. He asked if the City could level the playing field with the Texas-side and do away with the hamburger tax.

Dennis Young, 3503 Tiffany Lane, said there was more than one legal use for the restaurant and hotel tax. He said the City had obligations to the waterpark, convention center and various City activities that came from the A&P tax and probably would not be able to come from the City's General Fund. Mr. Young said he hoped this ordinance would be defeated.

Samantha Knighton, 21 N. Hermitage Drive, audio was undecipherable. She sent an email stating she supported repealing the A&P tax and Commission.

Dwayne Hall, 2303 College Street, stated he was in support of dissolving the A&P Commission. He said he found they were in violation to the open records act. Mr. Hall said he thought the

Fairgrounds had been in business long enough to pay their own way and they were a private entity. He said he was not allowed to speak before the Board voted to read the ordinance the first time and he thought citizens could speak before a vote was taken.

Jonathan Harris, 5201 Richmond Road, said the A&P was improperly handled. He said it should be considered if the restaurants owners were saying they were losing business to the Texas-side due to the hamburger tax.

Donnie Waldon, 5214 McNatt Lane, said he would like to hear what the taxpayer had to say about the hamburger tax. He said in 2014, he walked the streets and collected signatures to do away with the A&P Commission.

Director Harris read a proclamation signed by Governor Asa Hutchinson declaring November 2020, as Business Industrial Appreciation Month.

Director Peavy suggested having a workshop to discuss options concerning the A&P Commission and tax.

Director Hollibush agreed to having a workshop.

Director Hollibush said he would like the Board to start in-person meetings.

Director Peavy would also like in-person meetings.

Director Teeters said due to the spike in COVID cases she did not think it was a healthy issue right now.

NEXT MEETING DATE: Monday, November 16, 2020

ADJOURN

Motion to adjourn made by Director Miner, Seconded by Director Hollibush.

Voting Yea: Mayor Brown, Assistant Mayor Teeters, Director Harris, Director Hollibush, Director Miner, and Director Peavy.

The motion carried 6-0. The meeting adjourned at 5:41 PM.

APPROVED this the 16th day of November, 2020.

Allen L. Brown, Mayor

Heather Soyars, City Clerk

Rescheduled Regular Meeting of the Board of Directors
City of Texarkana, Arkansas
Monday, November 2, 2020

PUBLIC COMMENT

Currently, customers who purchase food from Arkansas-side restaurants pay a total sales tax of 12.25 percent, while customers who purchase food from Texas-side restaurants pay a total sales tax of 8.25 percent. This means that, given two Texarkana restaurants with identical menus and prices, a customer who purchases a meal at the Arkansas-side restaurant will pay more for that meal than if he or she had purchased the meal at the Texas-side restaurant.

This disparity is unfortunate for Texarkana residents who live or work on the Arkansas side, as it increases the cost of their restaurant meals.

Arkansas-side restaurants are at a distinct competitive disadvantage to Texas-side restaurants because of the disparity between tax rates, as customers may frequently choose to purchase meals from Texas-side restaurants rather than Arkansas-side restaurants because it costs less money. (By way of example, for a meal with a pre-tax price of \$20.00, a customer would pay \$22.45 at an Arkansas-side restaurant but only \$21.65 at a Texas-side restaurant.)

The disparity between the tax rate that Arkansas-side restaurants are required to charge customers versus the Texas-side tax rate comes in large part from the A&P gross receipts tax. Repealing the two-percent A&P gross receipts tax will decrease the disparity between the cost of meals purchased from Arkansas-side restaurants versus Texas-side restaurants.

Reducing the cost of meals purchased at Arkansas-side restaurants will benefit Texarkana residents who live or work on the Arkansas side.

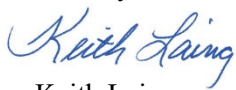
Eliminating the two-percent A&P gross receipts tax will put Arkansas-side restaurants on more equal footing with Texas-side restaurants. More frequent visits to Arkansas-side restaurants could increase traffic to Arkansas-side small businesses.

It is the restaurant customer who pays the A&P gross receipts tax out of his or her own pocket—the restaurant merely collects the tax from the customer and remits it to the A&P commission. Now, more than ever, it is important that affordable meals are made available to Texarkana residents who live or work on the Arkansas side.

In addition, with so many restaurants and small businesses struggling as a result of the pandemic, it is important to improve the ability of Arkansas-side restaurants to attract customers and increase traffic to Arkansas-side small businesses.

I support the ordinance repealing the A&P Ordinances, dissolving the Advertising and Promotion Commission, and repealing the levy of A&P gross receipts tax on Arkansas-side restaurant customers.

Thank you,



Keith Laing
Texarkana, Arkansas restaurant owner



CITY OF TEXARKANA, AR BOARD OF DIRECTORS

AGENDA TITLE:	Adopt a Resolution making appointments to the Historic District Commission. Jamie Simmons for the current vacant term of 1/17/2018-2021 and the reappointment of Doris Davis for the term of 1/17/2020-2023. (CCD)
AGENDA DATE:	November 16, 2020
ITEM TYPE:	Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Other <input type="checkbox"/> : _____
DEPARTMENT:	City Clerk Department
PREPARED BY:	Heather Soyars, City Clerk

REQUEST:	The Historic District Commission has 3 vacancies and is in dire need of a quorum to conduct business.
EMERGENCY CLAUSE:	N/A

SUMMARY:	The Historic District Commission has 3 vacancies and is in dire need of a quorum to conduct business. There is one applicant for appointment and one applicant for reappointment. If appointed a quorum would be more attainable. The Commission would still have 2 vacancies.
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EXPENSE REQUIRED:	N/A
AMOUNT BUDGETED:	N/A
APPROPRIATION REQUIRED:	N/A

RECOMMENDED ACTION:	The City Manager and staff recommend approval.
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EXHIBITS:	Resolution, applications, Historic District Commission term list.
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RESOLUTION NO. _____

WHEREAS, vacancies exist on various boards and commissions; and

WHEREAS, it is necessary that appointments be made to fill the vacant positions:

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Texarkana, Arkansas, that the following appointments are hereby approved:

<u>Board/Commission:</u>	<u>Appointee:</u>	<u>Term:</u>
Historic District Commission	Jamie Simmons	Current Vacant Term Expiring 1/17/2021
Historic District Commission	Doris Davis	Reappointment for the term of 1/17/2020----2023

PASSED AND APPROVED this 16th day of November 2020.

Allen Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

George M. Matteson, City Attorney

CITY OF TEXARKANA, ARKANSAS

Application for Appointment to Citizen Advisory Board or Commission

(Please type or print clearly)

BOARD OR COMMISSION DESIRED (Please apply for one (1) board or commission per application.)

<input type="checkbox"/>	Advertising & Promotion Commission	<input checked="" type="checkbox"/>	Historical District Commission
<input type="checkbox"/>	Airport Authority	<input type="checkbox"/>	Library Board
<input type="checkbox"/>	City Beautiful Commission	<input type="checkbox"/>	Municipal Auditorium Project Advisory Commission
<input type="checkbox"/>	Board of Adjustment	<input type="checkbox"/>	Planning Commission
<input type="checkbox"/>	Civil Service Commission	<input type="checkbox"/>	Plumbing Review Board
<input type="checkbox"/>	Electrical Review Board	<input type="checkbox"/>	SWAWIB—Southwest Arkansas Workforce Investment Board
<input type="checkbox"/>	Heating & Air Conditioning Board of Review	<input type="checkbox"/>	Other: _____

Name: Jamie A. Simmons Home Phone: 870-330-1521

Address: 600 Pecan Street Texarkana Resident Yes No 25 Years

E-Mail Address: curator@texarkanamuseums.org Miller Co. Voter Registration No. _____

Employer: Texarkana Museums System Work Phone: 903-793-4831

Position: TMS Curator and Archivist

Education:
College: Ouachita Baptist University High School: Magnolia High School, Magnolia, AR

Special knowledge or past experience qualifying you for this appointment:
I have worked in historic preservation through the Texarkana Museums System for 27 years.

Other relevant information (civic activities, memberships, etc.):
Friends of the Southwest Arkansas Regional Archives Board member, 2010-14; Texarkana Arts and Historic District Committee member, 2014-15.

Special knowledge or past experience qualifying you for this appointment (Please feel free to attach resume):
I served on the Texarkana, Arkansas Historic District Commission from 2006 - 2012. I was the HDC Chair from 2008-2009.

References: List the name and phone number of at least one Texarkana resident as a reference, especially any City staff, City Council, or current Committee members who may be contacted on your behalf.
Name: Velvet Hall Cool Phone Number: 903-276-4665

Interest: Explain why you are interested in being appointed to this board or commission.
I am concerned with the state of Texarkana, Arkansas's historic and cultural heritage. I wish to do what I can to prevent the destruction-through neglect or active demolition- of the city's rich and diverse history.

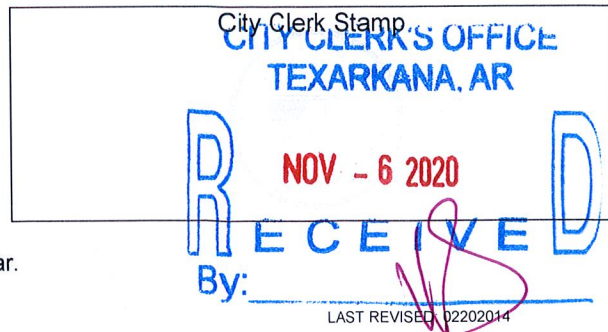
Experience: Indicate what meeting(s) you have attended of the committee for which you wish to be considered.
Too many to name individually. Most meetings between 2006 and the present.

Number of Texarkana, Arkansas Board of Directors Meetings you have attended in the past 12 months: 2

Please read the statement below and sign your name to indicate your understanding.
I UNDERSTAND MY ATTENDANCE WILL BE REQUIRED AT ALL COMMITTEE MEETINGS AND THE INFORMATION PROVIDED ABOVE IS TRUE AND CORRECT.

Signature of Applicant: J. Simmons Date Submitted: Nov. 5, 2020

Return completed application to:
City Clerk
216 Walnut Street (or)
P O Box 2711
Texarkana TX 75504-2711
Phone 870-779-4995 or Fax 870-774-3170



Please Note: This application will be on file for one (1) year.

Re appointment

CITY OF TEXARKANA, ARKANSAS

Application for Appointment to Citizen Advisory Board or Commission

(Please type or print clearly)

BOARD OR COMMISSION DESIRED (Please apply for one (1) board or commission per application.)

- | | |
|---|---|
| <input type="checkbox"/> Advertising & Promotion Commission | <input checked="" type="checkbox"/> Historical District Commission |
| <input type="checkbox"/> Airport Authority | <input type="checkbox"/> Library Board |
| <input type="checkbox"/> City Beautiful Commission | <input type="checkbox"/> Municipal Auditorium Project Advisory Commission |
| <input type="checkbox"/> Board of Adjustment | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Plumbing Review Board |
| <input type="checkbox"/> Electrical Review Board | <input type="checkbox"/> SWAWIB-Southwest Arkansas Workforce Investment Board |
| <input type="checkbox"/> Front Street Committee | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Heating & Air Conditioning Board of Review | |

870-772-3524

Name: Doris Davis Ph.D. Home Phone: cell 903-280-1571

Address: 2102 Laurel St. Texarkana Resident Yes No 34 Years (at 2102 laurel.)

E-Mail Address: doris.davis@tamut.edu Miller Co. Voter Registration No. _____

Employer: Texas A&M Univ. - Texarkana Work Phone: 903 223-3031

Position: Professor of English (since 1987)

Education: College: Univ. of Kansas, Ph.D High School: Texas High School

UNT - MA in English SAU - BA in English

Special knowledge or past experience qualifying you for this appointment: (Please feel free to attach resume):
member of education committee; Sand flat - Glendale Neighborhood Development Corporation

* over

Other relevant information (civic activities, memberships, etc.):
Directed A&M's Young Writers Program for over 20 years; currently direct the East Tx Writing Project, a National Writing Project site, for Texarkana teachers

References: List the name and phone number of at least one Texarkana resident as a reference, especially any City staff, City Council, or current Committee members who may be contacted on your behalf.
 Name: Sarah Meredith Phone Number: (870) 773-5423
Greg Gallagher (903) 908-5350

Interest: Explain why you are interested in being appointed to this board or commission.
I have lived in my current residence since 1980 and also own 2102 laurel. I maintain my property well and am interested in preserving the historical integrity of the Glendale neighborhood as well as others

Number of Texarkana, Arkansas Board of Directors Meetings you have attended in the past 12 months: -

Please read the statement below and sign your name to indicate your understanding.
I UNDERSTAND MY ATTENDANCE WILL BE REQUIRED AT ALL COMMITTEE MEETINGS AND THE INFORMATION PROVIDED ABOVE IS TRUE AND CORRECT.

Signature of Applicant: Doris Davis Date Submitted: August 3, 2014

Return completed application to:
 Patti Scott Grey, City Clerk
 216 Walnut Street (or)
 P O Box 2711
 Texarkana TX 75504-2711
 Phone 870-779-4995 or Fax 870-774-3170

City Clerk Stamp
 CITY CLERK'S OFFICE
 TEXARKANA, AR

Please Note: This application will be on file for one (1) year.

RECEIVED
 NOV - 6 2020
 By: _____
 LAST REVISED: 08022013

* I have worked with both TRAC and the
Teposha Museum System on several projects
that involve local artists, historical sites,
and writing.

