



## **Regular Meeting of the Board of Directors**

City of Texarkana, Arkansas

216 Walnut Street

**Agenda - Monday, April 05, 2021 - 6:00 PM**

Call to Order

Roll Call

Invocation and Pledge of Allegiance given by Director Barbara Miner

### **PRESENTATION**

Texarkana Water Utilities billing update given by Executive Director JD Phillips.

### **CONSENT**

1. Approval of the minutes of the regular meeting March 15, 2021. (CCD)
2. Adopt a Resolution to set the date for a public hearing to be held on April 19, 2021, concerning a request for a right-of-way abandonment for the undeveloped section on George Avenue. (PWD-Planning) City Planner Mary Beck
3. Adopt a Resolution to set the date for a public hearing to be held on April 19, 2021, concerning a request for a right-of-way abandonment for the undeveloped section on Marietta Street. (PWD-Planning) City Planner Mary Beck
4. Adopt a Resolution authorizing the City Manager to enter into a contract for the Millwood Water Treatment Plant Valve Replacement Project (TWU)
5. Adopt a Resolution for the purchase of a new fire pumper apparatus. (TAFD) Fire Chief David Fletcher
6. Adopt a Resolution to approve the 2021 Bi-State Justice Building (Bi-State) Budget and amend the General Fund Budget to include contribution to the Bi-State Fund. (FIN) Finance Director TyRohonda Henderson

### **REGULAR**

7. Adopt an Ordinance to rezone 3211 Preston Street from M-2 general manufacturing zone to R-4 medium density residential zone to develop dwellings. (PWD-Planning) City Planner Mary Beck
8. Adopt an Ordinance to rezone 1619 Lincoln Street from C-1 general retail commercial zone to R-4 medium density residential zone to develop dwellings. (PWD-Planning) City Planner Mary Beck

9. Adopt an Ordinance to amend the City of Texarkana, Arkansas Public Employee Retirement System (TAPERS) plan document. (FIN) TyRhonda Henderson

*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.*

#### **CITIZEN COMMUNICATION**

*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.*

*Be respectful of the Board of Directors, city staff, and the public by refraining from abusive conduct, personal charges, or verbal attacks.*

**NEXT MEETING DATE: Monday, April 15, 2021**

**ADJOURN**



## CITY OF TEXARKANA, AR BOARD OF DIRECTORS

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<b>AGENDA TITLE:</b>	Approval of the minutes of the regular meeting March 15, 2021. (CCD)
<b>AGENDA DATE:</b>	April 5, 2021
<b>ITEM TYPE:</b>	Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Other <input checked="" type="checkbox"/> : Minutes
<b>DEPARTMENT:</b>	City Clerk Department
<b>PREPARED BY:</b>	Heather Soyars, City Clerk

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<b>REQUEST:</b>	Approval of meeting minutes.
<b>EMERGENCY CLAUSE:</b>	N/A

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<b>SUMMARY:</b>	Approval of meeting minutes
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<b>EXPENSE REQUIRED:</b>	N/A
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<b>AMOUNT BUDGETED:</b>	N/A
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<b>APPROPRIATION REQUIRED:</b>	N/a
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<b>RECOMMENDED ACTION:</b>	The City Clerk recommends Board approval.
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<b>EXHIBITS:</b>	Meeting minutes.
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## **Regular Meeting of the Board of Directors**

City of Texarkana, Arkansas

216 Walnut Street

**Minutes - Monday, March 15, 2021 - 6:00 PM**

Mayor Brown called the meeting to order at 6:00 PM.

PRESENT: Mayor Allen Brown, Ward 1 Director Terry Roberts, Ward 2 Director Laney Harris, Assistant Mayor Ward 3 Director Steven Hollibush, Ward 4 Director Ulysses Brewer, Ward 5 Director Barbara Miner and Ward 6 Director Jeff Hart.

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

ABSENT: Deputy City Clerk Jenny Narens.

The Invocation and Pledge of Allegiance was given by Director Brewer.

### **CONSENT**

Director Harris requested item 2. Adopt a Resolution to accept the 2020 Audit Engagement Letter prepared by the accounting firm BKD, LLP. (FIN), be removed from the Consent agenda for discussion.

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

1. Approval of the minutes of the regular meeting March 1, 2021. (CCD)
3. Resolution No. 2021-14 appointed Dara Cornett to the Texarkana, Arkansas Public Employee Retirement System (TAPERS) Committee. (CCD)

### **REGULAR**

2. Resolution No. 2021-15 accepted the 2020 Audit Engagement Letter prepared by the accounting firm BKD, LLP. (FIN)

Director Harris said he wanted to save the City money by having the State Legislative Audit conduct the City audit. He said Texarkana, Arkansas schools and Miller County both use the State Audit.

Finance Director TyRhonda Henderson said the State would not provide a Comprehensive Annual Financial Report (CAFR) which was needed for grants, bond rating and to borrow funds.



Director Hart asked if the audit satisfied state and federal requirements.

Finance Director TyRhonda Henderson said yes. There were three separate fees in this audit. The one-year engagement increased 5% from 2019 to 2020, plus additional fees up to \$8,000 for the implementation of GASB 84 and \$5,000 for anticipated on major program audited under Uniform Guidance.

Mayor Brown asked if those services were available with the State Legislative Audit.

Finance Director TyRhonda Henderson said the State Legislative Audit would only be able to perform a portion of the audit, and the other portions would have to be done by different firms. She said it would be pieced together and complicated.

Director Brewer asked what the timeline was for submittal.

Finance Director TyRhonda Henderson said there would be a delay due to the cyber threat last year.

Director Miner made the motion to approve the resolution, Seconded by Director Brewer.

Voting Yea: Mayor Brown, Director Roberts, Assistant Mayor Hollibush, Director Brewer, Director Miner, and Director Hart.

Voting Nay: Director Harris.

The motion carried 6-1 and the Mayor declared the resolution adopted.

## **CITIZEN COMMUNICATION**

Mike Malone, Chamber of Commerce, announced the Chamber was hosting an interview with Congressman Bruce Westerman on Thursday, March 18, 2021. He said the Metropolitan Statistical Area deadline for comments would this Friday, March 19, 2021.

## **EXECUTIVE SESSION**

The Board entered Executive Session at 6:22 PM.

The Board reconvened at 6:50 PM.

No action was taken.

**NEXT MEETING DATE: Monday, April 5, 2021**

## **ADJOURN**

Motion to adjourn made by Director Hart, Seconded by Director Roberts.

Voting Yea: Mayor Brown, Director Roberts, Director Harris, Assistant Mayor Hollibush, Director Brewer, Director Miner, and Director Hart.

The meeting adjourned at 6:51 PM.

**APPROVED** this the 5<sup>th</sup> day of April, 2021.

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Allen L. Brown, Mayor

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Heather Soyars, City Clerk



## CITY OF TEXARKANA, AR BOARD OF DIRECTORS

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<b>AGENDA TITLE:</b>	Adopt a Resolution to set the date for a public hearing to be held on April 19, 2021, concerning a request for a right-of-way abandonment for the undeveloped section on George Avenue. (PWD-Planning) City Planner Mary Beck
<b>AGENDA DATE:</b>	04/05/2021
<b>ITEM TYPE:</b>	Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Other <input checked="" type="checkbox"/> : Set a public hearing date
<b>DEPARTMENT:</b>	Public Works/Planning
<b>PREPARED BY:</b>	Mary Beck

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<b>REQUEST:</b>	Set a date for a right of way abandonment hearing
<b>EMERGENCY CLAUSE:</b>	None requested

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<b>SUMMARY:</b>	Unused undeveloped dedicated right of way named George Avenue has been petitioned to vacate
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<b>EXPENSE REQUIRED:</b>	N/A
<b>AMOUNT BUDGETED:</b>	N/A
<b>APPROPRIATION REQUIRED:</b>	N/A

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<b>RECOMMENDED ACTION:</b>	Set a date of April 19, 2021, to adopt an ordinance to vacate George Avenue.
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<b>EXHIBITS:</b>	Memo to City Manager, petition, deeds, supporting documents for authorization of signatures.
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# RESOLUTION NO. \_\_\_\_\_

**WHEREAS**, Michael J. Martin and Rhonda G. Moses, being joined on the petition by adjacent property owners of Miller County Public Water District and ART MORTGAGE BORROWER PROPCO 2006-3 L. P., a Delaware limited partnership, have petitioned the City for a right-of-way abandonment of the undeveloped portion of George Avenue lying between Lot 6 of Block 1 and Lots 1 and 7 of Block 4 of the WESTBROOK SUBDIVISION of Texarkana, Miller County, Arkansas, and being approximately 30' in width and 193.3' in length, of approximately .1331 acres more or less and being shown on that plat recorded in Book MPB, Page 195, of the Real Estate and Plat Records Miller County, Arkansas;

**WHEREAS**, A.C.A. 14-301-301 to 14-301-306 provides for a public hearing prior to abandonment of public right-of-way; and

**WHEREAS**, the City Manager and staff recommend approval:

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the City of Texarkana, Arkansas, that a public hearing to receive comments regarding the petition to concerning the right-of-way abandonment is set for April 19, 2021.

**PASSED AND APPROVED** this 5<sup>th</sup> day of April, 2021.

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Allen L. Brown, Mayor

**ATTEST:**

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Heather Soyars, City Clerk

**APPROVED:**

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George Matteson, City Attorney



## CITY OF TEXARKANA ARKANSAS

### DEPARTMENT OF PUBLIC WORKS

216 WALNUT ST 71854-6024

P O BOX 2711 TEXARKANA ARKANSAS 75504-2711

PHONE (870) 779-4971 – FAX (870) 773-2395

## MEMORANDUM

**TO:** Dr. Kenny Haskin

**FROM:** Mary L. Beck, City Planner

**DATE:** March 12, 2021

**SUBJECT:** Board of Directors Agenda item for 04-05-2021 Vacating right-of-way (ROW) Petition by Michael J. Martin & Rhonda G. Moses, et.al., 3903 Genoa Road, Texarkana, AR 71854-9311 to abandon the remainder of George Avenue, a dedicated, unused, undeveloped street platted.

**LEGAL DESCRIPTION:** The remaining portion of George Avenue is 193.3' long, running west to east & 30' wide containing .133 acres more or less. The ROW ends at Stallion Drive. On the north side it borders Lot No. 6, block 1, WESTBROOK SUBDIVISION & a tract of land owned by Miller County Water district. On the south side it borders the north side of Lot No. 1 & Lot No. 7, Block 4, of the same subdivision.

**REASON FOR REQUEST:** The Right of Way (ROW) originally was platted as part of the WESTBROOK SUBDIVISION outside the City. Although most of the original subdivision was abandoned prior to annexation, part of it was amended into WESTBROOK REVISED SUBDIVISION that excluded the remainder of George Avenue and several lots. The initial petitioner has purchased land on both sides of the right of way and wants to utilize the land to construct two dwellings for their family use. Miller County Water District and Americold were invited to join the petition in order to avoid an orphaned portion of right of way.

**EXISTING LAND USES:** Site: ROW  
North: residential and Miller County Water District building  
East: vacant & residence  
South: vacant  
West: Americold refrigeration plant

**EXISTING ZONING:** Site: R-1 Rural residential  
North: R-1 Rural residential  
East: R-1 Rural residential  
South: R-1 Rural residential  
West: M-1 Limited manufacturing and R-1 Rural residential

**COMPATIBILITY WITH EXISTING ZONING:** The industrial plant located to the west of the ROW has been contacted to insure they would be a party to the petition for the abandonment and that it would not impact their access or operations. After consulting their legal department, the petition was signed by Jay Herron, their authorized representative. Attached is also an email from Wayne Bryant who sent a scan of the petition he signed as the Miller County Water District president after authorization by his board.

**UTILITIES & TRANSPORTATION NETWORK:**

This property is currently zoned R-1 Rural residential and has no utilities located in the ROW and there are no indications from records available it has ever been utilized nor is it now planned to be utilized for utility lines. It has never been developed as part of the transportation system and dead ends into Stallion Drive, a local street that is little used and is about four (4) blocks in length.

Responses from utility companies when asked if they objected to the abandonment request or requested an easement had no objections and no easements were requested:

**Miller County Water district** – NA (co-petitioner).

**Centerpoint Energy** – Brandon D. Brooks, November 30, 2020:  
*“We have nothing on that easement. We are good with the abandonment.”*

**AEP Swepco** – Cabe C. Bonner, December 10, 2020:  
*“I do not see any existing or future reason SWEPCO would object to abandoning the ROW.”*

**Windstream** – Michael A. Latham, February 22, 2021:  
*“I don’t see any issue with abandoning the ROW as we are not going to build FAC in that location.”*

**CableOne/Sparklight** – Rick Syphers, December 2, 2020:  
*“CableOne/Sparklight has no objection.”*

**TWU** – J.D. Phillips, December 1, 2020:

*“The piece of property that will be affected by the abandonment of George Avenue is owned by the Miller County Public Water Authority. Their president is Wayne Bryant.”*

## **CONFORMANCE WITH APPLICABLE ORDINANCES AND/OR STATE STATUTES:**

The *Arkansas Code of 1987 Annotated (14-56-422B)* requires the following – “All plans, recommended ordinances, and regulations shall be adopted through the following procedure for adoption of plans and regulations:

(1)

(A) The Planning Commission shall hold a public hearing on the plans, ordinances, and regulations proposed under this subchapter.

(B) Notice of public hearing shall be published in a newspaper of general circulation in the city, at least (1) time fifteen days prior to the hearing.

(2)

Following the public hearing, proposed plans may be adopted, and proposed ordinance and regulations may be recommended as presented, or in modified form, by a majority vote of the entire commission.

(3)

Following its adoption of plans and recommendation of ordinances and regulations, the commission shall certify adopted plans of recommended ordinances and regulations to the legislative body of the city for its adoption.

(4)

The legislative body of the city may return the plans and recommended ordinances and regulations to the commission for further study or rectification, or, by a majority vote of the entire membership, may, by ordinance or resolution, adopt the plans and recommended ordinances or regulations submitted by the commission. However, nothing in this subchapter shall be construed to limit the city board’s authority to recall the ordinances and resolutions by a vote of a majority of the council.

(5)

Following adoption by the legislative body, the adopted plans, ordinances, and regulations shall be filed in the office of the City Clerk. The City Clerk shall file, with the county recorder of the counties in which territorial jurisdiction is being exercised such plans, ordinances, and regulations as pertain to the territory beyond the corporate limits.

The required notice most recently was published in the Sunday, February 21, 2021 edition of the Texarkana Gazette.

ROW abandonments do not require additional notification as all adjacent property owners are petitioners.

**OPPOSITION:** None. The item has been tabled since December of 2020 and has been in legal notices that December, January and March and no opposition has been heard or indicated.

**PLANNING COMMISSION CERTIFICATION:**

The Planning Commission met on March 9, 2021 and certified recommendation to abandon the unused, remainder of George Avenue. On a motion by Mr. Smith, seconded by Mr. Coker, the motion passed 5-0 with no opposition. Two commissioners were absent.

Adger Smith, Chairman	yes
Anderson Neal, Vice Chairman	absent
George Coker	yes
Bertha Dunn	yes
Jason Dupree	yes
Randall Hickerson	absent
Boots Thomas	yes

**BOARD ACTION REQUESTED:**

The City Board is requested to:  
Set a date for a hearing on April 5, 2021.

Hold a public hearing April 19, 2021.

To abandon the ROW, the *Arkansas Code of 1987 Annotated* requires every ordinance to be read three times before adoption. These three readings may all occur at the same meeting or at the second and third subsequent meetings after the first reading of the ordinance.



# ABANDONMENT PETITION

Right-of-Way (Street, Alley, & Utility Easement)

COME (List names) Michael J. Martin, Rhonda G. Moses

Petitioner(s) herein, and for their Petition to secure the vacation of the following (street/alley/utility easement), to-wit (legal description of abandonment):

George Ave., 15 Stallion Dr, Blk 4 Lot 1  
= Blk 1 lot 6 alley

WHEREAS, Petitioner(s) would respectfully show the Board of Directors of the City of Texarkana, Arkansas the following:

WHEREAS, The above (street/alley/utility easement) has been dedicated by virtue of said property being platted and said plat being filed for record as provided by law in Book MPB, page 195, Records of Miller County, Arkansas.

WHEREAS, That the above (street/alley/utility easement) has not been used by the public for a period of five (5) years.

WHEREAS, That the (street/alley/utility easement) which Petitioner(s) seek(s) to vacate is shown on the attached copy of the plat filed in the Office of the County Recorder revealing the relevant portion(s) of said (street/alley/utility easement).

WHEREFORE, PREMISES CONSIDERED, Petitioner(s) pray(s) that the Board of Directors of the City of Texarkana, Arkansas, fix a day for the hearing of this petition, providing for notice of same in accordance with the laws of the State of Arkansas, and after such hearing vacate and abandon said (street/alley/utility easement).

X Rhonda G. Moses  
X Michael J. Martin  
Way Camp, MC PA

[Signature]

Petitioner(s)



George Avenue ROW petition to vacate  
Prepared by the Planning Division for reference only



PREPARED IN THE OFFICE OF:  
LANGDON ★ DAVIS  
Attorneys at Law  
625 Sam Houston  
New Boston, TX 75570

AFTER RECORDING, RETURN TO:  
MILLER COUNTY ABSTRACT  
405 Walnut St.  
Texarkana, AR 71854

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**WARRANTY DEED**

THE STATE OF ARKANSAS                    }  
  }    KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF MILLER                        }

THAT PATRICIA WALKER, a single person; BRIAN MICHAEL WALKER, also known as Brian Walker, joined herein by SARAH WALKER, his wife; NORA KATHLEEN HARKER, joined herein by DAVID HARKER, her husband; LAURA WALKER LeBLANC, A SINGLE PERSON; FRANK JEFFREY WALKER, a single person, and MARY JO WALKER BOYD, a single person, GRANTORS, for and in consideration of the sum of Ten Dollars (\$10.00), cash and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto MICHAEL J. MARTIN AND RHONDA G. MOSES, husband and wife, GRANTEES, and unto their heirs, successors and assigns forever, the following described lands located in the County of Miller State of Arkansas:

All of Lots Numbered Five (5) and Six (6) in Block Numbered One (1) and all of Lots Numbered One (1), Two (2) and the North Ninety-eight feet (N 98') of Lot Numbered Seven (7) in Block Numbered Four (4) of WESTBROOK SUBDIVISION, an Addition to the City of Texarkana, Miller County, Arkansas, according to the map or plat of record in Volume 74, Page 110, Plat Records of Miller County, Arkansas..

**Reservations from Conveyance:**

None

**Exceptions to Conveyance and Warranty:**

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing restrictions, reservations, covenants, conditions, oil and gas leases, mineral interests, and water interests outstanding in persons other than Grantors, and other instruments, other than conveyances of the surface fee estate, that affect the Property; validly existing rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements; and taxes for 2020, which Grantee assumes and agrees to pay, but not subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantors assume.

To have and to hold unto the Grantees, and unto their heirs, successors and assigns forever, with all tenements, appurtenances and hereditaments thereunto belonging.

And Grantors hereby covenant with the Grantees that they will forever warrant and defend the title to the lands against all lawful claims whatsoever.

And we GRANTORS, for and in consideration of the said sum of money, do hereby release and relinquish unto the said Grantees, and unto their heirs, successors and assigns forever, all our right and possibility of curtesy, dower and homestead in and to the above-described real property.

WITNESS our hands this 28 day of September 2020.

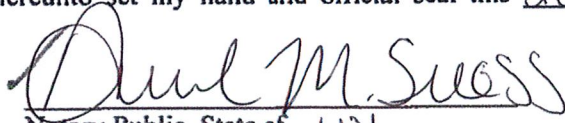
  
PATRICIA WALKER

ACKNOWLEDGMENT

STATE OF WIS }  
COUNTY OF DOOR }

On this 28 day of September, 2020, before me, Amanda Suess, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named PATRICIA WALKER, a single person, to me personally well known, or to me proven to be the persons therein stated, who stated and acknowledged that she had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 28 day of September, 2020.

  
Notary Public, State of WI  
Printed Name: Amanda Suess  
Commission Expires: 9-17-24



✓ Brian Michael Walker  
BRIAN MICHAEL WALKER

✓ Sarah Walker  
SARAH WALKER

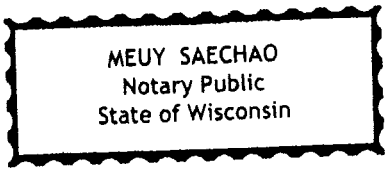
ACKNOWLEDGMENT

STATE OF Wisconsin ✓ }

COUNTY OF Milwaukee }

On this 7<sup>th</sup> day of October, 2020, before me, Meuy Saechao, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named BRIAN MICHAEL WALKER and SARAH WALKER, his wife, to me personally well known, or to me proven to be the persons therein stated, who stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 7<sup>th</sup> day of October, 2020.



✓ Meuy Saechao  
Notary Public, State of Wisconsin  
Printed Name: Meuy Saechao  
Commission Expires: My Commission Expires  
June 18, 2024

[Signature]  
NORA KATHLEEN HARKER

[Signature]  
DAVID HARKER

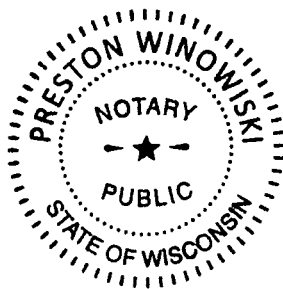
ACKNOWLEDGMENT

STATE OF Wisconsin / )

COUNTY OF Waukesha / )

On this 25<sup>th</sup> day of September, 2020, before me, Preston Winowiski, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named NORA KATHLEEN HARKER and DAVID HARKER, her husband, to me personally well known, or to me proven to be the persons therein stated, who stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 25<sup>th</sup> day of September, 2020.



[Signature]  
Notary Public, State of Wisconsin  
Printed Name: Preston Winowiski  
Commission Expires: May 28<sup>th</sup>, 2023

Laura Walker LeBlanc  
LAURA WALKER LeBLANC

ACKNOWLEDGMENT


STATE OF Louisiana )

COUNTY OF East Baton Rouge )

On this 30<sup>th</sup> day of September, 2020, before me, Penny G. McBee, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named LAURA WALKER LeBLANC, a single person, to me personally well known, or to me proven to be the persons therein stated, who stated and acknowledged that she had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 30<sup>th</sup> day of September, 2020.

Penny G. McBee  
Notary Public, State of Louisiana ID# 51874  
Printed Name: Penny G. McBee  
Commission Expires: upon my death



Frank Jeffrey Walker  
FRANK JEFFREY WALKER

ACKNOWLEDGMENT

STATE OF Louisiana }  
COUNTY OF East Baton Rouge }

On this 30<sup>th</sup> day of September, 2020, before me, Penny G. Mcbee, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named FRANK JEFFREY WALKER, a single person, to me personally well known, or to me proven to be the persons therein stated, who stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 30<sup>th</sup> day of September, 2020.

Penny G. Mcbee  
Notary Public, State of Louisiana 10151844  
Printed Name: Penny G. Mcbee  
Commission Expires: upon my death





Mary Jo Walker Boyd  
MARY JO WALKER BOYD

ACKNOWLEDGMENT

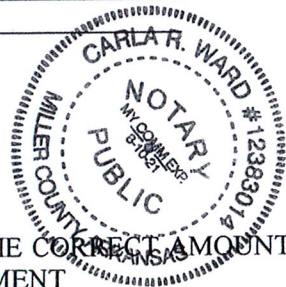
STATE OF Arkansas }

COUNTY OF Miller }

On this 9 day of Oct, 2020, before me, Carla R. Ward, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named MARY JO WALKER BOYD, a single person, to me personally well known, or to me proven to be the persons therein stated, who stated and acknowledged that she had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 9 day of Oct, 2020.

Carla R. Ward  
Notary Public, State of \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_



I/WE CERTIFY UNDER PENALTY OF FALSE SWEARING THAT THE CORRECT AMOUNT OF DOCUMENTARY STAMPS HAVE BEEN PLACED ON THIS INSTRUMENT

Carla R. Ward  
GRANTEE OR GRANTEE'S AGENT

203988ARA



\* 2 0 1 3 R 0 0 3 6 7 3 7 \*

2013R003673

MARY PANKEY  
MILLER COUNTY CIRCUIT CLERK  
TEXARKANA, AR  
RECORDED ON  
05/03/2013 01:51:13PM  
REC FEE: 45.00  
PAGES: 7

**WARRANTY DEED**

**KNOW ALL MEN BY THESE PRESENTS:**

That **ART MORTGAGE BORROWER PROPCO 2006-3 L.P.**, a Delaware limited partnership, hereinafter called **GRANTOR**, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt of which is hereby acknowledged does hereby grant, bargain, sell and convey unto **ART MORTGAGE BORROWER PROPCO 2013 LLC**, a Delaware limited liability company, hereinafter called **GRANTEE** the following described property and premises situated in Miller County, Arkansas, to-wit:

**[FOR LEGAL DESCRIPTION, SEE EXHIBIT "A" ATTACHED HERETO.]**

**TO HAVE AND TO HOLD** the same unto the said Grantee, with all privileges and appurtenances thereto belonging.

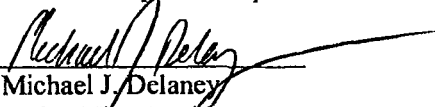
And the said **GRANTOR**, for itself, its successors and assigns, hereby covenant with said **GRANTEE**, that it is lawfully seized in fee of the aforegranted premises; that they are free from all encumbrances; that it has good right to sell and convey the same to the said **GRANTEE** as aforesaid, and that it, its successors and assigns, shall forever warrant and defend the title to the said lands against all claims whatsoever.

**TO HAVE AND TO HOLD** the above-described premises unto said **GRANTEE** and its successors and assigns forever, free and clear and discharged of from all former grants, charges, taxes, judgments, mortgages and other liens and encumbrances of whatsoever nature incurred by the **GRANTOR**.

[signature on following page]

WITNESS our hand and seal this 1<sup>st</sup> day of May, 2013.

ART Mortgage Borrower Propco 2006-3 L.P.,  
a Delaware limited partnership

By:   
Name: Michael J. Delaney  
Its: Executive Vice President

**ACKNOWLEDGEMENT**

STATE OF GEORGIA     )  
  )  
COUNTY OF FULTON    )

Before me, G. Elizabeth Magee, a Notary Public for the State of Georgia, personally appeared Michael J. Delaney, who is known to me to be the person signing the foregoing instrument as Executive Vice President of the entity identified, and who acknowledged to me that he executed this instrument for the purposes and consideration expressed therein.

GIVEN under my hand and seal of office this 19 day of May, 2013.

*G. Elizabeth Magee*  
Notary Public In and For the  
State of Georgia  
Print Name: G. Elizabeth Magee

My Commission Expires:

G Elizabeth Magee  
Notary Public  
DeKalb County, Georgia  
My Commission Expires 03/05/2017

"I certify under penalty of false swearing that documentary stamps or a documentary symbol in the legally correct amount has been placed on this instrument."

**This Instrument Prepared By:**  
**Rex M. Terry**  
**Hardin, Jesson & Terry, PLC**  
**5000 Rogers Avenue, Suite 500**  
**Fort Smith, AR 72903**

*Michael J. Delaney*  
\_\_\_\_\_  
Grantee or Grantees' Agent

**DIRECT TAX STATEMENT TO:**

Americold  
10 Glenlake Parkway, South Tower, Suite 800  
Atlanta, GA 30328

## Exhibit "A"

### Legal Description

All that certain tract or parcel of land situated in the Northeast Quarter (NE 1/4) of Section Thirty-Three (33), Township Fifteen (15) South, Range Twenty-Eight (28) West, Miller County, Arkansas, being more particularly described as follows: Beginning at an axle found for corner at the Northeast corner of the Northwest Quarter of the Northeast Quarter of said Section 33, said point being in a county road known as Tennessee Road;

Thence North 88 degrees 27 minutes 35 seconds West, along the North line of said Northwest Quarter of the Northeast Quarter of Section 33, 834.90 feet to a set 5/8 inch rebar for corner on the North and East right-of-way line of the St. Louis Southwestern Railway;

Thence South 44 degrees 23 minutes 52 seconds East, along said right-of-way line, 1130.27 feet to a set 5/8 inch rebar for corner at the beginning of a curve to the left;

Thence Southeasterly along said right-of-way line, same being a curve to the left having a radius of 4861.07 feet, a Delta angle of 10 minutes 00 seconds, a tangent length of 425.29 feet and a length of 848.42 feet to a set 5/8 inch rebar for corner on the South line of the Northeast Quarter of the Northeast Quarter of Section 33;

Thence South 88 degrees 36 minutes 18 seconds East, along the South line of said Northeast Quarter of the Northeast Quarter of Section 33, 508.73 feet to a found railroad spike for corner;

Thence North 01 degree 41 minutes 37 seconds East, 661.47 feet to a found iron pipe for corner;

Thence North 88 degrees 35 minutes 46 seconds West, 18.37 feet to a found iron pipe for corner;

Thence North 00 degrees 23 minutes 39 seconds East, 343.22 feet to a found iron pipe for corner;

Thence South 88 degrees 35 minutes 07 seconds East, 53.30 feet to a set 5/8 inch rebar for corner;

Thence North 00 degrees 23 minutes 39 seconds East, 146.20 feet to a set 5/8 inch rebar for corner;

Thence North 88 degrees 36 minutes 48 seconds West, 105.99 feet to a set 5/8 inch rebar for corner in a fence line on the East line of a certain tract of land owned by the City of Texarkana, Arkansas;

Thence South 00 degrees 02 minutes 17 seconds East, along the East boundary line of said tract, same being a fence line, 8.09 feet to a set 5/8 inch rebar for corner at a fence corner, same being the Southeast corner of the above stated city tract;

Thence North 89 degrees 25 minutes 48 seconds West, along the South boundary line of said city tract, same being a fence line, 107.25 feet to a set 5/8 inch rebar for corner at fence corner, same being the Southwest corner of the above stated city tract;

Thence North 00 degrees 23 minutes 39 seconds East, along the West boundary line of the above stated city tract, same being a fence line, 155.81 feet to a set 5/8 inch rebar for corner at a fence corner, same being the Northwest corner of the above stated city tract, same being the South right-of-way line of Tennessee Road;

Thence North 88 degrees 38 minutes 27 seconds West, along the South right-of-way line of Tennessee Road, 954.44 feet to a set 5/8 inch rebar for corner on the East boundary line of the Northwest Quarter of the Northeast Quarter of Section 33;

Thence North 00 degrees 16 minutes 55 seconds East, along the East boundary line of the Northwest Quarter of the Northeast Quarter of Section 33, 25.00 feet to the Point of Beginning. Containing 37.5639 acres of land, more or less.

Save and Except:

Part of the Northeast Quarter of the Northeast Quarter of Section 33, Township 15 South, Range 28 West, Miller County, Arkansas, more particularly described as follows:

Commencing at a 3/8 inch iron pin being used as the Quarter Corner of Sections 33 and 34, Township 15 South, Range 28 West;

Thence North 02° 06' 09" East along the East line of the East Half of the Northeast Quarter of Section 33 a distance of 1348.12 feet to a point on the Northerly prescriptive right of way line of Arkansas State Highway 196 as established by AHTD Affidavit dated February 22, 2007;

Thence North 86° 51' 18" West along said right of way line a distance of 95.99 feet to a point;

Thence North 86° 35' 38" West along said right of way line a distance of 53.84 feet to a point;

Thence North 86° 32' 24" West along said right of way line a distance of 40.40 feet to a point;

Thence North 86° 23' 35" West along said right of way line a distance of 3.57 feet for the Point of Beginning;

Thence continuing North 86° 23' 35" West along said right of way line a distance of 72.87 feet to a point;

Thence North 76° 47' 12" West along said right of way line a distance of 91.29 feet to a point;

Thence North 86° 18' 30" West along said right of way line a distance of 63.80 feet to a point;

Thence North 83° 22' 22" West along said right of way line a distance of 19.53 feet to a point;

Thence North 87° 50' 19" West along said right of way line a distance of 38.99 feet to a point;

Thence South 86° 16' 07" West along said right of way line a distance of 91.95 feet to a point;

Thence South 75° 16' 35" West along said right of way line a distance of 13.88 feet to a point;

Thence South 53° 50' 37" West along said right of way line a distance of 67.48 feet to a point on the South line of the Northeast Quarter of the Northeast Quarter of Section 33;

Thence North 87° 37' 16" West along said South line a distance of 74.90 feet to a point on the Northeasterly right of way line of Union Pacific Railroad;

Thence in a Northwesterly direction along said right of way line on a curve to the right having a radius of 4861.15 feet a distance of 114.70 feet having a chord bearing of North 52° 37' 00" West a distance of 114.69 feet to a point on the Northerly right of way line of Arkansas State Highway 196 as established by AHTD Job 030321;

Thence South 86° 36' 36" East along said right of way line a distance of 328.28 feet to a point;

Thence South 86° 39' 22" East along said right of way line a distance of 283.05 feet to a point;

Thence South 02° 45' 05" West a distance of 20.81 feet to the Point of Beginning and containing 0.33 acres, more or less as shown on plans prepared by the AHTD referenced as Job 030321.

And save and except:

All that certain lot, tract or parcel of land lying and situated in the NE1/4 of the NE1/4, Section 33, Township 15 South, Range 28 West, Miller County, Arkansas, being a part of that certain tract of land described in the deed from Art Mortgage Borrower, L.P., a Delaware limited partnership to Art Mortgage Borrower Propco 2006-3, L.P., a Delaware limited partnership, dated December 8, 2006, recorded in Book 2006, Page 8529 of the Deed Records of Miller County, Arkansas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point for a corner, which bears South 03 degrees 40 minutes 16 seconds East a distance of 3.26 feet from a 1 inch steel bolt found for a reference, an outside ell corner of the said Art tract, the Southeast corner of Lot No. 7, Block No. 1 of the Westbrook Subdivision, according to the plat recorded in Book 74, Page 110 of the Plat Records of Miller County, Arkansas, the Southwest corner of Lot No. 3,

Block No. 1 of the said Subdivision, and the Northwest corner of Lot No. 4, Block No. 1 of the said Subdivision, said corner bears South 88 degrees 50 minutes 03 seconds East a distance of 157.16 feet and North 02 degrees 07 minutes 03 seconds East a distance of 171.22 feet to a pk spike found for the Northeast corner of the said Section 33;

THENCE South 01 degrees 48 minutes 38 seconds West at a distance of 142.95 feet passing a 5/8 inch steel rod found for a reference, continuing in all a distance of 146.21 feet along the East line of the said Art tract, the West line of the said Lot No. 4, Block No. 1, the West line of Lot No. 5, Block No. 1 of the said Subdivision, and the West line of Lot No. 6, Block No. 1 of the said Subdivision to a point for a corner, lying in the North right-of-way line of George Avenue, an outside ell corner of the said Art tract, the Southwest corner of the said Lot No. 6, Block No. 1;

THENCE North 88 degrees 50 minutes 03 seconds West a distance of 114.21 feet along the North right-of-way line of the said George Avenue and the South line of the said Art tract to a point for a corner;

THENCE North 00 degrees 14 minutes 15 seconds West a distance of 142.49 feet to a point for a corner, at an angle point, lying in the North line of the said Art tract;

THENCE North 89 degrees 45 minutes 45 seconds East a distance of 13.00 feet along the North line of the said Art tract to a 1/2 inch steel rod found for a corner, at an angle point, an inside ell corner of the said Art tract;

THENCE North 00 degrees 52 minutes 52 seconds East a distance of 3.44 feet along the West line of the said Art tract to a point for a corner, an outside ell corner of the said Art tract, the Southeast corner of Lot No. 9, Block No. 1 of the said Subdivision, the Southwest corner of Lot No. 8, Block No. 1 of the said Subdivision;

THENCE South 88 degrees 50 minutes 03 seconds East a distance of 106.37 feet along the North line of the said Art tract, the South line of the said Lot No. 8, Block No. 1 of the said Subdivision, and the South line of Lot No. 7, Block No. 1 of the said Subdivision to the point of beginning and containing 0.391 acres of land, at the time of this survey.