HISTORIC DISTRICT COMMISSION

Authorized by A.C.A. 14-172-201----212, and Texarkana Code 19-31----65
3 – YEAR TERMS

	Appointment	Term Date	Term	Ward
		1/17/2018---2021		
		1/17/2019---2022		
		1/17/2020----2023		
Doris Davis 2102 Laurel St. 870-772-2524 90-280-1571	Resolution No. 2017-10 Reappointment 02/06/2017	01/17/2017----2020	2	4
James Gibbs 1321 Pecan St. 903-244-8840 Jkgibbs1321@yahoo.com	Resolution No. 2018-4 Reappointment 01/18/2018	01/17/2018----2021	2	3
Danny R. Gordon 804 East 12 th St. 870-773-2746 (home)	Resolution No. 2018-4 Appointment 01/18/2018	01/17/2018----2021	2	3
David Jones 39 Brookside Dr. 903-277-5550 (home) 870-774-3333 (work)	Resolution No. 2019-7 Reappointment 01/22/2019	01/17/2019----2022	3	1
Mary Beck City Planner HDC Ex-Officio 870-779-4971 (work)		Term of Employment		



CITY OF TEXARKANA, AR BOARD OF DIRECTORS

AGENDA TITLE: Adopt a Resolution authorizing the issuance by the City of Texarkana, Arkansas Public Facilities Board of its Bond Anticipation Note and its taxable lease Revenue Bonds, Series 2020. (PFB) City Planner Mary Beck

AGENDA DATE: November 16, 2020

ITEM TYPE: Ordinance Resolution Other : _____

DEPARTMENT: Public Facilities Board

PREPARED BY: City Planner Mary Beck

REQUEST: Issuance of Public Facilities Board Bond Anticipation Note and taxable lease Revenue bonds, Series 2020.

EMERGENCY CLAUSE: N/A

SUMMARY: Issuance of Public Facilities Board Bond Anticipation Note and taxable lease Revenue bonds, Series 2020.

EXPENSE REQUIRED:

AMOUNT BUDGETED:

**APPROPRIATION
REQUIRED:**

**RECOMMENDED
ACTION:** The Public Facilities Board recommends approval.

EXHIBITS: Resolution

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ISSUANCE BY THE CITY OF TEXARKANA, ARKANSAS PUBLIC FACILITIES BOARD OF ITS BOND ANTICIPATION NOTE AND ITS TAXABLE LEASE REVENUE BONDS (INDUSTRIAL SITE PROJECT), SERIES 2020, PURSUANT TO THE ARKANSAS REVENUE BOND ACT OF 1987, AS AMENDED.

WHEREAS, On November 10, 2020 a public hearing was held by the City of Texarkana, Arkansas Public Facilities Board (the “Facilities Board”) at the Texarkana City Hall, 216 Walnut Street, Texarkana, Arkansas, at 11:30 a.m., pursuant to a notice published on October 27, 2020, in the *Texarkana Gazette*, a newspaper of general circulation in the City of Texarkana, Arkansas, as required by the Arkansas Revenue Bond Act of 1987, as amended (the “Act”); and

WHEREAS, the hearing was on the question of the proposed issuance by the Facilities Board of its Taxable Lease Revenue Bonds (Industrial Site Project), Series 2020 (the “Bonds”) in a principal amount not to exceed \$5,000,000 and its Bond Anticipation Note (“BAN”) in a principal amount not to exceed \$100,000 related to the financing of the acquisition by the Facilities Board of an industrial site and ancillary property (the “Project”) located in Miller County, Arkansas, for the purpose of securing and developing industry; and

WHEREAS, the public hearing was presided over by the Facilities Board Chairman, Dr. Kenny Haskin, the designated hearing officer by the Facilities Board and the Board of Directors of the City of Texarkana, Arkansas. In addition to Dr. Haskin, other members of the Facilities Board present were Eric Ethridge, Jamie Finley, Tyler Richards and Mary Beck. Heather Wright of KTAL News Television was present and Jim Fowler of Rose Law Firm and Karl Richter of the *Texarkana Gazette* attended by telephonic conference. No other members of the general public were present and no written communications were received; and

WHEREAS, pursuant to the Section 2 of the Act codified at Ark. Code Ann. § 19-9-606, it is required that the issuance of the BAN and the Bonds be authorized by the Board of Directors of the City of Texarkana, Arkansas, (the “City”) by resolution clearly stating the principal amount of and purpose for which the BAN and the Bonds are to be issued;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the City of Texarkana, Arkansas that:

Section 1: The issuance by the Facilities Board of: (i) the BAN in the principal amount not exceed \$100,000 for the purpose of funding an option agreement to purchase the Project; and (ii) the Bonds in the principal amount of not to exceed \$5,000,000, providing long-term financing for the Project for the purposes of securing and developing industry within or near the City, are hereby authorized within the meaning of Ark. Code Ann. § 19-9-606. The Facilities Board may proceed in the manner deemed proper by it to accomplish the financing described above on such terms and conditions as the Facilities Board shall determine consistent with the laws of the State of Arkansas and the ordinances of the City applicable to it.

Section 2: This Resolution is adopted for the purpose of complying with the provisions of the Act.

Section 3: This Resolution shall be effective from and after the date of its adoption.

PASSED AND APPROVED this 16th day of November, 2020.

Allen Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

George M. Matteson, City Attorney



CITY OF TEXARKANA, AR

BOARD OF DIRECTORS

AGENDA TITLE: Adopt an Ordinance authorizing the execution and delivery of a Lease Agreement and Interlocal Cooperation Agreement between the City of Texarkana, Arkansas Public Facilities Board, the City of Texarkana, Arkansas, and Miller County, Arkansas. (PFB) City Planner Mary Beck and Jim Fowler, Rose Law Firm

An emergency clause is requested. An emergency clause requires a separate and distinct vote of the board and is valid only if there is a two-thirds vote of approval by the Board.

AGENDA DATE: November 16, 2020

ITEM TYPE: Ordinance Resolution Other : _____

DEPARTMENT: Public Facilities Board

PREPARED BY: City Planner Mary Beck

REQUEST: Execution and delivery of a Lease Agreement and Interlocal Cooperation Agreement.

EMERGENCY CLAUSE: Yes

SUMMARY: Execution and delivery of a Lease Agreement and Interlocal Cooperation Agreement.

EXPENSE REQUIRED:

AMOUNT BUDGETED:

**APPROPRIATION
REQUIRED:**

**RECOMMENDED
ACTION:** The Public Facilities Board recommends approval.

EXHIBITS: Ordinance, Lease Agreement and Interlocal Cooperation Agreement

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT BETWEEN THE CITY OF TEXARKANA, ARKANSAS PUBLIC FACILITIES BOARD, AS LESSOR, AND THE CITY OF TEXARKANA, ARKANSAS, AND MILLER COUNTY, ARKANSAS AS CO-LESSEES; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE LESSOR AND CO-LESSEES; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to the Constitution and the laws of the State of Arkansas, particularly Arkansas Code Ann. Sections 14-137-101 *et seq.*, as amended (the “Act”), and Ordinance No. H-505 of the City of Texarkana, Arkansas (the “City”), as amended and supplemented by Ordinances Nos. H-552, K-9, K-24 and 4-2020 (called collectively herein the “Ordinances”), the City of Texarkana, Arkansas Public Facilities Board (the “Facilities Board”) has been duly created and authorized by the City to carry out the public purposes described in the Act by issuing its revenue bonds to provide financing for public facilities projects, as defined in the Act, which includes the purchase of land for use as facilities for securing and developing industry; and

WHEREAS, the Facilities Board has determined to acquire approximately 1,362 acres of land in Miller County, Arkansas, along with any ancillary lands as acquired (the “Project”) and to lease such property to the City and Miller County, Arkansas (the “County”) solely for purpose of securing and developing industry, and under conditions which, among others, would entitle the City and the County to purchase the project for a nominal

consideration upon retirement by the Facilities Board of the revenue bonds which it proposes to issue pursuant to the Act to finance the purchase of the Project; and

WHEREAS, the City and the County are desirous of acquiring the Project for economic development purposes, including securing and developing industry, but does not have funds immediately available for such purchase, and is agreeable to entering into a lease agreement, with option to purchase, in order to utilize the Project to secure and develop industry;

WHEREAS, to accomplish such purposes, the City, the County and the Facilities Board wish to enter into an Interlocal Cooperation Agreement (the “Interlocal Cooperation Agreement”) in accordance with the provisions of the Interlocal Cooperation Act, codified as Arkansas Code Annotated Sections 25-20-101 *et seq.*, as amended, (the “Interlocal Cooperation Act”) a form of which has been presented to and is before this meeting;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF TEXARKANA, ARKANSAS, AS FOLLOWS:

Section 1. That there be and there is hereby authorized the execution and delivery of a Lease Agreement by and between the Facilities Board as Lessor and the City and the County as Co-Lessees (the “Lease Agreement”), and the Mayor and the City Clerk be, and they are hereby authorized to execute, acknowledge and deliver the Lease Agreement for and on behalf of the City. The Lease Agreement is hereby approved substantially in the form submitted to this meeting, and the Mayor is hereby authorized to complete and deliver the Lease Agreement with such changes as shall be approved by the Mayor, his execution to constitute conclusive evidence of such approval. (Advice is given that a copy of the Lease Agreement in substantially the form authorized to be executed is on file with the City Clerk of the City and is available for inspection by any interested person during normal business hours.)

Section 2. The Mayor and the City Manager are hereby authorized and directed to carry out or cause to be carried out, and to perform such obligations of the City and to execute such other certificates, agreements, or documents, among other things, to evidence authority as authorized herein and to take such other actions as they shall consider necessary

or advisable in connection with the issuance, sale, and delivery by the Facilities Board of the Bonds, and the leasing of the Project authorized hereby.

Section 3. That the due creation, organization, and existence of the Facilities Board pursuant to the Act and the Ordinances are hereby confirmed, and that the members of the Facilities Board are duly appointed and confirmed, and the expiration of the term of office of said members are as follows: Mary Beck – November 30, 2021; Dr. Kenny Haskin – November 30, 2021; Tyler Richards – November 30, 2021; Kay Smart – November 30, 2022 and Eric Etheridge – November 30, 2022.

Section 4. The Interlocal Cooperation Agreement is approved in substantially the form submitted to this meeting, with such changes as shall be approved by such persons executing the document, their execution to constitute conclusive evidence of such approval. The Mayor is hereby authorized and directed to execute and deliver the Agreement for and on behalf of the City. (Advice is given that a copy of the Interlocal Cooperation Agreement in substantially the form authorized to be executed is on file with the City Clerk of the City and is available for inspection by any interested person during normal business hours.)

Section 5. That there is hereby found and declared to be an immediate need for the acquisition and preservation of the Project for securing and developing industry within or near the City in order to provide for the public health, safety and welfare of the City and the inhabitants thereof, and that the terms of the contract between the Facilities Board and the owner of the property constituting the Project requires that such purchase be concluded not later than December 31, 2020, and that the loss of acquisition of the Project would be detrimental to the best interests of the inhabitants of the City and contrary to the public interest. It is, therefore, declared that an emergency exists and this ordinance being necessary for the immediate preservation of the public health, safety, and welfare shall be in force and take effect immediately upon and after its passage.

PASSED AND APPROVED this 16th day of November, 2020.

Allen Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

George M. Matteson, City Attorney

LEASE AGREEMENT

by and between

CITY OF TEXARKANA, ARKANSAS
PUBLIC FACILITIES BOARD

Lessor

and

CITY OF TEXARKANA, ARKANSAS

AND

MILLER COUNTY, ARKANSAS

Co-Lessees

Dated as of December 22, 2020

Prepared by:
Rose Law Firm, a Professional Association
120 East Fourth Street
Little Rock, Arkansas 72201

LEASE AGREEMENT

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LEASE AGREEMENT

This Lease Agreement dated as of December 22, 2020 (the “Lease Agreement” or the “Agreement”), is between the **CITY OF TEXARKANA, ARKANSAS PUBLIC FACILITIES BOARD** (hereinafter called the “Lessor” or “Issuer”), a body politic and corporate, organized and existing under the laws of the State of Arkansas (the “State”) as lessor, and the **CITY OF TEXARKANA, ARKANSAS**, a City of the first class created, organized, and existing under the laws of the State (the “City Lessee”) and **MILLER COUNTY, ARKANSAS**, a political subdivision of the State (the “County Lessee”), as co-lessees (collectively, the “Lessees” or the “Lessee”).

WITNESSETH:

WHEREAS, the Lessor is authorized by the Arkansas Public Facilities Board Act, Arkansas Code Annotated §14-137-101, *et seq.* (the “Act”), to acquire facilities for securing and developing industry or any interest in such facilities including lands or interest in lands and incur other costs and expenses and make other expenditures incidental to and for the securing and developing of industry and such undertaking is declared by the Act to be a “public facilities project”; and

WHEREAS, the Lessor is authorized by the Act to issue bonds for the accomplishment of a public facilities project payable from revenues derived from the public facilities project so acquired, and to secure the public facilities project by a lien thereon and security interest therein; and

WHEREAS, the Lessees have requested the assistance of Lessor in the financing of a public facilities project consisting of the acquisition of one or more tracts of land as described in Exhibit A to be held for securing and developing industry (the “Project”); and

WHEREAS, Lessor desires to issue its Taxable Lease Revenue Bonds (Industrial Site Project), Series 2020 (the “Bonds”), to provide funds to acquire the Project or to reimburse the Lessor for such costs; to pay for costs related to the acquisition of the Project; and to pay for costs incidental to the issuance of the Bonds and

WHEREAS, Lessor proposes to lease the Project to City Lessee and County Lessee, jointly, upon the terms and conditions set forth herein; and

WHEREAS, pursuant to a Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of the date hereof, from Lessor to the initial purchaser of the Bond, (the “Bondholder”), Lessees intend to assign to the Bondholder, as security for the Bond, this Lease Agreement (except for reimbursement of certain expenses and payments for indemnification of Lessor); and

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, Lessor and Lessees agree as follows (provided, that in the performance of the agreements of Lessor herein contained, any obligation it may thereby incur for the payment of money shall not be a general debt on its part, but shall be payable solely out of the proceeds derived from this Lease Agreement, the sale of the Bonds, and the insurance and condemnation awards as herein provided):

ARTICLE I

DEFINITIONS

Unless otherwise defined herein, all words and phrases defined in the Mortgage shall have the same meanings for purposes of this Lease Agreement. In addition, the following words and terms shall have the following meanings:

“Additional Rent” means such amounts as are payable by City Lessee and County Lessee pursuant to Subsection 5.3(b) hereof in accordance to their respective Sharing Ratio.

“Agreement” or “Lease Agreement” means this Lease Agreement and all amendments and supplements hereto.

“Authorized Lessor Representative” means the person at the time designated to act on behalf of Lessor by written certificate furnished to Lessees containing the specimen signature of such person and signed on behalf of Lessor by the Chair or Vice-Chair. Such person may designate an alternate or alternates.

“Authorized Lessee Representative” means the person at the time designated to act on behalf of the Lessees, as applicable, by written certificate furnished to Lessor containing the specimen signature of such person and signed on behalf of either the City Lessee or the County Lessee. Such certificate may designate an alternate or alternates.

“Bank” or “Bondholder” means Farmers Bank and Trust Company of Magnolia, Arkansas.

“Basic Rent” means such amounts as are payable by City Lessee and County Lessee pursuant to Subsection 5.3 hereof in accordance to their respective Sharing Ratio.

“Bond” or “Bonds” means the Lessor’s Taxable Lease Revenue Bonds (Industrial Site Project) Series 2020.

“Bond Counsel” means Rose Law Firm, a Professional Association, or an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal securities.

“Bond Fund” means the fund created pursuant to Section 5.01 of the Mortgage.

“City Lessee” means the City of Texarkana, Arkansas.

“County Lessee” means Miller County, Arkansas.

“Default” means an event or condition, the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default under this Agreement.

“Event of Default” means an occurrence or event described in Section 10.1 hereof.

“Independent Counsel” means an attorney duly admitted to practice before the highest court of any State in the United States of America who is not a full time employee of either Lessor or Lessee.

“Issuance Costs” means all costs and expenses of issuance of the Bonds, including, but not limited to: (i) counsel fees, including bond counsel, Lessor’s counsel, Lessee’s counsel, as well as any other specialized counsel fees; (ii) accountant fees; (ix) publication costs associated with the financing proceedings; and (x) costs of appraisal, engineering and feasibility studies necessary to the issuance of the Bonds.

“Lessor” means (i) the City of Texarkana, Arkansas Public Facilities Board, and (ii) any surviving, resulting, or transferee agency or instrumentality.

“Lease Term” means the duration of Lessees’ right to use the Project as specified in Section 5.1 of this Agreement.

“Lessees” or “Lessee” means collectively the City Lessee and the County Lessee.

“Mortgage” means the Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated as of the date hereof, granted by the Lessor to the Bondholder relating to the Bonds and the Project.

“Net Proceeds” (a) when used with respect to any condemnation award, shall mean the gross proceeds from the condemnation award with respect to which that term is used remaining after payment of all expenses (including attorney’s fees and any fee of Bondholder as provided in the Mortgage) incurred in the collection of such gross proceeds, and (b) when used with respect to the Bonds, shall mean the amount of Bond proceeds deposited into the Project Fund less the amount paid out or to be paid out from such proceeds for payment of the legal, accounting, financing and printing expenses, fees and all other expenses incurred in connection with the issuance of the Bonds, and shall include any investment income on moneys in the Project Fund.

“Permitted Encumbrances” means, as of any particular time, (i) the Mortgage; (ii) liens for taxes and assessments not then delinquent or which the Lessees may, pursuant to the provisions of Section 6.3 of this Agreement, permit to remain unpaid; (iii) this Agreement; (iv) utility, access, and other easements and rights-of-way, restrictions, and exceptions that the Authorized Lessee Representative certifies will not interfere with or impair the Project; and (vi) such minor defects, irregularities, encumbrances, and clouds on title as normally exist with respect to property similar in character to the Project and as do not, in the opinion of Independent Counsel, materially impair the property affected thereby.

“Project” or “Project Site” means the proposed industrial site in Miller County, Arkansas near the City of Texarkana, Arkansas as more particularly described in Exhibit “A” attached hereto and made a part hereof.

“Project Costs” means with respect to the Project, all costs and items permitted to be financed under the provisions of the Act, including but not limited to: (i) the cost of the accomplishment of the Project including the land described in Exhibit A annexed hereto, and all land, rights-of-way, options to purchase land, easements, leasehold estates in land, and interests of all kinds in land related to the Project; (ii) the cost of the acquisition, construction or improvement of all buildings and structures to be used as or in conjunction with the Project; (iii) the cost of site preparation, including the cost of demolishing or removing any buildings or structures the removal of which is necessary or incident to providing the Project; (iv) the cost of architectural, engineering, legal, title and related services, including title insurance; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the feasibility and practicability of the Project; (v) the cost of all fixtures, machinery, equipment, and facilities necessary or incident to the Project so that it may be placed in operation; (vi) the cost of financing charges and interest prior to the Completion Date and for a maximum of six months after the Completion Date; (vii) Issuance Costs; and (viii) all direct and indirect costs of the Lessor incurred in connection with providing the Project, including without limitation reasonable sums to reimburse Issuer for time spent by its agents or employees with respect to providing the Project and the financing thereof.

“Project Fund” means the Project Fund created in Section 5.02 of the Mortgage.

“Sharing Ratio” initially means with regard to the City Lessee 83.0782% and with regard to the County Lessee 16.9218% and such ratios as may be adjusted from time to time as provided in Section 2.4 and Subsection 5.1 (g) herein.

“State” means the State of Arkansas.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by Lessor. Lessor makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Lessor is a body politic and corporate, organized and existing under the laws of the State; and

(b) The execution, delivery and performance by the Lessor of this Lease Agreement and the Mortgage do not conflict with or contravene any law, judgment, order or decree to which it or its assets are subject.

(c) All approvals required to be taken by Lessor to authorize it to execute, deliver and perform this Lease Agreement and the Mortgage have been taken and no other authorization or approval or other action by, and no other notice to or filing with, any governmental authority is required for the due execution, delivery and performance by the Lessor of this Lease Agreement and the Mortgage, except for those which have been duly obtained or made and are in full force and effect.

(d) This Lease Agreement and the Mortgage have been duly and validly executed and delivered by Lessor and constitute the legal, valid and binding obligations of the Lessor enforceable against the Lessor in accordance with their terms, subject to the laws affecting the enforcement of creditors' rights generally and to general principles of equity.

(e) The execution, delivery and performance by the Lessor of this Lease Agreement and the Mortgage do not violate or give rise to any right of termination, cancellation or acceleration under any agreement binding on it.

(f) Under the provisions of the Act, Lessor is authorized to execute, deliver and perform this Lease Agreement and the Mortgage. Lessor has the requisite power and has been duly authorized to execute, deliver and perform this Lease Agreement and the Mortgage.

(g) Lessor will perform all of its obligations with reference to the acquiring and equipping of the Project as specified in Article IV of this Lease Agreement.

(h) Lessor has been induced to enter into this undertaking by the fulfillment of the promise of the Lessees to execute the Project within the boundaries of Lessor as provided in this Agreement.

(i) In order to furnish necessary moneys for the payment of Project Costs and a portion of the expenses of authorizing and issuing the Bonds, Lessor has authorized the issuance of the Bonds.

(j) The Bonds are to be issued under and secured by the Mortgage, pursuant to which Lessor's interest in this Lease Agreement and the revenues and income derived by Lessor from the leasing of the Project will be assigned to the Bondholder as security for payment of the principal of, and interest on the Bonds, and the Bonds will be secured by a Mortgage lien on and security interest in Lessor's interest in the Project.

(k) There is no action, suit, proceeding, inquiry, or, to the knowledge of the Lessor, investigation, at law or in equity, before or by any court or public board or body, known to be pending or threatened against or affecting Lessor, wherein an unfavorable decision, ruling, or finding would materially adversely affect the transactions contemplated by this Agreement or the Mortgage or which, in any way, would materially adversely affect the validity or enforceability of the Bonds, this Agreement, any other agreement or instrument, to which Lessor is a party, used or contemplated for use in the consummation of the transactions contemplated hereby.

Section 2.2. Representations by Lessees. Lessees makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) City Lessee is a City of the first class created, organized, and existing under the laws of the State. County Lessee is a body politic and corporate of the State.

(b) The leasing by Lessor of the Project to the Lessees will authorize Lessees to acquire, construct and equip the Project for a site especially suited for large industry and in accordance with the terms of this Agreement.

(c) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and thereby, nor the fulfillment of or compliance with the terms and conditions hereof and thereof conflicts with or results in a breach of the terms, conditions, or provisions of any material agreement or instrument to which Lessees are now a party or by which Lessees are bound, or constitutes a material default under any of the foregoing, or results in the creation or imposition of any lien, charge, or encumbrance whatsoever upon any of the property or assets of Lessees under the terms of any instrument or agreement except as provided herein.

(d) There is no action, suit, proceeding, inquiry, or, to the knowledge of the Lessees, investigation, at law or in equity, before or by any court or public board or body, known to be pending or, to the knowledge of the Lessees, threatened against or affecting either City Lessee or County Lessee, wherein an unfavorable decision, ruling, or finding would materially adversely affect the transactions contemplated by this Agreement or which, in any way, would materially adversely affect the validity or enforceability of the Bonds, this Agreement, any other agreement or instrument, to which Lessees are a party, used or contemplated for use in the consummation of the transactions contemplated hereby.

(e) The Project consists or will consist of lands that can be used to secure and develop industry within the City of Texarkana, Arkansas and Miller County, Arkansas.

(g) Lessees agree to cooperate with Lessor in the performance of Lessees' and Lessor's obligations under the Mortgage.

(h) The execution, delivery and performance by the Lessees of this Agreement do not conflict with or contravene any law to which it is subject.

(i) All approvals required to be taken by Lessees to authorize it to execute, deliver and perform this Agreement have been taken and no other authorization or approval or other action by and no notice to or filing with, any governmental authority is required for the due execution, delivery and performance by the Lessees of this Agreement, and except for those which have been duly obtained or made and are in full force and effect.

(j) This Agreement has been duly and validly executed and delivered by Lessees and constitute the legal, valid and binding obligations of the Lessees enforceable against the Lessees in accordance with their terms, subject to the laws affecting the enforcement of creditors' rights generally and to general principles of equity.

Section 2.3. Intention. It is intended by the parties hereto that this Agreement and all actions taken hereunder be consistent with and pursuant to the resolution of Lessor relating to the Bonds. Notwithstanding anything herein contained to the contrary, it is the intention of Lessor that any obligation it may hereby incur for the payment of money to the Bondholder shall not be a general debt on its part but shall be payable solely from the proceeds derived from this Lease Agreement,

the sale of the Bonds, amounts realized upon enforcement of remedies under the Mortgage and the insurance and condemnation awards as herein provided.

Section 2.4. Sharing Ratio. The financial obligations of the City Lessee and the County Lessee under this Agreement, including rent obligations under Section 5.3 of this Agreement, shall be joint obligations limited to each by its Sharing Ratio. Should either the City Lessee or the County Lessee fail to make its portion of the lease rental obligation under Section 5.3 of this Lease Agreement and the other party provide such payment, the Sharing Ratios shall be adjusted to reflect its additional contribution. All expenses and revenues relating to this joint undertaking, including all rental payments under this Agreement, will be allocated to the City Lessee and the County Lessee based upon their Sharing Ratios.

ARTICLE III

DEMISING CLAUSES AND WARRANTY OF TITLE

Section 3.1. Demise of the Project. The Lessor demises and leases to the Lessees, and the Lessees lease from Lessor, the Project at the rental set forth in Section 5.3 and in accordance with the provisions of this Agreement.

TO HAVE AND TO HOLD the Project unto the Lessees for the Lease Term.

Section 3.2. Warranty of Title. The Lessor warrants that it lawfully owns and is lawfully possessed of the Project and that it has good and merchantable title and estate therein free from all encumbrances other than Permitted Encumbrances, but it has no liability in regard thereto. The Lessees acknowledges that the Lessor has obtained title insurance (the cost of which is to be defrayed from the Project Fund) issued by a title insurance company acceptable to the Lessees in a face amount acceptable to Lessees. Should any defect of title be discovered which, in the opinion of Independent Counsel, renders the Lessor's title unmerchantable, notice of such defect will be given by the Lessor to the title insurance company and a claim shall be made by the Lessor in the time and manner provided by the title insurance policy. Should the claim be denied, or if no claim may properly be made, the Lessees agrees that it will, at their expense, undertake proceedings under its power of eminent domain to remove or correct such defect for the benefit of the Lessor. The Lessees shall be entitled to receive and retain any amounts paid by the title insurance company under the policy of title insurance.

Section 3.3. Quiet Enjoyment. Lessor covenants and agrees that Lessees, upon paying the rent herein and upon performing and observing the covenants, conditions, and agreements hereof, shall and may peaceably hold and enjoy the Project during the Lease Term without any interruption or disturbance, subject however, to the terms of this Agreement.

ARTICLE IV

ACQUISITION AND INSTALLATION OF THE PROJECT; ISSUANCE OF THE BONDS

Section 4.1. Agreement to Acquire the Project. After the Bond proceeds are available, the Lessor (or the Lessee as an agent for Lessor) will enter into or accept the assignment of contracts or purchase orders having terms, conditions, drawings, specifications, and other provisions designated and prescribed by Lessees for acquiring and equipping the Project. All payments necessary for such purposes shall be made out of the Project Fund, and the Lessees shall be reimbursed out of the Project Fund for all expenditures made by it in connection with the Project. Title to all property of every nature paid out of the Project Fund (either by direct payment or by virtue of reimbursement to the Lessees) shall be vested in, or be transferred to, the Lessor. The obligations of the Lessor hereunder are subject to the provisions of this Agreement limiting the obligations of the Lessor to the extent of moneys in the Project Fund.

The Lessees, with the cooperation of the Lessor when necessary, shall obtain all necessary approvals from any and all governmental agencies requisite to the acquisition and equipping of the Project, and the Project shall be acquired and equipped in compliance with all State and local laws, ordinances, and regulations applicable thereto. The Lessees may amend, modify, authorize, or undertake any changes, alterations, extras, or additions to or from such contracts.