The bearings are based on grid North within the "Arkansas Coordinate System of 1983, South Zone", NAD83 (CORS96, epoch 2002.0), at the surface, with a bearing of South 87 degrees 36 minutes 19 seconds East.

This description is based on the survey and plat made by Mike Gardner, Professional Land Surveyor No. 1537, on April 11, 2013.



\* 2 0 1 3 R 0 0 3 3 7 6 4 \*

2013R003376

MARY PANKEY  
MILLER COUNTY CIRCUIT CLERK  
TEXARKANA, AR

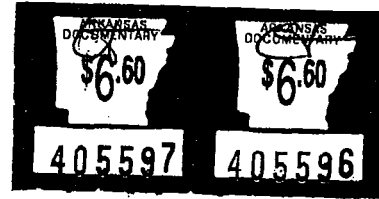
RECORDED ON  
04/23/2013 01:40:54PM

REC FEE: 30.00

PAGES: 4

This instrument prepared by:

**R. Gary Nutter**  
Dunn Nutter & Morgan, LLP  
3601 Richmond Road  
Texarkana, Texas 75503-0716  
Telephone: 903-793-5651  
Telecopier: 903-794-5651  
Email: rgnutter@dnmlawfirm.com



## WARRANTY DEED

STATE OF ARKANSAS     §  
  §  
COUNTY OF MILLER    §

**KNOW ALL MEN BY THESE PRESENTS:**

That **ART Mortgage Borrower Propco 2006-3, LP**, hereinafter called **Grantor**, for the consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash and other good and valuable consideration to **Grantor** in hand paid by **Miller County Public Water Authority**, hereinafter called **Grantee**, the receipt of which is hereby acknowledged and confessed;

**Grantor** has **GRANTED, SOLD, and CONVEYED**, and by these presents does **GRANT, SELL, and CONVEY** unto **Grantee**, all of that certain tract or parcel of land lying and being situated in the County of Miller and State of Arkansas, to-wit:



Main Tract, with 0.391 Acres  
Miller County, Arkansas

All that certain lot, tract or parcel of land lying and situated in the NE1/4 of the NE1/4, Section 33, Township 15 South, Range 28 West, Miller County, Arkansas, being a part of that certain tract of land described in the deed from Art Mortgage Borrower, L.P., a Delaware limited partnership to Art Mortgage Borrower Propco 2006-3, L.P., a Delaware limited partnership, dated December 8, 2006, recorded in Book 2006, Page 8529 of the Deed Records of Miller County, Arkansas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point for a corner, which bears South 03 degrees 40 minutes 16 seconds East a distance of 3.26 feet from a 1 inch steel bolt found for a reference, an outside ell corner of the said Art tract, the Southeast corner of Lot No. 7, Block No. 1 of the Westbrook Subdivision, according to the plat recorded in Book 74, Page 110 of the Plat Records of Miller County, Arkansas, the Southwest corner of Lot No. 3, Block No. 1 of the said Subdivision, and the Northwest corner of Lot No. 4, Block No. 1 of the said Subdivision, said corner bears South 88 degrees 50 minutes 03 seconds East a distance of 157.16 feet and North 02 degrees 07 minutes 03 seconds East a distance of 171.22 feet to a pk spike found for the Northeast corner of the said Section 33;

THENCE South 01 degrees 48 minutes 38 seconds West at a distance of 142.95 feet passing a 5/8 inch steel rod found for a reference, continuing in all a distance of 146.21 feet along the East line of the said Art tract, the West line of the said Lot No. 4, Block No. 1, the West line of Lot No. 5, Block No. 1 of the said Subdivision, and the West line of Lot No. 6, Block No. 1 of the said Subdivision to a point for a corner, lying in the North right-of-way line of George Avenue, an outside ell corner of the said Art tract, the Southwest corner of the said Lot No. 6, Block No. 1;

THENCE North 88 degrees 50 minutes 03 seconds West a distance of 114.21 feet along the North right-of-way line of the said George Avenue and the South line of the said Art tract to a point for a corner;

THENCE North 00 degrees 14 minutes 15 seconds West a distance of 142.49 feet to a point for a corner, at an angle point, lying in the North line of the said Art tract;

THENCE North 89 degrees 45 minutes 45 seconds East a distance of 13.00 feet along the North line of the said Art tract to a 1/2 inch steel rod found for a corner, at an angle point, an inside ell corner of the said Art tract;

THENCE North 00 degrees 52 minutes 52 seconds East a distance of 3.44 feet along the West line of the said Art tract to a point for a corner, an outside ell corner of the said Art tract, the Southeast corner of Lot No. 9, Block No. 1 of the said Subdivision, the Southwest corner of Lot No. 8, Block No. 1 of the said Subdivision;

THENCE South 88 degrees 50 minutes 03 seconds East a distance of 106.37 feet along the North line of the said Art tract, the South line of the said Lot No. 8, Block No. 1 of the said Subdivision, and the South line of Lot No. 7, Block No. 1 of the said Subdivision to the point of beginning and containing 0.391 acres of land, at the time of this survey.

The bearings are based on grid North within the "Arkansas Coordinate System of 1983, South Zone", NAD83 (CORS96, epoch 2002.0), at the surface, with a bearing of South 87 degrees 36 minutes 19 seconds East.

This description is based on the survey and plat made by Mike Gardner, Professional Land Surveyor No. 1537, on April 11, 2013.

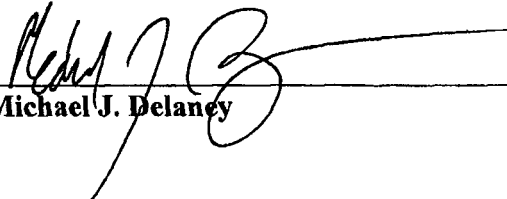
This conveyance is further made and accepted subject to all restrictions, reservations, covenants, conditions, rights of way and easements now of record, if any, in Miller County, Arkansas, affecting the above described property.


**TO HAVE AND TO HOLD** the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said **Grantee**, and **Grantor** does hereby bind itself, its successors, and assigns, to warrant and forever defend all and singular the said premises unto **Grantee**, against every person or entity whomsoever lawfully claiming or to claim the same or any part thereof.

And **ART Mortgage Borrower Propco 2006-3, LP**, for the consideration aforesaid, does hereby release, relinquish, and quitclaim unto **Grantee**, all of its rights of dower, curtesy, and homestead in and to the said land.

**EXECUTED** this 12<sup>th</sup> day of April, 2013.

**ART MORTGAGE BORROWER PROPCO 2006-3, LP**

By:   
Michael J. Delaney

Attest:  
  
Daniel C. Deckbar

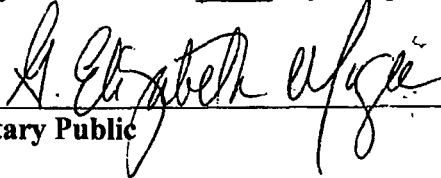
STATE OF GEORGIA  
COUNTY OF FULTON

\*  
\*  
\*

**ACKNOWLEDGMENT**

On this day, before me, the undersigned, a Notary Public, duly commissioned, qualified, and acting, within and for said County and State, appeared in person the within named **Michael J. Delaney** and **Daniel C. Deckbar**, to me personally well known, who stated that they were the Executive Vice President & Secretary and Vice President of **ART Mortgage Borrower Propco 2006-3, LP**, a Delaware limited partnership, and were duly authorized in their respective capacities to execute the annexed and foregoing Warranty Deed for and in the name and behalf of said limited partnership, and further stated and acknowledged that they had so signed, executed, and delivered said foregoing Warranty Deed for the consideration, uses, and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public on this 12<sup>th</sup> day of April, 2013.

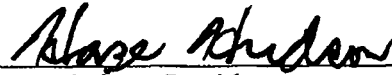
  
\_\_\_\_\_  
Notary Public

My Commission Expires:

**G Elizabeth Magee**  
Notary Public  
DeKalb County, Georgia  
My Commission Expires 03/05/2017

I hereby certify, under penalty of false swearing, that at least the correct amount of revenue stamps have been placed on this instrument prior to recording.

**Miller County Public Water Authority, Grantee**

By:   
\_\_\_\_\_  
Haze Hudson, President  
2906 Grand Avenue  
Texarkana, Arkansas 71854

**ARK-Beck, Mary**

---

**From:** Wayne Bryant <waybry@yahoo.com>  
**Sent:** Friday, February 12, 2021 2:27 PM  
**To:** ARK-Beck, Mary  
**Cc:** markwurtele@gmail.com  
**Subject:** Abandonment  
**Attachments:** Texarkana ROW Surrender Petition 12-3-2020.pdf

CAUTION: This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sent from my iPad. MCPWA has no problem with the abandonment of easement. Wayne Bryant , President of MCPWA

## ARK-Beck, Mary

---

**From:** TWU-Phillips, JD  
**Sent:** Tuesday, December 1, 2020 1:33 PM  
**To:** ARK-Beck, Mary  
**Cc:** TWU-Smith, Gary  
**Subject:** George Avenue Abandonment

Mary,

The piece of property that will be affected by the abandonment of George Avenue is owned by the Miller County Public Water Authority. Their president is Wayne Bryant.

Wayne's phone numbers are: Cell – 903-826-4497  
Work – 870-772-1511  
Home – 870-653-3655

Thanks,  
JD

## ARK-Beck, Mary

---

**From:** Brooks, Brandon D <Brandon.Brooks@centerpointenergy.com>  
**Sent:** Monday, November 30, 2020 9:43 AM  
**To:** ARK-Beck, Mary; Engelkes, Diane L.; Watkins, Ronnie M  
**Subject:** RE: [External Email] Undeveloped George Avenue

CAUTION: This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

We have nothing on that easement. We are good with the abandonment.

## ARK-Beck, Mary

---

**From:** ARK-Beck, Mary  
**Sent:** Thursday, December 10, 2020 11:55 AM  
**To:** Cabe C Bonner  
**Subject:** Re: ROW petition to abandon

Thank you.

---

**From:** Cabe C Bonner <ccbonner@aep.com>  
**Sent:** Thursday, December 10, 2020 11:45 AM  
**To:** ARK-Beck, Mary <mbeck@txkusa.org>  
**Cc:** Dusty Wiley <dwwiley@aep.com>  
**Subject:** RE: ROW petition to abandon

CAUTION: This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mary,

I completely forgot to get back with you and I apologize for the delayed response. I took a look at the area in question and do not see any existing or future reason that SWEPCO would object to abandoning the ROW.

Thanks

**From:** ARK-Beck, Mary <mbeck@txkusa.org>  
**Sent:** Wednesday, December 2, 2020 9:58 AM  
**To:** Cabe C Bonner <ccbonner@aep.com>  
**Subject:** [EXTERNAL] ROW petition to abandon

This is an **EXTERNAL** email. **STOP. THINK** before you **CLICK** links or **OPEN** attachments. If suspicious please click the '**Report to Incidents**' button in Outlook or forward to [incidents@aep.com](mailto:incidents@aep.com) from a mobile device.

Good morning Cabe,

Please respond regarding any existing equipment in the undeveloped ROW shown on the attachment or plans for future use and whether Swepeco has objections to the petition or requests. The location is shown on the attached map section and off the west side of Stallion Drive on the east side of the Americold Plant.

Warm regards,  
Mary

## ARK-Beck, Mary

---

**From:** Latham, Michael A <Michael.A.Latham@windstream.com>  
**Sent:** Monday, February 22, 2021 3:27 PM  
**To:** Jackson, Chris L  
**Cc:** ARK-Beck, Mary  
**Subject:** RE: ROW abandonment request

**CAUTION:** This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I don't see any issue with abandoning the ROW as we are not going to build FAC in that location.

Thanks

Michael Latham  
Network Technician-Operations  
903-791-3107 office  
903-748-1824 mobile  
michael.a.latham@windstream.com



507 Olive St  
Texarkana, TX, 75501  
[windstream.com](http://windstream.com)

Sensitivity: Internal

**From:** Jackson, Chris L <Chris.Jackson@windstream.com>  
**Sent:** Monday, February 22, 2021 11:12 AM  
**To:** Latham, Michael A <Michael.A.Latham@windstream.com>  
**Cc:** ARK-Beck, Mary <mbeck@txkusa.org>  
**Subject:** FW: ROW abandonment request

Good morning Mary,

I hope things are getting back to normal for y'all downtown. I'm still around but I don't cover the Arkansas side anymore. Michael Latham is now the engineer for us over Texarkana, AR. I've got his email above for you. I don't think we will have any issues abandoning the right of way attached, but I'll let Michael ok it. You can keep me on the email list in case Michael is on vacation or can't get back with you on future issues.

Thanks,

*Chris Jackson*

Engineer/OPT OSP Design Engineering



## ARK-Beck, Mary

---

**From:** Syphers, Rick <Donald.Syphers@sparklight.biz>  
**Sent:** Wednesday, December 2, 2020 8:55 AM  
**To:** ARK-Beck, Mary  
**Subject:** RE: Abandonment of undeveloped George Avenue request

**CAUTION:** This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Cableone/Sparklight has no objection. Deandrea is no longer with Swepeco may want to reach out to Cabe Bonner 903-223-5721

**From:** ARK-Beck, Mary <mbeck@txkusa.org>  
**Sent:** Monday, November 30, 2020 12:05 PM  
**To:** TWU-Smith, Gary <gsmith@txkusa.org>; Deandrea D Perez <ddperez1@aep.com>; Syphers, Rick <Donald.Syphers@sparklight.biz>; Jackson, Chris <Chris.Jackson@windstream.com>  
**Cc:** ARK-Richards, Tyler <Tyler.Richards@txkusa.org>  
**Subject:** Abandonment of undeveloped George Avenue request

**CAUTION:** External source. THINK BEFORE YOU CLICK!

Good afternoon,

Please find attached maps for a request to abandon the platted, undeveloped section of George Avenue off Stallion Drive, South of Tennessee Road, north of Genoa Road adjacent to the Americold Plant. Please advise of any opposition or easement needs regarding this request for abandonment.

This request may or may not go forward based on other factors but we are requesting all input that is relevant.

Warm regards,  
Mary



## CITY OF TEXARKANA, AR BOARD OF DIRECTORS

---

<b>AGENDA TITLE:</b>	Adopt a Resolution to set the date for a public hearing to be held on April 19, 2021, concerning a request for a right-of-way abandonment for the undeveloped section on Marietta Street. (PWD-Planning) City Planner Mary Beck
<b>AGENDA DATE:</b>	04/05/2021
<b>ITEM TYPE:</b>	Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Other <input checked="" type="checkbox"/> : Set a public hearing date
<b>DEPARTMENT:</b>	Public Works/Planning
<b>PREPARED BY:</b>	Mary Beck

---

<b>REQUEST:</b>	Set a date for a right of way abandonment hearing
<b>EMERGENCY CLAUSE:</b>	None requested

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<b>SUMMARY:</b>	Unused undeveloped dedicated right of way named Marietta Street has been petitioned to vacate
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<b>EXPENSE REQUIRED:</b>	N/A
<b>AMOUNT BUDGETED:</b>	N/A
<b>APPROPRIATION REQUIRED:</b>	N/A

---

<b>RECOMMENDED ACTION:</b>	Set a date of April 19, 2021, to adopt an ordinance to vacate Marietta Street
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<b>EXHIBITS:</b>	Memo to City Manager, petition, deeds, supporting documents for authorization of signatures.
------------------	--

# RESOLUTION NO. \_\_\_\_\_

**WHEREAS**, Walter Street Church of Christ Church, CO Johnnie Hamilton, and James Washington have petitioned the City for a right-of-way abandonment of a portion of Marietta Street a dedicated right-of-way (ROW) located on the north side of Block 1, Lots 1-7, CUCKLOR'S 3<sup>RD</sup> SUBDIVISION that lies south of Miller County parcel (00336500), that is the PT E/2, E/2, NW, NE, Section 19, Township 15S, Range 28W, Texarkana, Miller County, Arkansas; and

**WHEREAS**, the section of ROW is two hundred ninety-four point seven feet (294.7') long by forty feet (40') wide containing .270 acres more or less, and

**WHEREAS**, A.C.A. 14-301-301 to 14-301-306 provides for a public hearing prior to abandonment of public right-of-way; and

**WHEREAS**, the City Manager and staff recommend approval;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the City of Texarkana, Arkansas, that a public hearing to receive comments regarding the petition to concerning the right-of-way abandonment is set for April 19, 2021.

**PASSED AND APPROVED** this 5<sup>th</sup> day of April, 2021.

---

Allen L. Brown, Mayor

**ATTEST:**

---

Heather Soyars, City Clerk

**APPROVED:**

---

George Matteson, City Attorney



## CITY OF TEXARKANA ARKANSAS

### DEPARTMENT OF PUBLIC WORKS

216 WALNUT ST 71854-6024

P O BOX 2711 TEXARKANA ARKANSAS 75504-2711

PHONE (870) 779-4971 – FAX (870) 773-2395

## MEMORANDUM

**TO:** Dr. Kenny Haskin

**FROM:** Mary L. Beck, City Planner

**DATE:** March 12, 2021

**SUBJECT:** Board of Directors Agenda item for 04-05-2021 **Vacating right-of-way (ROW)** - Petition by Walter Street Church of Christ, CO Barbara Washington, 6902 Shadowbrook, Texarkana, TX 75503-5444, to vacate the unused, undeveloped portion of Marietta Street that dead ends into an unplatted parcel.

**LEGAL DESCRIPTION:** A portion of Marietta Street dedicated right-of-way (ROW) located on the north side of Block 1, Lots 1-7, CUCKLOR'S 3<sup>RD</sup> SUBDIVISION and lies south of Miller County parcel (00336500), that is PT E/2, E/2, NW, NE, Section 19, Township 15S, Range 28W, Texarkana, Miller County, Arkansas. The section of ROW is two hundred ninety-four point seven feet (294.7') long by forty feet (40') wide containing .270 acres more or less.

**REASON FOR REQUEST:** The Walter Street Church has purchased or otherwise obtained property on either side of the ROW and wishes to join the properties for future development.

**EXISTING LAND USES:** Site: none  
North: vacant building owned by the petitioner  
East: developed Marietta Street  
South: vacant land owned by the petitioner  
West: vacant undeveloped land

**EXISTING ZONING:** Site: R-2 Single family residential  
North: R-2 Single family residential  
East: R-2 Single family residential  
South: R-2 Single family residential  
West: R-2 Single family residential



*Explore and Enjoy Our Heritage*

[www.arkansas.txkusa.org](http://www.arkansas.txkusa.org)

**COMPATIBILITY  
WITH EXISTING  
ZONING:**

This ROW is one block south of 9<sup>th</sup> Street, Hwy 82 and is shown on the long-term comprehensive plan of 1988 as single-family residential on the north side and land for public use on the south side. The neighborhood is older residential homes with smaller lots although the current zoning calls for larger tracts of land. Although Marietta Street could be built over unplatted adjacent land by the property owner of that land in order to connect up with another portion of Marietta to the west, there is no indication this is to be expected in the near or even long term. There is no indication there would be any discernable impact of vacating this undeveloped street except a positive outcome of freeing up property for use by the adjacent owners.

**UTILITIES & TRANSPORTATION NETWORK:**

Responses from utility companies when asked if they objected to the abandonment request or requested an easement indicate no objections to abandonment and easements of 15' requested from the center of existing Windstream poles and lines; and, Sparklight equipment on the corner of Ray Street:

**TWU** – Gary L. Smith, February 16, 2021:

*“1) The utility has no water or sewer lines in this section of Marietta Street.  
2) The utility does not oppose abandonment of this section of ROW.”*

**Centerpoint Energy** – Brandon D. Brooks, February 19, 2021:

*“Centerpoint Energy has no facilities at the location. We are good (with the abandonment).”*

**AEP Swepco** – Cabe C. Bonner, March 1, 2021:

*“SWEPCO has no facilities in the ROW.”*

**Windstream** – Michael A. Latham, February 22, 2021:

*“Windstream is requesting easement of the current ROW to have access to Maintain lines, poles, eqpt, and all other devices related to Windstream/Valor Telcom.”*

**Cableone/Sparklight** – Joe Langley, March 1, 2021: *“...we would need to maintain an easement next to the road (Ray Street). That is a main cable feed as well as a fiber feed that feeds a much larger area”.*

Summary: *An easement for fifteen foot to allow access to the existing poles and equipment in the Right of Way and on Ray Street is requested by Windstream and Cableone respectively.*

## CONFORMANCE WITH APPLICABLE ORDINANCES AND/OR STATE STATUTES:

The *Arkansas Code of 1987 Annotated (14-56-422B)* requires the following – “All plans, recommended ordinances, and regulations shall be adopted through the following procedure for adoption of plans and regulations:

(1) (A) The Planning Commission shall hold a public hearing on the plans, ordinances, and regulations proposed under this subchapter.

(B) Notice of public hearing shall be published in a newspaper of general circulation in the city, at least (1) time fifteen days prior to the hearing.

(2) Following the public hearing, proposed plans may be adopted, and proposed ordinance and regulations may be recommended as presented, or in modified form, by a majority vote of the entire commission.

(3) Following its adoption of plans and recommendation of ordinances and regulations, the commission shall certify adopted plans of recommended ordinances and regulations to the legislative body of the city for its adoption.

(4) The legislative body of the city may return the plans and recommended ordinances and regulations to the commission for further study or rectification, or, by a majority vote of the entire membership, may, by ordinance or resolution, adopt the plans and recommended ordinances or regulations submitted by the commission. However, nothing in this subchapter shall be construed to limit the city board's authority to recall the ordinances and resolutions by a vote of a majority of the council.

(5) Following adoption by the legislative body, the adopted plans, ordinances, and regulations shall be filed in the office of the City Clerk. The City Clerk shall file, with the county recorder of the counties in which territorial jurisdiction is being exercised such plans, ordinances, and regulations as pertain to the territory beyond the corporate limits.

The required notice was published in the Sunday, February 21, 2021 edition of the *Texarkana Gazette*.

ROW abandonments do not require additional notification as all adjacent property owners are petitioners.

**OPPOSITION:** None.

**PLANNING COMMISSION CERTIFICATION:**

The Planning Commission met on March 9, 2021 and certified approval on a motion to approve by Mr. Thomas and a second, by Mr. Dupree with a roll call voted of 5-0 with no opposition and two absent.

Adger Smith, Chairman	Yes
Anderson Neal, Vice-chairman	Absent
George Coker	Yes
Bertha Dunn	Yes
Jason Dupree	Yes
Randall Hickerson	Absent
Boots Thomas	Yes

**ACTION REQUESTED BY CITY BOARD OF DIRECTORS:**

The City Board is requested to:  
Set a date for a hearing on April 5 2021.

Hold a public hearing on April 19, 2021 to consider adopting an ordinance to abandon the right-of-way.

The *Arkansas Code of 1987 Annotated* requires every ordinance to be read three times before adoption. These three readings may all occur at the same meeting or at the second and third subsequent meetings after the first reading of the ordinance.

# ABANDONMENT PETITION

Right-of-Way (Street, Alley, & Utility Easement)

COME (List names) Walter Street Church of Christ  
Johnnie Hamilton and James Washington

Petitioner(s) herein, and for their Petition to secure the vacation of the following (street/alley/utility easement), to-wit (legal description of abandonment):

Ray and Marietta, Texarkana, AR 71854  
Undeveloped Marietta Street in the 2400 block range

WHEREAS, Petitioner(s) would respectfully show the Board of Directors of the City of Texarkana, Arkansas the following:

WHEREAS, The above (street/alley/utility easement) has been dedicated by virtue of said property being platted and said plat being filed for record as provided by law in Book 199, page 265, Records of Miller County, Arkansas.

WHEREAS, That the above (street/alley/utility easement) has not been used by the public for a period of five (5) years.

WHEREAS, That the (street/alley/utility easement) which Petitioner(s) seek(s) to vacate is shown on the attached copy of the plat filed in the Office of the County Recorder revealing the relevant portion(s) of said (street/alley/utility easement).

WHEREFORE, PREMISES CONSIDERED, Petitioner(s) pray(s) that the Board of Directors of the City of Texarkana, Arkansas, fix a day for the hearing of this petition, providing for notice of same in accordance with the laws of the State of Arkansas, and after such hearing vacate and abandon said (street/alley/utility easement).

Johnnie Hamilton  
James Washington  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Petitioner(s)





**ROW petition to vacate a portion of Marietta**  
**Prepared by the Planning Division for reference only**

D-207/553

THIS INSTRUMENT PREPARED BY  
WILLIAMS AND KEMP  
ATTORNEYS AT LAW  
TEXARKANA, ARKANSAS

# WARRANTY DEED WITH RELINQUISHMENT OF DOWER

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, Sherman Kusin  
and Ellen Kusin his wife  
for and in consideration of the sum of -----Ten and No/100-----

-----(\$10.00)----- DOLLARS,  
and other good and valuable consideration to us cash in hand paid by  
Leslie Trammel, L. C. Crittenden and Frank Nelson, Trustees of the  
Walter Street Church of Christ of Texarkana, Arkansas, formerly the Church  
of Christ, the receipt of which is hereby acknowledged,  
do hereby grant, bargain, sell and convey unto the said Leslie Trammel, L. C. Crittenden  
and Frank Nelson, as Trustees of the Walter Street Church of Christ of  
Texarkana, Arkansas

and unto their successors heirs and assigns forever, the following lands lying

in the County of Miller and State of Arkansas, to-wit:

Lot Numbered Four (4) in Block Numbered One (1), SPRINGERS  
ADDITION to the City of Texarkana, Miller County, Arkansas.

It is the intention of the GRANTORS to convey to the  
GRANTEES all their undivided One-third (1/3rd) interest  
in and to the above described lands.

To have and to hold the same unto the said Leslie Trammel, L. C. Crittenden  
and Frank Nelson, as Trustees of the Walter Street Church of Christ  
of Texarkana, Arkansas  
and unto their/ heirs and assigns forever, with all appurtenances thereunto belonging.  
successors

And we hereby covenant with said Leslie Trammel, L. C. Crittenden and  
Frank Nelson, as Trustees of the Walter Street Church of Christ of  
Texarkana, Arkansas that we will forever warrant and defend  
the title to the said lands against all claims whatsoever

And I, Ellen Kusin  
wife of the said Sherman Kusin  
for and in consideration of the said sum of money, do hereby release and relinquish unto the said  
Leslie Trammel, L. C. Crittenden and Frank Nelson, as Trustees of the  
Walter Street Church of Christ of Texarkana, Arkansas  
all my rights of dower and homestead in and to the said lands

WITNESS our hands and seals on this 11<sup>th</sup> day of August 19 77.



X Sherman Kusin L. S.  
X Ellen Kusin L. S.

ACKNOWLEDGEMENT

STATE OF ARKANSAS }  
County of } ss.

BE IT REMEMBERED, That on this day came before me, the undersigned, a Notary Public within and for the County aforesaid, duly commissioned and acting Sherman Kusin and Ellen Kusin

to me well known as the grantors in the foregoing Deed, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

And on the same day also voluntarily appeared before me the said Ellen Kusin wife of the said Sherman Kusin

to me well known, and in the absence of her said husband declared that she had, of her own free will, executed said Deed and signed and sealed the relinquishment of dower and homestead in the said Deed for the consideration and purposes therein contained and set forth, without compulsion or undue influence of her said husband.

WITNESS my hand and seal as such Notary Public on this 11th day of August 19 77 .

My commission expires 6-1-79

*Martha Pratt*  
Notary Public

FILED FOR RECORD ON THIS 19 DAY OF August, 1977 AT 12:05 O'CLOCK P.M.

NADINE DUNCAN, CLERK  
*Quaid H. Collins*, Deputy



\* 2 0 1 2 R 0 1 1 5 2 7 4 \*

2012R011527

MARY PANKEY  
MILLER COUNTY CIRCUIT CLERK  
TEXARKANA, AR

RECORDED ON  
11/07/2012 10:36:32AM

REC FEE: 30.00

PAGES: 4

Title of Document: Warranty Deed

Grantor: SOUTHWEST ARKANSAS DEVELOPMENT COUNCIL, INC.

Grantee: WALTER STREET CHURCH OF CHRIST INC.

PREPARED UNDER THE SUPERVISION OF:  
CLARKE D. ARNOLD, P.A.  
P.O. BOX 2590  
TEXARKANA, ARKANSAS 75504-2590  
GF#31278

WARRANTY DEED

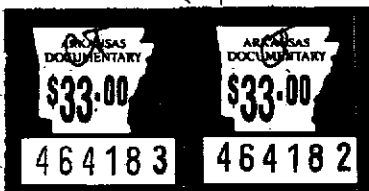
KNOW ALL MEN BY THESE PRESENTS:

THAT, SOUTHWEST ARKANSAS DEVELOPMENT COUNCIL, INC., being one and the same entity as SOUTHWEST ARKANSAS DEVELOPMENT, INC., an Arkansas non-profit corporation, GRANTOR, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable considerations, in hand paid by WALTER STREET CHURCH OF CHRIST INC., an Arkansas non-profit corporation, GRANTEE, do hereby grant, bargain, sell and convey unto the said GRANTEE, and unto its successors and assigns forever the following land lying in Miller County, Arkansas:

A tract of land in the Northeast Quarter of the Northwest Quarter of the Northeast Quarter (NE 1/4 NW 1/4 NE 1/4) of Section Twenty-nine (29), Township Fifteen (15) South, Range Twenty-eight (28) West, Miller County, Arkansas, more particularly described as follows:

BEGINNING at an iron stake 680 feet North of the Southeast corner of the NW 1/4 NE 1/4 of Section Twenty-nine (29), Township Fifteen (15) South, Range Twenty-eight (28) West;

THENCE South 89° 30' West, with North boundary line of Marietta Street, 330 feet to an



iron stake in fence line;

THENCE North, with said fence line 290.0 feet to an iron stake;

THENCE North 89° 30' East 104.5 feet to an iron stake;

THENCE South 145.0 feet to an iron stake;

---

THENCE North 89° 30' East, 225.5 feet to an iron stake;

THENCE South 145.0 feet to the POINT OF BEGINNING and containing 1.45 acres, more or less;

SAVE AND EXCEPT a 15 foot strip along the East boundary of the above mentioned tract deeded to the City of Texarkana, Arkansas by Warranty Deed recorded in Deed Volume 199, Page 265, Records of Miller County, Arkansas;

AND ALSO

Lots Numbered One (1), Two (2), Three (3), Four (4), Five (5), Six (6) and Seven (7) in Block Numbered One (1) of CUCKLER'S 3RD ADDITION to the City of Texarkana, Miller County, Arkansas.

SUBJECT TO:

1. All oil, gas and other minerals of every kind and character and any rights accruing to others by reason of reservations, grants, sales, conveyances and leases thereof.
2. Any valid right-of-ways and/or easements as shown on recorded plat of said subdivision.
3. Rights and claims of tenants in possession of any or all of the subject property.
4. Any and all leases affecting subject property
5. Such rights as may be vested in the public for road right-of-way.
6. The lien of all taxes and assessments for the year 2012 and subsequent years.

TO HAVE AND TO HOLD the same unto the GRANTEE, and unto its successors and assigns forever, with all appurtenances thereunto belonging.

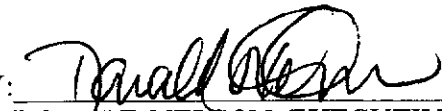
And Grantor hereby covenants with said GRANTEE, its successors and assigns, that it will forever warrant and defend the title to the said lands against all claims whatever, save and except the title to all or part of the mineral estate that may be subject to outstanding oil, gas and other mineral interests, and to reservations, exceptions, grants, sales, conveyances and leases thereof, and if so, there is no warranty against any such matters.

Executed this 5<sup>th</sup> day of November, 2012.

---

SOUTHWEST ARKANSAS  
DEVELOPMENT COUNCIL, INC.

BY:



DONALD NELSON, EXECUTIVE  
DIRECTOR

Grantee's Address:

2608 Walter Street  
Texarkana AR 71854

(I, we) certify under penalty of false swearing that at least the legally correct amount of documentary stamps has been placed on this instrument.

Southwest Title Company

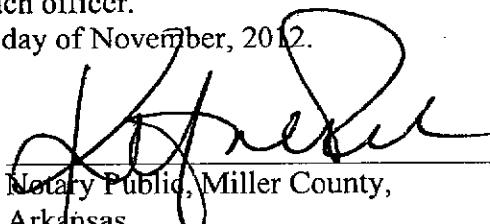
By: 

GRANTEE(S)

STATE OF ARKANSAS )  
                                  )  
COUNTY OF MILLER )

On this day, before me personally appeared DONALD NELSON, to me well known, who acknowledged that he was the EXECUTIVE DIRECTOR of SOUTHWEST ARKANSAS DEVELOPMENT COUNCIL, INC., and that he, as such officer being authorized so to do, had executed the foregoing instrument for the purposes and consideration therein mentioned, by signing the name of the corporation by himself as such officer.

WITNESS my hand and official seal this 5<sup>th</sup> day of November, 2012.