All requests, approvals, and agreements required on the part of the Lessor and the Lessees shall be in writing, signed by the Authorized Lessor Representative or the Authorized Lessee Representative, as appropriate, granting such approval or entering into such agreement. The Lessor and the Lessees shall, concurrently with the delivery of this Agreement, notify each other in writing and the Bondholder of the Authorized Representative of each. It is agreed that each party may have more than one Authorized Representative and may change the Authorized Representative or Representatives from time to time, with each such change to be in writing forwarded to the other party and the Bondholder. The Authorized Representative of each party so designated shall be authorized to enter into and execute any contracts or agreements or to grant any approvals or to take any action for and on behalf of the party hereto represented by him, and the other party to this Agreement shall be entitled to rely upon the duly designated Authorized Representative as having full authority to bind the party hereto represented by him.

Section 4.2. Disbursements from the Project Fund. The Lessor has, in the Mortgage, authorized and directed the Bondholder to make disbursements from the Project Fund to pay the Project Costs or to reimburse the Lessees, or either of them, for any Project Costs paid by a Lessee.

In making any payment from the Project Fund, the Bondholder may rely conclusively on requests for advances, requisitions and certificates delivered to it pursuant to this Section, and the Bondholder and the Lessor shall be relieved of all liability with respect to the accuracy of such requisitions and certificates and the making of such payments in accordance with such requests for advances, requisitions and certificates and all liability to see to the proper application thereof by Lessees.

The Bondholder shall make disbursements upon receipt of a requisition signed by an Authorized Lessor Representative:

(a) stating with respect to each disbursement to be made: (1) the requisition number, (2) the name and address of the person, firm, or corporation to whom payment is due, (3) the amount to be disbursed, (4) that each obligation mentioned therein has been properly incurred, is a proper charge against the Project Fund, and has not been the basis of any previous disbursement, and (5) with respect to any requisition for payment for work, material, or supplies, that such obligation was incurred for work, material, or supplies in connection with the acquisition, construction, improving, or installation of the Project, and (6) that all property to be acquired with the proceeds of the disbursement will be owned by the Lessor; and

(b) specifying in reasonable detail the nature and purpose of the obligation, including (i) that such obligation has been properly incurred, is a proper charge against the Project Fund, is a proper cost of the Project as defined in the Act, and has not been the basis of any previous withdrawal; (ii) that he has no written notice of any mechanics', materialmen's, or other liens or rights to liens or other obligations (other than those being contested in good faith) which should be satisfied or discharged before payment of such obligation is made; (iii) that such payment does not include any amount which is then entitled to be retained under any holdbacks or retainages provided for in any agreement; (iv) that there exists no Default or an Event of Default; and

(c) accompanied by a bill or statement of account for such obligation, and upon request of Bondholder, by invoices or other documentation in connection with such requisition; and

(d) with respect to the first disbursement to be made for Project Costs, the Lessee shall provide Trustee with a certificate of an Authorized Lessee Representative that the Project, to the extent of its then existing condition, is acceptable to the Lessee for park purposes.

In making any payment from the Project Fund, the Bondholder may rely conclusively on requisitions and certificates delivered to it pursuant to this Section, and Bondholder and Lessee shall be relieved of all liability with respect to the accuracy of such requisitions and certificates and the making of such payments in accordance with such requisitions and certificates and all liability to see to the proper application thereof by the Lessor.

Section 4.3. Furnishing Documents to the Bondholder. The Lessees agree to cause such requests for advances to be directed to the Bondholder as may be necessary to effect payments out of the Project Fund in accordance with Section 4.2. The Bondholder shall retain a record of all such requisitions.

Section 4.4. Establishment of Completion Date. The Completion Date shall have been evidenced to Lessor by a certificate signed by an Authorized Lessee Representative stating that, except for amounts retained by Bondholder at Lessees' direction for any Project Costs not then due and payable, (i) the accomplishment of the Project has been completed and all costs of labor, services, materials, and supplies therefor have been paid, and (ii) all other facilities necessary in connection with the Project have been acquired or equipped, and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate shall state that

it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. Bondholder shall retain in the Project Fund a sum equal to the amounts necessary for payment of the Project Costs not then due and payable. Any amount not to be retained in the Project Fund for payment of the Project Costs, and all amounts so retained but not subsequently used and the notice of such failure of use of which shall be given by Lessees to Bondholder, shall be applied by Bondholder, if requested by Lessees, to the purchase of Bonds in the open market, and otherwise, shall be transferred by Bondholder into the Project Fund and used for payment of debt service on the Interest Payment Date next succeeding the date of transfer in accordance with the terms of the Mortgage.

Section 4.5. Lessees Required to Pay in Event Project Fund Insufficient. In the event the moneys in the Project Fund available for the Project Costs should not be sufficient to pay the Project Costs in full, the Lessees agree to complete the Project and to pay that portion of the Project Cost in excess of the moneys available therefor from in the Project Fund. The Lessor does not make any warranty, either express or implied, that the moneys paid into the Project Fund and available for payment of the Project Costs will be sufficient to pay all of the Project Costs. The Lessees agree that if, after exhaustion of the Project Fund, Lessees should pay any portion of the Project Costs pursuant to the provisions of this Section, the Lessees shall not be entitled to any reimbursement therefor from the Lessor, or the Bondholder, nor shall the Lessees be entitled to any diminution of the amounts payable under Section 5.3 hereof.

Section 4.6. Enforcement of Contracts. The Lessor covenants that it will, but at the expense of the requesting party, take any action and institute any proceedings requested by the Lessees to cause and require all contractors, suppliers and vendors to complete their contracts diligently in accordance with the terms of said contracts, including, without limitation, the correcting of any defective work. All expenses incurred by the Lessor in connection with the performance of its obligations under this Subsection (a) may be considered part of the Project Costs, and Lessor agrees that the Lessees may, from time to time, in its own name, or in the name of the Lessor, take such action as may be necessary or advisable, as determined by the Lessees, to insure the engineering, procurement and construction of the Project in accordance with the terms of the engineering, procurement and construction contract and the installation of machinery and equipment in accordance with any applicable contract pertaining thereto, to insure the peaceable and quiet enjoyment of the Project by the Lessees for the term of this Lease term.

Section 4.7. Plans and Specifications; Modifications to Project. The Lessees agree to maintain plans and specifications for improvements to the Project land from time to time. The Lessees may make any changes in or modifications of the plans and specifications, and may make any deletions from or substitutions or additions to such improvements without the prior consent of the Lessor or the Bondholder so long as such changes or modifications in the plans and specifications, or deletions from or substitutions or additions thereto, do not materially alter the size, scope, or character of the Project land as described herein.

Section 4.8. Agreement to Issue Bonds; Application of Bond Proceeds. In order to provide funds for payment of the Project Cost, the Lessor, concurrently with the execution of this Agreement, will issue, sell, and deliver the Bonds and deposit the proceeds thereof, if any, in the Project Fund in accordance with the provisions of the Mortgage.

ARTICLE V

EFFECTIVE DATE OF THIS LEASE AGREEMENT; DURATION OF LEASE TERM; RENTAL PROVISIONS

Section 5.1. Effective Date of this Lease Agreement; Successive Terms; Renewal of Terms; Termination of Agreement.

(a) The Initial Term of this Agreement shall commence at 12:01 a.m. on the day following the Closing Date, and shall expire at midnight on December 31, 2021. All times specified in this Section 5.1 shall be Texarkana, Arkansas time.

(b) The first Successive Term shall commence at 12:01 a.m. January 1, 2022 and shall expire at midnight, December 31, 2022. All subsequent Successive Terms shall commence upon the expiration of the immediately preceding Successive Term and shall expire at midnight on the day which is the end of Lessee's then-current Fiscal Year, which is currently December 31. The final Successive Term shall end upon the final payment of Basic Rent and Additional Rent under Section 5.3. In the event either Lessee's Fiscal Year is changed by law, then the rent shall be pro-rated and thereafter payable on the first day of that Lessee's new Fiscal Year.

(c) It is the express intent of the Lessor and the Lessees, and the express purpose of this Section 5.1, (i) that each Successive Term shall begin and end simultaneously with the concurrent Fiscal Year of the Lessee so that at no time shall the term of this Agreement exceed the term of the Lessee's then-current Fiscal Year, (ii) that no provision of this Agreement shall violate the provisions of Article 12, Section 4 of the Constitution of Arkansas, and (iii) that the provisions hereof be construed to be consistent with the construction of said Article 12, Section 4 as set forth in the case of *Government Service Automation, Inc. v. Faulkner County*, 929 F. Supp. 338 (1995).

(d) Upon the expiration of the Initial Term hereof and each following Successive Term, each Lessee shall have and is hereby granted the option to extend this Lease Agreement for the period of the next following Successive Term. The option provided for herein shall be deemed automatically exercised by each Lessee (without requirement of any notice of exercise) unless one hundred twenty (120) days prior to the end of the Initial Term or any Successive Term, a Lessee (the "Withdrawing Lessee") shall give the Lessor, the Bondholder, and the other Lessee (the "Remaining Lessee") written notice by certified or registered mail that the Lessee does not elect to have this Agreement extended beyond the then current Initial or Successive Term with respect to that Lessee.

(e) If a Withdrawing Lessee shall elect to terminate this Agreement by notice of non-renewal the obligation to pay Basic Rent shall end on the December 31 of the Successive Term during which the notice is given.

(f) Upon the termination of this Agreement by a Withdrawing Lessee, the Withdrawing Lessee shall vacate the Project premises on the final day of the term and may, but shall not be required to remove any equipment placed thereon and any improvements made thereto provided that such removal shall not render the Project unsuitable for sale or further rental without expense to the Lessor. All roads, right-of-ways, trails, paths and similar ways shall be deemed abandoned unless

the Lessees shall have platted and dedicated the same with the written consent and joinder of the Lessor and the Bondholder and shall not be deemed public streets, roads, or easements by prescription, custom and usage, or any other common law doctrine, the Lessor hereby asserting its failure of consent to the Lessees' creation of such rights in the public or third parties by the Lessees' conduct. All rights granted or demised by this Agreement shall be forfeited by the Withdrawing Lessee upon the effective date of the termination and all references to the Lessees, plural, herein shall be construed as to refer to the Remaining Lessee, singular, from that date.

(g) Within thirty (30) days of receipt of a Withdrawing Lessee's notice of termination pursuant to subsection (d) above, the Remaining Lessee may provide its notice in the same manner provided in subsection (d) above, that it does not elect to have this Agreement extended beyond the then current Initial or Successive Term. In the event no such notice is given, the Remaining Lessee shall be responsible for all Basic Rent and Additional Rent payable pursuant to Section 5.3 of this Agreement from and after the commencement of the next Successive Term.

Section 5.2. Delivery and Acceptance of Possession. The Lessor agrees that the Lessees shall have possession of the Project (subject to the right of the Bondholder and the Lessor to enter onto the Project Site for inspection purposes and to the other provisions of Section 8.2 hereof) whenever such possession is desired by the Lessees.

Section 5.3. Basic Rent and Additional Rent Payable.

(a) *Basic Rent.* The Lessees shall make lease payments directly to the Bondholder or its assignee in accordance with their respective Sharing Ratios. Lessees will pay in immediately available funds, or cause to be paid in immediately available funds, as Basic Rent annually, on or before two Business Days prior to the dates, and unless otherwise adjusted as provided in Section 2.4 and Subsection 5.1 (g) herein, in the amounts set forth in Exhibit B hereto.

(b) *Additional Rent.* Lessee will pay directly to Lessor the following as Additional Rent (collectively, the "Additional Rent"):

(i) The reasonable, documented, third-party fees and expenses of the Lessor related to the issuance of the Bonds or the execution, delivery or performance of this Lease Agreement or the Mortgage and incurred upon the written request of the Lessees.

(ii) The reasonable, documented, third-party and administrative expenses of the Lessor in relation to its ongoing compliance requirements under the Act, when such reasonable expenses become due and payable, and any reasonable expenses in connection with any redemption of the Bonds.

(iii) Any reasonable expenses of the Bondholder in connection with any redemption of the Bonds.

(iv) Property taxes, special assessments or payments in lieu thereof, if any.

(v) All other costs and expenses designated pursuant to this Lease Agreement as Additional Rent.

It is understood and agreed that all payments payable by the Lessees under subsection (a) are assigned by the Lessor to the Bondholder for the benefit of the Owners of the Bonds. The Lessees assent to such assignment.

In the event the Lessees should fail to make any of the payments required in this Section, the item or installment so in default shall continue as an obligation of the Lessees until the amount in default shall have been fully paid, and the Lessees agree to pay the same with interest thereon or with respect to payments to the Bondholder or the Lessor with interest thereon, to the extent permitted by law, from the date thereof at the rate of interest on the Bonds.

Section 5.4. Place of Rental Payments. The Basic Rent provided for in Subsections 5.3(a) shall be paid directly to the Bondholder for the account of the Lessor. The Additional Rent payments provided for in Subsection 5.3(b) shall be paid directly to the Lessor for its own use.

Section 5.5. Credit for Bonds Surrendered. The Lessees shall have the right to surrender Bonds acquired by either Lessee to Trustee. Bonds so redeemed, purchased, or surrendered shall be forthwith cancelled and the principal amounts thereof shall be applied as credits for that Lessee upon the Basic Rent payments due and payable only with respect to the respective maturity dates or mandatory redemption dates of such Bonds, but shall not otherwise reduce the obligation of that Lessee to make current payments of Basic Rent.

ARTICLE VI

MAINTENANCE, MODIFICATIONS, IMPOSITIONS, AND INSURANCE

Section 6.1. Maintenance and Modifications of Project by Lessees.

(a) The Lessees agree that during the Lease Term it at its own expense to (i) keep the Project Site in reasonably safe condition as its operations shall permit and (ii) keep the Project and all other improvements forming a part of the Project in good repair and in good operating condition, making from time to time all necessary repairs thereto and renewals and replacements thereof.