Notary Public, Miller County,  
Arkansas

Printed Name:

My Commission Expires:

(SEAL)

**Krystal Richardson**  
**Notary Public**  
**State of Arkansas**  
**Miller County**  
**My Commission Expires**  
**June 01, 2014**





## Texarkana Water Utilities

801 Wood Street, P.O. Box 2008, Texarkana, Texas 75504

(903) 798-3800 Phone  
711 TTY  
(903) 791-0724 Fax

### MEMORANDUM

**To:** Mary Beck, City Planner, City of Texarkana, Arkansas  
**From:** Gary L. Smith, P.E., Assistant Director, TWU  
**Date:** February 16, 2021  
**Re:** **ROW Abandonment – Marietta Street**

The Utility staff has reviewed the above referenced request and has the following comments:

1. The Utility has no water or sewer mains in this section of Marietta Street.
2. The Utility does not oppose the abandonment of this section of ROW.

If you should have any questions or require further information, please do not hesitate to contact me. Thank you.

**Cc:** J. D. Phillips, P.E., Executive Director, TWU  
Kenny Icenhower, P.E., Design Engineer, TWU  
Bill Moss, GIS Technician, TWU  
Teresa Akard, Engineering Technician II, TWU



## ARK-Beck, Mary

---

**From:** ARK-Beck, Mary  
**Sent:** Friday, February 19, 2021 5:02 PM  
**To:** Brooks, Brandon D  
**Subject:** Re: [External Email] New ROW abandonment request - undeveloped section of Marietta Street - intersects Ray Street

Thank you.

Get [Outlook for iOS](#)

---

**From:** Brooks, Brandon D <Brandon.Brooks@centerpointenergy.com>  
**Sent:** Friday, February 19, 2021 4:42:32 PM  
**To:** ARK-Beck, Mary <mbeck@txkusa.org>  
**Subject:** RE: [External Email] New ROW abandonment request - undeveloped section of Marietta Street - intersects Ray Street

**CAUTION:** This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

CenterPoint Energy has no facilities at the location. We are good.



Brandon Brooks  
Operations Supervisor | Texarkana/Hope  
870.779.6309 w. | 903.824.1304c.  
CenterPointEnergy.com



**From:** ARK-Beck, Mary <mbeck@txkusa.org>  
**Sent:** Tuesday, February 16, 2021 12:18 PM  
**To:** 'Ross A Sisson' <Ross.A.Sisson@usps.gov>; TWU-Smith, Gary <gsmith@txkusa.org>; TWU-Icenhower, Kenny <Kenny.Icenhower@txkusa.org>; 'rick.syphers@cableone.biz' <rick.syphers@cableone.biz>; Cable One <donald.fuller@cableone.biz>; Engelkes, Linda D <diane.engelkes@centerpointenergy.com>; 'steve.poplin@windstream.com' <steve.poplin@windstream.com>; Brooks, Brandon D <Brandon.Brooks@centerpointenergy.com>; 'Jackson, Chris L' <Chris.Jackson@windstream.com>; 'Moses, Everett' <Everett.Moses@sparklight.biz>; 'Dusty Wiley' <dwwiley@aep.com>; ccbonner@aep.com  
**Cc:** ARK-Richards, Tyler <Tyler.Richards@txkusa.org>; ARK-Maxey, Shawn <shawn.maxey@txkusa.org>; TAFD-Wall, Jim <Jim.Wall@txkusa.org>; 'matthew.greenwood@arkansas.gov' <matthew.greenwood@arkansas.gov>; ARK-Finley, Jamie <jamie.finley@txkusa.org>  
**Subject:** [External Email] New ROW abandonment request - undeveloped section of Marietta Street - intersects Ray Street

## ARK-Beck, Mary

---

**From:** Cabe C Bonner <ccbonner@aep.com>  
**Sent:** Monday, March 1, 2021 12:51 PM  
**To:** ARK-Beck, Mary  
**Cc:** Dusty Wiley  
**Subject:** RE: New ROW abandonment request - undeveloped section of Marietta Street - intersects Ray Street

**CAUTION:** This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mary,

SEWPCO does not have any facilities in the ROW.

Thanks

---

**From:** ARK-Beck, Mary <mbeck@txkusa.org>  
**Sent:** Monday, March 1, 2021 9:52 AM  
**To:** rick.syphers@cableone.biz; 'Cable One' <donald.fuller@cableone.biz>; Moses, Everett <Everett.Moses@sparklight.biz>; Dusty Wiley <dwwiley@aep.com>; Cabe C Bonner <ccbonner@aep.com>  
**Subject:** [EXTERNAL] RE: New ROW abandonment request - undeveloped section of Marietta Street - intersects Ray Street

This is an **EXTERNAL** email. **STOP. THINK** before you **CLICK** links or **OPEN** attachments. If suspicious please click the '**Report to Incidents**' button in Outlook or forward to [incidents@aep.com](mailto:incidents@aep.com) from a mobile device.

Just checking back on this in case everyone has been busy with the weather challenges. Windstream has indicated a possible conflict on this ROW abandonment request. Do SWEPCO or Sparklight have any issues or have requests for easements?

---

**Subject:** New ROW abandonment request - undeveloped section of Marietta Street - intersects Ray Street

Good afternoon,

Hope everyone is safe and warm. Please find attached a map showing the location of a petition to abandon a section of undeveloped Marietta Street on the west side of Ray Street. I think the adjacent building may have been a nursing home at one time but has been purchased by a church. Please advise of any conflicts or easement needs.

Warm regards,  
Mary



## ARK-Beck, Mary

---

**From:** Latham, Michael A <Michael.A.Latham@windstream.com>  
**Sent:** Tuesday, March 2, 2021 9:16 AM  
**To:** ARK-Beck, Mary  
**Subject:** RE: #2 - ROW abandonment request

**CAUTION:** This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Windstream is requesting easement of current ROW to have access to Maintain lines, pole, eqpt, and all other devices related to Windstream/Valor Telcom.

Michael Latham  
Network Technician-Operations  
903-791-3107 office  
903-748-1824 mobile  
michael.a.latham@windstream.com



507 Olive St  
Texarkana, TX, 75501  
[windstream.com](http://windstream.com)

Sensitivity: Internal

**From:** ARK-Beck, Mary <mbeck@txkusa.org>  
**Sent:** Tuesday, March 2, 2021 8:51 AM  
**To:** Latham, Michael A <Michael.A.Latham@windstream.com>  
**Cc:** Jackson, Chris L <Chris.Jackson@windstream.com>  
**Subject:** RE: #2 - ROW abandonment request

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Just for the record, would Windstream request an easement to access and maintain the existing equipment related to the ROW abandonment please.

**From:** Latham, Michael A <[Michael.A.Latham@windstream.com](mailto:Michael.A.Latham@windstream.com)>  
**Sent:** Tuesday, March 2, 2021 8:07 AM  
**To:** ARK-Beck, Mary <[mbeck@txkusa.org](mailto:mbeck@txkusa.org)>  
**Cc:** Jackson, Chris L <[Chris.Jackson@windstream.com](mailto:Chris.Jackson@windstream.com)>  
**Subject:** RE: #2 - ROW abandonment request

**CAUTION:** This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

## ARK-Beck, Mary

---

**From:** ARK-Beck, Mary  
**Sent:** Monday, March 1, 2021 3:45 PM  
**To:** Langley, Joe  
**Subject:** RE: ROW walter street

Thank you. I'll put that in the request.

---

**From:** Langley, Joe <[Joe.Langley@sparklight.biz](mailto:Joe.Langley@sparklight.biz)>  
**Sent:** Monday, March 1, 2021 3:43 PM  
**To:** ARK-Beck, Mary <[mbeck@txkusa.org](mailto:mbeck@txkusa.org)>  
**Cc:** Moses, Everett <[Everett.Moses@sparklight.biz](mailto:Everett.Moses@sparklight.biz)>  
**Subject:** RE: ROW walter street

**CAUTION:** This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Yes, we would need to retain easement there next to the road. That is a main cable feed as well as a fiber feed that feeds a much larger area.

---

**From:** ARK-Beck, Mary <[mbeck@txkusa.org](mailto:mbeck@txkusa.org)>  
**Sent:** Monday, March 1, 2021 2:25 PM  
**To:** Langley, Joe <[Joe.Langley@sparklight.biz](mailto:Joe.Langley@sparklight.biz)>  
**Subject:** RE: ROW walter street

**CAUTION:** External source. **THINK BEFORE YOU CLICK!**

Thanks Joe. If the abandonment is approved would you want to retain an easement at that location if it intrudes into the ROW?

---

**From:** Langley, Joe <[Joe.Langley@sparklight.biz](mailto:Joe.Langley@sparklight.biz)>  
**Sent:** Monday, March 1, 2021 1:52 PM  
**To:** ARK-Beck, Mary <[mbeck@txkusa.org](mailto:mbeck@txkusa.org)>  
**Subject:** ROW walter street

**CAUTION:** This email originated from outside our email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

It does not look like we have any attachments in that ROW. We do have an attachment at the corner entering the ROW. We have a main amp and large trunk line attached at that corner pole, but not through the ROW.

### Joe Langley

Construction Coordinator / Sparklight

C: 903-293-6907

F: 903-792-3919

401 Baylor St. Texarkana, TX 75501-3270

[joe.langley@sparklight.biz](mailto:joe.langley@sparklight.biz)



## CITY OF TEXARKANA, AR BOARD OF DIRECTORS

---

**AGENDA TITLE:** Adopt a resolution authorizing the City Manager to enter into a contract for the Millwood Water Treatment Plant Valve Replacement Project (TWU)

**AGENDA DATE:** April 5, 2021

**ITEM TYPE:** Ordinance  Resolution  Other : \_\_\_\_\_

**DEPARTMENT:** Texarkana Water Utilities

**PREPARED BY:** J.D. Phillips, P.E., Executive Director

---

**REQUEST:** Resolution authorizing the City Manager to enter into a contract for the Millwood Water Treatment Plant Valve Replacement Project.

**EMERGENCY CLAUSE:** None needed.

---

**SUMMARY:** Resolution authorizing the City Manager to enter into a contract for the Millwood Water Treatment Plant Valve Replacement Project in an amount not to exceed \$462,628.00 with the Arkansas portion being \$170,524.68. Bids were received Tuesday, March 16, 2021 for the Millwood Water Treatment Plant Valve Replacement Project. One (1) contractor picked up bid packages for the project and one (1) contractor bid on the project. MVA Services of Quinlan, Texas was the apparent low bidder with a low Base Bid of \$462,628.00. This project consists of removing and replacing the valves and actuators associated with Filter Basins 3, 4, 7, & 8 and the associated air piping with each valve at the Millwood WTP located in Ashdown, Arkansas. This project is budgeted in the Utility's 2020-2021 Budget in the Millwood Water Treatment Plant Depreciation Fund at \$260,000, which was for Filter Basins 7 & 8 only. Due to the unforeseen postponement of another project funds became available in this fund and filters 3 & 4 were added to this project.

---

**EXPENSE REQUIRED:** \$462,628.00

---

**AMOUNT BUDGETED:** \$462,628.00

---

**APPROPRIATION  
REQUIRED:** \$170,524.68

---

**RECOMMENDED  
ACTION:** Utility staff recommends approval.

---

---

**EXHIBITS:**

ATTH 01 Bid Summary

ATTH 02 Bid Tabulation

# RESOLUTION NO. \_\_\_\_\_

**WHEREAS**, upon advertisement, a low bid in the amount of \$462,628.00 was submitted to Texarkana Water Utilities (TWU) by MVA Services of Quinlan, Texas, for the Millwood Water Treatment Plant Valve Replacement Project; and

**WHEREAS**, the Arkansas portion of such expense is \$170,524.68; and

**WHEREAS**, funds for such purpose are budgeted and available; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the City of Texarkana, Arkansas, that Texarkana Water Utilities is hereby authorized to enter into a contract with MVA Services of Quinlan, Texas, for the work and in the amounts described above, provided that the Arkansas portion of such amount being \$170,524.68.

**PASSED AND APPROVED** this 5<sup>th</sup> day of April, 2021.

\_\_\_\_\_  
Allen L. Brown, Mayor

**ATTEST:**

\_\_\_\_\_  
Heather Soyars, City Clerk

**APPROVED:**

\_\_\_\_\_  
George Matteson, City Attorney

Bid Tabulation  
MILLWOOD WTP - VALVE REPLACEMENT  
FILTER BASINS 3, 4, 7, 8  
Project No. 61/62-000/135112-A/T132003  
March 16, 2021

ATTH 02

<b>BASE BID:</b>				
			<b>MVA Services</b>	
			<u>Quinlan, TX</u>	
<b>Item</b>	<b>Quantity</b>	<b>Description</b>	<b>Unit Price</b>	<b>Total Bid</b>
1	1	Mobilization, Bonds, & Submittals	\$9,250.00	\$9,250.00
2	2	36" Butterfly Drain Valve w/Actuator & Accessories	\$45,144.00	\$90,288.00
3	4	24" Butterfly Backwash Valve w/Actuator & Accessories	\$26,230.00	\$104,920.00
4	2	24" Butterfly Influent Valve w/Actuator & Accessories	\$38,164.00	\$76,328.00
5	4	12" Butterfly Effluent Valve w/Actuator & Accessories	\$14,490.00	\$57,960.00
6	4	8" Butterfly Re-Wash Valve w/Actuator & Accessories	\$10,006.00	\$40,024.00
7	4	6" Butterfly Surface Wash Valve w/Actuator & Accessories	\$9,763.00	\$39,052.00
8	2	Remove Existing 36" Drain Valve w/Actuator & Accessories	\$3,056.00	\$6,112.00
9	4	Remove Existing 24" Backwash Valve w/Actuator & Accessories	\$2,967.00	\$11,868.00
10	2	Remove Existing 24" Influent Valve w/Actuator & Accessories	\$1,923.00	\$3,846.00
11	4	Remove Existing 12" Effluent Valve w/Actuator & Accessories	\$1,525.00	\$6,100.00
12	4	Remove Existing 8" Re-Wash Valve w/Actuator & Accessories	\$1,525.00	\$6,100.00
13	4	Remove Existing 6" Surface Wash w/Actuator & Accessories	\$1,525.00	\$6,100.00
14	1	Clean & Test Water Mains	\$4,680.00	\$4,680.00
		<b>TOTAL BASE BID</b>		<b>\$462,628.00</b>

Prepared by Gary L. Smith, P.E.  
Certified Correct

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Gary L. Smith, P.E., Assistant Director, TWU



## Bid Summary

Millwood Water Treatment Plant  
Filter Basins 3, 4, 7, & 8  
Valve Replacement

2:00 P.M. Tuesday, March 16, 2021

	<u>Base Bid</u>
1. MVA Services Texarkana, Texas	\$ 462,628.00

Time First Bid Opened: 2:00 P.M

Number of Bidders: 1

Apparent Low Bidder: MVA Services



## CITY OF TEXARKANA, AR BOARD OF DIRECTORS

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<b>AGENDA TITLE:</b>	Adopt a Resolution for the purchase of a new fire pumper apparatus. (TAFD) Fire Chief David Fletcher
<b>AGENDA DATE:</b>	04/05/2021
<b>ITEM TYPE:</b>	Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Other <input type="checkbox"/> : _____
<b>DEPARTMENT:</b>	Texarkana Arkansas Fire Department
<b>PREPARED BY:</b>	Fire Chief David Fletcher

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<b>REQUEST:</b>	Board approval to accept the proposal from Goldy's Fire Apparatus for the purchase of a new Rosenbauer Pumper.
<b>EMERGENCY CLAUSE:</b>	N/A

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<b>SUMMARY:</b>	After legal advertising, TAFD received four proposals for a new pumper apparatus. Goldy's Fire Apparatus submitted the low bid and met all the specifications.
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<b>EXPENSE REQUIRED:</b>	\$318,182 for the truck plus \$60,000 for needed equipment to stock it. Equipment purchased with the truck is tax-free resulting in substantial savings.
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<b>AMOUNT BUDGETED:</b>	\$400,000
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<b>APPROPRIATION REQUIRED:</b>	TAFD 2021 Budget Line Item (101-131-50501-54220) \$378,182
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<b>RECOMMENDED ACTION:</b>	
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<b>EXHIBITS:</b>	Resolution and proposals from four dealers. Full specifications for the apparatus consist of several hundred pages that will be provided upon request.
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# RESOLUTION NO. \_\_\_\_\_

**WHEREAS**, upon advertising, a low bid in the amount of \$318,182.00 was submitted by Goldy's Fire Apparatus for a new fire pumper; and

**WHEREAS**, because not all suppliers provide and offer all necessary equipment required to outfit the pumper and, accordingly, to facilitate equal comparison of bids, all solicited bids were exclusive of said equipment (which will be obtained per the City's Purchasing Policy and applicable law); and

**WHEREAS**, funds are budgeted and available; and

**WHEREAS**, the City Manager and Fire Chief and staff recommend approval;

**NOW, THEREFORE, BE IT RESOLVED**, that City Manager is authorized to execute a contract to purchase a fire pumper as described above and upon the terms so indicated.

**PASSED AND APPROVED** this the 5<sup>th</sup> day of April, 2021.

\_\_\_\_\_  
Allen L. Brown, Mayor

**ATTEST:**

\_\_\_\_\_  
Heather Soyars, City Clerk

**APPROVED:**

\_\_\_\_\_  
George Matteson, City Attorney





**FIRE APPARATUS PROPOSAL**

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DATE: February 24, 2021

This proposal has been prepared for:

**TEXARKANA, ARKANSAS FIRE DEPARTMENT**  
**416 E. 3<sup>RD</sup> ST.**  
**TEXARKANA, TX. 75504**

We hereby propose to furnish to you, subject to proper execution of the attached agreement by you and by an officer of this Company, the following apparatus and equipment to be built in accordance with the attached specifications:

UNIT QUANTITY	MODEL	PRICE
1	E-One All Aluminum Body Top Mount Commercial Rescue Pumper, 1000 gallon tank, 1500 gpm Hale QMAX pump, mounted on a 2022 Freightliner M2-106 4 door chassis with Cummins L9 360HP engine.	\$319,929.00

Delivery will be FOB Roxana, Il. and will be made approximately 300 calendar days after receipt of order at the Ocala, Florida plant, based upon proper execution of the attached agreement by both parties. Terms of Payment are 90% of the purchase price due upon arrival of the unit at our Roxana, Il. service center with the balance due upon final pick up. Lease purchase financing information available upon request

Price listed above is firm until close of business April 14, 2021 and is subject to increase after that time.

Company: BANNER FIRE EQUIPMENT, INC.

By: Michael J. Benker

Michael J. Benker (Sr.)

Title: Apparatus Sales







Texarkana AR Fire Department  
416 East 3rd Street  
Texarkana, AR 71854



Date: March 1, 2021

We hereby propose and agree to furnish, after your acceptance of this proposal and the proper execution by the Texarkana AR Fire Department, hereinafter called the Buyer and an officer of Rosenbauer South Dakota, LLC, hereinafter called the Company, the following apparatus and equipment.

One (1) Rosenbauer Pumper, complete with Freightliner chassis per attached specifications.	\$318,182.00 each
Gross due upon completion and delivery total	<b>TOTAL \$318,182.00</b>

All of which are to be built in accordance with the specifications, clarifications and exceptions attached, and which are made a part of this agreement and contract.

**DELIVERY:**

The estimated delivery time for the completed apparatus, is to be made 395 days after receipt of and approval of this contract duly executed (chassis and (or) major components must arrive within 150 days or delivery may be extended), subject to all causes beyond the Company's control. The quoted delivery time is based upon our receipt of the specified materials required to produce the apparatus in a timely manner. "Delivery" means the date company is prepared to make physical possession of vehicle available to customer.

**CONTRACT CHANGES:**

After execution and acceptance of this Contract, the Buyer may request that the Company incorporate a change to the Products or the Specifications for the Products by delivering a Change Order to the Company; provided, however, that any such Change Order must be in writing and include a description of the proposed change sufficient to permit the Company to evaluate the feasibility of such Change Order. Within seven (7) working days of receipt of a Change Order, the Company will inform the Buyer in writing of the feasibility of the Change Order, the earliest possible implementation date for the Change Order, of any increase or decrease in the Purchase Price resulting from such Change Order, and of any effect on production scheduling or delivery resulting from such Change Order. The Company shall not be liable to the Buyer for any delay in performance or delivery arising from any such Change Order. Purchase Price may be modified only by mutual written agreement of the Parties because of changes to the Apparatus required or requested by the Buyer during the construction process pursuant to Appendix C, Change Order Policy. Any changes in the Purchase Price resulting from changes to the Apparatus required or requested by the Buyer during the construction process shall be stated in the Change Order signed by both parties. Additional Changes: If various state or federal regulatory agencies (e.g. NFPA, DOT, EPA) require changes to the specification and/or the product that result in a cost increase to comply therewith this cost will be added to the Purchase Price to be paid by the customer.

**FORCE MAJEURE:**

The Company shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond the Company's control which make the Company's performance impracticable, including but not limited to civil wars, insurrections, strikes, riots, fires, storms, floods, other acts of nature, explosions, earthquakes, accidents, any act of government, delays in transportation, inability to obtain necessary labor supplies or manufacturing facilities, allocation regulations or orders affecting materials, equipment, facilities or completed products, failure to obtain any required license or certificates, acts of God or the public enemy or terrorism, failure of transportation, epidemics, quarantine restrictions, failure of vendors (due to causes similar to those within the scope of this clause) to perform their contracts or labor troubles causing cessation, slowdown, or interruption of work.

[www.rosenbaueramerica.com](http://www.rosenbaueramerica.com)

[info@rosenbaueramerica.com](mailto:info@rosenbaueramerica.com)

ROSENBAUER SOUTH DAKOTA, LLC.  
100 THIRD STREET  
P.O. BOX 57  
LYONS, SOUTH DAKOTA 57041  
P: 605.543.5591

ROSENBAUER MINNESOTA, LLC.  
5181 260TH STREET  
P.O. BOX 549  
WYOMING, MINNESOTA 55092  
P: 651.462.1000

ROSENBAUER MOTORS, LLC.  
5190 260TH STREET  
P.O. BOX 549  
WYOMING, MINNESOTA 55092  
P: 651.462.1000

ROSENBAUER AERIALS, LLC.  
870 SOUTH BROAD STREET  
FREMONT, NEBRASKA 68025  
P: 402.721.7622



**PAYMENT TERMS:**

Final payment for the apparatus shall be made at time of delivery or pick up of the completed vehicle. It is the responsibility of the Buyer to have full payment ready when the apparatus is complete and ready to deliver. If payment is delayed or delivery is delayed pending payment, a daily finance and storage fee may apply. Upon delivery of the apparatus or upon pickup of the apparatus by the Buyer, the Buyer agrees to provide all liability and physical damage insurance. It is further agreed that if on delivery and testing, any defects should develop, the Company shall be given reasonable time to correct changes. Guarantee of the chassis is subject to the guarantee of the chassis manufacturer. \*NOTE: upon final inspection at the factory for pick-up or delivery, the Buyer will need to supply a Certificate of Insurance and full payment prior to release of the vehicle, unless prior arrangements for vehicle's release have been made.

**TITLE:**

The Apparatus shall always be the property of the Company until it is delivered to the Buyer pursuant to the terms of this agreement. The Company shall bear the sole responsibility and risk for destruction, loss or damage to the apparatus, or any portion of the Apparatus, through the date and time it is delivered to the Buyer. The Company shall deliver good and merchantable title to the Apparatus at the time it is delivered to the Buyer. The Buyer shall bear the sole responsibility and risk for destruction, loss or damage to the Apparatus upon the date and time it takes delivery of the Apparatus.

**PIGGY BACK ORDERS:**

The Company, at its sole discretion, will allow the terms of the contract to be extended to both the Buyer, as well as to other Municipal, State, or Federal agencies for similar unit(s). The Company will allow tag on / additional orders for up to three (3) years from the date of contract execution. To facilitate pricing, the Company will quote the original price plus manufacturer's price increases or Producer's Price Index (PPI) whichever is greater as it applies to either Fire Apparatus and/ or commercial heavy truck industries.

**MISCELLANEOUS PROVISIONS:**

This agreement shall be construed in accordance with the laws of the State of South Dakota. The parties agree that any litigation arising from or in connection with any dispute between the parties under this agreement shall be venue in South Dakota. The parties agree that this agreement bears a rational relationship to the State of South Dakota, and they consent to the personal jurisdiction of such state and further consent and stipulate to venue in the above described court.

The amount in this proposal shall remain firm for a period of 30 days from the date of same.

Respectfully submitted,

Dealer: \_\_\_\_\_ Goldy's Fire Apparatus \_\_\_\_\_

Sales Rep: \_\_\_\_\_ *Steve Golding* \_\_\_\_\_  
Steve Golding

**Buyer:**

We accept the above proposal and enter into contract with signature below.

\_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

After company receipt of this document signed by the Buyer, the document will be reviewed and upon approval, countersigned by the Company thereby putting the document in force.

Rosenbauer South Dakota, LLC

\_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

[www.rosenbaueramerica.com](http://www.rosenbaueramerica.com)

[info@rosenbaueramerica.com](mailto:info@rosenbaueramerica.com)

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**APPENDIX C  
CHANGE ORDER POLICY**

This change order policy is intended to reflect the increased cost of changes which result in delayed deliveries, confused paperwork, poor production flow and increased potential of trucks being built to incorrect specifications. With your cooperation, changes can be kept to a minimum which means we will be able to reduce lead times, increase production and maintain costs which will benefit all of us.

Our objective is accurate, high quality and on-time deliveries exceeding our customer expectations.

Changes any time after the order is received may delay the quoted delivery date. Significant design or component changes will have the largest impact on the schedule and quoted delivery date. Changes that occur later in the process will also have the largest impact on the schedule and quoted delivery date.

All time fences are reference to contract execution date if not otherwise stated.

**Change Window #1**

All changes will be priced at standard pricing and specials will be priced through our normal process. Significant changes made to the vehicle during this time period may result in a delivery extension.

- RBM Chassis 0-60 days
- RBA Aerial 0-60 days
- Rosenbauer Body 0-60 days

**Change Window #2**

All changes are subject to a 25% mark-up, as well as a \$250.00 change order processing fee. All changes are subject to factory review and may be denied due to engineering or lead time issues.

- RBM Chassis 61-75 days
- RBA Aerial 61-75 days
- Rosenbauer Body 61-120 days

**Change Window #3**

changes are subject to factory review and may be denied due to engineering or lead time issues. No major components can be changed at this time; major components are considered engine, transmission, axles, suspension, cab, frame (wheelbase), seats, water pump and water tank.

- RBM Chassis 76-120 days
- RBA Aerial 76-120 days
- Rosenbauer Body 121-180 days

**Change Window #4**

Changes are not recommended at this time. Any changes requested will be priced on a time and material basis, as well as a \$500.00 change order processing fee. Any changes requested, and that are quoted to the customer, must be approved by the customer within three days or they will not be valid.

- RBM Chassis After 120 days
- RBA Aerial After 120 days
- Rosenbauer Body After 180 days

*\*Note: Any late change orders that are factory driven will be done at cost and no additional mark up or penalties will apply.*

**BUYER INITIALS:** \_\_\_\_\_

[www.rosenbaueramerica.com](http://www.rosenbaueramerica.com)

[info@rosenbaueramerica.com](mailto:info@rosenbaueramerica.com)

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P: 402.721.7622





## APPARATUS BID

Prepared Exclusively for:  
Texarkana Arkansas Fire Department  
Chief David Fletcher

RESCUE PUMPER

We are pleased to submit our detailed proposal for your consideration in accordance with the advertised line-item request for One (1) or more Rescue Pumper.

One (1) or more, New 2022 Commercial Rescue Pumper (s) – Mounted on a New 2022 Freightliner M2 106 Tandem Axle 4-Door Cab and Chassis (s) per the attached proposal for a total sum of

**TOTAL PRICE:**

Three Hundred Forty-Two Thousand, Nine Hundred Fifty-Nine Dollars and Zero Cents.

(\$342,959.00) Numbers (Each)

Build Days: 365 Days after contract has been signed & accepted by both parties.

Bid is Good for 60 Days from today's date or Unless approved by both parties.

Delivery may be subject to delays due to strikes, acts of god, failure of suppliers to deliver, chassis delays or accidents beyond our control.

Submitted this 23<sup>rd</sup> Day of February 2021

By:

Robert Andrus

Robert Andrus  
Owner





# CITY OF TEXARKANA, AR

## BOARD OF DIRECTORS

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**AGENDA TITLE:** Adopt a Resolution to approve the 2021 Bi-State Justice Building (Bi-State) Budget and amend the General Fund Budget to include contribution to the Bi-State Fund. (FIN) Finance Director TyRhonda Henderson

**AGENDA DATE:** April 5, 2021

**ITEM TYPE:** Ordinance  Resolution  Other : \_\_\_\_\_

**DEPARTMENT:** Finance Department

**PREPARED BY:** TyRhonda Henderson, Finance Director

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**REQUEST:** N/A

**EMERGENCY CLAUSE:** N/A

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**SUMMARY:** The 2019 actuals, 2020 estimates, and 2021 proposed Bi-State Budget was approved by the Intergovernmental Advisory Committee on March 11, 2021. This budget and associated contribution requires further approval by each member's governmental body.

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**EXPENSE REQUIRED:** \$314,096

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**AMOUNT BUDGETED:** \$307,447

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**APPROPRIATION  
REQUIRED:** \$6,649

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**RECOMMENDED  
ACTION:** Approval recommended by City Manager and Finance Director

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**EXHIBITS:** Resolution and Bi-State Budget

# RESOLUTION NO. \_\_\_\_\_

**WHEREAS**, the 2019 actuals, 2020 estimates, and 2021 proposed Bi-State Justice Building (Bi-State) Budget was approved by the Intergovernmental Advisory Committee on March 11, 2021; and

**WHEREAS**, the City Manager and Finance Director recommend approval of the 2021 Bi-State Budget and amendment of the FY2021 General Fund Budget to include the associated contribution to the Bi-State Fund including a \$6,649.00 appropriation to satisfy the difference between the amount currently budgeted and the actual proposed 2021 Bi-State Budget presented herewith; and

**WHEREAS**, the City Manager and Finance Director recommend board approval;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the City of Texarkana, Arkansas, that the FY2021 Bi-State Justice Building Budget as presented and the amendment of the FY2021 General Fund Budget as described above are both approved.

**PASSED AND APPROVED** this 5<sup>th</sup> day of April, 2021.

\_\_\_\_\_  
Allen L. Brown, Mayor

**ATTEST:**

\_\_\_\_\_  
Heather Soyars, City Clerk

**APPROVED:**

\_\_\_\_\_  
George Matteson, City Attorney

## Bi-State Building Operating Fund Summary (Fund 501)

	<b>ACTUAL 2019</b>	<b>BUDGET 2020</b>	<b>ESTIMATED 2020</b>	<b>PROPOSED 2021</b>
BEGINNING FUND BALANCE	327,343		326,642	(133,761)
<b><u>REVENUES</u></b>				
CONTRIBUTIONS	6,497,069	6,251,626	6,253,945	4,899,767
INFORMATION CENTER	208,115	205,848	488,000	488,000
OTHER REVENUE	99,732	98,953	100,368	99,543
APPROPRIATED FUND BALANCE				
<b>TOTAL REVENUES</b>	<b>6,804,916</b>	<b>6,556,427</b>	<b>6,842,313</b>	<b>5,487,310</b>
<b><u>EXPENDITURES</u></b>				
MAINTENANCE	1,338,341	1,628,715	1,553,689	1,604,789
CENTRAL RECORDS & COMMUNICATION	2,545,882	3,365,890	2,763,660	3,397,667
DETENTION	2,709,659	2,559,500	2,784,800	0
C.O. EXPENDITURES	211,735	210,163	200,567	201,090
APPROPRIATED FUND BALANCE				
<b>TOTAL EXPENDITURES</b>	<b>6,805,617</b>	<b>7,764,268</b>	<b>7,302,716</b>	<b>5,203,546</b>
NET CHANGE IN UNRESERVED / UNAPPROPRIATED FUND BALANCE	(701)		(460,403)	283,764
ENDING EQUITY BALANCE	326,642		(133,761)	150,003

# STATEMENT OF REVENUE

## *Bi-State Fund*

	<b>ACTUAL 2019</b>	<b>BUDGET 2020</b>	<b>ESTIMATED 2020</b>	<b>PROPOSED 2021</b>
<b><u>CONTRIBUTIONS</u></b>				
44300 TEXARKANA, TEXAS	1,567,052	1,402,633	1,457,180	1,713,971
44350 TEXARKANA, ARKANSAS	1,710,986	160,357	229,172	314,096
44400 BOWIE COUNTY	3,219,031	4,688,636	4,567,593	2,871,699
<b>TOTAL</b>	<b>6,497,069</b>	<b>6,251,626</b>	<b>6,253,945</b>	<b>4,899,767</b>
<b><u>INFORMATION CENTER</u></b>				
45045 AR CMRS/W911 FEES	188,750	186,600	473,000	473,000
45048 POLICE REPORT FEES	19,365	19,248	15,000	15,000
<b>TOTAL</b>	<b>208,115</b>	<b>205,848</b>	<b>488,000</b>	<b>488,000</b>
<b><u>OTHER REVENUE</u></b>				
48200 MISCELLANEOUS	6,086	5,410	6,700	6,000
48511 COST RECOVERY	103	0	125	0
48901 RENTAL RECOVERY - BC	93,543	93,543	93,543	93,543
<b>TOTAL</b>	<b>99,732</b>	<b>98,953</b>	<b>100,368</b>	<b>99,543</b>
<b>GRAND TOTAL</b>	<b>6,804,916</b>	<b>6,556,427</b>	<b>6,842,313</b>	<b>5,487,310</b>

SOLE AR REVENUE  
SOLE BC REVENUE

# BI-STATE JUSTICE BUILDING

## 2021 EXPENSE ALLOCATION

	<u>EXPENSES</u>	<u>ALLOCATION STATISTICS</u>
<b><u>BUILDING MAINTENANCE</u></b>		
<b><u>SQ FOOTAGE</u></b>		
TOTAL EXPENSES	1,604,789	
BOWIE COUNTY	566,009	35.27%
TEXARKANA, TEXAS	536,802	33.45%
TEXARKANA, ARKANSAS	501,978	31.28%
	<b>1,604,789</b>	<b>100.00%</b>
<b><u>CENTRAL RECORDS &amp; COMMUNICATION</u></b>		
<b><u>CRC COST STUDY</u></b>		
TOTAL EXPENSES	3,397,667	
BOWIE COUNTY	1,132,555	33.33%
TEXARKANA, TEXAS	1,132,555	33.33%
TEXARKANA, ARKANSAS	1,132,555	33.33%
	<b>3,397,664</b>	<b>100.00%</b>
<b><u>DETENTION</u></b>		
<b><u>CENSUS</u></b>		
TOTAL EXPENSES	0	
BOWIE COUNTY	0	0.00%
TEXARKANA, TEXAS	0	0.00%
TEXARKANA, ARKANSAS	0	0.00%
	<b>0</b>	<b>0.00%</b>
<b><u>C.O. EXPENDITURES</u></b>		
<b><u>SQ FOOTAGE</u></b>		
TOTAL EXPENSES	201,090	
BOWIE COUNTY	70,924	35.27%
TEXARKANA, TEXAS	67,265	33.45%
TEXARKANA, ARKANSAS	62,901	31.28%
	<b>201,090</b>	<b>100.00%</b>
<b><u>BSJB TOTALS</u></b>		
TOTAL EXPENSES	5,203,546	
BOWIE COUNTY	1,769,488	34.01%
TEXARKANA, TEXAS	1,736,621	33.37%
TEXARKANA, ARKANSAS	1,697,433	32.62%
	<b>5,203,543</b>	<b>100.00%</b>

## Contributions - Actual 2019

### *Bi-State Fund*

	<i>TXK AR</i>	<i>TXK TX</i>	<i>BOWIE CO</i>	<i>TOTAL</i>
ACTUAL CONTRIBUTION RECEIVED	(2,011,876.00)	(1,764,507.00)	(3,456,251.72)	(7,232,634.72)
ALLOCATED COST	1,908,129.88	1,575,576.79	3,321,210.34	6,804,917.01
RENTAL RECOVERY	-	-	(93,543.24)	(93,543.24)
AR 911 FEES	(188,750.36)	-	-	(188,750.36)
OTHER REVENUE APPLIED	(8,393.18)	(8,525.26)	(8,636.03)	(25,554.47)
COSTS APPLIED TO CONTRIBUTION	1,710,986.34	1,567,051.53	3,219,031.07	6,497,068.94
CONTRIBUTION (OVERAGE)/SHORTAGE APPLIED TO BALANCE	(300,889.66)	(197,455.47)	(237,220.65)	(735,565.78)
YEAR END 2016 BALANCE	(23.78)	2,666.97	(352,049.06)	(349,405.87)
2017 CONTRIBUTION (OVERAGE)/SHORTAGE	(590,877.08)	(249,089.68)	457,741.25	(382,225.51)
YEAR END 2017 BALANCE	(590,900.86)	(246,422.71)	105,692.19	(731,631.38)
2018 CONTRIBUTION (OVERAGE)/SHORTAGE	(809,359.41)	(387,841.24)	502,901.35	(694,299.30)
YEAR END 2018 BALANCE	(1,400,260.27)	(634,263.95)	608,593.54	(1,425,930.68)
2019 CONTRIBUTION (OVERAGE)/SHORTAGE	(300,889.66)	(197,455.47)	(237,220.65)	(735,565.78)
YEAR END 2019 BALANCE	(1,701,149.93)	(831,719.42)	371,372.89	(2,161,496.46)



# Building Maintenance (Dept 171)

EXPENDITURES	ACTUAL 2019	BUDGET 2020	ESTIMATED 2020	PROPOSED 2021
PERSONNEL	461,604	563,644	510,745	598,122
CONTRACTUAL SERVICES	675,637	711,900	706,248	740,717
MAINTENANCE	82,728	108,000	96,000	129,000
SUPPLIES	36,253	38,350	33,875	39,950
DEBT SERVICE	69,169	28,821	28,821	0
CAPITAL OUTLAY	12,950	178,000	178,000	97,000
<b>TOTAL BUDGET</b>	<b>1,338,341</b>	<b>1,628,715</b>	<b>1,553,689</b>	<b>1,604,789</b>

## PERSONNEL

51010 SALARIES - REGULAR	336,746	399,000	360,000	432,000
51020 LONGEVITY PAY	6,675	8,250	8,250	8,025
51050 TRAINING PAY	481	480	480	480
51090 OVERTIME	0	800	300	300
51200 F.I.C.A.	20,741	25,400	28,300	27,400
51300 MEDICARE	4,851	6,000	5,400	6,400
51400 RETIREMENT	34,390	40,900	36,900	44,100
51500 HOSPITALIZATION/LIFE	50,239	71,151	60,203	71,148
51600 WORKERS COMPENSATION	5,932	6,663	5,912	6,769
51700 UNEMPLOYMENT	(39)	5,000	5,000	1,500
51850 TERMINATION PAY	1,588	0	0	0
<b>TOTAL</b>	<b>461,604</b>	<b>563,644</b>	<b>510,745</b>	<b>598,122</b>

## CONTRACTUAL SERVICES

52010 PROFESSIONAL SERVICES	184,988	197,000	213,000	223,650
52020 DATA PROCESSING	45,000	45,000	45,000	46,144
52022 DRUG TESTING/PHYSICALS	112	150	150	150
52040 PRINTING & DUPLICATING	43	100	50	100
52050 MAILING & DELIVERY	11	100	50	100
52060 UTILITY SERVICES	311,539	340,000	310,000	330,000
52070 COMMUNICATIONS	12,083	13,000	11,000	13,000
52080 DUES & SUBSCRIPTIONS	367	400	650	650
52090 ADVERTISING & PUBLICITY	229	150	75	150
52130 RENTAL OF EQUIPMENT	465	1,000	8,700	9,200
52195 INSURANCE EXPENSE	120,800	115,000	117,573	117,573
<b>TOTAL</b>	<b>675,637</b>	<b>711,900</b>	<b>706,248</b>	<b>740,717</b>

## MAINTENANCE

52150 MAINTENANCE LAND/BUILDG	68,164	73,000	77,000	85,000
52180 MAINTENANCE MACH/EQUIP	13,689	30,000	16,000	39,000
52185 MAINTENANCE VEHICLES	875	5,000	3,000	5,000
<b>TOTAL</b>	<b>82,728</b>	<b>108,000</b>	<b>96,000</b>	<b>129,000</b>



# Building Maintenance (Dept 171)

<b>EXPENDITURES</b>	<b>ACTUAL 2019</b>	<b>BUDGET 2020</b>	<b>ESTIMATED 2020</b>	<b>PROPOSED 2021</b>
<b>PERSONNEL</b>	461,604	563,644	510,745	598,122
<b>CONTRACTUAL SERVICES</b>	675,637	711,900	706,248	740,717
<b>MAINTENANCE</b>	82,728	108,000	96,000	129,000
<b>SUPPLIES</b>	36,253	38,350	33,875	39,950
<b>DEBT SERVICE</b>	69,169	28,821	28,821	0
<b>CAPITAL OUTLAY</b>	12,950	178,000	178,000	97,000
<b>TOTAL BUDGET</b>	<b>1,338,341</b>	<b>1,628,715</b>	<b>1,553,689</b>	<b>1,604,789</b>
<b>SUPPLIES</b>				
53020 OPERATING SUPPLIES	34,156	32,000	30,000	36,000
53030 FOOD	0	150	75	150
53050 CLOTHING & LINEN	428	600	1,000	800
53060 MINOR TOOLS & EQUIP	0	1,000	500	1,000
53070 MOTOR FUELS & LUBRICANT	1,669	4,000	2,000	2,000
53080 MATERIALS LAND/BUILDING	0	300	150	0
53120 MATERIALS BOTANICAL	0	300	150	0
<b>TOTAL</b>	<b>36,253</b>	<b>38,350</b>	<b>33,875</b>	<b>39,950</b>
<b>DEBT SERVICE</b>				
58150 S/T FINANCING - PRIN	66,791	28,559	28,559	0
58350 CAPITAL LEASE FEE	2,378	262	262	0
<b>TOTAL</b>	<b>69,169</b>	<b>28,821</b>	<b>28,821</b>	<b>0</b>
<b>CAPITAL OUTLAY</b>				
54001 CAPITAL OUTLAY	12,950	178,000	178,000	97,000
<b>TOTAL</b>	<b>12,950</b>	<b>178,000</b>	<b>178,000</b>	<b>97,000</b>

# Central Records & Communication (Dept 172)

EXPENDITURES	<i>ACTUAL</i> 2019	<i>PROPOSED</i> 2020	<i>ESTIMATED</i> 2020	<i>PROPOSED</i> 2021
<b>PERSONNEL</b>	2,232,445	2,793,090	2,284,749	2,835,867
<b>CONTRACTUAL SERVICES</b>	138,984	213,500	160,700	213,500
<b>MAINTENANCE</b>	135,701	275,500	275,250	290,500
<b>SUPPLIES</b>	27,779	57,800	28,500	57,800
<b>DEBT SERVICE</b>	10,973	11,000	0	0
<b>CAPITAL OUTLAY</b>	0	15,000	14,461	0
<b>TOTAL BUDGET</b>	<b>2,545,882</b>	<b>3,365,890</b>	<b>2,763,660</b>	<b>3,397,667</b>

<b>PERSONNEL</b>				
51005 BIC P/R CITY OF TXK TX	2,118,108	2,674,000	2,175,000	2,734,000
51010 SALARIES - REGULAR	79,090	82,000	80,000	80,500
51020 LONGEVITY PAY	1,885	1,900	1,066	0
51030 HOLIDAY PAY	3,954	4,100	2,313	0
51040 EDUCATION PAY	1,545	1,600	874	0
51050 TRAINING PAY	1,931	1,500	1,092	480
51070 CLOTHING ALLOWANCE	1,300	1,300	650	0
51200 F.I.C.A.	0	0	1,600	5,000
51300 MEDICARE	1,162	1,400	1,400	1,200
51400 RETIREMENT	16,954	18,600	14,000	8,100
51500 HOSPITALIZATION/LIFE	4,781	5,473	5,473	5,473
51600 WORKERS COMPENSATION	1,735	1,217	1,281	1,114
<b>TOTAL</b>	<b>2,232,445</b>	<b>2,793,090</b>	<b>2,284,749</b>	<b>2,835,867</b>

<b>CONTRACTUAL SERVICES</b>				
52010 PROFESSIONAL SERVICES	40,313	80,000	61,000	80,000
52040 PRINTING & DUPLICATING	1,429	1,800	1,000	1,800
52050 MAILING & DELIVERY	668	1,200	700	1,200
52060 UTILITY SERVICES	6,544	9,000	7,000	9,000
52070 COMMUNICATIONS	39,632	35,000	35,000	37,000
52080 DUES & SUBSCRIPTIONS	384	2,000	2,000	2,000
52100 TRAVEL/TRAINING	20,329	45,000	20,000	45,000
52130 RENTAL OF EQUIPMENT	1,970	9,500	4,000	7,500
52135 LEASE OF EQUIPMENT	27,715	30,000	30,000	30,000
<b>TOTAL</b>	<b>138,984</b>	<b>213,500</b>	<b>160,700</b>	<b>213,500</b>

<b>MAINTENANCE</b>				
52180 MAINTENANCE MACH/EQUIP	135,430	275,000	275,000	290,000
52185 MAINTENANCE VEHICLES	271	500	250	500
<b>TOTAL</b>	<b>135,701</b>	<b>275,500</b>	<b>275,250</b>	<b>290,500</b>

# Central Records & Communication (Dept 172)

EXPENDITURES	<i>ACTUAL</i> 2019	<i>PROPOSED</i> 2020	<i>ESTIMATED</i> 2020	<i>PROPOSED</i> 2021
PERSONNEL	2,232,445	2,793,090	2,284,749	2,835,867
CONTRACTUAL SERVICES	138,984	213,500	160,700	213,500
MAINTENANCE	135,701	275,500	275,250	290,500
SUPPLIES	27,779	57,800	28,500	57,800
DEBT SERVICE	10,973	11,000	0	0
CAPITAL OUTLAY	0	15,000	14,461	0
<b>TOTAL BUDGET</b>	<b>2,545,882</b>	<b>3,365,890</b>	<b>2,763,660</b>	<b>3,397,667</b>

## SUPPLIES

53020 OPERATING SUPPLIES	25,436	50,000	25,000	50,000
53030 FOOD	0	200	100	200
53050 CLOTHING & LINEN	793	3,500	1,000	3,500
53060 MINOR TOOLS & EQUIP	0	1,500	650	1,500
53070 MOTOR FUELS & LUBRICANT	1,650	2,500	1,700	2,500
53110 MATERIALS MACH/EQUIP	0	100	50	100
53300 PRIOR YR CORRECTION	(100)	0	0	0
<b>TOTAL</b>	<b>27,779</b>	<b>57,800</b>	<b>28,500</b>	<b>57,800</b>

## DEBT SERVICE

58150 S/T FINANCING - PRIN	8,412	9,000	0	0
58350 CAPITAL LEASE FEE	2,561	2,000	0	0
<b>TOTAL</b>	<b>10,973</b>	<b>11,000</b>	<b>0</b>	<b>0</b>

## CAPITAL OUTLAY

54001 CAPITAL OUTLAY	0	15,000	14,461	0
<b>TOTAL</b>	<b>0</b>	<b>15,000</b>	<b>14,461</b>	<b>0</b>

# Detention (Dept 173)

<b>EXPENDITURES</b>	<b>ACTUAL 2019</b>	<b>PROPOSED 2020</b>	<b>ESTIMATED 2020</b>	<b>PROPOSED 2021</b>
<b>CONTRACTUAL SERVICES</b>	2,695,010	2,541,700	2,770,800	0
<b>MAINTENANCE</b>	14,649	17,800	14,000	0
<b>TOTAL BUDGET</b>	<b>2,709,659</b>	<b>2,559,500</b>	<b>2,784,800</b>	<b>0</b>
<b>CONTRACTUAL SERVICES</b>				
52010 PROFESSIONAL SERVICES	2,694,755	2,540,000	2,770,000	0
52040 PRINTING & DUPLICATING	0	0	0	0
52130 RENTAL OF EQUIPMENT	255	1,700	800	0
<b>TOTAL</b>	<b>2,695,010</b>	<b>2,541,700</b>	<b>2,770,800</b>	<b>0</b>
<b>MAINTENANCE</b>				
52150 MAINTENANCE LAND/BUILDG	5,986	4,000	5,000	0
52180 MAINTENANCE MACH/EQUIP	8,663	13,800	9,000	0
<b>TOTAL</b>	<b>14,649</b>	<b>17,800</b>	<b>14,000</b>	<b>0</b>

## C.O. Expenditures (Dept 174)

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<b>EXPENDITURES</b>	<b>ACTUAL 2019</b>	<b>PROPOSED 2020</b>	<b>ESTIMATED 2020</b>	<b>PROPOSED 2021</b>
<b>DEBT SERVICE</b>	211,735	210,163	200,567	201,090
<b>TOTAL BUDGET</b>	<b>211,735</b>	<b>210,163</b>	<b>200,567</b>	<b>201,090</b>
<b>DEBT SERVICE</b>				
58150 PRINCIPAL	180,000	185,000	185,000	195,000
58200 INTEREST	31,735	25,163	15,567	6,090
<b>TOTAL</b>	<b>211,735</b>	<b>210,163</b>	<b>200,567</b>	<b>201,090</b>





## CITY OF TEXARKANA, AR BOARD OF DIRECTORS

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<b>AGENDA TITLE:</b>	Adopt an Ordinance to rezone 3211 Preston Street from M-2 general manufacturing zone to R-4 medium density residential zone to develop dwellings. (PWD-Planning) City Planner Mary Beck
<b>AGENDA DATE:</b>	04/05/2021
<b>ITEM TYPE:</b>	Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Other <input type="checkbox"/> : _____
<b>DEPARTMENT:</b>	Public Works/Planning
<b>PREPARED BY:</b>	Mary Beck

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<b>REQUEST:</b>	Adopt an ordinance to rezone property from M-2 to R-4
<b>EMERGENCY CLAUSE:</b>	None requested

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<b>SUMMARY:</b>	A previous industrial activity located at 3211 Preston Street resulted in M-2 general manufacturing zone. The applicant wishes to rezone to a more appropriate R-4 medium density residential zone to develop dwellings.
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<b>EXPENSE REQUIRED:</b>	N/A
<b>AMOUNT BUDGETED:</b>	N/A
<b>APPROPRIATION REQUIRED:</b>	N/A

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<b>RECOMMENDED ACTION:</b>	Adopt an ordinance to rezone 3211 Preston Street from M-2 to R-4.
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<b>EXHIBITS:</b>	Ordinance, Memo to City Manager, deed, and map
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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE  
NO. K-286, AS AMENDED; AND FOR  
OTHER PURPOSES**

**WHEREAS**, an application to amend the Land Use Plan was filed with the Planning Commission of the City of Texarkana, Arkansas, requesting that the following land be rezoned from M-2 General manufacturing zone to R-4 Medium density residential zone:

**The South 358.4' of Lots 8 & 9, Block 1, BROOKLAWN SUBDIVISION, (AKA as parcel C), Texarkana, Miller County, Arkansas.**

**WHEREAS**, the Planning Commission, after public hearing, approved said application and recommended that the Board of Directors of the City of Texarkana, Arkansas, adopt the ordinance affecting said rezoning request;

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

Ordinance No. K-286, as amended, is hereby amended to rezone the above-described property in the City of Texarkana, Arkansas, from M-2 General manufacturing to R-4 Medium Density residential zoning. This is solely a rezoning and no other action, conveyance, or release of interest.

**PASSED AND APPROVED** this 5<sup>th</sup> day of April, 2021.

\_\_\_\_\_  
Allen L. Brown, Mayor

**ATTEST:**

\_\_\_\_\_  
Heather Soyars, City Clerk

**APPROVED:**

\_\_\_\_\_  
George Matteson, City Attorney



## CITY OF TEXARKANA ARKANSAS

### DEPARTMENT OF PUBLIC WORKS

216 WALNUT ST 71854-6024

P O BOX 2711 TEXARKANA ARKANSAS 75504-2711

PHONE (870) 779-4971 – FAX (870) 773-2395

## MEMORANDUM

**TO:** Dr. Kenny Haskin, City Manager

**FROM:** Mary L. Beck, City Planner

**DATE:** March 12, 2021

**SUBJECT:** Board of Directors Agenda item for 04-05-2021 **Request to rezone 3211 Preston Street**, Mary H. Caldwell, agent John Caldwell, Jr., 11435 Sandhaven Drive, Richmond, TX 77407-4542 request to rezone a tract of land from M-2 General manufacturing to R-4 Medium density residential zoning.

**LEGAL DESCRIPTION:** PT of Lots, 8, 9, Block 1, BROOKLAWN SUBDIVISION, (parcel C) Texarkana, Miller County, Arkansas.

**REASON FOR REQUEST:** The applicant wants to develop housing.

**EXISTING LAND USES:** Site: a former shop  
North: vacant & residential  
East: residential  
South: residential  
West: vacant & residential

**EXISTING ZONING:** Site: M-2 General manufacturing & R-4 Medium density residential  
North: R-4 Medium density residential  
East: R-4 Medium density residential  
South: R-4 Medium density residential  
West: R-4 Medium density residential

**COMPATIBILITY WITH EXISTING ZONING:** This tract of land was formerly used by its owner, John Caldwell, Sr., deceased, with shared ownership with his wife Mary H. Caldwell as a shop to product some type of product. It was zoned to an M-2 General manufacturing zone in the 1988 long term plan for that reason. The property is completely surrounded by residential zoning and the area has had a surge of development of well-maintained multi-family dwellings during the past decade. The long-term comprehensive plan shows this property was likely to develop as single family residential between single



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family residential and light multi-family.

**UTILITIES & TRANSPORTATION NETWORK:**

Local street: Preston

Collector: None

Arterial: None

Utilities

Water: Preston

Sewer: Preston

Fire hydrant: Located about 200' to the west on Preston.

**CONFORMANCE WITH APPLICABLE ORDINANCES AND/OR STATE STATUTES:**

The *Arkansas Code of 1987 Annotated (14-56-422B)* requires the following – “All plans, recommended ordinances, and regulations shall be adopted through the following procedure for adoption of plans and regulations:

(A) The Planning Commission shall hold a public hearing on the plans, ordinances, and regulations proposed under this subchapter.

(B) Notice of public hearing shall be published in a newspaper of general circulation in the city, at least (1) time fifteen days prior to the hearing.

(2)

Following the public hearing, proposed plans may be adopted, and proposed ordinance and regulations may be recommended as presented, or in modified form, by a majority vote of the entire commission.

(3)

Following its adoption of plans and recommendation of ordinances and regulations, the commission shall certify adopted plans of recommended ordinances and regulations to the legislative body of the city for its adoption.

(4)

The legislative body of the city may return the plans and recommended ordinances and regulations to the commission for further study or rectification, or, by a majority vote of the entire membership, may, by ordinance or resolution, adopt the plans and recommended ordinances or regulations submitted by the commission. However, nothing in this subchapter shall be

construed to limit the city board's authority to recall the ordinances and resolutions by a vote of a majority of the council.

(5)

Following adoption by the legislative body, the adopted plans, ordinances, and regulations shall be filed in the office of the City Clerk. The City Clerk shall file, with the county recorder of the counties in which territorial jurisdiction is being exercised such plans, ordinances, and regulations as pertain to the territory beyond the corporate limits.

The required notice was published in the Sunday, January 24, 2021 edition of the *Texarkana Gazette*. The City notified thirty-three (33) adjacent property owners by regular postal mail within three hundred feet (300') as required by the *Texarkana, Arkansas Code of Ordinances*.

**OPPOSITION:**

None prior to the Planning Commission meeting. On March 12, 2021, a voice mail left by Elouise Temple, (870) 773-0834, property owner of 39 Preston Circle said she was "*opposed to more duplexes or apartments in the neighborhood as we have enough*".

**CERTIFICATION OF RECOMMENDATION BY PLANNING COMMISSION:**

The Planning Commission met on March 9, 2021, and on a motion by Ms. Dunn, seconded by Mr. Thomas, voted to recommend approval of rezoning 5-0 with no opposition and two absent.

Adger Smith, Chairman	yes
Anderson Neal, Vice Chairman	absent
George Coker	yes
Jason Dupree	yes
Bertha Dunn	yes
Randall Hickerson	absent
Clyde "Boots" Thomas	yes

**REQUESTED BOARD ACTION:**

The City Board is requested to adopt an ordinance rezoning 3211 Preston Street to R-4 Medium residential zoning. The *Arkansas Code of 1987 Annotated* requires every ordinance to be read three times before adoption. These three readings may all occur at the same meeting or at the second and third subsequent meetings after the first reading of the ordinance.

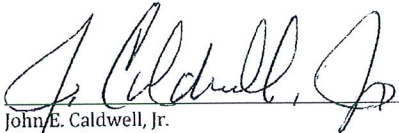
Attachment: zoning map

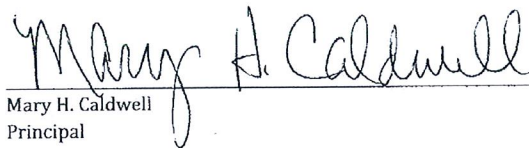
January 28, 2021

Re: **Rezoning Authorization**  
**Parcel Nos.: 1710030/1710032**

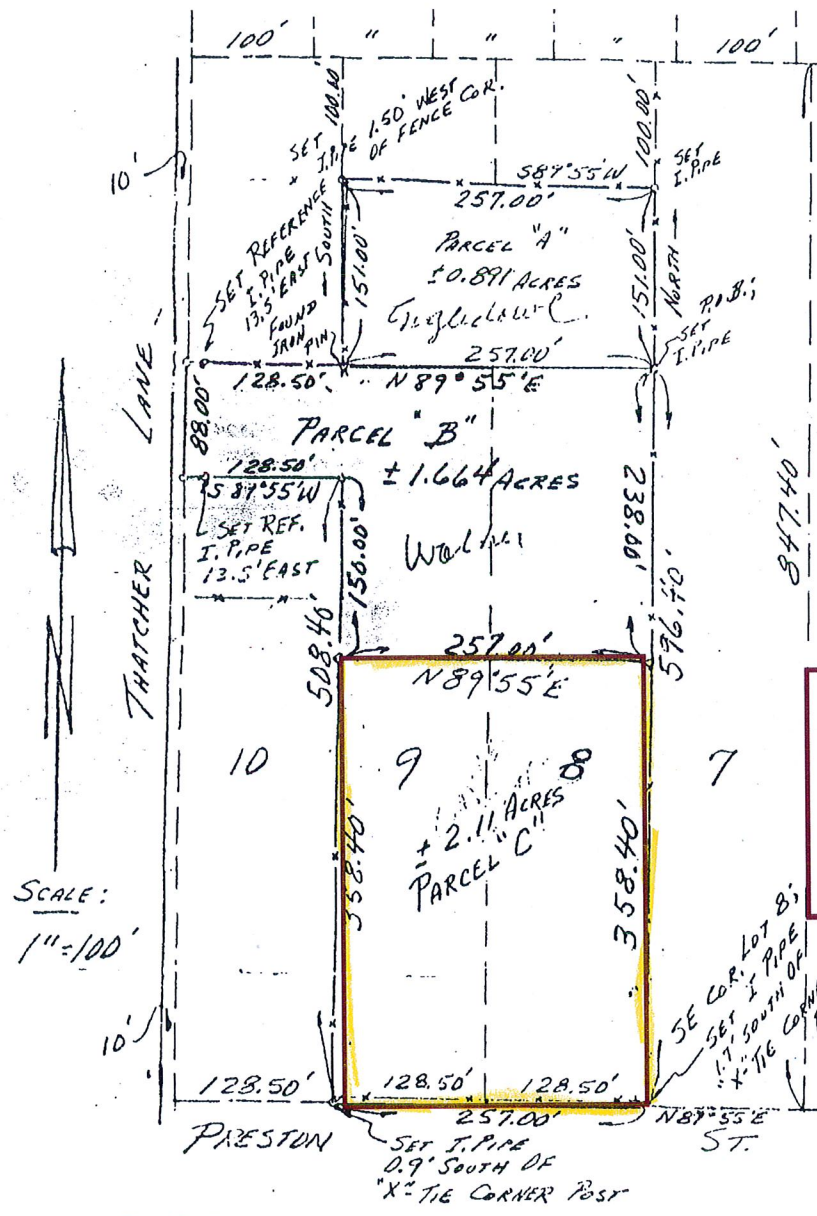
To whom it may concern:

I, Mary H. Caldwell, authorize the individual named below as agent to effect the property rezoning application related to Parcel numbers 1710030 and 1710032. My husband, John E. Caldwell, Sr., died in 2018.

  
\_\_\_\_\_  
John E. Caldwell, Jr.  
Agent

  
\_\_\_\_\_  
Mary H. Caldwell  
Principal

*John C. Curdwell*



**"PARCEL "B";**

All that certain lot, tract or parcel of land being a part of Lots 8, 9 and 10 of Brooklawn Subdivision to the City of Texarkana Miller County, Arkansas, according to a plat thereof recorded in Vol. 74, Page 49, of the Plat Records of Miller County, Arkansas, and being more particularly described as follows:

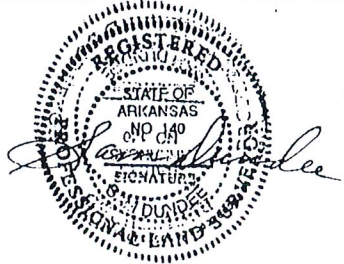
- BEGINNING 596.40' North of the SE corner of said Lot 8, at a point in the East Line of Lot 8;
- THENCE- South, 238.00' to a point set in said East Line of Lot 8;
- THENCE- S89°55'W, 257.00' to a point set in the West Line of said Lot 9;
- THENCE- North, 150.00' to a point set in said West Line of Lot 9;
- THENCE- S89°55'W, 128.50' to a point set in the West Line of said Lot 10;
- THENCE- North, 88.00' to a point set in the West Line of said Lot 10;
- THENCE- N89°55'E, with fence and its projection, 385.50' to the Point Of Beginning and containing 1.664 acres of land, more or less.

Date: 12-22-87

**"PARCEL "C";**

The South 358.40' of Lots 8 and 9 of Brooklawn Subdivision to the City of Texarkana, Miller County, Arkansas, according to a plat thereof recorded in Vol. 74, Page 49 of the Plat Records of Miller County, Arkansas.

Date: 3-7-90



CHARLIE DANIELS  
COMMISSIONER OF STATE LANDS  
STATE OF ARKANSAS

Issued under the provisions of Act 151 of 1891, Act 626 of 1983 and Act 814 of 1987

THE STATE OF ARKANSAS:

To All Whom these Presents Shall Come — GREETINGS:

KNOW YE THAT, WHEREAS: The following described lands situated in the County of HILLER in the State of Arkansas, to wit:

Section :	1. S. 358.4 FT. OF LOTS 8 & 9
Township:	2. PARCEL C. BLOCK 1
Range :	3.
Acres :	4. 000000.000
Addition:	5. BROOKLAWN
City :	6. S.D. #7

Parcel Number 171-003-2-0 Year Forfeited 7-16 1991

were certified to the Commissioner of State Lands, by the County Collector for the non-payment of taxes for the years hereinbelow set forth; and that the taxes, penalties, interest and cost outlined below have been paid to the Commissioner of State Lands;

AND WHEREAS JOHN CALDWELL

600 THATCHER, TEXARKANA, AR 75502

claiming to be the owner(s) of said real property, filed a petition to redeem duly verified according to the law, showing such ownership.

NOW THEREFORE, I, CHARLIE DANIELS, Commissioner of State Lands within and for the State of Arkansas, for and in consideration of \$ 97.95 so paid and by virtue of the authority in me vested by law, do hereby release and quitclaim unto the said

JOHN CALDWELL and THEIR heirs and assigns forever all right, title and interest the State of Arkansas acquired under any forfeiture, sale or condemnation for taxes.

WITNESS MY HAND AND OFFICIAL SEAL 12-Jul-1995

Taxes <u>1991-1993</u>	<u>45.84</u>
Imp Tax Due	<u>          </u>
Interest	<u>7.53</u>
Penalty	<u>4.58</u>
County Cost	<u>4.00</u>
Recording Fee	<u>6.00</u>
Deed Fee	<u>5.00</u>
Commissioner Fee	<u>25.00</u>
<b>Total Paid:</b>	<u>\$97.95</u>

*Charlie Daniels*  
Charlie Daniels  
Commissioner of State Lands

Deputy Commissioner of State Lands

Steve Br...



Deed Mailed to:

17 JUL 1995

FILED FOR RECORD

JOHN CALDWELL  
600 THATCHER  
TEXARKANA, AR 75502

FILED FOR RECORD

**Property Owner**

Name: CALDWELL, JOHN E. & MARY H.

**Property Information**

Physical Address: PRESTON ST

Mailing Address: 600 THATCHER  
TEXARKANA, AR 71854

Subdivision: BROOKLAWN

Block / Lot: 001 / 009

Type: (CI) Comm. Impr.

S-T-R: 28-15S-28W

Tax Dist: (07T) TEXARKANA

Size (Acres): 2.110

Millage Rate: 54.90

Extended Legal: S358.4' OF LOTS 8 & 9 PARCEL C

**Market and Assessed Values**

**Taxes**

	Estimated Market Value	Full Assessed (20% Mkt Value)	Taxable Value
Land:	\$7,900	\$1,580	\$1,580
Building:	3100	620	620
<b>Total:</b>	<b>\$11,000</b>	<b>\$2,200</b>	<b>\$2,200</b>

Estimated Taxes:	\$121
Homestead Credit:	\$0

Note: Tax amounts are estimates only. Contact the county/parish tax collector for exact amounts.

**Land**

Land Use	Size	Units
	2.110	Acres
<b>Total</b>	<b>2.110</b>	

**Deed Transfers**

Deed Date	Book	Page	Deed Type	Stamps	Est. Sale	Grantee	Code	Type
10/1/1995	369	85	Warr. Deed	46.20	\$14,000	CALDWELL, JOHN E. & MARY H.	Valid	Improve d
7/1/1995	367	307	N/A			CALDWELL, JOHN	N/A	N/A

**Reappraisal Value History**

Tax Year	Total Value	Total Assessed
2015	\$10,750.00	\$2,150.00
2016	\$10,750.00	\$2,150.00
2017	\$10,750.00	\$2,150.00
2018	\$10,750.00	\$2,150.00
2019	\$10,750.00	\$2,150.00
2020	\$11,000.00	\$2,200.00

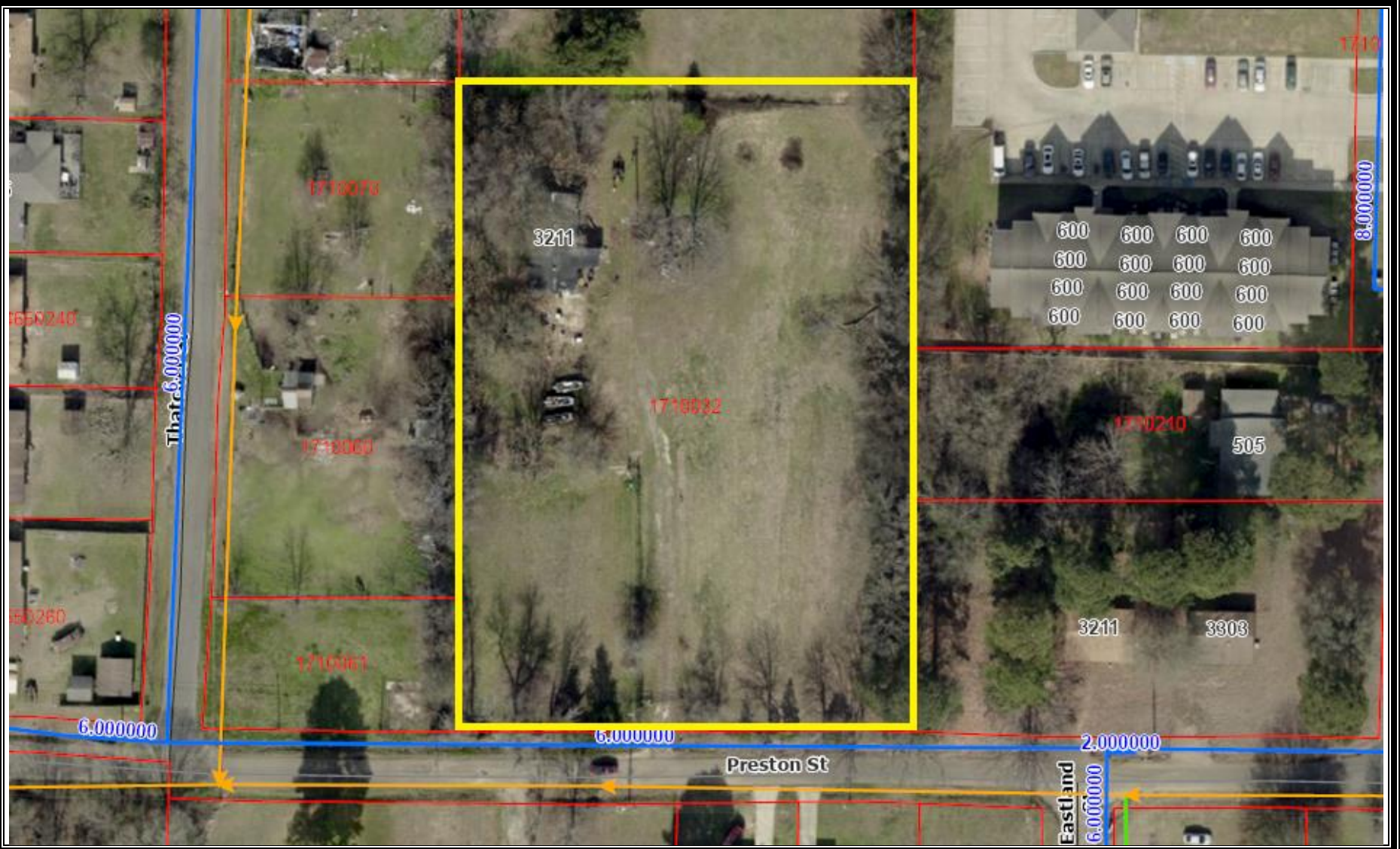
**Details for Commercial Card 1**

Business Name(s): C&C WELDING & MACHINE SHOP

Number of Units:

Total Floor Area: 1550





Rezoning request M-2 to R-4 at 3211 Preston Street  
 Prepared by the Planning Division for reference only



# CITY OF TEXARKANA, AR

## BOARD OF DIRECTORS

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<b>AGENDA TITLE:</b>	Adopt an Ordinance to rezone 1619 Lincoln Street from C-1 general retail commercial zone to R-4 medium density residential zone to develop dwellings. (PWD-Planning) City Planner Mary Beck
<b>AGENDA DATE:</b>	04/05/2021
<b>ITEM TYPE:</b>	Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Other <input type="checkbox"/> : _____
<b>DEPARTMENT:</b>	Public Works/Planning
<b>PREPARED BY:</b>	Mary Beck

---

<b>REQUEST:</b>	Adopt an ordinance to rezone property from C-1 to R-4
<b>EMERGENCY CLAUSE:</b>	None requested

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<b>SUMMARY:</b>	This was previous barber shop zoned C-1 general retail commercial zone. No business has operated at this location for many years. The applicant wishes to rezone to a more appropriate R-4 medium density residential zone to develop dwellings.
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<b>EXPENSE REQUIRED:</b>	N/A
<b>AMOUNT BUDGETED:</b>	N/A
<b>APPROPRIATION REQUIRED:</b>	N/A

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<b>RECOMMENDED ACTION:</b>	Adopt an ordinance to rezone Lot 7, Block 5, Carter, Kirby and Fouke Subdivision to R-4 Medium density residential.
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<b>EXHIBITS:</b>	Ordinance, Memo to City Manager, deed, map
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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE  
NO. K-286, AS AMENDED; AND FOR  
OTHER PURPOSES**

**WHEREAS**, an application to amend the Land Use Plan was filed with the Planning Commission of the City of Texarkana, Arkansas, requesting that the following land be rezoned from C-1 General retail commercial zone to R-4 Medium density residential zone:

**The property is legally described as Lot 7, Block 5, CARTER KIRBY & FOUKE SUBDIVISION, Texarkana, Miller County, Arkansas.**

**WHEREAS**, the Planning Commission, after public hearing, approved said application and recommended that the Board of Directors of the City of Texarkana, Arkansas, adopt the ordinance affecting said rezoning request;

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

Ordinance No K-286, as amended, is hereby amended to rezone the above-described property in the City of Texarkana, Arkansas, from C-1 General retail commercial zone to R-4 Medium density residential zone. This is solely a rezoning and no other action, conveyance, or release of interest.