(b) The Lessees may from time to time, together, and in their sole discretion and at their own expense, make any additions, modifications or improvements to the Project, including installation of additional machinery, equipment, furniture, or fixtures in or on the Project, which it may deem desirable for its purposes as a site for future industrial development.

(c) The Lessees will not permit any mechanics' or other liens to be established or remain against the Project for labor or materials furnished in connection with any addition, modifications, improvements, repairs, renewals, or replacements so made by it; provided, that if the Lessees shall first notify Bondholder of its intention so to do, Lessees may in good faith contest any mechanics' or other liens filed or established against the Project, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless the Lessor or the Bondholder shall notify the Lessees that, in the opinion of Independent Counsel, by nonpayment of any such items the security of the Bondholder, as to any part of the Project, will be materially endangered or the Project or any substantial part thereof will

be subject to loss or forfeiture, in which event the Lessees shall promptly pay and cause to be satisfied and discharged or bond (if legally permissible) all such unpaid items. Lessor will cooperate fully with Lessees in any such contest.

Section 6.2. Replacements; Repairs. The Lessor shall not be under any obligation to renew, repair, or replace any inadequate, obsolete, worn-out, unsuitable, undesirable, or unnecessary equipment constituting a portion of the Project. In any instance where the Lessees, in their sole discretion, determine that any such items have become inadequate, obsolete, worn-out, unsuitable, undesirable, or unnecessary, the Lessees may remove such items from the Project and, on behalf of the Lessor, sell, trade-in, exchange, or otherwise dispose of them (as a whole or in part) without any responsibility or accountability to the Lessor or the Bondholder therefor.

The removal from the Project of any such items pursuant to the provisions of this Section shall not entitle Lessees to any abatement or diminution of the rents payable under Section 5.3 hereof.

Section 6.3. Impositions; Assessments. The Lessees shall, during the Lease Term, bear, pay, and discharge, before the delinquency thereof, all taxes and assessments, general and special, if any, which may be lawfully taxed, charged, levied, assessed, or imposed upon or against or be payable for or in respect of the Project, or any part thereof, or any improvements at any time thereon or the Lessees' interest in the Project under this Agreement, including any new lawful taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied against real and personal property, and further including all water and sewer charges, assessments, and other governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would encumber Lessor's title to the Project (all of the foregoing being herein referred to as "Impositions"). In the event any special assessment taxes are lawfully levied and assessed which may be paid in installments, the Lessees shall be required to pay only such installments thereof as become due and payable during the Lease Term as and when the same become due and payable. Any Impositions which the Lessees are required to bear, pay, and discharge, shall be remitted directly to the authority which is entitled to the payment thereof.

Within 30 days after the last day for payment, without penalty or interest, of an Imposition which the Lessees are required to bear, pay, and discharge pursuant to the terms hereof, the Lessees shall deliver to Lessor a reproduced copy of the statement issued therefor duly receipted to show the payment thereof.

The Lessees shall have the right, in its or the Lessor's name, to contest in good faith the validity or amount of any Imposition which the Lessees are required to bear, pay, and discharge pursuant to the terms of this Section by appropriate legal proceedings provided the Lessees, before instituting any such contest, gives Lessor written notice of its intention so to do and if, and provided further the Lessees diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and promptly pays any final judgment enforcing the Imposition so contested and thereafter promptly procures record release or satisfaction thereof. The Lessees shall hold the Lessor whole and harmless from any costs and expenses Lessor may incur related to any such contest.

Section 6.4. Insurance Required. Throughout the Lease Term, the Lessee shall keep, or shall cause to be kept, the Project continuously insured against such risks as are customarily insured

against by political subdivisions within the State in similar circumstances, paying as the same become due all premiums in respect thereto, including but not necessarily limited to:

(a) Fire and Extended Coverage Insurance. Insurance against loss or damage by fire with standard extended coverage, vandalism, and malicious mischief endorsement. Such insurance shall be in an amount equal to or exceeding the lesser of (i) the full replacement value of the Project and (ii) the amount required for the full redemption or retirement of all Bonds then Outstanding; provided however, in any event, such insurance shall be in an amount necessary to prevent application of any coinsurance provisions of the applicable policies. The proceeds of all such policies shall be payable to the Lessor, the Lessees, and the Bondholder as their interests may appear, provided that any such policies may be so written or endorsed as to make payments on claims for losses not in excess of \$100,000 payable directly to the Lessee. All claims on such insurance regardless of amount may be adjusted by the Lessee with the insurers, subject to approval of the Bondholder, which approval shall not be unreasonably withheld, as to settlement of any claim in excess of \$100,000. The Lessor shall cooperate with Lessee in adjusting any such loss.

(b) Public Liability Insurance. General public liability insurance against claims for bodily injury, death, or property damage occurring in connection with the Project such insurance to afford protection to Lessor and the Bondholder as additional insureds of not less than \$1,000,000 combined single limit with respect to any one accident and \$1,000,000 in the aggregate.

(c) Workers' Compensation Insurance. Workers' compensation insurance, including qualified self-insurance pursuant to the workers' compensation laws of the State, covering all persons employed by Lessee at the Project. Lessee will cause such insurance to be maintained by any independent contractors engaged by Lessee in connection with any work done on or about the Project with respect to which claims for death or bodily injury could be asserted against Lessee, Lessor, or Bondholder, complying with the rules, regulations, and requirements of the State from time to time in force.

(d) Flood Insurance. If all or part of the Project is located in an area now or hereafter identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, policies of flood insurance in an amount at least equal to the lesser of (1) the amount of the Bonds, (2) the insurable value of the improvements, and (3) the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended.

Upon the written request of Lessor or Bondholder, but no more frequently than annually, Lessee shall provide Lessor and Bondholder with an opinion of an independent insurance broker of recognized national standing that the insurance then in force upon the Project is adequate and reasonable for the protection of the interests of the Owners.

Nothing in this Section or any other portion of this Agreement shall be construed to prevent Lessee from including the Project under Lessee's blanket forms of insurance coverage, provided that each and all of the requirements of this Section be complied with under such blanket coverage.

Section 6.5. Release and Indemnification Covenants.

(a) The Lessees shall and hereby agree to indemnify and save the Lessor (including but not limited to past, present, and future officers, members, agents, and other persons acting on the Lessor's behalf) and the Bondholder, and their officers, agents, and employees, harmless against and from all claims by or on behalf of any person, firm, corporation, or other legal entity arising from the conduct or management of, or from any work or thing done on, the Project during the Term of Agreement, including without limitation, (i) any condition of the Project, (ii) any breach or Default on the part of the Lessees in the performance of any of its obligations under this Agreement, (iii) any act or negligence of the Lessees or of any of its agents, contractors, servants, employees, or licensees, or (iv) any act or negligence of any assignee or lessee of the Lessees, or of any agents, contractors, servants, employees, or licensees of any assignee or lessee of the Lessees. The Lessees shall indemnify and save the Lessor and the Bondholder harmless from any such claim arising as aforesaid, or in connection with any action or proceeding brought thereon, and upon notice from the Lessor or the Bondholder, the Lessees shall defend them or either of them in any such action or proceedings.

(b) It is the intention of the parties hereto that the Lessor shall not incur any pecuniary liability by reason of the terms of this Agreement or the undertakings required of the Lessor hereunder, by reason of the issuance of the Bonds, by reason of the execution of the Mortgage, or by reason of the performance of any act requested of the Lessor by the Lessees, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing; nevertheless, if the Lessor should incur any such pecuniary liability, then in such event the Lessees shall indemnify and hold the Lessor, its officers, members, agents, and employees harmless against all claims by or on behalf of any person, firm, or corporation or other legal entity arising out of the same and all costs and expenses reasonably incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice from the Lessor, the Lessees shall defend the Lessor in any such action or proceeding.

(c) Nothing contained in this Section shall be construed to indemnify or release the Lessor from its liability in connection with the Project arising from the wanton negligence or intentional acts or failure to act on the part of the Lessor, its employees, agents, or representatives acting in their capacities as such.

(d) Nothing contained herein shall constitute a waiver by either the Lessor or the Lessees of any sovereign or governmental immunity under the Constitution and laws of the State to the extent applicable. The unavailability of a remedy at law or in equity occasioned by such limitation shall not operate to prevent the Bondholder or the Lessor from exercising all rights granted herein with respect to an Event of Default.

ARTICLE VII

DAMAGE, DESTRUCTION, AND CONDEMNATION; USE OF NET PROCEEDS

Section 7.1. Damage and Destruction. Unless the Lessees shall have exercised its option to prepay the amounts payable under this Agreement pursuant to the provisions of Section 11.1(a) hereof, if prior to full payment of the Bonds (or provisions for payment thereof having been made in accordance with the provisions of the Mortgage) the Project or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty, the Lessees shall be obligated to continue to pay the amounts specified in Section 5.3 hereof. The Lessees shall give prompt written notice of any such destruction or damage in excess of \$100,000 to Lessor and the Bondholder.

Section 7.2. [Reserved].

Section 7.3. [Reserved].

Section 7.4. Cooperation of Lessor. The Lessor shall cooperate fully with the Lessees, at the expense of the Lessees, in filing any proof of loss with respect to any insurance policy covering the casualties described in Section 7.1 hereof and will, to the extent it may lawfully do so, permit the Lessees to litigate in any proceeding resulting therefrom in the name and behalf of the Lessor. In no event will the Lessor voluntarily settle, or consent to the settlement of, any proceeding arising out of any insurance claim without the written consent of the Authorized Lessee Representative.

Section 7.5. Rights of Parties in Event of Condemnation; Bonds Protected in Any Event.

(a) If during the Lease Term title to all or substantially all of the Project shall be taken or condemned by a competent authority for any public use or purpose, then this Agreement shall terminate at midnight on the 15th day after the vesting of title in such authority and rent shall be paid to and adjusted as of that day. In that event, subject to the subsequent provisions of this Section, the condemnation award shall belong to the Lessor and shall be paid to Bondholder (subject to the provisions of the Mortgage and this Agreement) and the Lessees hereby assign the award to Lessor. In the event the net condemnation award (being the gross amount awarded less all attorney's and other expenses and costs in the condemnation proceedings) together with the amount then in the Bond Fund, shall be insufficient to pay in full, on the redemption date fixed by the Lessees pursuant to the provisions of the Mortgage, the amount necessary to pay all principal, interest, and all other costs of redemption (all of which, for purposes of this Section, shall be called "total bond redemption expense"), Lessees agree to pay, promptly upon payment of the condemnation award, as additional rent under this Agreement, the amount by which the total bond redemption expense shall exceed the net condemnation award plus the amount then on deposit in the Bond Fund. The Lessees' agreement to pay additional rent pursuant to this Section shall survive any termination of the Agreement under this Section. For the purposes of this Article, "all or substantially all of the Project" shall be deemed to mean a taking of all of the leased premises or a taking of such substantial portion of the leased premises that the Lessees, as determined by the Lessees in its sole discretion, cannot reasonably operate in the remainder in substantially the same manner as before. In the event the net condemnation award, together with the amount in the Bond Fund, shall be in excess of the amount necessary to pay the total bond redemption expense and the Lessees are not in default in any of its other obligations hereunder, or the Lessees are in default in any of its obligations hereunder and the

net condemnation award plus the amount then on deposit in the Bond Fund plus any amount previously paid to the Owners on account of the total bond redemption expense shall be in excess of the amount necessary to pay the total bond redemption expense, then the appropriate excess shall belong to and be paid to the Lessees, provided however that if the Lessees are in default with reference to any of its other obligations hereunder, the amount necessary to satisfy such default shall have been previously paid to the Bondholders by the Lessees. To the extent that the sum of the net condemnation award plus the amount then on deposit in the Bond Fund plus any amount previously paid to the Owners of the Bonds on account of the total Bond redemption expense shall be less than the total Bond redemption expense, the Lessees agree to pay such deficiency to the Lessor as Basic Rent hereunder. Lessor agrees that it will not voluntarily accept, without the prior approval of the Lessees, any condemnation award, and the Lessor agrees that it will cooperate with the Lessees with the end in view of obtaining the maximum justifiable condemnation award.

(b) If less than substantially all of the leased premises shall be taken or condemned by a competent authority for any public use or purpose, neither the term nor any of the obligations of either party under this Agreement shall be affected or reduced in any way, and

(i) If any part of the improvements owned by the Lessor on the leased premises (improvements as used herein shall include any item of the Lessor's equipment) is taken, the Lessees shall proceed to repair or rebuild (repair or rebuild shall include replacement of any item of Lessor's equipment) the remaining part as nearly as possible to the condition existing prior to such taking, to the extent that the same may be feasible, subject to the right on the part of the Lessees to make alterations so as to improve the efficiency of the improvements; and

(ii) The entire condemnation award shall be paid to the Lessees and the Lessor hereby assigns the same to the Lessees for the use of the Lessees in repairing and rebuilding as provided in (i) above. The award shall be transferred to the Lessees in the same manner as is provided in Section 7.1 with respect to insurance proceeds, provided that the words "Net Proceeds" there referred to shall for purposes of this subparagraph (i) refer to "net condemnation award." If the net condemnation award is in excess of the amount necessary to repair and rebuild as specified in (i) above, such excess shall be paid to the Bondholder and deposited in the Bond Fund. If such excess is more than the remaining total basic rent obligations of the Lessees hereunder, and if at that time the Lessees are not in default with respect to any of its obligations, the amount of excess over and above the amount necessary to satisfy the obligations with reference to which the Lessees are in default shall be paid to the Lessees. If the net condemnation award is less than the amount necessary for Lessees to repair and rebuild as set forth in (i) above, the Lessees shall nevertheless complete the repair and rebuilding work and pay the cost thereof; and

(iii) If no part of the improvements is taken, the net condemnation award shall be paid to Bondholder and deposited in the Bond Fund.

(c) In the event of taking under either of paragraphs (a) or (b) above, the Lessees shall have the right to participate at its own expense in, and to prove in, the condemnation proceedings and to receive any award (by way of negotiation, settlement, or judgment) which may be made for damages sustained by the Lessees by reason of the condemnation; provided, however, nothing in this paragraph (c) shall be construed to diminish or impair in any way the Lessees' obligation under

paragraph (a) of this Section to pay as additional rent the amount of any insufficiency of the net condemnation award and the funds in the Bond Fund to pay the total bond redemption expense.

(d) If the temporary use of the whole or any part of the leased premises shall be taken by right of, or acquired pursuant to the threat of, eminent domain, this Agreement shall not be thereby terminated and the parties shall continue to be obligated under all of its terms and provisions, and the Lessees shall be entitled to receive the entire amount of the award made for such taking, whether by way of damages, rent, or otherwise.

Section 7.6. Lessees Obligated to Continue Basic and Additional Rental Payments Until Condemnation Award Available. In the event of a taking of all or substantially all of the Project Site as provided in Section 7.5(a), notwithstanding the provision therein that the rent shall be paid to and adjusted as of the 15th day after vesting of title in the taking authority, the Lessees agrees to continue to make payment of the Basic Rent and the Additional Rent until the condemnation award shall be actually received by the Lessor; provided, however, the Lessees shall be repaid, solely out of the net condemnation award, the amount of rent so paid after the date provided in Section 7.5(a) for the adjustment of rent. This agreement to repay shall not be construed in any way to impair or diminish the Lessees' obligations under Section 7.5 to pay as Additional Rent the amount of any insufficiency of the net condemnation award to pay the total bond redemption expense.

Section 7.7. Right of Lessees to Participate in Condemnation Proceedings. The Lessees shall have the right to participate in its own name in any negotiations or condemnation proceedings, but at its own expense, to resist or defend condemnation, and to make any presentation or conduct any proceeding which in its discretion is necessary or desirable to obtain any proper relief and, if the condemnation is concluded, to obtain the maximum award justified by the taking, subject, however, at all times to the prior rights of the Lessor and the Bondholder with respect to the indebtedness represented by the Bonds.

Section 7.8. Lessees' Covenant Not to Condemn. Subject to the provisions of Section 3.2, the Lessees covenant that they shall not, directly or indirectly, take or condemn any part of the Project, or attempt to do so.

ARTICLE VIII

SPECIAL COVENANTS

Section 8.1. No Warranty of Condition or Suitability by Lessor. The Lessor makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Lessees' purposes or needs. Lessees acknowledge that they have inspected the Project real property and have determined its suitability as a site for industrial development.

Section 8.2. Inspection of the Project. The Lessees agree that Bondholder and the Lessor and their duly authorized agents shall have the right at all reasonable times during business hours to enter upon the Project and to examine and inspect the Project without interference or prejudice to the Lessees' operations. The Lessees further agrees that the Lessor and its duly authorized agents who

are acceptable to the Lessee shall have such rights of access to the Project as may be reasonably necessary pursuant to Section 4.1 hereof.

Section 8.3. Granting of Easements. If no Event of Default shall have happened and be continuing, the Lessees may at any time or times grant, or consent to the grant of, easements, licenses, rights-of-way (including the dedication of public highways), and other rights or privileges in the nature of easements with respect to any property included in the Project, free from the lien of the Mortgage, or the Lessees may release, or consent to the release of, existing easements, licenses, rights-of-way, and other rights or privileges with or without consideration and the Lessor agrees that it shall execute and deliver and will cause and direct the Bondholder to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way, or other right or privilege upon receipt of: (i) a copy of the instrument of grant or release; (ii) a written application signed by the Authorized Lessee Representative requesting such instrument; and (iii) a certificate executed by the Authorized Lessee Representative stating (1) that such grant or release is not detrimental to the proper conduct of the governmental operations of Lessees and (2) that such grant or release will not impair the effective use or interfere with the operation of the Project and will not weaken, diminish, or impair the security intended to be given by or under the Mortgage.

Section 8.4. Furnishing of Certain Information. Lessees will deliver to Bondholder:

(a) Immediately upon becoming aware of the existence of any condition or event that constitutes, or with the passage of time or the giving of notice, or both, would constitute, a Default or an Event of Default under this Agreement, a written notice specifying the nature and period of existence thereof and what action the Lessees are taking or proposes to take with respect thereto;

(b) Immediately upon becoming aware that the Bondholder has given notice or taken any other action with respect to a claimed Default or Event of Default, a written notice specifying the notice given or action taken by the Bondholder and the nature of the claimed Default or Event of Default and what action Lessees are taking or proposes to take with respect thereto; and

(c) With reasonable promptness, such other data and information as from time to time may be reasonably requested by Bondholder concerning the Project.

Lessees will permit any of Bondholder's representatives, at Bondholder's expense, to visit and inspect the Project, to examine all of Lessees' books of account, records, reports, and other papers, to make copies and extracts therefrom, and to discuss their respective affairs, finances, and accounts relating to the Project with their respective officers, employees, and independent public accountants (and by this provision Lessees authorize its accountants to discuss the same) all at such reasonable times and as often as may be reasonably requested; provided, however, that Bondholder shall hold such information in confidence and shall not use such information for any purpose other than to determine whether the covenants, terms, and provisions of this Agreement have been complied with by Lessees and to protect its interest under this Agreement or where disclosure may be required by law. Nothing herein shall be deemed to constitute a waiver of any accountant-client privilege during the pendency of litigation between Bondholder and Lessees.

ARTICLE IX

ASSIGNMENT, SUBLEASING, PLEDGING, AND SELLING; REDEMPTION; OPTIONAL AND MANDATORY PREPAYMENT OF RENT; ABATEMENT OF RENT

Section 9.1. Assignment and Subleasing. The Lessees may not assign this Lease Agreement or sublet the Project or part thereof without the prior written consent of the Lessor. Any such assignment shall include, without limitation, an assumption in writing by such assignee of all liabilities and obligations of the Lessees under this Lease Agreement, and any related documents. Notwithstanding the foregoing, no assignment or subletting and no dealings or transactions between the Lessor or the Bondholder and any sublessee or assignee shall relieve the Lessees of any of its obligations under this Agreement and the Lessees shall remain as fully bound as though no assignment or subletting had been made, and performance by any assignee or sublessee shall be considered only as performance *pro tanto* by the Lessees.

It is understood and agreed that this Agreement (and the rents hereunder) will be assigned and pledged to the Bondholder as security for the payment of the principal of and interest on the Bonds, but otherwise the Lessor shall not, without the prior written consent of the Lessees, assign, encumber, sell, or dispose of all or any part of its rights, title, and interest in and to the Project and this Agreement, except to the Lessees in accordance with the provisions of this Agreement and to the Bondholder under the Mortgage, but subject to the provision set forth below, without the prior written consent of Lessees.

Section 9.2. Restrictions on Sale, Mortgage, or other Conveyance of Mortgaged Property by Lessor. Except as otherwise provided herein, the Lessor agrees that it will not sell, assign, mortgage, pledge, transfer, or convey any of the Property during the Lease Term.

Section 9.3. Redemption of Bonds. The Lessor, at the request at any time of the Lessees and if the Bonds are then callable, shall forthwith take all steps that may be necessary under the applicable redemption provisions of the Mortgage to effect redemption of all or part of the then outstanding Bonds, as may be specified by Lessees, on the earliest redemption date on which such redemption may be made under such applicable provisions or upon the date set for the redemption by Lessees pursuant to Section 11.1 hereof.

Section 9.4. Prepayment of Rents. To permit the redemption of Bonds pursuant to the exercise of any options of the Lessees hereunder, and solely for that purpose, there is expressly reserved to the Lessees the right, and the Lessees are authorized and permitted, at any time it may choose, to prepay all or any part of the rents payable under Section 5.3 hereof, and the Lessor agrees that the Bondholder may accept such prepayment of rents when the same are tendered by the Lessees. All rents so prepaid shall be credited on the rental payments specified in Section 5.3 hereof, in the order of their maturities, and shall be used for the redemption of the Bonds in accordance with the Mortgage

Section 9.5. Lessees Entitled to Certain Rent Abatement if Bonds Paid Prior to Maturity. If at any time the moneys in the Bond Fund shall be sufficient to retire in accordance with the provisions of the Mortgage all of the Bonds at the time outstanding, and to pay all fees and charges of the Bondholder and the Lessor due or to become due through the date on which the last

of the Bonds is retired, under circumstances not resulting in termination of the Lease Term, and if the Lessees are not at the time otherwise in default hereunder, the Lessees shall be entitled to use and occupy the Project from the date on which such aggregate moneys are in the hands of the Bondholder to and including the date on which the last of the Bonds is retired, without the payment of rent (but otherwise on the terms and conditions hereof, in the absence of exercise of the purchase option provided for in Section 11.4 hereof).

Section 9.6. Reference to Bonds Ineffective After Bonds Paid. Upon payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Mortgage) and all fees and charges of Bondholder, all references in this Agreement to the Bonds, and Bondholder shall be ineffective and the Bondholder shall thereafter have any rights hereunder, saving and excepting those that shall have theretofore vested.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1. Events of Default Defined. The following shall be an “Events of Default” under this Agreement and the term “Event of Default” or “Default” shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure by the Lessees to pay the Basic Rent or any part thereof payable hereunder at the times specified herein;

(b) Failure by the Lessees to observe and perform any covenant, condition, or agreement on its part to be observed or performed, other than as referred to in subsection (a), for a period of 30 days after the mailing of notice by certified or registered mail, specifying such failure and requesting that it be remedied, to the Lessees by the Lessor or the Bondholder, unless the Lessor and the Bondholder shall agree in writing to an extension of such time prior to its expiration;

(c) A court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Lessee in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official of the Lessee or for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or

(d) The Lessees shall commence a voluntary case under any applicable bankruptcy, insolvency, or other similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator, or other similar official of Lessees or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action in furtherance of any of the foregoing; or

(e) Failure to appropriate moneys for the payment of Basic and Additional Rents hereunder.

The foregoing provisions of paragraph (b) are subject to the following limitations: If by reason of *force majeure* the Lessees are unable in whole or in part to carry out its agreements on its part herein contained, other than the obligations on the part of the Lessees contained in Article V and Sections 6.3 and 6.4, the Lessees shall not be deemed in default during the continuance of such inability. The term "*force majeure*" as used herein shall mean, without limitation, the following: acts of God, strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States or of the State or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes, or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the Lessees. The Lessees agree, however, to remedy with all reasonable dispatch the cause or causes preventing the Lessees from carrying out its agreements; provided, that the settlement of strikes, lockouts, and other industrial disturbances shall be entirely within the discretion of the Lessees, and the Lessees shall not be required to make settlement of strikes, lockouts, and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Lessees unfavorable to the Lessees.

Section 10.2. Remedies on Default. Whenever any Event of Default shall happen, the Lessor (with the consent of the Bondholder if the Mortgage has not been discharged) or the Bondholder may take any of the following remedial steps:

(a) Declare all installments of Basic Rent and Additional Rent payable for the remainder of the term to be immediately due and payable, whereupon the same shall become immediately due and payable.

(b) Re-enter and take possession of the Project without terminating this Agreement, and sublease the Project for the account of the Lessees, holding Lessees liable for the difference in the rent and other amounts payable by such sublessee in such subleasing and the Basic and Additional Rent payable by Lessees hereunder.

(c) Terminate the Lease Term, exclude the Lessees from possession of the Project and use its best efforts to lease the Project to another for the account of the Lessees.

(d) Have access to and inspect, examine, and make copies of such of the books, records, accounts, and data of the Lessees, as pertain to the Project.

(e) Take whatever action at law or in equity may appear necessary or desirable to collect the rent and any other amounts payable by the Lessees hereunder, then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Lessees under this Agreement.

Any amounts collected pursuant to action taken under this Section shall be paid to the Bondholder and applied in accordance with the provisions of this Mortgage, and any excess remaining after payment of all amounts due under the Mortgage, shall be paid to the Lessees.

Section 10.3. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Lessor or the Bondholder is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time as often as may be deemed expedient.

Section 10.4. Rental, Damages, and Reletting. The foregoing provisions of this Article relating to the receipt of moneys by the Lessor or the Bondholder as the result of an acceleration, upon a reletting, or otherwise, are each to be construed as providing that all such payments by the Lessees or others shall be made to the Bondholder and applied pursuant to the provisions of the Mortgage.

Section 10.5. Equitable Relief. The Lessor, the Lessees, and the Bondholder shall each be entitled to specific performance, injunctive, or other appropriate equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

Section 10.6. Bondholder May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition, or other judicial proceeding relative to the Lessees, the Project, or any other property of the Lessees, the Bondholder shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim and to file such other papers or documents as may be necessary or advisable in order to have the claims of Bondholder (including any claim for the reasonable compensation, expenses, disbursements, and advances of the Bondholder, its agents and counsel) allowed in such judicial proceeding, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same.

ARTICLE XI

OPTIONS IN FAVOR OF LESSEES

Section 11.1. Option to Terminate. The Lessees shall have the following options to cancel or terminate the term of this Agreement:

(a) The Lessee may terminate this Agreement by notice given pursuant to Section 5.1(d) which termination shall be effective at midnight on December 31 of the then current Term.

(b) At any time prior to full payment of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Mortgage), Lessees may terminate the

Lease Term by giving Lessor 60 days' notice in writing of such termination and by paying to Bondholder an amount which will be sufficient to pay, retire, and redeem all the outstanding Bonds in accordance with the provisions of the Mortgage (including, without limiting the generality of the foregoing, principal, interest to maturity or earliest applicable redemption date, as the case may be, expenses of redemption, the Bondholder's expenses) and, in case of redemption, making arrangements satisfactory to the Lessor for the giving of the required notice of redemption. Upon any such redemption and repayment any surplus moneys shall be paid to the Lessees.