**PASSED AND APPROVED** this 5<sup>th</sup> day of April, 2021.

\_\_\_\_\_  
Allen L. Brown, Mayor

**ATTEST:**

\_\_\_\_\_  
Heather Soyars, City Clerk

**APPROVED:**

\_\_\_\_\_  
George Matteson, City Attorney



## CITY OF TEXARKANA ARKANSAS

### DEPARTMENT OF PUBLIC WORKS

216 WALNUT ST 71854-6024

P O BOX 2711 TEXARKANA ARKANSAS 75504-2711

PHONE (870) 779-4971 – FAX (870) 773-2395

## MEMORANDUM

**TO:** Dr. Kenny Haskin, City Manager

**FROM:** Mary L. Beck, City Planner

**DATE:** March 12, 2021

**SUBJECT:** Tomas Gadson, 10912 Wilkie Avenue, Ingelwood, CA 90303-2531 to **Board of Directors on April 5, 2021** requests rezoning a lot that is adjacent to three other residentially zoned lots he owns from the current zoning of C-1 General retail commercial to R-4 Medium density residential zoning. The combined property is addressed 1619 Lincoln Street. The lot was formerly a business and was addressed on Seibert Street. The lot contains .234 acres more or less.

**LEGAL DESCRIPTION:** The property is legally described as Lot 7, Block 5, CARTER KIRBY & FOUKE SUBDIVISION, Texarkana, Miller County, Arkansas.

**REASON FOR REQUEST:** The applicant wants to develop this lot and three adjacent lots for housing.

**EXISTING LAND USES:** Site: a former barber shop  
North: vacant  
East: vacant  
South: vacant  
West: single family house

**EXISTING ZONING:** Site: C-1 General retail commercial  
North: R-4 Medium density residential  
East: R-4 Medium density residential  
South: R-4 Medium density residential  
West: R-4 Medium density residential

**COMPATIBILITY WITH EXISTING ZONING:** The long-term comprehensive plan shows this property was likely to develop as single-family residential housing in an area that had public or quasi-public areas due to the proximity of flood plains. The property is completely surrounded by R-4 Medium density residential zoning with one area of C-1 commercial zoning in the immediate area. With a continuing need for housing in Texarkana, development of various

dwelling is encouraged and smaller lots that were platted decades earlier are finding renewed interest. Although the lot is substandard in width at forty feet for current new construction regulations, it is a legal building site for a single-family dwelling. Under Ordinance 4-2019, restoration as building sites of lots in legal subdivisions that pre-existed the 1988 zoning implementation may be used for single family dwellings under lot of record provisions, a clause that had been previously interpreted otherwise. The size of the lot is six thousand, two hundred square feet and it is a hundred and fifty-five feet in length. The plan to develop dwellings is seen as an appropriate option for this location and the R-4 Medium density zoning is the most appropriate for older developed areas in the City with smaller lot widths.

#### **UTILITIES & TRANSPORTATION NETWORK:**

Local:	Seibert Street
Collector:	None
Arterial:	None
Water:	Seibert Street
Sewer:	Seibert Street
Fire hydrant:	The nearest location at Washington and Seibert is approximately 250'.

#### **CONFORMANCE WITH APPLICABLE ORDINANCES AND/OR STATE STATUTES:**

The *Arkansas Code of 1987 Annotated (14-56-422B)* requires the following – “All plans, recommended ordinances, and regulations shall be adopted through the following procedure for adoption of plans and regulations:

- (A) The Planning Commission shall hold a public hearing on the plans, ordinances, and regulations proposed under this subchapter.
- (B) Notice of public hearing shall be published in a newspaper of general circulation in the city, at least (1) time fifteen days prior to the hearing.
- (2) Following the public hearing, proposed plans may be adopted, and proposed ordinance and regulations may be recommended as presented, or in modified form, by a majority vote of the entire commission.
- (3) Following it adoption of plans and recommendation of ordinances



and regulations, the commission shall certify adopted plans of recommended ordinances of and regulations to the legislative body of the city for its adoption.

(4) The legislative body of the city may return the plans and recommended ordinances and regulations to the commission for further study or rectification, or, by a majority vote of the entire membership, may, by ordinance or resolution, adopt the plans and recommended ordinances or regulations submitted by the commission. However, noting in this subchapter shall be construed to limit the city board's authority to recall the ordinances and resolutions by a vote of a majority of the council.

(5) Following adoption by the legislative body, the adopted plans, ordinances, and regulations shall be filed in the office of the City Clerk. The City Clerk shall file, with the county recorder of the counties in which territorial jurisdiction is being exercised such plans, ordinances, and regulations as pertain to the territory beyond the corporate limits.

The required notice was published in the Sunday, February 21, 2021 edition of the *Texarkana Gazette*. The City notified thirty-six (36) adjacent property owners by regular postal mail within three hundred feet (300') as required by the *Texarkana, Arkansas Code of Ordinances*.

**OPPOSITION:** None to date

**PLANNING COMMISSION CERTIFICATION:**

The Planning Commission met on March 9, 2021 and on a motion by Bertha Dunn, seconded by Jason Dupree, voted 5-0 to certify recommendation to adopt an ordinance to rezone the property from M-2 General manufacturing to R-4 Medium density residential.

Adger Smith, Chairman	yes
Anderson Neal, Vice Chairman	absent
George Coker	yes
Jason Dupree	yes
Bertha Dunn	yes
Randall Hickerson	absent
Clyde "Boots" Thomas	yes

**REQUESTED ACTION BY CITY BOARD OF DIRECTORS:**

The City Board is requested to review the Planning Commission's recommendation during the first meeting in April 2021 and adopt an ordinance to rezone the property. The *Arkansas Code of 1987 Annotated* requires every ordinance to be read three times before



adoption. These three readings may all occur at the same meeting or at the second and third subsequent meetings after the first reading of the ordinance.

Attachment: map



**IN THE CIRCUIT COURT OF MILLER COUNTY, ARKANSAS  
PROBATE DIVISION**

**IN THE MATTER OF THE  
ESTATE OF STELLA GADSON,  
DECEASED**

**NO. 46PR-14-257-2**

**ORDER APPROVING FINAL DISTRIBUTION  
OF ESTATE ASSETS AND  
DISCHARGING THE PERSONAL REPRESENTATIVE**

On this date comes on for hearing the Petition of the personal representative herein, for approval of final distribution of estate assets, and for discharge of the personal representative, and the Court, having considered the same, finds:

1. That Tomas Gadson is the duly appointed, qualified and acting Administrator of the Estate of the Decedent, having been so appointed by this Court on December 2, 2014.
2. That he has collected and managed all of the decedent's assets subject to probate administration, published and given all notices as required by statute and this Court, determined and paid all claims against the estate, and taken all necessary steps to fully administer the estate.
3. That the time for filing claims against the estate has expired, there are no contingent claims allowed or outstanding, and there is no liability to the estate by the personal representative. That three claims were filed in this estate, one by Wells Fargo Bank, N.A., and two by Capital One, N.A. These claims were set for hearing on September 17, 2015, and none of the claimants appeared at the hearing. Therefore, these claims were dismissed by the Court on September 17, 2015.
4. That the estate was not liable for the payment of U. S. or Arkansas Estate Taxes.
5. That the estate was not liable for the payment of U. S. or Arkansas income taxes.
6. That all distributees have waived the requirement of a final accounting herein, in the manner provided by Arkansas law, and the Court should therefore excuse Petitioner from making such accounting.
7. That the Decedent was not married on the date of her death. The Decedent was married only one time, and that time was to Levon Gadson, who died in the 1990s in Los Angeles, California. The Decedent had only two children during her lifetime, namely, (1) Wade Sauls, a son, who died in 1988, and who had only one child, namely, Wade Sauls, Jr.; and (2) Tomas Gadson, a son. That Wade Sauls never had any children other than Wade Sauls, Jr., either legitimate, illegitimate or adopted. That Stella Gadson never

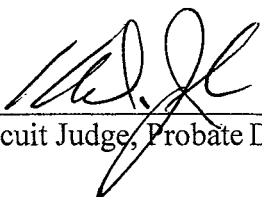
had any children other than Wade Sauls and Tomas Gadson, either legitimate, illegitimate or adopted.

8. That the Administrator deposited with his attorney, the sum of \$160.00 toward costs and expenses. That \$107.28 was paid out of this for a legal notice in the Texarkana, Gazette, leaving a balance on deposit of \$52.72. That the Administrator has received \$38,181.11 from the sale of the Decedent's home, the sum of \$119.32 being a utility refund, and the sum of \$6.00 from Bayer Aspirin. Therefore the estate received the sum of \$38,359.15 That out of said proceeds the sum of \$20.22 was paid for mailing expenses and \$125.00 for tax service, leaving a balance of \$38,213.93. That Wade Sauls, Jr. has assigned all his interest in the estate except for \$5,000.00 to Tomas Gadson. That final distribution of the sum of \$38,213.93 should be distributed as follows: (1) The sum of \$4,000.00 should be paid to Karlton H. Kemp, Jr., as an attorney's fee for handling this estate; (2) The sum of \$5,000.00 should be paid to Wade Sauls, Jr., and (3) The remaining balance in the estate of \$29,213.93 should be distributed to Tomas Gadson. That final distribution of the estate to the persons and in the amounts above stated is in accordance with applicable law.

9. That all necessary parties have duly waived notice and hearing on the Petition, in accordance with applicable law and the requirement of notice is therefore excused.

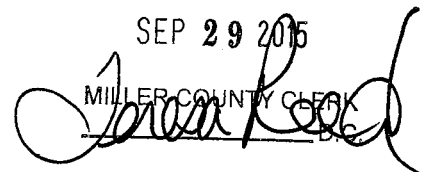
It is, therefore by the Court CONSIDERED, ORDERED AND ADJUDGED that the personal representative herein be, and he hereby is, excused from filing herein a final accounting; that the personal representative herein be, and he hereby is, authorized to deliver and make final distribution of all assets in the estate to the persons and in the amounts found above, and said distribution is confirmed and approved; that Petitioner be, and he hereby is, discharged; and that administration of the estate, be, and hereby is, closed.

Date: 9-29-15

  
\_\_\_\_\_  
Circuit Judge, Probate Division

FILED

SEP 29 2015

MILLER COUNTY CLERK  


IN THE CIRCUIT COURT OF MILLER COUNTY, ARKANSAS  
PROBATE DIVISION

IN THE MATTER OF THE ESTATE  
OF STELLA GADSON, DECEASED

NO. 46PR-14-257-2

ASSIGNMENT

I, Wade Sauls, Jr., do hereby assign to Tomas Gadson all of my interest in the estate of Stella Gadson, deceased, except that I understand that I will receive the sum of \$5,000.00 from the Estate.

Dated this the 23 day of September, 2015.

Wade Sauls Wade Sauls  
Wade Sauls, Jr.

Subscribed and sworn to before me, a Notary Public, this the — day of —,  
2015.

See attached Trust  
Notary Public

FILED

SEP 29 2015

MILLER COUNTY CLERK  
Amanda Newby D.C.

**CALIFORNIA JURAT WITH AFFIANT STATEMENT**

**GOVERNMENT CODE § 8202**

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-6 to be completed only by document signer[s], *not* Notary)

\_\_\_\_\_

*Signature of Document Signer No. 1*                      *Signature of Document Signer No. 2 (if any)*

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

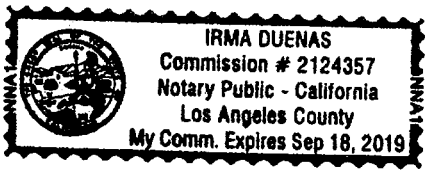
State of California  
 County of Los Angeles

Subscribed and sworn to (or affirmed) before me  
 on this 23 day of September, 2015,  
 by \_\_\_\_\_  
 Date                      Month                      Year

(1) Wade Sauls, Jr.  
 \_\_\_\_\_  
 (and (2) \_\_\_\_\_ ),  
 Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence  
 to be the person(s) who appeared before me.

Signature \_\_\_\_\_  
 Signature of Notary Public



Seal  
 Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**  
 Title or Type of Document: Assignment                      Document Date: 9-23-15  
 Number of Pages: 4                      Signer(s) Other Than Named Above: \_\_\_\_\_

**Ownership Description**

Name: GADSON, TOMAS  
 10912 WILKIE AVE  
 INGLEWOOD CA 90303  
 Subd.: 000185 CARTER, KIRBY & FOUKE Acres: 0.569  
 S-T-R: 29-15S-28W  
 T.D.: 07T TEXARKANA  
 Location: 1619 S LINCOLN  
 Legal: ALL LOTS 5 THRU 8

Type: RV Res. Vac	2020	20%	2019	20%
Taxable: N No Adj	8,000	1,600	8,000	1,600
Neigh: 000185				
Owner: 553343 TID: 553343				
Status: Block: 005 Lot: 008				
Total	8,000	1,600	8,000	1,600

**Review Record**

Date	By	Reason	Land	Buildings	Total
6/16/2020	TLG	RV	8,000		8,000
2020 REAPPRAISAL VALUE UPDATE					
6/19/2015	TLG	RV	8,000		8,000
7/14/2010	TLG	RV	8,000		8,000
6/4/2008	TLG	NC	8,000		8,000
DWG GONE REMOVED FOR 2008					
7/15/2007	DJM	RV	8,000	4,500	12,500
10/23/2006	MLS	IN	5,500	4,050	9,550
Added lots 5 & 6 from #1850420 for 2006					

**Topography**

Trend	Street	Utilities	Topography	Landscaping
<input type="checkbox"/> Improving	Concrete	No Water	<input checked="" type="checkbox"/> High	<input type="checkbox"/> Excellent
<input checked="" type="checkbox"/> Static	Asphalt	No Sewer	<input type="checkbox"/> Low	<input type="checkbox"/> Good
<input type="checkbox"/> Declining	ChatSeal	No Gas	<input type="checkbox"/> Rough	<input checked="" type="checkbox"/> Average
<input type="checkbox"/> New	Gravel	No Electric	<input type="checkbox"/> Flat	<input type="checkbox"/> Poor
<input type="checkbox"/> Old	Dirt	No Telephone	<input type="checkbox"/> Sloping	<input type="checkbox"/> None

**Building Permit Record**

Date	Amount	Purpose	Note
6/19/2007	DM	Demolit	demo

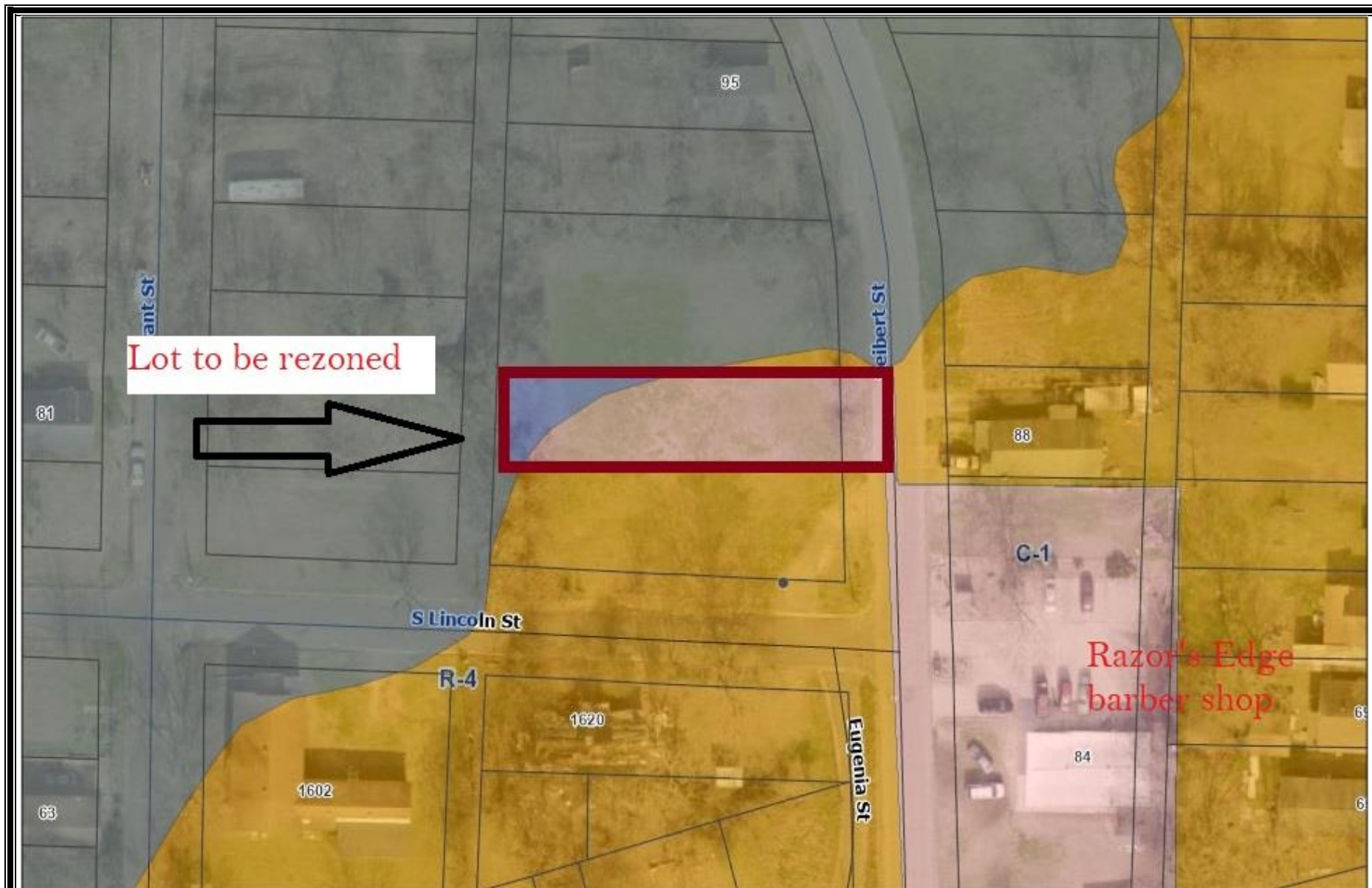
**Ownership Record**

Date	Book	Page/Inst#	Amount	Type	Grantee	Remarks
9/29/2015	46PR-14-257-2			PC	GADSON, TOMAS	PROBATE ON STELLA GADSON
3/29/2002	418	134	275 LD		GADSON, STELLA	lots 5 & 6
1/2/2002	415	798	1,232 LD		GADSON, STELLA	lots 7 & 8

**Land Record**

Sub PT	Size/Front	Size Pri/Sec	Depth	Adj	Rate	Pri/Sec	O	Adj1	%	Adj2	%	Value	NC	HS
HL	1.000	1.000	.000	.000	2000.00							2,000		
					0.00							LOT 5 40X155		
HL	1.000	1.000	.000	.000	2000.00							2,000		
					0.00							LOT 6 40X155		
HL	1.000	1.000	.000	.000	2000.00							2,000		
					0.00							LOT 7 40X155		
HL	1.000	1.000	.000	.000	2000.00							2,000		
					0.00							LOT 8 40X155		





Rezoning request C-1 to R4 1619 Lincoln Street  
Prepared by the Planning Division for reference only



## CITY OF TEXARKANA, AR BOARD OF DIRECTORS

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**AGENDA TITLE:** Adopt an Ordinance to amend the City of Texarkana, Arkansas Public Employee Retirement System (TAPERS) plan document. (FIN)  
TyRhonda Henderson

*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:** April 5, 2021

**ITEM TYPE:** Ordinance  Resolution  Other : \_\_\_\_\_

**DEPARTMENT:** Finance Department

**PREPARED BY:** TyRhonda Henderson, Finance Director

---

**REQUEST:** The TAPERS Committee has received guidance from the TAPERS plan counsel Mr. Craig Westbrook of Overbey, Strigel, Boyd & Westbrook, PLC, and requests amendments be made to the TAPERS plan document sections below:

Article II. Eligibility and Participation, 2.01 Eligibility Requirements (p. 2-1)

Article VI. Form of Benefits, 6.04 Required Distributions (p. 6-2)

Article I. Definitions, 1.10 Effective Date (p. 1-4), and restate effective date (p. 1-1)

**EMERGENCY CLAUSE:** The position of District Court Clerk has recently been vacated due to employee's retirement, and the ability to promote qualified personnel internally requires the amendment of the TAPERS plan document as requested above. Therefore, we ask that the Emergency Clause be enacted to allow the TAPERS plan document to be amended so this essential position can be filled timely and efficiently.

---

**SUMMARY:** Request to amend Article II. Eligibility 2.01 Eligibility Requirements (p. 2-1) to add the following language:

If a Participant otherwise eligible under the above paragraphs of this section (such Employee met the eligibility requirements and entered this Plan as of June 30, 2012 or before and is not excluded) becomes eligible to participate in another plan with respect to service with the Employer, the Participant shall cease to benefit under this Plan (TAPERS), and the benefit of such Participant shall be frozen as of the date of such participation in

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another plan. If such individual later ceases to participate in such other plan, then the individual shall resume participation in TAPERS, and the Participant's benefit under TAPERS shall be calculated considering all of the service and compensation while the Participant was actively participating in TAPERS, and not counting service and compensation while not an active Participant in TAPERS.

Request to amend Article VI. Form of Benefits, 6.04 Required Distributions (p. 1-4) to change language to comply with the SECURE Act as follows:

Notwithstanding any other provision of this Plan, distribution shall commence no later than the required beginning date. Effective January 1, 2020, the required beginning date is April 1 following the later of (i) the calendar year in which the Participant reaches age 72 or (ii) the calendar year in which the Participant retires, provided that if the Participant attained age 70 ½ before January 1, 2020, "70 ½" shall be substituted for "72".

Request to amend Article I. Definitions, 1.10 Effective Date (p. 1-4), and restate effective date (p. 1-1) as the date of the approval of the amended plan document.

---

**EXPENSE REQUIRED:** No expense required.

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**AMOUNT BUDGETED:** No amount budgeted.

---

**APPROPRIATION REQUIRED:** No Appropriation required.

---

**RECOMMENDED ACTION:** Amend and approve the TAPERS plan document as proposed by the TAPERS Committee and reinstate the effective date of the plan document as the date of said approval.

---

**EXHIBITS:**

- A) Current City of Texarkana, Arkansas Employee Retirement Plan document with tracked changes.
- B) Proposed City of Texarkana of Texarkana, Arkansas Employee Retirement Plan document for approval and signature.

# ORDINANCE NO. \_\_\_\_\_

## **AN ORDINANCE AMENDING THE TEXARKANA, ARKANSAS PUBLIC EMPLOYEE RETIREMENT SYSTEM (TAPERS); DECLARING AN EMERGENCY AND FOR OTHER PURPOSES**

**WHEREAS**, Pursuant to Ordinance No. M-20, the City of Texarkana, Arkansas, originally adopted a Public Employee Retirement System (the “Plan” commonly known as TAPERS); and

**WHEREAS**, Pursuant to Ordinance No. M-49, the said Plan was amended and restated as more specifically set forth therein; and

**WHEREAS**, said Plan has been subsequently amended from time-to-time, including by Ordinance No. 14-2017; and

**WHEREAS**, the TAPERS Committee recommends further amendment of the current version of the Plan in accordance with recommendation of TAPERS plan counsel, Overbey, Strigel, Boyd & Westbrook, PLC, including, without limitation, to facilitate promotion of personnel; and

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Directors of the City of Texarkana, Arkansas, as follows:

**SECTION 1.** That the “Effective Date” of the Plan in Section 1.10 be updated to be the effective date of this Ordinance.

**SECTION 2.** That Section 2.01 of the Plan be amended by addition of the following paragraph:

If a Participant otherwise eligible under the above paragraphs of this section (such Employee met the eligibility requirements and entered this Plan as of June 30, 2012 or before and is not excluded) becomes eligible to participate in another plan with respect to service with the Employer, the Participant shall cease to benefit under this Plan (TAPERS), and the benefit

of such Participant shall be frozen as of the date of such participation in another plan. If such individual later ceases to participate in such other plan, then the individual shall resume participation in TAPERS, and the Participant's benefit under TAPERS shall be calculated considering all of the service and compensation while the Participant was actively participating in TAPERS, and not counting service and compensation while not an active Participant in TAPERS.

**SECTION 3.** Section 6.04(a) of the Plan be deleted and replaced with the following:

- (a) Notwithstanding any other provision of this Plan, distribution shall commence no later than the required beginning date. Effective January 1, 2020, the required beginning date is April 1 following the later of (i) the calendar year in which the Participant reaches age 72 or (ii) the calendar year in which the Participant retires, provided that if the Participant attained age 70 ½ before January 1, 2020, "70 ½" shall be substituted for "72".

**SECTION 4.** Except as specifically amended above, the Texarkana, Arkansas Public Employee Retirement System, as previously restated and amended, remains in full effect and execution of a new Plan document incorporating the amendments above is approved.

**SECTION 5.** This action being necessary for internal promotion for the preservation of the public peace, health, and safety (including, without limitation, to allow for the filling of one or more existing employment positions in need of occupancy, 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 5<sup>th</sup> day of April, 2021.

---

Allen L. Brown, Mayor



**ATTEST:**

---

Heather Soyars, City Clerk

**APPROVED:**

---

George Matteson, City Attorney

**CITY OF TEXARKANA, ARKANSAS**  
**EMPLOYEE RETIREMENT PLAN**

**CITY OF TEXARKANA, ARKANSAS**

**EMPLOYEE RETIREMENT PLAN**

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**CITY OF TEXARKANA, ARKANSAS**

**EMPLOYEE RETIREMENT PLAN**

The City of Texarkana, Arkansas, an Arkansas municipal corporation, has previously established, effective July 1, 1979, a pension plan for certain of its employees. The Employer desires to amend and restate its Employees' Pension Plan, effective \_\_\_\_\_, ~~2021 July 1,~~ 2012.

The amended and restated Plan has been approved by the legally constituted authority of Employer and is intended to qualify under § 401 and § 501 of the Internal Revenue Code of 1986, as amended from time to time. Under the amended and restated Plan, employee contributions are designated as picked up by the Employer, with the intention that such employee contributions are not subject to federal or state income taxes but are subject to FICA and Medicare taxes.

The terms and conditions of the Plan and Trust are as follows:

**ARTICLE 1.**

**DEFINITIONS**

As used in this document, the following terms shall have the indicated meanings:

**101. "ACCRUED BENEFIT"** shall mean the amount of benefit pursuant to Section 4.01 as of any date, expressed as a benefit at his Normal Retirement Date, based on his Average Monthly Compensation and Years of Service as of such date.

Notwithstanding any other provision in this Plan, the Accrued Benefit of a Transitioned Participant shall be equal to the amount of such Participant's Accrued Benefit as of June 30, 2012. No additional benefit shall accrue on behalf of such Participants.

**102. "ACTUARIAL EQUIVALENCE"** shall mean, for the purposes of establishing the present value of a stated benefit, the present value determined by discounting all future payments for interest and mortality on the following:

- (a) Interest Rate: 6%.
- (b) Mortality: pre-retirement: 1984 Unisex Projected Mortality Table.  
post-retirement: 1984 Unisex Projected Mortality Table.

Notwithstanding the above, for lump sums payable under the Plan before July 1, 2009, the lump sum present value of a Participant's vested Accrued Benefit shall not be less than the present value of the Participant's Accrued Benefit using the following factors:



- (a) Interest rate: annual interest rate on a 30-Treasury Securities as published in the Internal Revenue Bulletin for the second calendar month preceding the first day of the Plan Year, which rate shall remain constant for the Plan Year.
- (b) Mortality: pre-retirement and post-retirement mortality projections taken from the 1983 group annuity table with 50% male and 50% female weighting of the mortality rates as described in Rev. Rul. 2001-62 or the successor mortality tables as prescribed by the Secretary of Treasury.

Further, for lump sums payable after June 30, 2009 (other than a return of Participant Contributions with Interest), the lump sum present value of a Participant's vested Accrued Benefit shall not be less than the present value of the Participant's Accrued Benefit as of June 30, 2009, using the following factors:

- (a) Interest rate: annual interest rate on a 30-Treasury Securities as published in the Internal Revenue Bulletin for the second calendar month preceding the first day of the Plan Year in which the distribution is payable, which rate shall remain constant for the Plan Year. The interest rate shall in no event be less than the rate in effect for the Plan Year beginning July 1, 2011.
- (b) Mortality: pre-retirement and post-retirement mortality projections taken from the 1983 group annuity table with 50% male and 50% female weighting of the mortality rates as described in Rev. Rul. 2001-62 or the successor mortality tables as prescribed by the Secretary of Treasury.

**103.** "ANNIVERSARY DATE" shall mean the first day of the Plan Year.

**104.** "ANNUITY STARTING DATE" shall mean the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or disability).

**105.** "AVERAGE MONTHLY COMPENSATION" shall mean the monthly Compensation of a Participant averaged over the five consecutive complete calendar years with Employer which produce the highest monthly average. If a Participant has less than five complete calendar years with Employer his Average Monthly Compensation will be based on his monthly compensation during his actual years of service.

**106.** "BENEFICIARY" shall mean the person or other legal entity who under the Plan becomes entitled to receive a Participant's benefits upon his death, if any.

**107.** "CODE" shall mean the Internal Revenue Code of 1986, as amended.

**108.** "COMPENSATION" shall mean, with respect to any Employee, the total compensations paid to the Employer for services rendered to Employer which are subject to federal income tax, excluding noncash fringe benefits, but including elective contributions to a

cafeteria plan under Section 125 of the Code, section 132(f)(4) of the Code or to a deferred compensation plan under Section 457(b) of the Code.

For Plan Years beginning after December 31, 2001, annual compensation taken into account shall not exceed \$200,000. The \$200,000 limit on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

For purposes of determining any accruals beginning after December 31, 2001, the annual compensation limit for any determination period beginning before January 1, 2002, shall be \$150,000 for any determination period beginning in 1996 or earlier; \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001.

The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

Compensation shall include the amounts described in subsections (a) and (b) below even if paid after severance from employment, but only to the extent such amounts are paid by the later of 2 ½ months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered Compensation, even if payment is made within the time period specified above.

(a) **Regular pay.** Compensation shall include regular pay after severance of employment if:

(1) The payment is regular compensation for services during the participant's regular working hours, or compensation for services outside the participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

(2) The payment would have been paid to the participant prior to a severance from employment if the participant had continued in employment with the Employer.

(b) **Leave cashouts.** Leave cashouts shall be included in Compensation, if those amounts would have been included in the definition of Compensation if they were paid prior to the participant's severance from employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the participant would have been able to use the leave if employment had continued.

(c) **Deferred compensation.** Deferred compensation shall not be included in Compensation.

(d) **Differential Wage Payments.** Differential wage payments, as defined in Code section 3401 as amended by the HEART Act, shall not be included in Compensation.

**1.09. "EARLY RETIREMENT AGE"** shall mean the day on which a Participant (1) attains his 55th birthdate and (2) has completed ten (10) Years of Service.

**1.10. "EFFECTIVE DATE"** of this Plan as amended and restated shall mean                     , ~~2021~~July 1, 2012, unless otherwise provided.

**1.11. "EMPLOYEE"** shall mean any person on the payroll of the Employer whose wages from the Employer are subject to withholding for the purposes of Federal income taxes and for the purposes of the Federal Insurance Contributions Act.

Employees shall include Leased Employees.

An individual who is not classified for the relevant period as an Employee on the Employer's (or Affiliated Employer's) payroll records, whether because the individual is treated as an independent contractor or an employee of another person, shall not be an Employee, even if such classification is determined to be erroneous, or is retroactively revised pursuant to an audit by a governmental agency, civil litigation or otherwise, and even though such individual's pay shall be later determined to be subject to withholding as an employee for previous periods.

**1.12. "EMPLOYER"** shall mean City of Texarkana, Arkansas, or any organization which assumes the obligations of this Plan.

**1.13. "EMPLOYMENT"** shall mean service as an Employee, beginning on the date the Employee first performed an hour of service for Employer, and ending on the earlier of (a) the date on which Employee quits, retires, is discharged or dies, or (b) the first anniversary of the first date on which an Employee is absent from service for 12 consecutive months, by reason (with or without pay) of an authorized leave of absence.

Employment shall mean service only as a full time Employee. A full time Employee shall be any Employee whose job responsibilities require that he normally work at least 30 hours per week for the Employer. A part time Employee is not considered in the Employment of Employer for purposes of accruing a benefit or vesting. If a full time Employee becomes a part time Employee, he shall cease receiving credit for accrual of benefits and vesting.

Leaves of absence shall be authorized if granted by the Retirement Committee under rules applied on a uniform and nondiscriminatory basis, such as for (i) extended illnesses of an Employee which do not render him Disabled; or (ii) extended illnesses or death of a member of an Employee's family.

**1.14. "ENTRY DATE"** shall mean the January 1 or July 1 following completion of the eligibility requirements of Section 2.02.

**1.15. "LEASED EMPLOYEE"** shall mean any person (other than an Employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Code) on a substantially full-time basis for a period of at least one year, and such services are performed under the primary direction or control by the recipient employer. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer.

**1.16. "NORMAL RETIREMENT AGE"** shall mean the date the Participant reaches age 65.

**1.17. "NORMAL RETIREMENT DATE"** shall mean the first day of the month coincident with or next following the Participant's Normal Retirement Age.

**1.18. "PARTICIPANT"** shall mean an Employee who shall have met all requirements for participation in the Plan. Each Participant ceases to be such when he terminates his Employment with Employer, except where pursuant to this Plan the distribution of benefits shall be deferred to a later date.

**1.19. "PARTICIPANT'S CONTRIBUTIONS WITH INTEREST"** shall mean the sum of the mandatory contributions made by the Participant under the Plan, plus interest (if any) on such contributions, computed at 4% per annum. Interest shall be calculated through the calendar quarter preceding distribution.

**1.20. "PLAN"** shall mean this document as now written and any amendments thereto which may be in force from time to time.

**1.21. "PLAN YEAR"** shall mean the twelve (12) month period ending June 30 of each year.

**1.22. "PLAN YEAR OF SERVICE"** shall mean a Plan Year during which an Employee was a Participant.

**1.23. "RETIREMENT COMMITTEE"** shall mean the persons appointed by the City Board of Directors pursuant to Article 8 to administer the Plan.

**1.24. "TRANSITIONED PARTICIPANT"** shall mean any Participant in the Plan who is not 100% vested in the Participant's Accrued Benefit under the provisions of section 5.01 as of June 30, 2012.

**1.25. "TRUST AGREEMENT"** shall mean the Agreement, if any, between Employer and the Trustee or successor Trustee named under the Trust Agreement executed concurrently herewith which provides for the administration of the Trust Fund.

**1.26. "TRUSTEE"** shall mean the person or persons or corporation having trust powers so designated by the Employer to serve as Trustee and who, by joining in the execution of the documents creating or amending this Plan, acting in his capacity as a party to the Trust, signifies his acceptance of this Trust, or any person or persons or corporation having trust powers duly appointed as a successor Trustee.

**1.27. "YEAR OF SERVICE"** shall mean a Year during which the Employee is in the Employment of the Employer.

Years of Service are determined using the elapsed time method.

Under the Elapsed Time Method, Years of Service are based upon an Employee's Elapsed Time of employment irrespective of the number of hours actually worked during such period; a Year of Service (including a fraction thereof) will be credited for each completed 365 days of Elapsed Time which need not be consecutive. The following terms are used in determining Years of Service under the Elapsed Time Method.

(a) Date of Severance (Termination) means the earlier of (i) the actual date an Employee resigns, is discharged, dies or retires, or (ii) the first anniversary of the date an Employee is absent from work (with or without pay) for any other reason, e.g., disability, vacation, leave of absence, layoff, etc.

(b) Elapsed Time means the total period of service which has elapsed between a Participant's Employment Commencement Date and Date of Termination.

(c) Employment Commencement Date means the date an Employee first performs one hour of service for the Employer.

(d) One Year Break-in-Service means any 365-day period following an Employee's Date of severance as defined above in which the Employee does not complete at least one hour of service.

(e) Period of Severance is the time between the actual Date of Severance as defined above and the subsequent date, if any, on which the Employee performs an hour of service.

All periods of Employment will be aggregated. For Employment prior to July 1, 2008, periods of Employment shall also include Periods of Severance unless the Employee has had a One-Year Break in Service.

If a Participant or former Participant is re-employed after a 1-year Break in Service, Years of Service for vesting and benefit calculation shall be subject to the following rules:

(i) Years of Service prior to a 1-year Break in Service shall not be counted until the Participant has been re-employed by the Employer for one year, after which time the waiting period shall be counted as a Year of Service.

(ii) If the rehired Participant had a vested Accrued Benefit at the time of his termination, all Years of Service prior to his termination shall be included in the aggregate Years of Service.

(iii) Each nonvested former Participant shall lose credit for Years of Service otherwise allowable under (i) and (ii) above if his consecutive 1-year Breaks in Service equal or exceed his pre-break Years of Service.

Solely for purposes of determining whether a 1-year Break in Service has occurred, in the case of an Employee who is absent from work beyond the first anniversary of the first date of an absence and the absence is for one of the following reasons, the Date of Severance from Service shall be the second anniversary of the Employee's absence from employment:

(a) the pregnancy of the Employee;

(b) the birth of a child of the Employee;

(c) the adoption of a child by the Employee; or

(d) caring for such child for a period immediately following birth or adoption.

The period between the first and second anniversary of the first date of absence shall not constitute vesting service.

Notwithstanding any other provision in this section, Years of Service after June 30, 2012 for Transitioned Participants will be counted only for the following purposes (1) determining such a Participant's vested interest under the Plan and (2) determining such Participant's eligibility for early retirement benefits under section 4.02.



## ARTICLE 2.

### ELIGIBILITY AND PARTICIPATION

**2.01. ELIGIBILITY REQUIREMENTS.** Only Employees who have met the eligibility requirements for participation in the Plan as of June 30, 2012, who have attained the Entry Date and who are not excluded from participation under the Plan as in effect before the Effective Date shall participate in the Plan after the Effective Date. Employees who do not satisfy all of such conditions shall not participate in this Plan.

If a Participant becomes a member of an excluded class of Employees, he shall be treated as a terminated Employee, except that Years of Service with the Employer after such date shall be counted for vesting purposes only.

If a Participant otherwise eligible under the above paragraphs of this section (such Employee met the eligibility requirements and entered this Plan as of June 30, 2012 or before and is not excluded) becomes eligible to participate in another plan with respect to service with the Employer, the Participant shall cease to benefit under this Plan (TAPERS), and the benefit of such Participant shall be frozen as of the date of such participation in another plan. If such individual later ceases to participate in such other plan, then the individual shall resume participation in TAPERS, and the Participant's benefit under TAPERS shall be calculated considering all of the service and compensation while the Participant was actively participating in TAPERS, and not counting service and compensation while not an active Participant in TAPERS.

**2.02. PARTICIPATION.** Participation in the Plan by an eligible Employee is a condition of employment.

**2.03. PARTICIPANT CONTRIBUTIONS AFTER 6-30-2012.** As a condition of employment with the Employer, the Employer shall deduct from the Compensation of each Participant (other than a Transitioned Participant) after June 30, 2012, on a payroll deduction basis, the amounts set forth in this section. The payroll deduction shall originally be 2% of Compensation, and may be adjusted upon recommendation by the Retirement Committee and approval by the City Board of Directors from time to time. Advance notice shall be provided to Participants of any adjustment. Once amounts are deducted from Employee's paychecks, the Employer shall assume the obligation for such amounts and shall pay such amounts to the Plan as Participant Contributions. Participant Contributions shall be considered "picked up" for federal tax purposes and therefore shall not be subject to federal income tax.

Except as provided in sections 5.02 and 5.03, the Participant shall not receive a refund of the Participant Contributions with Interest, but shall instead receive the Participant's Accrued Benefit as provided in this Plan.

**2.04. ACCEPTANCE.** No provisions of the Plan shall be construed as abridging or limiting any managerial right of the Employer, or giving an Employee or Participant the right to

be retained in employment with the Employer, or interfering with the right of the Employer to discharge any Employee or Participant at any time, subject to applicable law, regardless of the effect which such discharge may have upon him as a Participant.

**ARTICLE 3.**  
**CONTRIBUTIONS**

**3.01. FUNDING OF BENEFITS.** The Employer shall contribute to the Plan 10% of covered Compensation of eligible Participants. The Board of Directors may change the level of contributions at any time.

Except as provided above, the Employer does not guarantee to make contributions to provide the benefits provided by the benefit formula specified in the Plan. Benefits shall be limited to the extent funded in the Trust, and nothing contained herein shall be construed as imposing any obligation on the Employer to continue its contributions hereunder or following any suspension of contributions to resume or thereafter to continue his contributions. No temporary suspension of contributions by Employer shall be deemed a termination of the Plan.

**3.02. EMPLOYEE CONTRIBUTIONS.** Except for any Participant Contributions as provided in section 2.03, Employees shall not be permitted to contribute to the Plan.

## **ARTICLE 4.**

### **BENEFITS**

**4.01. NORMAL RETIREMENT INCOME.** The Normal Retirement Income to be provided each Participant who retires on his Normal Retirement Date shall be in a form permitted under Article 6 of the Plan, determined on the basis of a benefit which shall commence on the Participant's Normal Retirement Date and which shall be payable on the first day of each month thereafter during his lifetime, where the monthly benefit is equal to 1.8% of Average Monthly Compensation, multiplied by his Years of Service. However, the Normal Retirement Income of a Transitioned Participant shall be equal to such Participant's Accrued Benefit.

### **4.02. EARLY RETIREMENT.**

(a) A Participant whose Employment with the Employer is terminated for reasons other than death or disability on or after his Early Retirement Age but prior to his Normal Retirement Date shall be eligible to receive an Early Retirement Benefit, and his Early Retirement date shall be the first day of the month coincident with or next following the date on which said Employment terminates.

(b) The Early Retirement Benefit payable to a Participant who meets the requirements of paragraph (a) shall be in a form permitted under Article 5. The amount shall be his Accrued Benefit, adjusted as follows:

(i) If the Employee has attained age sixty (60) and completed twenty (20) or more Years of Service, or if the Employee has attained age fifty-five (55) and completed thirty (30) or more Years of Service, no reduction shall be made.

(ii) If the Employee has neither (i) attained age sixty (60) with twenty (20) Years of Service nor (2) attained age fifty-five (55) with thirty (30) Years of Service, retirement benefits shall be reduced  $1/360$ th for each month or part thereof by which the payment commencement date precedes the first day of the month following the Participant's 65th birthday.

A Participant whose benefits under the Plan have not commenced may change the date elected prospectively on a request in writing to the Employer at least 30 days prior to the newly elected date.

**4.03. LATE RETIREMENT BENEFITS.** If a Participant retires after his Normal Retirement Date, the Participant shall be entitled to a late retirement benefit based on the formula in Section 4.01 as of his actual retirement date, with Years of Service and Average Monthly Compensation determined as of his actual retirement date; provided that the Normal Retirement Income for a Transitioned Participant shall be equal to the Participant's Accrued Benefit.

### **4.04. DISABILITY BENEFIT.**

(a) Participants other than Transitioned Participants.

(i) If a Participant other than a Transitioned Participant has completed 10 Years of Service and the Participant becomes totally and permanently disabled, he shall receive a disability benefit under this Plan. If such a Participant becomes disabled and has not completed 10 Years of Service, no disability benefit shall be payable separate from the retirement benefits, if any, to which Participant is entitled.

(ii) The amount of monthly disability benefit shall be 1.8% multiplied by the Participant's Average Monthly Compensation as of his date of termination due to disability, multiplied by his Years of Service as if he had worked until his Normal Retirement Date.

(iii) The monthly income to which a Participant is entitled in the event of his disability will be payable on the first day of each month. The first payment will be made on the first day of the month coincident with or next following the Participant's termination of employment due to disability. The last payment will be as follows:

(A) If the Participant is determined in accordance with this Section to no longer be disabled prior to his Normal Retirement Date, the last payment will be the payment due next preceding the date of such recovery;

(B) If the Participant dies prior to his Normal Retirement Date without recovering from his disability, the last payment will be the payment due next preceding the date of his death; no further benefit shall be payable with respect to the Participant under this Plan; or

(C) If the Participant attains his Normal Retirement Date while still disabled, the last payment will be the payment due next preceding the Participant's Normal Retirement Age.

(iv) On the Participant's Normal Retirement Age, the Participant shall be entitled to a retirement benefit under the terms of this Plan as if he had not been disabled based on his Average Monthly Compensation and his Years of Service as of the date of his termination of employment due to disability. If the Participant ceases to be disabled before Normal Retirement Age, the Participant shall receive his vested Accrued Benefit in accordance with this Plan as if he had not become disabled based on his Average Monthly Compensation and his Years of Service as of the date of his termination of employment

(v) For purposes of this Plan, a Participant shall be considered totally and permanently disabled if a physician or physicians chosen by the Retirement Committee certifies to the satisfaction of the Retirement Committee that the Participant is disabled by physical or mental condition, and such disability is likely to be continuous and permanent, such that

(A) During the period ending 24 months following the date of commencement of disability retirement income payments in accordance with this Section, the Participant is, in the opinion of the Retirement Committee, completely unable to perform any and every duty pertaining to his occupation;

(B) At any time after the end of the 24-month period following such date of commencement of disability retirement income payments, the Participant is, in the opinion of the Retirement Committee, due to such disability, wholly prevented from engaging in any substantial gainful employment for wage or profit.

(vi) The Retirement Committee before approving the payment of any disability retirement income shall require satisfactory proof, which may be in the form of a certificate from a duly licensed physician selected by the Retirement Committee, that the Participant has become disabled as provided herein. No more than twice each calendar year after commencement of disability retirement income, the Retirement Committee may similarly require proof of the continued disability of the Participant. If a Participant refuses to undergo medical examination, subject to the limits in the preceding sentence, and if the Retirement Committee provides sixty (60) days notice that disability benefits will cease unless the medical examination is conducted within such sixty (60) day period, the disability shall be deemed to have ceased at the end of the sixty (60) day period.

(vii) A Participant will not be entitled to receive any disability retirement income under this Section if, in the opinion of the Retirement Committee, the disability is a result of:

(A) Excessive and habitual use by the Participant of drugs, intoxicants, or narcotics;

(B) Injury or disease sustained by the Participant while wilfully and illegally participating in fights, riots, civil insurrections or while committing a felony;

(C) Injury or disease sustained by the Participant while serving in any armed forces;

(D) Injury or disease sustained by the Participant which was diagnosed or discovered subsequent to the date his employment was terminated;

(E) Injury or disease sustained by the Participant while working for anyone other than the Employer and arising out of such employment; or

(F) Injury or disease sustained by the Participant as a result of an act of war, whether or not such act arises from a formally declared state of war.

(b) Transitioned Participants. After the Effective Date, no separate disability benefit shall be provided for Transitioned Participants. Such Participants shall receive the benefit to which the Participant is entitled under sections 4.01, 4.02, 4.03 or Article 5, as applicable.

#### **4.05. LIMITATION ON MAXIMUM BENEFITS.**



(a) The annual benefit otherwise payable to a Participant at any time shall not exceed the maximum permissible benefit, as determined in (b) below. If the benefit the Participant would otherwise accrue in a limitation year produces an annual pension benefit in excess of the maximum permissible benefit, the rate of accrual will be reduced so that the annual pension benefit will equal the maximum permissible benefit.

If a Participant is, or has ever been, covered under more than one defined benefit plan maintained by the Employer, the sum of the Participant's annual benefits from all such plans, determined as of the same retirement age, may not exceed the maximum permissible benefit. If the sum of the annual benefits does exceed the maximum permissible benefit, the benefits from the plan in which benefits are currently being accrued will be reduced first. In the case where benefits are being accrued under more than one plan, including this Plan, the accruals under this Plan will be reduced prior to the benefits in the other plan(s.)

(b) Determination of annual pension benefit and maximum permissible benefit.

(1) Annual Pension Benefit. For purposes of this section, the term "annual pension benefit" shall mean for any limitation year, the benefit, expressed in a form payable at normal retirement age, payable annually in the form of a straight life annuity. Except as provided below, a benefit payable in a form other than a straight life annuity must be adjusted to an actuarially equivalent straight life annuity before applying the limitations of this section. No actuarial adjustment to the benefit is required for (1) the value of a qualified joint and survivor annuity, (2) the value of benefits that are not directly related to retirement benefits (such as the qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits), and (3) the value of post-retirement cost-of-living increases made in accordance with section 415(d) of the Code and the regulations thereunder.

Solely for purposes of determining whether a benefit exceeds the limits of Code section 415 under this section, for benefits payable other than in the form of a lump sum, the actuarially equivalent straight life annuity is equal to the greater of (i) the annual amount of the straight life annuity (if any) payable to the Participant under the Plan at the same annuity starting date as the form of benefit payable to the Participant or (ii) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Participant, computed using a 5 percent interest assumption and the applicable mortality table for that annuity starting date.

Solely for purposes of determining whether a benefit exceeds the limits of Code section 415 under this section, for benefits payable in the form of a lump sum, the actuarially equivalent straight life annuity is the greatest of: (i) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table specified in section 1.02; (ii) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit, computed using a 5.5% interest assumption and the applicable mortality table for the distribution; or (iii) the annual amount of the straight life annuity commencing on the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the

applicable interest rate and the applicable mortality table), divided by 1.05. The terms applicable interest rate and applicable mortality rate shall be as defined in the final 415 regulations.

(2) **Maximum Permissible Benefit.** For purposes of this section, the term "maximum permissible benefit" shall mean, for any limitation year, the defined benefit dollar limitation, as defined below. This amount may be further adjusted in Subsection (c). The "defined benefit dollar limitation" shall be \$160,000, as adjusted, effective January 1 of each year, under section 415(d) of the Code in such manner as the IRS shall prescribe, and payable in the form of a straight life annuity. The new limitation will apply to limitation years ending with or within the calendar year for which the adjustment applies. Unless otherwise provided by law, adjustments for increases in the cost of living shall not be taken into account for any year before the year for which such adjustment first takes effect.

(3) **Adjustments to the Maximum Permissible Benefit.**

(i) If the Participant has less than ten (10) years of participation, the defined benefit dollar limitation described above, shall be multiplied by a fraction, the numerator of which is the number of years of participation and the denominator of which is ten (10). A Participant is credited with a year of participation (computed to fractional parts of a year) for each accrual computation period for which the Participant is credited with the period of service required under the terms of the Plan in order to accrue a benefit for the accrual computation period, and the Participant is included as eligible to participate in the plan for at least one day of the accrual computation period. A Participant who is permanently and totally disabled within the meaning of section 415(c) of the Code shall be credited with a year of participation (or part thereof) with respect to that period. In no event will more than one year of participation be credited for any twelve (12) month period.

(ii) For purposes of determining a member's "maximum permissible benefit," the defined benefit dollar limitation above shall be adjusted for commencement of benefits before the attainment of 62 or after the attainment of 65. If benefits commence before the Participant attains age 62, the defined benefit dollar limitation applicable to the Participant is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation at age 62, with the actuarial adjustment as provided in the final 415 regulations.

If benefits commence after the Participant attains age 65, the defined benefit dollar limitation applicable to the Participant is an annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation at age 65, with the actuarial adjustment as provided in the final 415 regulations.

(4) Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a Participant hereunder shall be deemed not to exceed the maximum permissible benefit limitation if:

(i) the retirement benefits payable for a Plan Year under any form of benefit with respect to such Participant under this Plan and under all other defined benefit plans (regardless of

whether terminated) ever maintained by the Employer do not exceed \$1,000 multiplied by the Participant's number of years of service or parts thereof (not to exceed 10) with the Employer; and

(ii) the Employer has not at any time maintained a defined contribution plan, a welfare benefit fund, an individual medical account, or simplified employee pension, in which the Participant participated. For this purpose only, employee contributions under a defined benefit plan (whether voluntary or mandatory) are not treated as a defined contribution plan.

(4) Determination of annual benefit in the case of multiple annuity starting dates. If a Participant has or will have distributions commencing at more than one annuity starting date, then the limitations of section 415 must be satisfied as of each of the annuity starting dates, taking into account the benefits that have been or will be provided at all of the annuity starting dates. This will happen, for example, where benefit distributions to a participant have previously commenced under a plan that is aggregated for purposes of section 415 with a plan under which the participant receives current accruals. In determining the annual benefit for such a participant as of a particular annuity starting date, the plan shall actuarially adjust the past and future distributions with respect to the benefits that commenced at the other annuity starting dates. These adjustments must be made using the rules of §1.415(b)-2.

**4.06. NON-DUPLICATION OF BENEFITS.** It is the intent of this plan to avoid duplication of benefits provided under this Plan, or benefits under this Plan and another pension plan of the Employer or the pension plans of any other Employers with respect to which credit for prior service is given, if any, under this Plan. The following rules apply for the purpose of eliminating duplication:

(a) A benefit payable under this Plan shall be offset by the amount of employer-paid benefits earned under a pension plan of another employer for a period of service for which credit is given under this plan. Generally the offset shall be applied by reducing the benefit payable to the Participant under the Plan for the life of the Participant commencing at Normal Retirement Date by the benefit payable under the other pension plan in the same form and commencing at the same time; the resulting benefit shall be paid at the time and in the form determined under the provisions of the Plan. If the benefit under this Plan commences prior to the Participant's Normal Retirement Age, the offset shall be the Actuarial Equivalent of the benefit payable under the other pension plan. The offset shall be made whether or not the Participant has forfeited his prior benefit by withdrawing his contributions or has taken his prior benefit in a form other than the form in which benefits are payable under this Plan. However, a Participant's benefit under this Plan shall not be less than the benefit would have been if credit had not been given for the prior service with the other employer.

(b) A benefit payable under this Plan shall be offset by any benefit previously earned and payable to the Participant or his Beneficiary under this Plan. The offset shall be applied by reducing the benefit payable to the Participant under this Plan at the time the benefit commences by the Actuarial Equivalent of the prior benefit payable under the Plan.

**4.07. BENEFITS NONFORFEITABLE UPON RETIREMENT.** A Participant's right to his retirement benefits is nonforfeitable upon the attainment of his Normal Retirement Age.

**4.08. TERMINATION PRIOR TO EARLY RETIREMENT.** If a Participant terminates employment prior to his Early Retirement Age, his benefit shall be payable under Article 5.

**4.09. ADJUSTMENT FOR OVERPAYMENTS AND UNDERPAYMENTS.** Whenever as a result of administrative error, a benefit is paid in excess of the amount payable under the provisions of this Plan, the Participant shall immediately reimburse the Trustee upon written request the aggregate amount of such excess payment. If as a result of administrative error, the amount paid to the Participant is less than the amount to which he is entitled under the terms of this Plan, the Trustee shall immediately pay, upon discovery of such error, an amount equal to the deficiency through the date of such payment. Subsequent payments in either event shall be the correct amount payable under this plan.

**4.10. MILITARY SERVICE.**

(a) Effective as of December 12, 1994, notwithstanding any provision of this Plan to the contrary, with respect to a Participant who is in qualified military service, as defined in Code § 414(u)(5) and who is reemployed within the time required by law after the expiration of his qualified military service, such Participant may make-up any required Participant Contributions for the period of his qualified military service, based on his deemed compensation during his qualified military service as defined in Code § 414(u). Such make-up Participant Contributions may be made in either a single payment or in installments and must be made during the period beginning with the date of the Participant's reemployment after his military leave equal to the lesser of (i) three times the period of his military leave and (ii) five years. If such Participant makes the Participant contributions, the Participant shall be credited with Years of Service for the period required to be recognized for such military service which the Participant would have otherwise been entitled.

(b) The Plan does not elect to continue benefit accruals pursuant to the HEART Act for an individual who, on or after January 12, 2007, dies or becomes disabled (as defined under the terms of the plan) while performing qualified military service with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

**4.11. TRANSFER OF EMPLOYMENT TO CITY OF TEXARKANA, TEXAS.**

(a) In the event that a Participant transfers employment after July 1, 1998 from the Employer to the City of Texarkana, Texas, Years of Service with City of Texarkana, Texas shall be counted for vesting purposes in this Plan.

(b) For purposes of calculating the Accrued Benefit in this Plan for a Participant who transfers employment to the City of Texarkana, Texas, the Participant's Average Monthly Compensation may be multiplied by a multiplier established by the Board of Directors to reflect percentage increases in compensation received by other non-civil service employees of the Employer. The Employer may amend this section to effectuate such multiplier. In absence of any such amendment in any year, the Participant's Accrued Benefit shall be the same as of the end of the preceding year. In no event shall any distribution be made to any such Employee as long as the individual remains employed by either the Employer or the City of Texarkana, Texas.

(c) If a Participant transfers employment from the Employer to the City of Texarkana, Texas, after July 1, 1998 and subsequently qualifies for early retirement under the Texas Municipal Retirement System, such Participant may request a benefit under this Plan notwithstanding that the Participant has not qualified for an early retirement benefit under this Plan. The Accrued Benefit for such Participant shall be adjusted as follows:

(i) If the Employee has attained age sixty (60) and completed twenty or more Years of Service with the Employer or the City of Texarkana, Texas, or if the Employee has obtained age fifty five(55) and completed thirty (30) or more Years of Service with the Employer or the City of Texarkana, Texas, no reduction shall be made.

(d) (ii) If the Employee has neither (1) attained age sixty (60) with twenty (20) combined Years of Service nor (2) attained age fifty-five (55) with thirty (30) combined Years of Service, the benefit for such Participant shall be his Accrued Benefit, reduced 1/360th for each month or part thereof by which the payment commencement date precedes the first day of the month following the Participant's 65th birthday.

#### **4.12. RETIREMENT AND REEMPLOYMENT**

In the event that a Participant has attained the Normal Retirement Date and has actually terminated employment with Employer, the Participant may subsequently be reemployed by the Employer (at the discretion of the Employer) on a part-time basis, and such reemployment shall not affect the Participant's retirement benefits. Such Participant shall not in any event accrue any additional benefit under this Plan or any other retirement plan of the Employer as a result of service after re-employment.

**ARTICLE 5.**

**TERMINATION OF SERVICE**

**5.01. VESTED INTEREST ON TERMINATION.**

(a) If a Participant terminates service for reasons other than death or disability (in accordance with Section 4.04) prior to Early or Normal Retirement Age, he shall be entitled to a percentage of his Accrued Benefit, as determined in accordance with the following:

<u>Years of Service at Termination of Employment</u>	<u>Vested Percentage</u>
Less than 6	0%
6	20%
7	40%
8	60%
9	80%
10 or more	100%

(b) The vested benefit payable to a Participant who terminates employment shall be in a form permitted under Article 6. Distribution shall be payable commencing on the first day of the month following the Participant's Normal Retirement Age. No benefit shall be payable prior to that time.

**5.02. SMALL BENEFITS.** In the event the Participant is at least partially vested under section 5.01 but the present value of the Participant's vested Accrued Benefit is less than the Participant Contributions with Interest, the Participant shall be paid the Participant Contributions with Interest in a single sum as soon as administratively feasible after the end of the Plan Year in which termination occurs. In the event that the present value of the Participant's vested Accrued Benefit is greater than the Participant Contributions with Interest but the value of the Employer-provided benefit (the present value of the vested Accrued Benefit less the Participant Contributions With Interest) is less than or equal to \$5,000, then the present value of the Participant's Accrued Benefit will be paid to the Participant or Beneficiary in a single sum as soon as administratively feasible after the end of the Plan Year in which termination occurs. If any single sum payment is made in accordance with this Section 5.02, no further benefit will be payable to the Participant, his Beneficiary, or his surviving Spouse, as the case may be. For purposes of this Section 5.02, the lump sum present value of the Accrued Benefit shall be computed according to the interest rate and mortality assumptions used to calculate the lump sum payment under Section 1.02.

Notwithstanding the above, if the total amount payable to the Participant shall exceed \$1,000, distribution shall not be made without the Participant's consent.



**5.03. OTHER TERMINATION OF EMPLOYEE.** If a Participant's Employment is terminated and the Participant is not vested under Section 5.01, the Participant shall be entitled to the Participant Contributions with Interest, payable in a lump sum. Payment shall be made as soon as administratively feasible after the end of the Plan Year in which such Employee/Participant terminates. Interest shall be calculated through the end of the calendar quarter preceding distribution. No further benefit shall be payable to such Employee/Participant under the Plan.

## ARTICLE 6.

### FORM OF BENEFITS

**601. JOINT AND SURVIVOR BENEFIT.** The benefit to which a Participant is entitled normally shall be payable in equal monthly installments in accordance with paragraphs (a) and (b), unless the Participant (and his spouse, if applicable) elect, in the manner provided in Section 6.02, to have the benefit paid in another form permitted under Section 6.03.

(a) The benefit payable to a Participant who is married on the date the Participant's benefit commences shall be payable for the lifetime of the Participant, with one-half of the amount payable to the Participant continued thereafter for the lifetime of his spouse. The amount of the benefit shall be the Actuarial Equivalent of the life annuity for the Participant calculated under Section 1.02.

(b) The benefit payable to any Participant who does not have a spouse on the date the Participant's benefit commences shall be a benefit payable only for the lifetime of the Participant.

### **602. ELECTION OF OPTIONAL RETIREMENT BENEFITS.**

(a) Each Participant in the Plan may elect at anytime to waive the form of benefit payable under Section 6.01 and elect an optional form of benefit. Each Participant may revoke any such election at any time prior to commencement of benefits. Any such election or revocation must meet the requirements of paragraphs (b) and (c). Once a Participant has commenced receipt of benefits, any election is irrevocable.

(b) Any election under paragraph (b) shall not take effect unless

(i) the spouse, if any, of the Participant irrevocably consents in writing to such election, and the spouse's consent is witnessed by a notary public, or

(ii) it is established to the satisfaction of the Retirement Committee that the Participant has no spouse or that the spouse cannot be located.

Any consent (or establishment that no consent may be obtained) shall be effective only with respect to such spouse.

(c) The Retirement Committee shall provide to each Participant, within a reasonable period of time before the Annuity Starting Date, a written explanation of:

(i) The terms and conditions of the normal form of payment;

(ii) The Participant's right to make, and the effect of, an election under paragraph (b) to waive the normal form of benefit;

(iii) The right of the Participant's spouse under section 6.02(b); and

(iv) The right to make, and the effect of a revocation of such an election.

**603. OPTIONAL PAYMENT FORMS.**

(a) If a Participant elects not to receive the form of benefit named in Section 6.01, his benefits shall be distributed in such manner as the Participant shall elect in accordance with one or more of the following means:

(i) in the form of an annuity for the life of the Participant;

(ii) in the form of an annuity for the life of the Participant with payments guaranteed for up to 240 months;

(iii) in the form of an annuity for the life of the Participant and an annuity in the same amount for the life of his surviving Beneficiary after the Participant's death (joint and 100% survivor);

(iv) in the form of a 100% joint and survivor annuity with payments guaranteed for up to 240 months;

(v) in the form of equal monthly, quarterly, semi-annual or annual installments over a period not to exceed the lesser of 15 years or the Participant's life expectancy; or

(vi) in the form of a single sum payment.

(b) Any optional form of distribution shall be the Actuarial Equivalent of the life annuity for the Participant computed under Section 1.02.

**604. REQUIRED DISTRIBUTIONS.** Notwithstanding any other provision of this Plan, distribution shall commence no later than the required beginning date. Effective January 1, 2020, the required beginning date is April 1 following the later of (i) the calendar year in which the Participant reaches age ~~72~~<sup>70 1/2</sup> or (ii) the calendar year in which the Participant retires, provided that if the Participant attained age 70 1/2 before January 1, 2020, "70 1/2" shall be substituted for "72".

(b) Under no circumstances shall a Participant be permitted to select any method of payment unless, under the terms of the method selected, the entire interest of such Participant will be distributed in accordance with the final regulations prescribed by the Secretary of the Treasury under § 401(a) (9) of the Internal Revenue Code of 1986 over the life of the Participant (or over the lives of the Participant and his Spouse) or over a period not extending beyond the life expectancy of the Participant (or the joint life expectancy of the Participant and his Spouse).

(c) Under any option elected by a Participant that provides for payments to a

Beneficiary after the death of the Participant, the benefits payable with respect to the Participant

in the event of his death shall not be more than incidental, as determined under the final regulations under Section 401(a) (9) of the Code.

**605. DISTRIBUTION TO MINOR BENEFICIARY.** In the event a distribution is to be made to a minor, then the Retirement Committee may, in its discretion, make such distribution to the legal guardian or, if none, to a parent of such beneficiary with whom the Beneficiary maintains his residence. Such payment shall fully discharge the Trustee, the Employer and the Plan from all liability.

**606. MAXIMUM PAYOUT TIME.** Unless a Participant elects to defer in writing, payment of benefits under the Plan to the Participant shall begin not later than the 60th day after the end of the Plan Year in which the latest of the following occurs:

- (i) the Participant attains the earlier of age 65 or the Normal Retirement Date specified under the Plan,
- (ii) the 10th anniversary of the year in which the Participant commenced participation in the Plan, or
- (iii) the Participant terminates his Employment with the Employer.

An election shall be made by submitting to the Retirement Committee a written statement, signed by the Participant, which describes the benefit and the date on which the payment of such benefit may commence. The failure of a Participant (and spouse, if applicable) to consent to a distribution while a benefit is immediately distributable shall be deemed to be an election sufficient to satisfy this Section.

**607. DIRECT ROLLOVER.** A distributee may elect, at the time and in the manner prescribed by the Retirement Committee, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and any hardship distribution. An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, a qualified trust described in Section 401(a) of the Code, an annuity contract described in section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that accepts the distributee's eligible rollover distribution and that agrees to separately account for amounts transferred into such plan from this plan. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse

who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee. For purposes of the direct rollover provisions above, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. The Plan will also permit rollovers of after-tax amounts to a 403(b) plan. The Plan will permit a Direct Rollover of an Eligible Rollover Distribution to a Roth IRA in a Qualified Rollover Contribution.