(c) At any time after full payment of the Bonds, including, without limiting the generality of the foregoing, principal, interest to maturity or earliest redemption date, as the case may be, expenses of redemption (or provision for payment thereof having been made in accordance with the provisions of the Mortgage), the Lessees may terminate the Lease Term by giving the Lessor notice in writing of such termination and such termination shall forthwith become effective.

Section 11.2. Option to Acquire Lessor's Interest in the Project Prior to Payment of the Bonds. Lessees shall have, and is hereby granted, the option to acquire legal title to the Project prior to the scheduled maturity of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Mortgage), if any of the following events shall have occurred:

(a) The Project shall have been damaged or destroyed as set forth in Section 7.1 hereof to such extent that in the sole judgment of Lessees (i) it cannot be reasonably restored within a period of four months to the condition thereof immediately preceding such damage or destruction, or (ii) Lessees is thereby prevented from carrying on its normal operation of the Project for a period of four months, or (iii) the cost of restoration thereof would exceed the Net Proceeds of insurance carried thereon pursuant to the requirements of Section 6.4 hereof, plus the amounts for which Lessees is self-insured with respect to deductible amounts permitted under Section 6.4 hereof.

(b) Title to, or the temporary use of, all or substantially all the Project shall have been taken as set forth in Section 7.5 under the exercise of the power of eminent domain by any governmental authority or person, firm, or corporation acting under governmental authority (including such a temporary taking as results in Lessees being thereby prevented from carrying on its normal operations therein for a period of 4 months).

(c) As a result of any changes in the Constitution of the State or the Constitution of the United States of America or of legislative or administrative action (whether state, local or federal) or by final decree, judgment, or order of any court or administrative body (whether state, local or federal) this Agreement shall have become void or unenforceable or impossible to perform in accordance with the intent and purposes of the parties as expressed in this Agreement.

To exercise such option, Lessees shall give written notice to Lessor and the Bondholder, and shall specify therein the date of closing such purchase, which date shall be not more than 60 days from the date such notice is mailed, and shall make arrangements satisfactory to Lessor for the giving of the required notice of redemption of the Bonds pursuant to the Mortgage, the date of such purchase. The purchase price which shall be paid by Lessees in the event of its exercise of the option granted in this Section shall be the sum of the following:

(1) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to retire and redeem all the then outstanding Bonds on the redemption date including, without limitation, principal, premium (if any) and accrued interest thereon to said redemption date, plus

(2) an amount of money equal to the Bondholder's, fees and expenses, including the reasonable fees of its counsel, under the Mortgage accrued and to accrue until such final payment and redemption of the Bonds.

In the event of the exercise of the option granted in this Section, any Net Proceeds of insurance or condemnation shall be paid to Lessees.

Section 11.3. Conveyance on Exercise of Option to Acquire Legal Title. At the closing of the purchase pursuant to the exercise of any option to acquire legal title granted herein, or upon payment in full of its obligations pursuant to Subsection 7.5(a), The Lessor will upon receipt of the purchase price deliver to the Lessees the following:

(a) If the Mortgage shall not at the time have been satisfied in full, a release from the Bondholder of the property being acquired.

(b) Documents conveying to the Lessees good and marketable title to the property being acquired, as such property then exists, subject to the following: (i) those liens and encumbrances (if any) to which title to said property was subject when conveyed to Lessor; (ii) those liens and encumbrances created by the Lessees or to the creation or suffering of which the Lessees consented; (iii) those liens and encumbrances resulting from the failure of Lessees to perform or observe any of the agreements on its part contained in this Agreement; (v) Permitted Encumbrances other than the Mortgage and this Agreement; and (v) the rights and title of the condemning authority with respect to Subsection 7.5(a) hereof.

Section 11.4. Option to Acquire Legal Title Upon Full Payment of the Bonds. The Lessees shall have and are hereby granted an option to purchase and acquire legal title to and the Lessor agrees to sell the Project at or at any time after the expiration or sooner termination of the Lease Term following full payment of the Bonds, including, without limiting the generality of the foregoing, principal, interest to maturity or earliest redemption date, as the case may be, and expenses of redemption (or provision for payment thereof having been made in accordance with the provisions of the Mortgage), for a price of ten dollars (\$10.00). The Lessees' election to exercise its option to acquire legal title must be evidenced by written notice to the Lessor.

Section 11.5. Renewal Options. So long as Lessees are not in default hereunder, following full payment of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Mortgage), The Lessees shall have and are hereby granted the option to extend this Agreement for six (6) successive renewal terms of one (1) year each for an annual rent of \$10,000 per year, payable upon demand by Lessor on the first business day of each year of the renewal terms and otherwise upon the terms, conditions, and provisions of this Agreement. The renewal options provided for herein shall be deemed automatically exercised by the Lessees (without requirements of any notice of exercise) unless 30 days prior to the end of the initial term or any renewal term the Lessees shall give the Lessor written notice by certified or registered mail (with or without return

receipt requested) that the Lessees do not elect to have the Lease Term extended beyond the then current initial or renewal term, or a subsequent renewal period.

ARTICLE XII

MISCELLANEOUS

Section 12.1. Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

City Lessee

City of Texarkana, Arkansas
216 Walnut Street
Texarkana, Arkansas 71854
Attention: City Manager

County Lessee

Miller County, Arkansas
Miller County Courthouse
400 Laurel Street
Texarkana, Arkansas 71854
Attention: County Judge

Lessor

City of Texarkana, Arkansas
Public Facilities Board
c/o City of Texarkana, Arkansas
216 Walnut Street
Texarkana, Arkansas 71854
Attention: City Manager

Bondholder

Farmers Bank and Trust Company
2900 St. Michael Drive
Texarkana, Texas 75503
Attention: President-Texarkana

A duplicate copy of each notice, certificate, or other communication given hereunder by either the Lessor or the Lessees to the other shall also be given to the Bondholder. The Lessor, the Lessees, and the Bondholder may, by notice given hereunder, designate any further or different address to which subsequent notices, certificates, or other communications shall be sent.

Section 12.2. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Lessor, the Lessees, and their respective successors and permitted assigns, subject, however, to the limitations contained in Sections 8.3, 9.1, and 9.2 hereof.

Section 12.3. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12.4. Amendments, Changes, and Modifications. Except as otherwise provided in this Agreement or in the Mortgage, subsequent to the initial issuance of Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Mortgage), this Agreement may not be effectively amended, changed, modified, altered, or terminated without the concurring written consent, of Bondholder, as provided in the Mortgage.

Section 12.5. Priority of Agreement. This Agreement (as it may be amended or supplemented pursuant to the provisions hereof), and the estate of Lessees hereunder are and shall continue to be subordinate and subject to the Mortgage (as it may be amended or supplemented).

Section 12.6. Execution Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

Section 12.7. Captions. The captions or headings of this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Agreement.

Section 12.8. Security Agreement; Recording and Filing.

(a) This Lease Agreement is also a security agreement under the Uniform Commercial Code of the State, and it is contemplated by the parties that a security interest in the rentals and other money due from Lessees to Lessor hereunder, and certain other interests of the Lessor, will be granted to the Bondholder pursuant to the Mortgage.

(b) This Lease Agreement or a memorandum thereof and the Mortgage shall be recorded in the Office of the Miller County Circuit Clerk and Recorder, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

(c) Lessees hereby agree to execute one or more fixture filings and financing statements and renewals thereof with respect to the security interests granted by this Lease Agreement and to file such statements or renewals thereof in any appropriate public office.

Section 12.9. Law Governing Construction of Agreement. This Agreement shall be governed by, and construed in accordance with, the laws of the State.

[Signature pages follow]

IN WITNESS WHEREOF, the parties have caused these presents to be executed as the date first above written.

**CITY OF TEXARKANA, ARKANSAS
PUBLIC FACILITIES BOARD**
Lessor

By: _____

ACKNOWLEDGMENT OF LESSOR

STATE OF ARKANSAS)
)ss.
COUNTY OF MILLER)

The undersigned, a Notary Public, does hereby certify that _____, whose name as Chairman of the City of Texarkana, Arkansas Public Facilities Board is signed to the foregoing Lease Agreement, and who is known to me and known to be such official, acknowledged before me on this day under oath that, being informed of the contents of the foregoing, he, in his capacities as such official and with full authority, executed and delivered the same voluntarily for and as the act of said Board as of the date the same bears.

GIVEN under my hand and seal of office, this ____ day of _____, 2020.

Notary Public

My Commission Expires:

[Signature Page of Lessor to Lease Agreement]

CITY OF TEXARKANA, ARKANSAS
City Lessee

By: _____
Allen Brown, Mayor

ACKNOWLEDGMENT OF CITY LESSEE

STATE OF ARKANSAS)
)ss.
COUNTY OF MILLER)

The undersigned, a Notary Public, does hereby certify that Allen Brown, whose name as Mayor, of the City of Texarkana, Arkansas is signed to the foregoing Lease Agreement, and who is known to me and known to be such official, acknowledged before me on this day under oath that, being informed of the contents of the foregoing, he in his capacity as such official and with full authority, executed and delivered the same voluntarily for and as the act of said City as of the date the same bears.

GIVEN under my hand and seal of office, this ____ day of _____, 2020.

Notary Public

My Commission Expires:

[Signature Page of City Lessee to Lease Agreement]

MILLER COUNTY, ARKANSAS
County Lessee

By: _____
Cathy Hardin Harrison, County Judge

ACKNOWLEDGMENT OF COUNTY LESSEE

STATE OF ARKANSAS)
)ss.
COUNTY OF MILLER)

The undersigned, a Notary Public, does hereby certify that Cathy Hardin Harrison, whose name as County Judge of Miller County, Arkansas is signed to the foregoing Lease Agreement, and who is known to me and known to be such official, acknowledged before me on this day under oath that, being informed of the contents of the foregoing, she, in her capacity as such official and with full authority, executed and delivered the same voluntarily for and as the act of said County as of the date the same bears.

GIVEN under my hand and seal of office, this ____ day of _____, 2020.

Notary Public

My Commission Expires:

[Signature Page of County Lessee to Lease Agreement]

EXHIBIT A

LEGAL DESCRIPTION OF PROJECT SITE

EXHIBIT B

Basic Rent Payment Schedule

Basic Rent Payment Date January 24	County Lessee Basic Rent Payment	City Lessee Basic Rent Payment	Total Basic Rent Payment
2022	\$62,500.00	\$306,845.84	\$369,345.84
2023	62,500.00	306,845.84	369,345.84
2024	62,500.00	306,845.84	369,345.84
2025	62,500.00	306,845.84	369,345.84
2026	62,500.00	306,845.84	369,345.84
2027	62,500.00	306,845.84	369,345.84
2028	62,500.00	306,845.84	369,345.84
2029	62,500.00	306,845.84	369,345.84
2030	62,500.00	306,845.84	369,345.84
2031	62,500.00	306,845.84	369,345.84
2032	62,500.00	306,845.84	369,345.84
2033	62,500.00	306,845.84	369,345.84
2034	62,500.00	306,845.84	369,345.84
2035	62,500.00	306,845.84	369,345.84
2036	62,500.00	306,845.84	369,345.84
2037	62,500.00	306,845.84	369,345.84
2038	62,500.00	306,845.84	369,345.84
2039	62,500.00	306,845.84	369,345.84
2040	62,500.00	306,845.84	369,345.84
2041	62,500.00	306,845.84	369,345.84
Total	\$1,250,000.00	\$6,136,916.80	\$7,386,916.80

*Basic Rent payments are due on or before two Business Days prior to the date set forth above.

INTERLOCAL ECONOMIC DEVELOPMENT COOPERATION AGREEMENT

This Interlocal Economic Development Cooperation Agreement (the “Agreement”), made and entered into as of the 22nd day of December, 2020 by and between the City of Texarkana, Arkansas Public Facilities Board (the “Lessor”) City of Texarkana, Arkansas (the “City”) and Miller County, Arkansas (the “County” and collectively the City and the County are referred to herein as the “Co-Lessees”).

WITNESSETH:

WHEREAS, the Co-Lessees and the Lessor (collectively referred to as the “Parties”) are each authorized, pursuant to Arkansas Code Annotated Section 25-20-102 *et seq.* to enter into interlocal cooperation agreements.

WHEREAS, the Quorum Court of Miller County, Arkansas and the Board of Directors of the City of Texarkana, Arkansas, by ordinance and the Board of the Lessor, by resolution have authorized the County Judge of the County, the Mayor of the City and the Chairman of the Lessor to enter into this Agreement.

WHEREAS, the Parties have determined it is a proper public purpose to encourage job creation, job expansion and economic development, and in furtherance of such purpose, the Parties desire to secure and develop industry in the County and near the City.

WHEREAS, in accordance with Article 12, Section 5 of the Constitution of the State of Arkansas, the Co-Lessees desire to contribute financially to the acquisition of land for a site especially suited for manufacturing, production and industrial facilities constituting infrastructure in connection with an economic development project (the “Land” or the “Project”).

WHEREAS, the Co-Lessees have requested the Lessor, and the Lessor proposes, to: (1) acquire the Land and finance such acquisition by issuance of its revenue bonds (the “Bonds”) ; (2) secure the “Bonds” by a first mortgage lien on the Land in favor of the bondholders; (3) lease of the Land to the Co-Lessees pursuant to a Lease Agreement to be entered into contemporaneously with the issuance of the Bonds (the “Lease”); and (4) grant an option to the Co-Lessees to purchase the Land at such time as the revenue bonds have been paid in full.

WHEREAS, subject to the limitations of Article 12, Section 4 of the Constitution of the State of Arkansas, the Co-Lessees will have joint financial obligations under the Lease and desire to enter into this Agreement in order to establish the manner and terms of such obligations, the manner and terms of their interests in the Land and the manner and terms regarding how the Land will be acquired, financed, held and disposed.

WHEREAS, the Co-Lessees and the Lessor desire to enter into this Agreement to establish the manner and terms of the joint financial undertaking related to the Project.

WHEREAS, the Co-Lessees desire to establish a joint board to administer this joint undertaking which will determine all matters relating to the Project.