## ARTICLE 7.

### DEATH BENEFITS

#### **7.01. DEATH OF PARTICIPANT BEFORE ANNUITY STARTING DATE.**

(a) If a Participant dies prior to the Annuity Starting Date under the Plan, his Beneficiary shall be entitled to receive a death benefit as provided hereinafter. A Beneficiary shall be one hundred percent (100%) vested if the Participant dies while in the service of the Employer. A Beneficiary of a Participant who has terminated his employment but who dies prior to the payment of benefits shall be vested in the same percentage that such deceased was vested pursuant to the provisions of Article 5 hereof. For Participants dying after July 1, 2000 the amount of the death benefit shall be the present value of the Participant's vested Accrued Benefit as of the date of the Participant's death, calculated using the Actuarial Equivalent assumption in Section 1.02. The death benefit shall be payable in one of the forms specified in Section 6.03. No additional amounts shall be due with respect to the Participant's benefit under the Plan. Notwithstanding the above, the death benefit for a Participant who has had Participant Contributions made shall not be less than the Participant Contributions with Interest.

(b) The Retirement Committee may require such proper proof of death and such evidence of the right of any person to receive the death benefit payable as a result of the death of a Participant as the Retirement Committee may deem desirable. The Retirement Committee's determination of death and the right of any person to receive payment shall be conclusive.

**7.02. DEATH BENEFITS UNDER USERRA-QUALIFIED MILITARY SERVICE.** Notwithstanding section 7.01, the Plan shall provide that the survivors of a Participant who dies while performing Qualified Military Service (as defined in Code section 414(u)), are entitled to any additional benefits provided under the Plan as if the Participant resumed service with the Employer and then terminated employment on account of death. The additional benefits shall not include benefit accruals relating to the period of Qualified Military Service.

**7.03. DESIGNATION OF BENEFICIARY.** Subject to Section 7.04, each Participant shall have the right to designate a Beneficiary or Beneficiaries to receive his death benefit upon his or her death if he dies before the Annuity Starting Date. Such designation shall be made in the form prescribed by the Retirement Committee and shall be effective for all purposes upon the delivery thereof to the Retirement Committee. The Participant shall have the right to change or revoke any such designation from time to time by filing a new designation or notice of revocation with the Retirement Committee. However, the requirements of Section 7.03 must be met. If a Participant shall fail to designate a Beneficiary or the designated Beneficiary shall predecease the Participant, the Participant's death benefit shall be paid:

- (a) To his spouse, if living, or
- (b) If his spouse is not then living, to his descendants, by right of representation, or
- (c) If neither his spouse nor any descendants are then living, to his estate.

**7.04. SPOUSAL CONSENT.** The designation under Section 7.03 of a Beneficiary other than the Participant's spouse shall not be effective unless

(a) the spouse of the Participant consents in writing to such designation, and the spouse's consent acknowledges the effect of such election, is witnessed by a plan representative or a notary public, and is limited to a specific alternative beneficiary, or

(b) it is established to the satisfaction of the Retirement Committee that the consent required in paragraph (a) may not be obtained because there is no spouse.

Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) under this section shall be effective only with respect to such spouse. Notwithstanding the above, if a former spouse is treated as the surviving spouse under a qualified domestic relations order as described in § 414(p) of the Code, this Section shall not apply to such amounts with respect to the Participant's current spouse.

**7.05. DEATH OF PARTICIPANT AFTER ANNUITY STARTING DATE.** If the Participant dies after the Annuity Starting Date, benefits, if any, shall be payable under the option selected. A death benefit shall not be payable under the Plan if a Participant dies after the Annuity Starting Date unless the form of benefit specifically provides for a benefit.

**7.06. DIRECT ROLLOVER OF NON-SPOUSAL CONTRIBUTIONS.**

(a) For distributions after December 31, 2006, a non-spouse Beneficiary who is a “designated beneficiary” under Code §401(a)(9)(E) and the regulations thereunder, by a direct trustee-to-trustee transfer (“direct rollover”), may roll over all or any portion of his/her distribution to an individual retirement account the Beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

(b) Although a non-spouse Beneficiary may roll over directly a distribution as provided in this section, the distribution is not subject to the direct rollover requirements of Code §401(a)(31), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c). In a non-spouse Beneficiary receives a distribution from the Plan, the distribution is not eligible for a “60-day” rollover.

(c) If the Participant’s named Beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).

(d) A non-spouse Beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his/her required beginning date and the non-spouse Beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to

Treasury Regulation §1.401(a)(9)-d, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse Beneficiary's distributions.

## ARTICLE 8.

### RETIREMENT COMMITTEE/ADMINISTRATION OF THE PLAN

**801. ADMINISTRATION OF THE PLAN.** The Plan shall be administered by the Retirement Committee, which shall perform such duties as are specified hereunder. The City Manager shall have oversight of the Retirement Committee. All decisions of the Retirement Committee shall be subject to review by the City Manager, and the City Manager may take action upon recommendation of the Retirement Committee and approval of the City Board of Directors.

**802. DESIGNATION AND ACCEPTANCE.** The Employer shall appoint the members of the Retirement Committee. The Employer may appoint one or more of the members of the Retirement Committee by position so that whoever is in that position shall be a member of the committee and when a person is no longer in such position, he or she is no longer a member of the committee. A member of the Committee shall not be required to be a Participant.

The Retirement Committee is hereby designated as agent for the service of legal process.

#### **803. RESIGNATION AND REMOVAL.**

(a) Members of the Retirement Committee may resign at any time by delivering to the Employer a written notice of resignation to take effect on a date specified therein, which shall not be less than thirty(30) days after the delivery thereof, unless such notice shall be waived.

(b) A member of the Retirement Committee may be removed with or without cause by the Employer or delivery of written notice of removal, to take effect at a date specified therein, which shall be not less than thirty (30) days after delivery thereof, unless such notice shall be waived.

(c) In the event that the Employer does not appoint a successor to a resigning or removed member of the Retirement Committee, the remaining members shall serve without replacement. In the event that all of the members of the Committee have resigned or been removed, the City Manager shall perform the duties of the Retirement Committee.

(d) A simple majority of the members of the Retirement Committee shall constitute a quorum, and any act by such majority, by vote at a meeting, or in writing without a meeting, shall constitute the action of the Retirement Committee. The Retirement Committee shall keep minutes of its meetings, and shall appoint and prescribe the duties of a chairman, and a secretary, who may, but need not be, one of its members.

**804. POWERS.** The Retirement Committee shall have full power and discretion to administer the Plan and to construe and apply all of its provisions. The Retirement Committee's powers and duties, unless properly delegated, shall include, but are not limited to:

- (a) Determining questions of eligibility and benefit entitlement;
- (b) Establishing policies for leaves of absence;
- (c) Compiling and maintaining all records necessary for the Plan, including preparing, filing and furnishing reports and other documents required under the provisions of any law;
- (d) Authorizing the Trustee, as applicable, to make payment of all benefits as they become payable under the Plan;
- (e) Adopting rules and regulations for the administration of the Plan, not inconsistent with the Plan and Trust Agreement, if applicable;
- (f) Engaging such legal, administrative, actuarial, investment, accounting, and other professional services as necessary;
- (g) Interpreting the provisions of the Plan and making rules for the regulation of the Plan;
- (h) Doing and performing such other matters as may be provided for in other parts of this Plan or the Trust Agreement, if applicable.

**805. ACTIONS.** The Retirement Committee, Employer and its legally constituted authority shall be entitled to rely conclusively upon the tables, valuations, certificates and reports furnished by an actuary or accountant employed by the Retirement Committee or an Insurer issuing contracts under this Plan, and/or upon opinions of counsel or other experts; and such members, and each of them, shall be fully protected as to any action taken or allowed by them in good faith and reliance upon any such tables, valuations, certificates, reports or opinions; and all actions taken or allowed by them shall be conclusive upon all persons having or claiming any interest under the Plan.

**806. EXPENSES.** The Employer, or in its absence, the trust fund, if any, shall reimburse the Retirement Committee for any necessary or proper expenses incurred in exercising its duties. Except for such reimbursement, the members of the Committee Board shall not receive any compensation for the administration of the Plan.

**807. CLAIM PROCEDURE.**

(a) Any Participant or Beneficiary may file with the Retirement Committee a written statement setting forth a claim for benefits. The written statement shall be signed and set forth the claim in a manner reasonably calculated to bring it to the Retirement Committee's attention.

(b) If a claim is wholly or partially denied, notice of the decision shall be furnished by the Retirement Committee to the claimant within ninety (90) days after receipt of the claim. If within such ninety (90) days, the claim has neither been denied in writing nor granted, it shall be deemed denied on the 90th day.

(c) Any notice of denial of claim shall be written in a manner calculated to be understood by the claimant and shall include the following:

- (i) the specific reason or reasons for denial;
- (ii) specific reference to pertinent plan provisions on which the denial is based;
- (iii) a description of additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
- (iv) appropriate information as to the steps to be taken if the claimant wishes to submit the claim for review.

(d) A claimant may obtain a full and fair review by appealing a denied claim to the Retirement Committee in writing within sixty (60) days after receipt by the claimant of the notice of denial. A claimant may review pertinent documents and may submit issues and comments in writing. An appeal may be requested or pursued by a duly authorized representative of the claimant. Within sixty (60) days of receipt of a request for review, a written decision shall be rendered. The decision on review shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, as well as specific references to the pertinent provisions of the Plan on which the decision is based.

**808. INDEMNIFICATION OF THE RETIREMENT COMMITTEE.** The Retirement Committee shall be indemnified by the Employer against any and all liabilities arising by reason of any act or failure to act made in good faith pursuant to the provisions of the Plan if the act or failure to act is judicially determined not to be a breach of fiduciary responsibility. The indemnification shall include expenses and attorney's fees reasonably incurred in the defense of any claim relating thereto. When making a determination or calculation, the Retirement Committee shall be entitled to rely conclusively upon, and shall be ruly protected by the Employer in any action it may take or suffer in reliance upon, information furnished by the Employer. The Employer and Retirement Committee shall be entitled to rely upon all reports furnished by any consultant and actuary and upon all opinions given by legal counsel selected by the Employer and Retirement Committee.

**809. INVESTMENT MANAGER.** The Retirement Committee shall have the right, but shall be under no obligation, to appoint an investment manager or managers to direct the investment of all or of any portion of the assets of the Plan. The investment manager or managers shall be:

- (a) Registered as an investment advisor under the Investment Advisor's Act of 1940,
- (b) A bank as defined in the Act, or
- (c) An insurance company qualified to manage, acquire or dispose of assets of the Plan under the laws of more than one State.

Upon appointment, the investment manager shall certify and acknowledge to the Retirement Committee receipt of a copy of the Plan and Trust, if any, that the investment manager is fiduciary with respect to such Plan and Trust, and that the investment manager has assumed the duties and responsibilities conferred by the Retirement Committee.



**ARTICLE 9.**

**AMENDMENT OF PLAN**

**9.01. RIGHT OF EMPLOYER TO AMEND PLAN.** The Plan may be amended upon approval by the City of Texarkana, Arkansas Board of Directors. A copy of such amendment shall be delivered to the Trustee, if any. All Participants shall be bound by amendments adopted in accordance herewith, subject to the following provisions:

(a) No amendment shall increase the duties or liabilities of the Trustee or the Retirement Committee without their respective written consents.

(b) No amendment may make it possible for any part of the corpus or income of the Plan to be used or diverted to purposes other than for the exclusive benefit of the Participants or their Beneficiaries, if such diversion is not allowed by applicable law.

## **ARTICLE 10.**

### **TERMINATION OF PLAN**

**1001. TERMINATION OF PLAN.** The Employer shall have the right to terminate the Plan at any time by delivering to the Retirement Committee and Trustee, if any, notice of such termination. Upon termination, distribution of the Participants' Accrued Benefits, to the extent funded, shall be made at such time and in such manner as though the Plan had not been terminated. Such payments may be made through the purchase of annuities. Any assets exceeding those necessary to fund the Participants' Accrued Benefits as of date of termination and pay applicable Plan expenses shall revert to the Employer.

**1002. NONFORFEITURE PROVISIONS.** It is hereby expressly provided that upon termination of the Plan, the rights of all Participants to benefits accrued to the date of such discontinuance, to the extent then funded, shall be nonforfeitable.

## ARTICLE 11.

### MISCELLANEOUS PLAN PROVISIONS

**11.01. HEADINGS AND SUBHEADINGS.** The headings and subheadings in this Agreement are inserted for convenience of reference only and are not to be considered in construction of the provisions hereof.

**11.02. INTERPRETATION.** This Plan and Trust shall be construed, administered and governed in all respects under and by the laws of the State of Arkansas. In that connection, wherever appropriate, singular words used in this Agreement may include the plural, the plural may include the singular, and the masculine may include the feminine or neuter gender.

**11.03. SUCCESSORS AND ASSIGNS.** This Agreement shall inure to the benefit or, and be binding upon, the parties hereto, their beneficiaries, heirs, executors, administrators, and assigns.

**11.04. FAILURE OF INITIAL QUALIFICATION.** In the event this Plan or Trust shall initially fail to qualify under § 401 of the Internal Revenue Code of 1986, as amended, all contributions, together with any income received or accrued thereon, less appropriate expenses payable by the Trustee which have not been paid by the Employer, shall be returned to the Employer, or to the person making such contribution, as the case may be, within one year after the date the initial qualification is denied. Notwithstanding any other provision to the contrary in this Plan or the Trust Agreement, no Participant or Beneficiary shall have any vested right or claim to any assets of the Trust Fund resulting from Employer contributions prior to the issuance by the Internal Revenue Service of a favorable letter of determination, providing application for determination of qualification is made within the time prescribed by law for filing the Employer's tax return for the tax year in which the Plan is adopted.

**11.05. SUCCESSOR EMPLOYER.** In the event of a dissolution, merger or consolidation of the Employer, provisions may be made by the successor for the continuance of this Plan, and said successor shall in such event be substituted in the place of the present Employer by an instrument authorizing such substitution executed by the Employer and its successor, a copy of which shall be delivered to the Trustee, if any.

**11.06. SERVICE FOR PREDECESSOR EMPLOYER.** For all purposes of this Plan, if the Employer is maintaining the Plan of a predecessor employer, service for such predecessor shall be treated as service for the Employer.

**11.07. CONTROLLED CORPORATIONS, AFFILIATED SERVICE GROUPS AND LEASED EMPLOYEES.** For all purposes of this Plan, service with certain related employers is treated as service for the Employer. These related employers include members of a controlled group of corporations (within the meaning of Internal Revenue Code Section 563(a), determined without regard to subsections (a)(4) and (e)(3)(c) thereof), trades or businesses (whether or not incorporated) which are under common control, and affiliated service groups (within the meaning of Section 414(m) of the Internal Revenue Code. Also, for purposes of the pension requirements of Section 414(n) (3) of the Code, leased employees (as defined in Section 414(n) (2), shall be treated as employees of the Employer.

**11.08. MISTAKE IN CONTRIBUTION.** In the event that a contribution is made by reason of a mistake of fact, it shall be returned to the Employer. The amount to be returned to the Employer is the excess of (a) the amount contributed over (b) the amount which would have been contributed had there not occurred a mistake of fact. The return to the Employer of the amount involved must be made within one year of the mistake in payment. Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. If the withdrawal of the amount attributable to the mistake in contribution will cause the balance of Plan assets to be reduced to less than the balance which would have existed had the mistaken amount not been contributed, then the amount to be returned to the Employer shall be reduced so as to avoid such reduction.

**11.09. SPENDTHRIFT CLAUSE.** No person entitled to any benefits under this Plan shall have any right to assign, transfer, hypothecate, encumber, commute or anticipate his interest in any benefits under this Plan, and such benefits shall not in any way be subject to any legal process or levy of execution upon, or attachment or garnishment proceedings against, the same for the payment of any claim against any such person.

The above paragraph shall not apply to the creation, assignment or recognition of any benefit payable with respect to any Participant pursuant to a domestic relations order, to the extent required by applicable law.

**11.10. LOANS TO PARTICIPANTS.** No loans shall be made to a Participant.

**11.11. EXCLUSIVE BENEFIT.** The Employer shall have no beneficial interest in the Fund or any part thereof, and no part of the Fund shall ever revert or be repaid to the Employer, either directly or indirectly, except as set forth in the Plan. The corpus or income of the Fund may not be diverted to or used for other than the exclusive benefit of the Participants and their Beneficiaries

**11.12. NON-TRANSFERABILITY OF ANNUITY CONTRACTS.** All annuity contracts issued under the Plan shall be non-transferable at any time when such contracts are held by any person other than a Trustee. On any distribution of annuity contracts held hereunder, such contracts shall first be endorsed to provide in substance that such contracts may not be sold, assigned, discounted, or pledged as collateral for a loan or as security for the performance of any obligation or for any other purpose, to any person other than the insurance company issuing such contracts.

Executed by Employer on this the \_\_\_\_\_ day of \_\_\_\_\_, 2021~~12~~.

CITY OF TEXARKANA, ARKANSAS

By \_\_\_\_\_  
Its \_\_\_\_\_

**CITY OF TEXARKANA, ARKANSAS**  
**EMPLOYEE RETIREMENT PLAN**

**CITY OF TEXARKANA, ARKANSAS**  
**EMPLOYEE RETIREMENT PLAN**

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**CITY OF TEXARKANA, ARKANSAS**

**EMPLOYEE RETIREMENT PLAN**

The City of Texarkana, Arkansas, an Arkansas municipal corporation, has previously established, effective July 1, 1979, a pension plan for certain of its employees. The Employer desires to amend and restate its Employees' Pension Plan, effective \_\_\_\_\_, 2021.

The amended and restated Plan has been approved by the legally constituted authority of Employer and is intended to qualify under § 401 and § 501 of the Internal Revenue Code of 1986, as amended from time to time. Under the amended and restated Plan, employee contributions are designated as picked up by the Employer, with the intention that such employee contributions are not subject to federal or state income taxes but are subject to FICA and Medicare taxes.

The terms and conditions of the Plan and Trust are as follows:

**ARTICLE 1.**

**DEFINITIONS**

As used in this document, the following terms shall have the indicated meanings:

**101. "ACCRUED BENEFIT"** shall mean the amount of benefit pursuant to Section 4.01 as of any date, expressed as a benefit at his Normal Retirement Date, based on his Average Monthly Compensation and Years of Service as of such date.

Notwithstanding any other provision in this Plan, the Accrued Benefit of a Transitioned Participant shall be equal to the amount of such Participant's Accrued Benefit as of June 30, 2012. No additional benefit shall accrue on behalf of such Participants.

**102. "ACTUARIAL EQUIVALENCE"** shall mean, for the purposes of establishing the present value of a stated benefit, the present value determined by discounting all future payments for interest and mortality on the following:

- (a) Interest Rate: 6%.
- (b) Mortality: pre-retirement: 1984 Unisex Projected Mortality Table.  
post-retirement: 1984 Unisex Projected Mortality Table.

Notwithstanding the above, for lump sums payable under the Plan before July 1, 2009, the lump sum present value of a Participant's vested Accrued Benefit shall not be less than the present value of the Participant's Accrued Benefit using the following factors:

- (a) Interest rate: annual interest rate on a 30-Treasury Securities as published in the Internal Revenue Bulletin for the second calendar month preceding the first day of the Plan Year, which rate shall remain constant for the Plan Year.
- (b) Mortality: pre-retirement and post-retirement mortality projections taken from the 1983 group annuity table with 50% male and 50% female weighting of the mortality rates as described in Rev. Rul. 2001-62 or the successor mortality tables as prescribed by the Secretary of Treasury.

Further, for lump sums payable after June 30, 2009 (other than a return of Participant Contributions with Interest), the lump sum present value of a Participant's vested Accrued Benefit shall not be less than the present value of the Participant's Accrued Benefit as of June 30, 2009, using the following factors:

- (a) Interest rate: annual interest rate on a 30-Treasury Securities as published in the Internal Revenue Bulletin for the second calendar month preceding the first day of the Plan Year in which the distribution is payable, which rate shall remain constant for the Plan Year. The interest rate shall in no event be less than the rate in effect for the Plan Year beginning July 1, 2011.
- (b) Mortality: pre-retirement and post-retirement mortality projections taken from the 1983 group annuity table with 50% male and 50% female weighting of the mortality rates as described in Rev. Rul. 2001-62 or the successor mortality tables as prescribed by the Secretary of Treasury.

**103.** "ANNIVERSARY DATE" shall mean the first day of the Plan Year.

**104.** "ANNUITY STARTING DATE" shall mean the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or disability).

**105.** "AVERAGE MONTHLY COMPENSATION" shall mean the monthly Compensation of a Participant averaged over the five consecutive complete calendar years with Employer which produce the highest monthly average. If a Participant has less than five complete calendar years with Employer his Average Monthly Compensation will be based on his monthly compensation during his actual years of service.

**106.** "BENEFICIARY" shall mean the person or other legal entity who under the Plan becomes entitled to receive a Participant's benefits upon his death, if any.

**107.** "CODE" shall mean the Internal Revenue Code of 1986, as amended.

**108.** "COMPENSATION" shall mean, with respect to any Employee, the total compensations paid to the Employer for services rendered to Employer which are subject to federal income tax, excluding noncash fringe benefits, but including elective contributions to a

cafeteria plan under Section 125 of the Code, section 132(f)(4) of the Code or to a deferred compensation plan under Section 457(b) of the Code.

For Plan Years beginning after December 31, 2001, annual compensation taken into account shall not exceed \$200,000. The \$200,000 limit on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

For purposes of determining any accruals beginning after December 31, 2001, the annual compensation limit for any determination period beginning before January 1, 2002, shall be \$150,000 for any determination period beginning in 1996 or earlier; \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001.

The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

Compensation shall include the amounts described in subsections (a) and (b) below even if paid after severance from employment, but only to the extent such amounts are paid by the later of 2 ½ months after severance from employment or by the end of the limitation year that includes the date of such severance from employment. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered Compensation, even if payment is made within the time period specified above.

(a) **Regular pay.** Compensation shall include regular pay after severance of employment if:

(1) The payment is regular compensation for services during the participant's regular working hours, or compensation for services outside the participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

(2) The payment would have been paid to the participant prior to a severance from employment if the participant had continued in employment with the Employer.

(b) **Leave cashouts.** Leave cashouts shall be included in Compensation, if those amounts would have been included in the definition of Compensation if they were paid prior to the participant's severance from employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the participant would have been able to use the leave if employment had continued.

(c) **Deferred compensation.** Deferred compensation shall not be included in Compensation.

(d) **Differential Wage Payments.** Differential wage payments, as defined in Code section 3401 as amended by the HEART Act, shall not be included in Compensation.

**1.09. "EARLY RETIREMENT AGE"** shall mean the day on which a Participant (1) attains his 55th birthdate and (2) has completed ten (10) Years of Service.

**1.10. "EFFECTIVE DATE"** of this Plan as amended and restated shall mean \_\_\_\_\_, 2021, unless otherwise provided.

**1.11. "EMPLOYEE"** shall mean any person on the payroll of the Employer whose wages from the Employer are subject to withholding for the purposes of Federal income taxes and for the purposes of the Federal Insurance Contributions Act.

Employees shall include Leased Employees.

An individual who is not classified for the relevant period as an Employee on the Employer's (or Affiliated Employer's) payroll records, whether because the individual is treated as an independent contractor or an employee of another person, shall not be an Employee, even if such classification is determined to be erroneous, or is retroactively revised pursuant to an audit by a governmental agency, civil litigation or otherwise, and even though such individual's pay shall be later determined to be subject to withholding as an employee for previous periods.

**1.12. "EMPLOYER"** shall mean City of Texarkana, Arkansas, or any organization which assumes the obligations of this Plan.

**1.13. "EMPLOYMENT"** shall mean service as an Employee, beginning on the date the Employee first performed an hour of service for Employer, and ending on the earlier of (a) the date on which Employee quits, retires, is discharged or dies, or (b) the first anniversary of the first date on which an Employee is absent from service for 12 consecutive months, by reason (with or without pay) of an authorized leave of absence.

Employment shall mean service only as a full time Employee. A full time Employee shall be any Employee whose job responsibilities require that he normally work at least 30 hours per week for the Employer. A part time Employee is not considered in the Employment of Employer for purposes of accruing a benefit or vesting. If a full time Employee becomes a part time Employee, he shall cease receiving credit for accrual of benefits and vesting.

Leaves of absence shall be authorized if granted by the Retirement Committee under rules applied on a uniform and nondiscriminatory basis, such as for (i) extended illnesses of an Employee which do not render him Disabled; or (ii) extended illnesses or death of a member of an Employee's family.

**1.14. "ENTRY DATE"** shall mean the January 1 or July 1 following completion of the eligibility requirements of Section 2.02.

**1.15. "LEASED EMPLOYEE"** shall mean any person (other than an Employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Code) on a substantially full-time basis for a period of at least one year, and such services are performed under the primary direction or control by the recipient employer. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer.

**1.16. "NORMAL RETIREMENT AGE"** shall mean the date the Participant reaches age 65.

**1.17. "NORMAL RETIREMENT DATE"** shall mean the first day of the month coincident with or next following the Participant's Normal Retirement Age.

**1.18. "PARTICIPANT"** shall mean an Employee who shall have met all requirements for participation in the Plan. Each Participant ceases to be such when he terminates his Employment with Employer, except where pursuant to this Plan the distribution of benefits shall be deferred to a later date.

**1.19. "PARTICIPANT'S CONTRIBUTIONS WITH INTEREST"** shall mean the sum of the mandatory contributions made by the Participant under the Plan, plus interest (if any) on such contributions, computed at 4% per annum. Interest shall be calculated through the calendar quarter preceding distribution.

**1.20. "PLAN"** shall mean this document as now written and any amendments thereto which may be in force from time to time.

**1.21. "PLAN YEAR"** shall mean the twelve (12) month period ending June 30 of each year.

**1.22. "PLAN YEAR OF SERVICE"** shall mean a Plan Year during which an Employee was a Participant.

**1.23. "RETIREMENT COMMITTEE"** shall mean the persons appointed by the City Board of Directors pursuant to Article 8 to administer the Plan.

**1.24. "TRANSITIONED PARTICIPANT"** shall mean any Participant in the Plan who is not 100% vested in the Participant's Accrued Benefit under the provisions of section 5.01 as of June 30, 2012.

**1.25. "TRUST AGREEMENT"** shall mean the Agreement, if any, between Employer and the Trustee or successor Trustee named under the Trust Agreement executed concurrently herewith which provides for the administration of the Trust Fund.

**1.26. "TRUSTEE"** shall mean the person or persons or corporation having trust powers so designated by the Employer to serve as Trustee and who, by joining in the execution of the documents creating or amending this Plan, acting in his capacity as a party to the Trust, signifies his acceptance of this Trust, or any person or persons or corporation having trust powers duly appointed as a successor Trustee.

**1.27. "YEAR OF SERVICE"** shall mean a Year during which the Employee is in the Employment of the Employer.

Years of Service are determined using the elapsed time method.

Under the Elapsed Time Method, Years of Service are based upon an Employee's Elapsed Time of employment irrespective of the number of hours actually worked during such period; a Year of Service (including a fraction thereof) will be credited for each completed 365 days of Elapsed Time which need not be consecutive. The following terms are used in determining Years of Service under the Elapsed Time Method.

(a) Date of Severance (Termination) means the earlier of (i) the actual date an Employee resigns, is discharged, dies or retires, or (ii) the first anniversary of the date an Employee is absent from work (with or without pay) for any other reason, e.g., disability, vacation, leave of absence, layoff, etc.

(b) Elapsed Time means the total period of service which has elapsed between a Participant's Employment Commencement Date and Date of Termination.

(c) Employment Commencement Date means the date an Employee first performs one hour of service for the Employer.

(d) One Year Break-in-Service means any 365-day period following an Employee's Date of severance as defined above in which the Employee does not complete at least one hour of service.

(e) Period of Severance is the time between the actual Date of Severance as defined above and the subsequent date, if any, on which the Employee performs an hour of service.

All periods of Employment will be aggregated. For Employment prior to July 1, 2008, periods of Employment shall also include Periods of Severance unless the Employee has had a One-Year Break in Service.

If a Participant or former Participant is re-employed after a 1-year Break in Service, Years of Service for vesting and benefit calculation shall be subject to the following rules:



(i) Years of Service prior to a 1-year Break in Service shall not be counted until the Participant has been re-employed by the Employer for one year, after which time the waiting period shall be counted as a Year of Service.

(ii) If the rehired Participant had a vested Accrued Benefit at the time of his termination, all Years of Service prior to his termination shall be included in the aggregate Years of Service.

(iii) Each nonvested former Participant shall lose credit for Years of Service otherwise allowable under (i) and (ii) above if his consecutive 1-year Breaks in Service equal or exceed his pre-break Years of Service.

Solely for purposes of determining whether a 1-year Break in Service has occurred, in the case of an Employee who is absent from work beyond the first anniversary of the first date of an absence and the absence is for one of the following reasons, the Date of Severance from Service shall be the second anniversary of the Employee's absence from employment:

(a) the pregnancy of the Employee;

(b) the birth of a child of the Employee;

(c) the adoption of a child by the Employee; or

(d) caring for such child for a period immediately following birth or adoption.

The period between the first and second anniversary of the first date of absence shall not constitute vesting service.

Notwithstanding any other provision in this section, Years of Service after June 30, 2012 for Transitioned Participants will be counted only for the following purposes (1) determining such a Participant's vested interest under the Plan and (2) determining such Participant's eligibility for early retirement benefits under section 4.02.

## ARTICLE 2.

### ELIGIBILITY AND PARTICIPATION

**2.01. ELIGIBILITY REQUIREMENTS.** Only Employees who have met the eligibility requirements for participation in the Plan as of June 30, 2012, who have attained the Entry Date and who are not excluded from participation under the Plan as in effect before the Effective Date shall participate in the Plan after the Effective Date. Employees who do not satisfy all of such conditions shall not participate in this Plan.

If a Participant becomes a member of an excluded class of Employees, he shall be treated as a terminated Employee, except that Years of Service with the Employer after such date shall be counted for vesting purposes only.

If a Participant otherwise eligible under the above paragraphs of this section (such Employee met the eligibility requirements and entered this Plan as of June 30, 2012 or before and is not excluded) becomes eligible to participate in another plan with respect to service with the Employer, the Participant shall cease to benefit under this Plan (TAPERS), and the benefit of such Participant shall be frozen as of the date of such participation in another plan. If such individual later ceases to participate in such other plan, then the individual shall resume participation in TAPERS, and the Participant's benefit under TAPERS shall be calculated considering all of the service and compensation while the Participant was actively participating in TAPERS, and not counting service and compensation while not an active Participant in TAPERS.

**2.02. PARTICIPATION.** Participation in the Plan by an eligible Employee is a condition of employment.

**2.03. PARTICIPANT CONTRIBUTIONS AFTER 6-30-2012.** As a condition of employment with the Employer, the Employer shall deduct from the Compensation of each Participant (other than a Transitioned Participant) after June 30, 2012, on a payroll deduction basis, the amounts set forth in this section. The payroll deduction shall originally be 2% of Compensation, and may be adjusted upon recommendation by the Retirement Committee and approval by the City Board of Directors from time to time. Advance notice shall be provided to Participants of any adjustment. Once amounts are deducted from Employee's paychecks, the Employer shall assume the obligation for such amounts and shall pay such amounts to the Plan as Participant Contributions. Participant Contributions shall be considered "picked up" for federal tax purposes and therefore shall not be subject to federal income tax.

Except as provided in sections 5.02 and 5.03, the Participant shall not receive a refund of the Participant Contributions with Interest, but shall instead receive the Participant's Accrued Benefit as provided in this Plan.

**2.04. ACCEPTANCE.** No provisions of the Plan shall be construed as abridging or limiting any managerial right of the Employer, or giving an Employee or Participant the right to

be retained in employment with the Employer, or interfering with the right of the Employer to discharge any Employee or Participant at any time, subject to applicable law, regardless of the effect which such discharge may have upon him as a Participant.

**ARTICLE 3.**

**CONTRIBUTIONS**

**3.01. FUNDING OF BENEFITS.** The Employer shall contribute to the Plan 10% of covered Compensation of eligible Participants. The Board of Directors may change the level of contributions at any time.

Except as provided above, the Employer does not guarantee to make contributions to provide the benefits provided by the benefit formula specified in the Plan. Benefits shall be limited to the extent funded in the Trust, and nothing contained herein shall be construed as imposing any obligation on the Employer to continue its contributions hereunder or following any suspension of contributions to resume or thereafter to continue his contributions. No temporary suspension of contributions by Employer shall be deemed a termination of the Plan.

**3.02. EMPLOYEE CONTRIBUTIONS.** Except for any Participant Contributions as provided in section 2.03, Employees shall not be permitted to contribute to the Plan.

## **ARTICLE 4.**

### **BENEFITS**

**4.01. NORMAL RETIREMENT INCOME.** The Normal Retirement Income to be provided each Participant who retires on his Normal Retirement Date shall be in a form permitted under Article 6 of the Plan, determined on the basis of a benefit which shall commence on the Participant's Normal Retirement Date and which shall be payable on the first day of each month thereafter during his lifetime, where the monthly benefit is equal to 1.8% of Average Monthly Compensation, multiplied by his Years of Service. However, the Normal Retirement Income of a Transitioned Participant shall be equal to such Participant's Accrued Benefit.

#### **4.02. EARLY RETIREMENT.**

(a) A Participant whose Employment with the Employer is terminated for reasons other than death or disability on or after his Early Retirement Age but prior to his Normal Retirement Date shall be eligible to receive an Early Retirement Benefit, and his Early Retirement date shall be the first day of the month coincident with or next following the date on which said Employment terminates.

(b) The Early Retirement Benefit payable to a Participant who meets the requirements of paragraph (a) shall be in a form permitted under Article 5. The amount shall be his Accrued Benefit, adjusted as follows:

(i) If the Employee has attained age sixty (60) and completed twenty (20) or more Years of Service, or if the Employee has attained age fifty-five (55) and completed thirty (30) or more Years of Service, no reduction shall be made.

(ii) If the Employee has neither (i) attained age sixty (60) with twenty (20) Years of Service nor (2) attained age fifty-five (55) with thirty (30) Years of Service, retirement benefits shall be reduced  $1/360$ th for each month or part thereof by which the payment commencement date precedes the first day of the month following the Participant's 65th birthday.

A Participant whose benefits under the Plan have not commenced may change the date elected prospectively on a request in writing to the Employer at least 30 days prior to the newly elected date.