WHEREAS, the form of this Agreement has been submitted to the Attorney General of the State of Arkansas who has determined this Agreement is proper form and compatible with the laws of the State of Arkansas.

NOW, THEREFORE IN CONSIDERATION OF THE MUTUAL COVENANTS OF THE PARTIES, IT IS AGREED AS FOLLOWS:

1. Duration. The duration of this Agreement shall constitute a perpetual relationship with an effective duration for so long as any of the Parties have property rights in the Land.
2. Joint Administrative Board. There is hereby created a Joint Administrative Board (the "Administrative Board") comprised of three standing members, including the County Judge of Miller County, Arkansas, the Mayor of the City of Texarkana, Arkansas, and the President and Chief Executive Officer of the AR-TX Regional Economic Development Inc. In the event any such office shall cease to exist, the entity it represents shall identify the successor officer. In all cases, the Co-Lessees shall be represented and each board member shall have an equal vote in all matters that come before the Administrative Board. The Administrative Board shall have the power to make all decisions relating to the Project and take all actions required under the Lease or otherwise relating to the Land, including but not limited to the selection of private industrial users and dispositions of any and all interests the Co-Lessees regarding the Land. The Administrative Board shall determine the relative financial contributions of each Co-Lessee under the Lease or for the operating and maintenance expenses of the Project (the "Sharing Ratio"). All actions taken by the Administrative Board shall be approved by a majority vote of its members.
3. Purposes. The joint undertakings under this Agreement shall be for the purposes of job creation, job expansion, and economic development within the County, the State of Arkansas, and within or near the City.
4. Financial Matters. The Lessor's Bonds shall be payable solely from the revenues derived from the Lease and shall be secured by a mortgage on the Land. The Co-Lessee's obligations under the Lease shall be subject to annual renewal by each Co-Lessee related to its fiscal year. The Administrative Board shall determine annually the pro-rata contribution of each Co-Lessee for the rentals under the Lease and other joint expenses related to the Project which are to be identified as the Sharing Ratio under the Lease.
5. Termination. The Administrative Board, by majority vote, may terminate this Agreement upon the later to occur of: (1) the payment in full of all amounts due on the Bonds; and (2) disposition of the Land.
6. The Land or any interests therein, including the Lease, shall be held jointly by the Co-Lessees, in the same proportions as their Sharing Ratio.

7. Severability. The provisions of this Agreement are declared to be severable. If any provision is held to be invalid or inapplicable to any person or circumstance, such holding shall not affect the validity or applicability of the remainder hereof.

AGREED as of the date first above written.

City of Texarkana, Arkansas

Allen Brown, Mayor

Miller County, Arkansas

Cathy Hardin Harrison, County Judge

City of Texarkana, Arkansas Public Facilities Board

Dr. Kenny Haskin, Chairman



CITY OF TEXARKANA, AR

BOARD OF DIRECTORS

AGENDA TITLE: Adopt an Ordinance authorizing the City Manager to purchase an ABI Force Z23 Infield Groomer Laser Grader for the Public Works Department Parks Division. (PWD) Adam Dalby, Sports Manager

An emergency clause is requested. An emergency clause requires a separate and distinct vote of the board and is valid only if there is a two-thirds vote of approval by the Board.

AGENDA DATE: 11/16/2020

ITEM TYPE: Ordinance Resolution Other : _____

DEPARTMENT: Public Works Department

PREPARED BY: Tracie Lee, Assistant Public Works Director

REQUEST: Purchase a purchase an ABI Force Z23 Infield Groomer Laser Grader for the Public Works Department Parks Division.

EMERGENCY CLAUSE: Yes

SUMMARY: The Public Works Department would like to purchase a purchase ABI Force Z23 Infield Groomer Laser Grader for the Public Works Department Parks Division in the amount of \$35,211.00 from Precise Machinery.

As the purchase is sole source for this type of equipment bids are not required.

Purchase from this source meets all purchasing requirements. Funds were budgeted and are available for the purchase of this equipment in the Parks A & P Allocation.

EXPENSE REQUIRED: \$35,211.00

AMOUNT BUDGETED: \$72,300.00

**APPROPRIATION
REQUIRED:** \$0.00

**RECOMMENDED
ACTION:** City Manager and staff recommend board approval.

EXHIBITS: Ordinance, Sole Source Verification and Quote from Precise Machinery.

ORDINANCE NO. _____

AN ORDINANCE WAIVING COMPETITIVE BIDDING; AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT TO PURCHASE A LASER GRADER AND TRAINING; FOR DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, the Public Works Department proposes that the City procure an ABI Force Z23 Infield Groomer Laser Grader from Precise Machinery, LLC, for use by such department and, in particular, the Parks Division of the same; and

WHEREAS, said equipment is technical and specialized in nature and no like product that performs the same purpose or function is known to be manufactured or offered; and

WHEREAS, Precise Machinery, LLC, holds the exclusive right, per restriction of the equipment manufacturer, to sell and distribute said equipment in Arkansas; and

WHEREAS, Precise Machinery, LLC, submitted a quote, dated October 27, 2020, and good until November 27, 2020, for said equipment in the amount of \$35,211.00, which includes a full day of training; and

WHEREAS, pursuant to Ark. Code Ann. §14-47-138, the Board of Directors may waive the requirements of competitive bidding in exceptional situations where competitive bidding is not feasible; and

WHEREAS, Section 2-72 of the *Texarkana Code of Ordinances*, recognizes that it may not be feasible to obtain bids in “purchases from ‘only sources[;]’” and

WHEREAS, Said Section 2-72 also recognizes that, “situations involving highly specialized equipment or professional services . . . , publicly advertised requests for bids may not be practical[.]” and provides that, “[i]n these cases, proposals may be requested from selected firms specializing in the particular good or service[;]” and

WHEREAS, for the reasons set out above, it is not feasible or practicable to engage in competitive bidding of said purchase and, moreover, Precise Machinery, LLC, constitutes the sole source of the equipment desired; and

WHEREAS, funds are budgeted and available; and

WHEREAS, in consideration of and for the reasons set forth above, the City Manager and the Public Works Department do request any applicable competitive bidding practices be waived as permitted and the Board approve the purchase of the equipment described above;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Texarkana, Arkansas that:

Section 1: Any competitive bidding practices that may be otherwise required by applicable law and ordinance are waived and the City Manager is authorized to enter into any agreement reasonably necessary carry out the purchase of the equipment and training described above, on the terms and conditions likewise so set out.

Section 2: This action being necessary for the preservation of the public peace, health and safety (including, without limitation, the need to complete the transaction prior to the November 27, 2020, expiration date of the pending quote), and a separate and distinct vote having been taken on this emergency clause, an emergency is therefore declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 16th day of November, 2020.

Allen Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

City Attorney



Quote

Billy Tucker
 2806-A Lawing Ln
 Rowlett TX 75088
 972-798-9918

Phone: (972) 877-8122
Email: btucker@precisemachinery.com

Acct. No.	Date	Quote #
PMC-14375786	10/27/2020	308957

Bill To
City of Texarkana AR PO Box 2711 Texarkana AR 71854 United States

Ship To
City of Texarkana AR 216 Walnut Street Texarkana AR 71854 United States

Sales Rep	Expected Delivery	Ship Via	Terms	Expires
85121 PMC Manager		UPS Freight LTL		11/27/2020

Item	Quant...	Description	SN	Unit Price	Total Price
10-99144	1	ABI Force z23slt "Laser Ready" w/Tweels		23,499.00	23,499.00
10-99029	1	Mini-Box Blade for ABI Force (Solid Edge)		399.00	399.00
10-99149	1	Stealth Blades for ABI Force (Set of 7, complete)		399.00	399.00
10-90165	1	VibraFlex 5' Infield Drag (Model 3800)		649.00	649.00
10-90253	1	Profile Blades For Rascal MVP & Force (Set of 2)		269.00	269.00
10-99140	1	7' Pro Finisher		599.00	599.00
10-90232	1	Mini-Scarifier "Tooth Bar" For ABI Force		269.00	269.00
KIT-EG1(F)	1	EG1 KIT		3,099.00	3,099.00
RL-SV2S DB 313990752	1	RL-SV2S PRO PACKAGE (W/LS80L DETECTOR, DRY BT KIT & REMOTE CONTROL)		2,390.00	2,390.00
210683-185	1	Extra Heavy Duty Elevating Tripod 34" to 119"		555.00	555.00
92042	1	CR-16FT INCHES LEVELING ROD		135.00	135.00
Assembly	1	Assemble & Setup, ABI Force		500.00	500.00
Training	1	Training, Full Day		800.00	800.00
10-99136	1	Infield Lip Edger System w/ Edge Cleanup Blade		949.00	949.00
UPS Freight LTL	1	UPS Freight LTL		700.00	700.00

We hereby agree to the purchase/rent of the items indicated herein, in accordance with the terms stated above and in accordance with the "Precise Machinery, LLC Terms and Conditions of Sale"				Total	\$35,211.00
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Signature

Date

Print Name



Precise Machinery Company, LLC
2806A Lawing Ln.
Rowlett, TX 75088

ABI Force Z23 Sole Source Document

January 1, 2020

To Whom It May Concern:

This letter is to confirm that the ABI Force Z23 is a sole source product, sold and distributed exclusively by Precise Machinery Company, LLC. No other company, makes a similar or competing product and is allowed to distribute the product in the States of Texas, Arkansas and Oklahoma.

This product must be purchased directly by institutions from Precise Machinery Company, LLC at the address listed above. There are no agents or dealers authorized to represent this product.

Additionally, competition is precluded by the existence of an agreement with the manufacturer, who has given us an exclusive right to market this product.

There is no other like item(s) or product(s) available for purchase that would serve the same purpose or function and there is only one price for the above named item or product because of exclusive distribution or marketing rights.

If you desire additional information, don't hesitate to contact me at (972) 877-8122 at any time or visit our website at www.precisemachinery.com. Thank you for your interest in our product(s).

I hope that this Sole Source Letter serves your needs and satisfies your requirements for the purchase of the ABI Force.

Sincerely,

A handwritten signature in black ink that reads "Billy F. Tucker".

Billy F. Tucker
General Manager
Precise Machinery, LLC.



CITY OF TEXARKANA, AR BOARD OF DIRECTORS

AGENDA TITLE: SECOND READING - Adopt an Ordinance repealing Ordinance No. H-123, as amended, modified, or codified, dissolving the Advertising and Promotion Commission of the City of Texarkana, Arkansas, and repealing the levy of corresponding gross receipts tax. (BOD) (This ordinance is sponsored by Director Steven Hollibush)

AGENDA DATE: November 16, 2020

ITEM TYPE: Ordinance Resolution Other : _____

DEPARTMENT: Board of Directors

PREPARED BY: Director Steven Hollibush

REQUEST: FIRST READING November 2, 2020. Request to repeal Ordinance No. H-123, as amended, modified, or codified, dissolving the Advertising and Promotion Commission of the City of Texarkana, Arkansas, and repealing the levy of corresponding gross receipts tax.

EMERGENCY CLAUSE: N/A

SUMMARY: Request to repeal Ordinance No. H-123, as amended, modified, or codified, dissolving the Advertising and Promotion Commission of the City of Texarkana, Arkansas, and repealing the levy of corresponding gross receipts tax.

EXPENSE REQUIRED: N/A

AMOUNT BUDGETED: N/A

**APPROPRIATION
REQUIRED:** N/A

**RECOMMENDED
ACTION:** This ordinance is sponsored by Director Steven Hollibush.

EXHIBITS: Ordinance

ORDINANCE NO. _____

AN ORDINANCE REPEALING THE CITY OF TEXARKANA, ARKANSAS, ORDINANCE NO. H-123, AS AMENDED, MODIFIED, OR CODIFIED, THUS, DISSOLVING THE ADVERTISING AND PROMOTION COMMISSION OF THE CITY OF TEXARKANA, ARKANSAS, AND REPEALING THE LEVY OF CORRESPONDING GROSS RECEIPTS TAX PURSUANT TO THE ARKANSAS ADVERTISING AND PROMOTION COMMISSION ACT; AND FOR OTHER PURPOSES

WHEREAS, pursuant to City of Texarkana, Arkansas, Ordinance No. H-123, the Board of Directors established an Advertising and Promotion Commission for the City of Texarkana, Arkansas, and levied a gross receipts tax, pursuant to the authority of the Arkansas “Advertising and Promotion Commission Act” (then authorized by Arkansas Act 185 of 1965 and Act 123 of 1963, and now appearing as Ark. Code Ann. Sec. 26-75-601, *et seq.*); and

WHEREAS, said Ordinance No. H-123, has since been amended and modified, from time to time, including, without limitation, by Ordinance No.’s H-521, H-528, K-213, K-289, K-322, K-340, K-477, L-276, M-45, 28-2017, and 18-2018 (and, as applicable, codified, including, without limitation, at *Texarkana, Arkansas, Code of Ordinances* Sections 25-16 through 25-22; Ordinance No. H-123, as has been amended, modified, or codified, hereinafter referred to as the “A&P Ordinances”); and

WHEREAS, the Board of Directors of the City of Texarkana, Arkansas, wishes to repeal the A&P Ordinances, effectuating the like dissolution of the Advertising and Promotion Commission for the City of Texarkana, Arkansas, created thereby, and the repeal of the levy of the gross receipts tax now existing under authority of the Arkansas Advertising and Promotion Commission Act.;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Texarkana, Arkansas, that:

Section 1. The A&P Ordinances are repealed in their entirety as of the effective date of this Ordinance.

Section 2. The Advertising and Promotion Commission for the City of Texarkana, Arkansas, is dissolved immediately upon the effective date of this Ordinance.

Section 3. The levying of the gross receipts tax pursuant to the A&P Ordinances and the Arkansas Advertising and Promotion Commission Act within the City of Texarkana, Arkansas, is repealed upon the effective date of this Ordinance.

Section 4. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of the Ordinance are hereby declared to be severable.

PASSED AND APPROVED this 16th day of November, 2020.

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

George Matteson, City Attorney