**4.03. LATE RETIREMENT BENEFITS.** If a Participant retires after his Normal Retirement Date, the Participant shall be entitled to a late retirement benefit based on the formula in Section 4.01 as of his actual retirement date, with Years of Service and Average Monthly Compensation determined as of his actual retirement date; provided that the Normal Retirement Income for a Transitioned Participant shall be equal to the Participant's Accrued Benefit.

#### **4.04. DISABILITY BENEFIT.**

(a) Participants other than Transitioned Participants.

(i) If a Participant other than a Transitioned Participant has completed 10 Years of Service and the Participant becomes totally and permanently disabled, he shall receive a disability benefit under this Plan. If such a Participant becomes disabled and has not completed 10 Years of Service, no disability benefit shall be payable separate from the retirement benefits, if any, to which Participant is entitled.

(ii) The amount of monthly disability benefit shall be 1.8% multiplied by the Participant's Average Monthly Compensation as of his date of termination due to disability, multiplied by his Years of Service as if he had worked until his Normal Retirement Date.

(iii) The monthly income to which a Participant is entitled in the event of his disability will be payable on the first day of each month. The first payment will be made on the first day of the month coincident with or next following the Participant's termination of employment due to disability. The last payment will be as follows:

(A) If the Participant is determined in accordance with this Section to no longer be disabled prior to his Normal Retirement Date, the last payment will be the payment due next preceding the date of such recovery;

(B) If the Participant dies prior to his Normal Retirement Date without recovering from his disability, the last payment will be the payment due next preceding the date of his death; no further benefit shall be payable with respect to the Participant under this Plan; or

(C) If the Participant attains his Normal Retirement Date while still disabled, the last payment will be the payment due next preceding the Participant's Normal Retirement Age.

(iv) On the Participant's Normal Retirement Age, the Participant shall be entitled to a retirement benefit under the terms of this Plan as if he had not been disabled based on his Average Monthly Compensation and his Years of Service as of the date of his termination of employment due to disability. If the Participant ceases to be disabled before Normal Retirement Age, the Participant shall receive his vested Accrued Benefit in accordance with this Plan as if he had not become disabled based on his Average Monthly Compensation and his Years of Service as of the date of his termination of employment

(v) For purposes of this Plan, a Participant shall be considered totally and permanently disabled if a physician or physicians chosen by the Retirement Committee certifies to the satisfaction of the Retirement Committee that the Participant is disabled by physical or mental condition, and such disability is likely to be continuous and permanent, such that

(A) During the period ending 24 months following the date of commencement of disability retirement income payments in accordance with this Section, the Participant is, in the opinion of the Retirement Committee, completely unable to perform any and every duty pertaining to his occupation;

(B) At any time after the end of the 24-month period following such date of commencement of disability retirement income payments, the Participant is, in the opinion of the Retirement Committee, due to such disability, wholly prevented from engaging in any substantial gainful employment for wage or profit.

(vi) The Retirement Committee before approving the payment of any disability retirement income shall require satisfactory proof, which may be in the form of a certificate from a duly licensed physician selected by the Retirement Committee, that the Participant has become disabled as provided herein. No more than twice each calendar year after commencement of disability retirement income, the Retirement Committee may similarly require proof of the continued disability of the Participant. If a Participant refuses to undergo medical examination, subject to the limits in the preceding sentence, and if the Retirement Committee provides sixty (60) days notice that disability benefits will cease unless the medical examination is conducted within such sixty (60) day period, the disability shall be deemed to have ceased at the end of the sixty (60) day period.

(vii) A Participant will not be entitled to receive any disability retirement income under this Section if, in the opinion of the Retirement Committee, the disability is a result of:

(A) Excessive and habitual use by the Participant of drugs, intoxicants, or narcotics;

(B) Injury or disease sustained by the Participant while wilfully and illegally participating in fights, riots, civil insurrections or while committing a felony;

(C) Injury or disease sustained by the Participant while serving in any armed forces;

(D) Injury or disease sustained by the Participant which was diagnosed or discovered subsequent to the date his employment was terminated;

(E) Injury or disease sustained by the Participant while working for anyone other than the Employer and arising out of such employment; or

(F) Injury or disease sustained by the Participant as a result of an act of war, whether or not such act arises from a formally declared state of war.

(b) Transitioned Participants. After the Effective Date, no separate disability benefit shall be provided for Transitioned Participants. Such Participants shall receive the benefit to which the Participant is entitled under sections 4.01, 4.02, 4.03 or Article 5, as applicable.

#### **4.05. LIMITATION ON MAXIMUM BENEFITS.**



(a) The annual benefit otherwise payable to a Participant at any time shall not exceed the maximum permissible benefit, as determined in (b) below. If the benefit the Participant would otherwise accrue in a limitation year produces an annual pension benefit in excess of the maximum permissible benefit, the rate of accrual will be reduced so that the annual pension benefit will equal the maximum permissible benefit.

If a Participant is, or has ever been, covered under more than one defined benefit plan maintained by the Employer, the sum of the Participant's annual benefits from all such plans, determined as of the same retirement age, may not exceed the maximum permissible benefit. If the sum of the annual benefits does exceed the maximum permissible benefit, the benefits from the plan in which benefits are currently being accrued will be reduced first. In the case where benefits are being accrued under more than one plan, including this Plan, the accruals under this Plan will be reduced prior to the benefits in the other plan(s.)

(b) Determination of annual pension benefit and maximum permissible benefit.

(1) Annual Pension Benefit. For purposes of this section, the term "annual pension benefit" shall mean for any limitation year, the benefit, expressed in a form payable at normal retirement age, payable annually in the form of a straight life annuity. Except as provided below, a benefit payable in a form other than a straight life annuity must be adjusted to an actuarially equivalent straight life annuity before applying the limitations of this section. No actuarial adjustment to the benefit is required for (1) the value of a qualified joint and survivor annuity, (2) the value of benefits that are not directly related to retirement benefits (such as the qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits), and (3) the value of post-retirement cost-of-living increases made in accordance with section 415(d) of the Code and the regulations thereunder.

Solely for purposes of determining whether a benefit exceeds the limits of Code section 415 under this section, for benefits payable other than in the form of a lump sum, the actuarially equivalent straight life annuity is equal to the greater of (i) the annual amount of the straight life annuity (if any) payable to the Participant under the Plan at the same annuity starting date as the form of benefit payable to the Participant or (ii) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Participant, computed using a 5 percent interest assumption and the applicable mortality table for that annuity starting date.

Solely for purposes of determining whether a benefit exceeds the limits of Code section 415 under this section, for benefits payable in the form of a lump sum, the actuarially equivalent straight life annuity is the greatest of: (i) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table specified in section 1.02; (ii) the annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit, computed using a 5.5% interest assumption and the applicable mortality table for the distribution; or (iii) the annual amount of the straight life annuity commencing on the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the

applicable interest rate and the applicable mortality table), divided by 1.05. The terms applicable interest rate and applicable mortality rate shall be as defined in the final 415 regulations.

(2) **Maximum Permissible Benefit.** For purposes of this section, the term "maximum permissible benefit" shall mean, for any limitation year, the defined benefit dollar limitation, as defined below. This amount may be further adjusted in Subsection (c). The "defined benefit dollar limitation" shall be \$160,000, as adjusted, effective January 1 of each year, under section 415(d) of the Code in such manner as the IRS shall prescribe, and payable in the form of a straight life annuity. The new limitation will apply to limitation years ending with or within the calendar year for which the adjustment applies. Unless otherwise provided by law, adjustments for increases in the cost of living shall not be taken into account for any year before the year for which such adjustment first takes effect.

(3) **Adjustments to the Maximum Permissible Benefit.**

(i) If the Participant has less than ten (10) years of participation, the defined benefit dollar limitation described above, shall be multiplied by a fraction, the numerator of which is the number of years of participation and the denominator of which is ten (10). A Participant is credited with a year of participation (computed to fractional parts of a year) for each accrual computation period for which the Participant is credited with the period of service required under the terms of the Plan in order to accrue a benefit for the accrual computation period, and the Participant is included as eligible to participate in the plan for at least one day of the accrual computation period. A Participant who is permanently and totally disabled within the meaning of section 415(c) of the Code shall be credited with a year of participation (or part thereof) with respect to that period. In no event will more than one year of participation be credited for any twelve (12) month period.

(ii) For purposes of determining a member's "maximum permissible benefit," the defined benefit dollar limitation above shall be adjusted for commencement of benefits before the attainment of 62 or after the attainment of 65. If benefits commence before the Participant attains age 62, the defined benefit dollar limitation applicable to the Participant is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation at age 62, with the actuarial adjustment as provided in the final 415 regulations.

If benefits commence after the Participant attains age 65, the defined benefit dollar limitation applicable to the Participant is an annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation at age 65, with the actuarial adjustment as provided in the final 415 regulations.

(4) Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a Participant hereunder shall be deemed not to exceed the maximum permissible benefit limitation if:

(i) the retirement benefits payable for a Plan Year under any form of benefit with respect to such Participant under this Plan and under all other defined benefit plans (regardless of

whether terminated) ever maintained by the Employer do not exceed \$1,000 multiplied by the Participant's number of years of service or parts thereof (not to exceed 10) with the Employer; and

(ii) the Employer has not at any time maintained a defined contribution plan, a welfare benefit fund, an individual medical account, or simplified employee pension, in which the Participant participated. For this purpose only, employee contributions under a defined benefit plan (whether voluntary or mandatory) are not treated as a defined contribution plan.

(4) Determination of annual benefit in the case of multiple annuity starting dates. If a Participant has or will have distributions commencing at more than one annuity starting date, then the limitations of section 415 must be satisfied as of each of the annuity starting dates, taking into account the benefits that have been or will be provided at all of the annuity starting dates. This will happen, for example, where benefit distributions to a participant have previously commenced under a plan that is aggregated for purposes of section 415 with a plan under which the participant receives current accruals. In determining the annual benefit for such a participant as of a particular annuity starting date, the plan shall actuarially adjust the past and future distributions with respect to the benefits that commenced at the other annuity starting dates. These adjustments must be made using the rules of §1.415(b)-2.

**4.06. NON-DUPLICATION OF BENEFITS.** It is the intent of this plan to avoid duplication of benefits provided under this Plan, or benefits under this Plan and another pension plan of the Employer or the pension plans of any other Employers with respect to which credit for prior service is given, if any, under this Plan. The following rules apply for the purpose of eliminating duplication:

(a) A benefit payable under this Plan shall be offset by the amount of employer-paid benefits earned under a pension plan of another employer for a period of service for which credit is given under this plan. Generally the offset shall be applied by reducing the benefit payable to the Participant under the Plan for the life of the Participant commencing at Normal Retirement Date by the benefit payable under the other pension plan in the same form and commencing at the same time; the resulting benefit shall be paid at the time and in the form determined under the provisions of the Plan. If the benefit under this Plan commences prior to the Participant's Normal Retirement Age, the offset shall be the Actuarial Equivalent of the benefit payable under the other pension plan. The offset shall be made whether or not the Participant has forfeited his prior benefit by withdrawing his contributions or has taken his prior benefit in a form other than the form in which benefits are payable under this Plan. However, a Participant's benefit under this Plan shall not be less than the benefit would have been if credit had not been given for the prior service with the other employer.

(b) A benefit payable under this Plan shall be offset by any benefit previously earned and payable to the Participant or his Beneficiary under this Plan. The offset shall be applied by reducing the benefit payable to the Participant under this Plan at the time the benefit commences by the Actuarial Equivalent of the prior benefit payable under the Plan.

**4.07. BENEFITS NONFORFEITABLE UPON RETIREMENT.** A Participant's right to his retirement benefits is nonforfeitable upon the attainment of his Normal Retirement Age.

**4.08. TERMINATION PRIOR TO EARLY RETIREMENT.** If a Participant terminates employment prior to his Early Retirement Age, his benefit shall be payable under Article 5.

**4.09. ADJUSTMENT FOR OVERPAYMENTS AND UNDERPAYMENTS.** Whenever as a result of administrative error, a benefit is paid in excess of the amount payable under the provisions of this Plan, the Participant shall immediately reimburse the Trustee upon written request the aggregate amount of such excess payment. If as a result of administrative error, the amount paid to the Participant is less than the amount to which he is entitled under the terms of this Plan, the Trustee shall immediately pay, upon discovery of such error, an amount equal to the deficiency through the date of such payment. Subsequent payments in either event shall be the correct amount payable under this plan.

**4.10. MILITARY SERVICE.**

(a) Effective as of December 12, 1994, notwithstanding any provision of this Plan to the contrary, with respect to a Participant who is in qualified military service, as defined in Code § 414(u)(5) and who is reemployed within the time required by law after the expiration of his qualified military service, such Participant may make-up any required Participant Contributions for the period of his qualified military service, based on his deemed compensation during his qualified military service as defined in Code § 414(u). Such make-up Participant Contributions may be made in either a single payment or in installments and must be made during the period beginning with the date of the Participant's reemployment after his military leave equal to the lesser of (i) three times the period of his military leave and (ii) five years. If such Participant makes the Participant contributions, the Participant shall be credited with Years of Service for the period required to be recognized for such military service which the Participant would have otherwise been entitled.

(b) The Plan does not elect to continue benefit accruals pursuant to the HEART Act for an individual who, on or after January 12, 2007, dies or becomes disabled (as defined under the terms of the plan) while performing qualified military service with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

**4.11. TRANSFER OF EMPLOYMENT TO CITY OF TEXARKANA, TEXAS.**

(a) In the event that a Participant transfers employment after July 1, 1998 from the Employer to the City of Texarkana, Texas, Years of Service with City of Texarkana, Texas shall be counted for vesting purposes in this Plan.

(b) For purposes of calculating the Accrued Benefit in this Plan for a Participant who transfers employment to the City of Texarkana, Texas, the Participant's Average Monthly Compensation may be multiplied by a multiplier established by the Board of Directors to reflect percentage increases in compensation received by other non-civil service employees of the Employer. The Employer may amend this section to effectuate such multiplier. In absence of any such amendment in any year, the Participant's Accrued Benefit shall be the same as of the end of the preceding year. In no event shall any distribution be made to any such Employee as long as the individual remains employed by either the Employer or the City of Texarkana, Texas.

(c) If a Participant transfers employment from the Employer to the City of Texarkana, Texas, after July 1, 1998 and subsequently qualifies for early retirement under the Texas Municipal Retirement System, such Participant may request a benefit under this Plan notwithstanding that the Participant has not qualified for an early retirement benefit under this Plan. The Accrued Benefit for such Participant shall be adjusted as follows:

(i) If the Employee has attained age sixty (60) and completed twenty or more Years of Service with the Employer or the City of Texarkana, Texas, or if the Employee has obtained age fifty five(55) and completed thirty (30) or more Years of Service with the Employer or the City of Texarkana, Texas, no reduction shall be made.

(d) (ii) If the Employee has neither (1) attained age sixty (60) with twenty (20) combined Years of Service nor (2) attained age fifty-five (55) with thirty (30) combined Years of Service, the benefit for such Participant shall be his Accrued Benefit, reduced 1/360th for each month or part thereof by which the payment commencement date precedes the first day of the month following the Participant's 65th birthday.

#### **4.12. RETIREMENT AND REEMPLOYMENT**

In the event that a Participant has attained the Normal Retirement Date and has actually terminated employment with Employer, the Participant may subsequently be reemployed by the Employer (at the discretion of the Employer) on a part-time basis, and such reemployment shall not affect the Participant's retirement benefits. Such Participant shall not in any event accrue any additional benefit under this Plan or any other retirement plan of the Employer as a result of service after re-employment.

**ARTICLE 5.**

**TERMINATION OF SERVICE**

**5.01. VESTED INTEREST ON TERMINATION.**

(a) If a Participant terminates service for reasons other than death or disability (in accordance with Section 4.04) prior to Early or Normal Retirement Age, he shall be entitled to a percentage of his Accrued Benefit, as determined in accordance with the following:

<u>Years of Service at Termination of Employment</u>	<u>Vested Percentage</u>
Less than 6	0%
6	20%
7	40%
8	60%
9	80%
10 or more	100%

(b) The vested benefit payable to a Participant who terminates employment shall be in a form permitted under Article 6. Distribution shall be payable commencing on the first day of the month following the Participant's Normal Retirement Age. No benefit shall be payable prior to that time.

**5.02. SMALL BENEFITS.** In the event the Participant is at least partially vested under section 5.01 but the present value of the Participant's vested Accrued Benefit is less than the Participant Contributions with Interest, the Participant shall be paid the Participant Contributions with Interest in a single sum as soon as administratively feasible after the end of the Plan Year in which termination occurs. In the event that the present value of the Participant's vested Accrued Benefit is greater than the Participant Contributions with Interest but the value of the Employer-provided benefit (the present value of the vested Accrued Benefit less the Participant Contributions With Interest) is less than or equal to \$5,000, then the present value of the Participant's Accrued Benefit will be paid to the Participant or Beneficiary in a single sum as soon as administratively feasible after the end of the Plan Year in which termination occurs. If any single sum payment is made in accordance with this Section 5.02, no further benefit will be payable to the Participant, his Beneficiary, or his surviving Spouse, as the case may be. For purposes of this Section 5.02, the lump sum present value of the Accrued Benefit shall be computed according to the interest rate and mortality assumptions used to calculate the lump sum payment under Section 1.02.

Notwithstanding the above, if the total amount payable to the Participant shall exceed \$1,000, distribution shall not be made without the Participant's consent.

**5.03. OTHER TERMINATION OF EMPLOYEE.** If a Participant's Employment is terminated and the Participant is not vested under Section 5.01, the Participant shall be entitled to the Participant Contributions with Interest, payable in a lump sum. Payment shall be made as soon as administratively feasible after the end of the Plan Year in which such Employee/Participant terminates. Interest shall be calculated through the end of the calendar quarter preceding distribution. No further benefit shall be payable to such Employee/Participant under the Plan.



## ARTICLE 6.

### FORM OF BENEFITS

**601. JOINT AND SURVIVOR BENEFIT.** The benefit to which a Participant is entitled normally shall be payable in equal monthly installments in accordance with paragraphs (a) and (b), unless the Participant (and his spouse, if applicable) elect, in the manner provided in Section 6.02, to have the benefit paid in another form permitted under Section 6.03.

(a) The benefit payable to a Participant who is married on the date the Participant's benefit commences shall be payable for the lifetime of the Participant, with one-half of the amount payable to the Participant continued thereafter for the lifetime of his spouse. The amount of the benefit shall be the Actuarial Equivalent of the life annuity for the Participant calculated under Section 1.02.

(b) The benefit payable to any Participant who does not have a spouse on the date the Participant's benefit commences shall be a benefit payable only for the lifetime of the Participant.

### **602. ELECTION OF OPTIONAL RETIREMENT BENEFITS.**

(a) Each Participant in the Plan may elect at anytime to waive the form of benefit payable under Section 6.01 and elect an optional form of benefit. Each Participant may revoke any such election at any time prior to commencement of benefits. Any such election or revocation must meet the requirements of paragraphs (b) and (c). Once a Participant has commenced receipt of benefits, any election is irrevocable.

(b) Any election under paragraph (a) shall not take effect unless

(i) the spouse, if any, of the Participant irrevocably consents in writing to such election, and the spouse's consent is witnessed by a notary public, or

(ii) it is established to the satisfaction of the Retirement Committee that the Participant has no spouse or that the spouse cannot be located.

Any consent (or establishment that no consent may be obtained) shall be effective only with respect to such spouse.

(c) The Retirement Committee shall provide to each Participant, within a reasonable period of time before the Annuity Starting Date, a written explanation of:

(i) The terms and conditions of the normal form of payment;

(ii) The Participant's right to make, and the effect of, an election under paragraph (a) to waive the normal form of benefit;

(iii) The right of the Participant's spouse under section 6.02(b); and

(iv) The right to make, and the effect of a revocation of such an election.

**603. OPTIONAL PAYMENT FORMS.**

(a) If a Participant elects not to receive the form of benefit named in Section 6.01, his benefits shall be distributed in such manner as the Participant shall elect in accordance with one or more of the following means:

(i) in the form of an annuity for the life of the Participant;

(ii) in the form of an annuity for the life of the Participant with payments guaranteed for up to 240 months;

(iii) in the form of an annuity for the life of the Participant and an annuity in the same amount for the life of his surviving Beneficiary after the Participant's death (joint and 100% survivor);

(iv) in the form of a 100% joint and survivor annuity with payments guaranteed for up to 240 months;

(v) in the form of equal monthly, quarterly, semi-annual or annual installments over a period not to exceed the lesser of 15 years or the Participant's life expectancy; or

(vi) in the form of a single sum payment.

(b) Any optional form of distribution shall be the Actuarial Equivalent of the life annuity for the Participant computed under Section 1.02.

**604. REQUIRED DISTRIBUTIONS.** Notwithstanding any other provision of this Plan, distribution shall commence no later than the required beginning date. Effective January 1, 2020, the required beginning date is April 1 following the later of (i) the calendar year in which the Participant reaches age 72 or (ii) the calendar year in which the Participant retires, provided that if the Participant attained age 70 ½ before January 1, 2020, "70 ½" shall be substituted for "72".

(b) Under no circumstances shall a Participant be permitted to select any method of payment unless, under the terms of the method selected, the entire interest of such Participant will be distributed in accordance with the final regulations prescribed by the Secretary of the Treasury under § 401(a) (9) of the Internal Revenue Code of 1986 over the life of the Participant (or over the lives of the Participant and his Spouse) or over a period not extending beyond the life expectancy of the Participant (or the joint life expectancy of the Participant and his Spouse).

(c) Under any option elected by a Participant that provides for payments to a

Beneficiary after the death of the Participant, the benefits payable with respect to the Participant

in the event of his death shall not be more than incidental, as determined under the final regulations under Section 401(a) (9) of the Code.

**605. DISTRIBUTION TO MINOR BENEFICIARY.** In the event a distribution is to be made to a minor, then the Retirement Committee may, in its discretion, make such distribution to the legal guardian or, if none, to a parent of such beneficiary with whom the Beneficiary maintains his residence. Such payment shall fully discharge the Trustee, the Employer and the Plan from all liability.

**606. MAXIMUM PAYOUT TIME.** Unless a Participant elects to defer in writing, payment of benefits under the Plan to the Participant shall begin not later than the 60th day after the end of the Plan Year in which the latest of the following occurs:

- (i) the Participant attains the earlier of age 65 or the Normal Retirement Date specified under the Plan,
- (ii) the 10th anniversary of the year in which the Participant commenced participation in the Plan, or
- (iii) the Participant terminates his Employment with the Employer.

An election shall be made by submitting to the Retirement Committee a written statement, signed by the Participant, which describes the benefit and the date on which the payment of such benefit may commence. The failure of a Participant (and spouse, if applicable) to consent to a distribution while a benefit is immediately distributable shall be deemed to be an election sufficient to satisfy this Section.

**607. DIRECT ROLLOVER.** A distributee may elect, at the time and in the manner prescribed by the Retirement Committee, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and any hardship distribution. An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, a qualified trust described in Section 401(a) of the Code, an annuity contract described in section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that accepts the distributee's eligible rollover distribution and that agrees to separately account for amounts transferred into such plan from this plan. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse

who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee. For purposes of the direct rollover provisions above, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. The Plan will also permit rollovers of after-tax amounts to a 403(b) plan. The Plan will permit a Direct Rollover of an Eligible Rollover Distribution to a Roth IRA in a Qualified Rollover Contribution.

**ARTICLE 7.**

**DEATH BENEFITS**

**7.01. DEATH OF PARTICIPANT BEFORE ANNUITY STARTING DATE.**

(a) If a Participant dies prior to the Annuity Starting Date under the Plan, his Beneficiary shall be entitled to receive a death benefit as provided hereinafter. A Beneficiary shall be one hundred percent (100%) vested if the Participant dies while in the service of the Employer. A Beneficiary of a Participant who has terminated his employment but who dies prior to the payment of benefits shall be vested in the same percentage that such deceased was vested pursuant to the provisions of Article 5 hereof. For Participants dying after July 1, 2000 the amount of the death benefit shall be the present value of the Participant's vested Accrued Benefit as of the date of the Participant's death, calculated using the Actuarial Equivalent assumption in Section 1.02. The death benefit shall be payable in one of the forms specified in Section 6.03. No additional amounts shall be due with respect to the Participant's benefit under the Plan. Notwithstanding the above, the death benefit for a Participant who has had Participant Contributions made shall not be less than the Participant Contributions with Interest.

(b) The Retirement Committee may require such proper proof of death and such evidence of the right of any person to receive the death benefit payable as a result of the death of a Participant as the Retirement Committee may deem desirable. The Retirement Committee's determination of death and the right of any person to receive payment shall be conclusive.

**7.02. DEATH BENEFITS UNDER USERRA-QUALIFIED MILITARY SERVICE.** Notwithstanding section 7.01, the Plan shall provide that the survivors of a Participant who dies while performing Qualified Military Service (as defined in Code section 414(u)), are entitled to any additional benefits provided under the Plan as if the Participant resumed service with the Employer and then terminated employment on account of death. The additional benefits shall not include benefit accruals relating to the period of Qualified Military Service.

**7.03. DESIGNATION OF BENEFICIARY.** Subject to Section 7.04, each Participant shall have the right to designate a Beneficiary or Beneficiaries to receive his death benefit upon his or her death if he dies before the Annuity Starting Date. Such designation shall be made in the form prescribed by the Retirement Committee and shall be effective for all purposes upon the delivery thereof to the Retirement Committee. The Participant shall have the right to change or revoke any such designation from time to time by filing a new designation or notice of revocation with the Retirement Committee. However, the requirements of Section 7.03 must be met. If a Participant shall fail to designate a Beneficiary or the designated Beneficiary shall predecease the Participant, the Participant's death benefit shall be paid:

- (a) To his spouse, if living, or
- (b) If his spouse is not then living, to his descendants, by right of representation, or
- (c) If neither his spouse nor any descendants are then living, to his estate.

**7.04. SPOUSAL CONSENT.** The designation under Section 7.03 of a Beneficiary other than the Participant's spouse shall not be effective unless

(a) the spouse of the Participant consents in writing to such designation, and the spouse's consent acknowledges the effect of such election, is witnessed by a plan representative or a notary public, and is limited to a specific alternative beneficiary, or

(b) it is established to the satisfaction of the Retirement Committee that the consent required in paragraph (a) may not be obtained because there is no spouse.

Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) under this section shall be effective only with respect to such spouse. Notwithstanding the above, if a former spouse is treated as the surviving spouse under a qualified domestic relations order as described in § 414(p) of the Code, this Section shall not apply to such amounts with respect to the Participant's current spouse.

**7.05. DEATH OF PARTICIPANT AFTER ANNUITY STARTING DATE.** If the Participant dies after the Annuity Starting Date, benefits, if any, shall be payable under the option selected. A death benefit shall not be payable under the Plan if a Participant dies after the Annuity Starting Date unless the form of benefit specifically provides for a benefit.

**7.06. DIRECT ROLLOVER OF NON-SPOUSAL CONTRIBUTIONS.**

(a) For distributions after December 31, 2006, a non-spouse Beneficiary who is a “designated beneficiary” under Code §401(a)(9)(E) and the regulations thereunder, by a direct trustee-to-trustee transfer (“direct rollover”), may roll over all or any portion of his/her distribution to an individual retirement account the Beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

(b) Although a non-spouse Beneficiary may roll over directly a distribution as provided in this section, the distribution is not subject to the direct rollover requirements of Code §401(a)(31), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c). In a non-spouse Beneficiary receives a distribution from the Plan, the distribution is not eligible for a “60-day” rollover.

(c) If the Participant’s named Beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).

(d) A non-spouse Beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his/her required beginning date and the non-spouse Beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to

Treasury Regulation §1.401(a)(9)-d, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse Beneficiary's distributions.



## ARTICLE 8.

### RETIREMENT COMMITTEE/ADMINISTRATION OF THE PLAN

**801. ADMINISTRATION OF THE PLAN.** The Plan shall be administered by the Retirement Committee, which shall perform such duties as are specified hereunder. The City Manager shall have oversight of the Retirement Committee. All decisions of the Retirement Committee shall be subject to review by the City Manager, and the City Manager may take action upon recommendation of the Retirement Committee and approval of the City Board of Directors.

**802. DESIGNATION AND ACCEPTANCE.** The Employer shall appoint the members of the Retirement Committee. The Employer may appoint one or more of the members of the Retirement Committee by position so that whoever is in that position shall be a member of the committee and when a person is no longer in such position, he or she is no longer a member of the committee. A member of the Committee shall not be required to be a Participant.

The Retirement Committee is hereby designated as agent for the service of legal process.

#### **803. RESIGNATION AND REMOVAL.**

(a) Members of the Retirement Committee may resign at any time by delivering to the Employer a written notice of resignation to take effect on a date specified therein, which shall not be less than thirty(30) days after the delivery thereof, unless such notice shall be waived.

(b) A member of the Retirement Committee may be removed with or without cause by the Employer or delivery of written notice of removal, to take effect at a date specified therein, which shall be not less than thirty (30) days after delivery thereof, unless such notice shall be waived.

(c) In the event that the Employer does not appoint a successor to a resigning or removed member of the Retirement Committee, the remaining members shall serve without replacement. In the event that all of the members of the Committee have resigned or been removed, the City Manager shall perform the duties of the Retirement Committee.

(d) A simple majority of the members of the Retirement Committee shall constitute a quorum, and any act by such majority, by vote at a meeting, or in writing without a meeting, shall constitute the action of the Retirement Committee. The Retirement Committee shall keep minutes of its meetings, and shall appoint and prescribe the duties of a chairman, and a secretary, who may, but need not be, one of its members.

**804. POWERS.** The Retirement Committee shall have full power and discretion to administer the Plan and to construe and apply all of its provisions. The Retirement Committee's powers and duties, unless properly delegated, shall include, but are not limited to:

- (a) Determining questions of eligibility and benefit entitlement;
- (b) Establishing policies for leaves of absence;
- (c) Compiling and maintaining all records necessary for the Plan, including preparing, filing and furnishing reports and other documents required under the provisions of any law;
- (d) Authorizing the Trustee, as applicable, to make payment of all benefits as they become payable under the Plan;
- (e) Adopting rules and regulations for the administration of the Plan, not inconsistent with the Plan and Trust Agreement, if applicable;
- (f) Engaging such legal, administrative, actuarial, investment, accounting, and other professional services as necessary;
- (g) Interpreting the provisions of the Plan and making rules for the regulation of the Plan;
- (h) Doing and performing such other matters as may be provided for in other parts of this Plan or the Trust Agreement, if applicable.

**805. ACTIONS.** The Retirement Committee, Employer and its legally constituted authority shall be entitled to rely conclusively upon the tables, valuations, certificates and reports furnished by an actuary or accountant employed by the Retirement Committee or an Insurer issuing contracts under this Plan, and/or upon opinions of counsel or other experts; and such members, and each of them, shall be fully protected as to any action taken or allowed by them in good faith and reliance upon any such tables, valuations, certificates, reports or opinions; and all actions taken or allowed by them shall be conclusive upon all persons having or claiming any interest under the Plan.

**806. EXPENSES.** The Employer, or in its absence, the trust fund, if any, shall reimburse the Retirement Committee for any necessary or proper expenses incurred in exercising its duties. Except for such reimbursement, the members of the Committee Board shall not receive any compensation for the administration of the Plan.

**807. CLAIM PROCEDURE.**

(a) Any Participant or Beneficiary may file with the Retirement Committee a written statement setting forth a claim for benefits. The written statement shall be signed and set forth the claim in a manner reasonably calculated to bring it to the Retirement Committee's attention.

(b) If a claim is wholly or partially denied, notice of the decision shall be furnished by the Retirement Committee to the claimant within ninety (90) days after receipt of the claim. If within such ninety (90) days, the claim has neither been denied in writing nor granted, it shall be deemed denied on the 90th day.

(c) Any notice of denial of claim shall be written in a manner calculated to be understood by the claimant and shall include the following:

- (i) the specific reason or reasons for denial;
- (ii) specific reference to pertinent plan provisions on which the denial is based;
- (iii) a description of additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
- (iv) appropriate information as to the steps to be taken if the claimant wishes to submit the claim for review.

(d) A claimant may obtain a full and fair review by appealing a denied claim to the Retirement Committee in writing within sixty (60) days after receipt by the claimant of the notice of denial. A claimant may review pertinent documents and may submit issues and comments in writing. An appeal may be requested or pursued by a duly authorized representative of the claimant. Within sixty (60) days of receipt of a request for review, a written decision shall be rendered. The decision on review shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, as well as specific references to the pertinent provisions of the Plan on which the decision is based.

**808. INDEMNIFICATION OF THE RETIREMENT COMMITTEE.** The Retirement Committee shall be indemnified by the Employer against any and all liabilities arising by reason of any act or failure to act made in good faith pursuant to the provisions of the Plan if the act or failure to act is judicially determined not to be a breach of fiduciary responsibility. The indemnification shall include expenses and attorney's fees reasonably incurred in the defense of any claim relating thereto. When making a determination or calculation, the Retirement Committee shall be entitled to rely conclusively upon, and shall be ruly protected by the Employer in any action it may take or suffer in reliance upon, information furnished by the Employer. The Employer and Retirement Committee shall be entitled to rely upon all reports furnished by any consultant and actuary and upon all opinions given by legal counsel selected by the Employer and Retirement Committee.

**809. INVESTMENT MANAGER.** The Retirement Committee shall have the right, but shall be under no obligation, to appoint an investment manager or managers to direct the investment of all or of any portion of the assets of the Plan. The investment manager or managers shall be:

- (a) Registered as an investment advisor under the Investment Advisor's Act of 1940,
- (b) A bank as defined in the Act, or
- (c) An insurance company qualified to manage, acquire or dispose of assets of the Plan under the laws of more than one State.

Upon appointment, the investment manager shall certify and acknowledge to the Retirement Committee receipt of a copy of the Plan and Trust, if any, that the investment manager is fiduciary with respect to such Plan and Trust, and that the investment manager has assumed the duties and responsibilities conferred by the Retirement Committee.

**ARTICLE 9.**

**AMENDMENT OF PLAN**

**9.01. RIGHT OF EMPLOYER TO AMEND PLAN.** The Plan may be amended upon approval by the City of Texarkana, Arkansas Board of Directors. A copy of such amendment shall be delivered to the Trustee, if any. All Participants shall be bound by amendments adopted in accordance herewith, subject to the following provisions:

(a) No amendment shall increase the duties or liabilities of the Trustee or the Retirement Committee without their respective written consents.

(b) No amendment may make it possible for any part of the corpus or income of the Plan to be used or diverted to purposes other than for the exclusive benefit of the Participants or their Beneficiaries, if such diversion is not allowed by applicable law.

## **ARTICLE 10.**

### **TERMINATION OF PLAN**

**1001. TERMINATION OF PLAN.** The Employer shall have the right to terminate the Plan at any time by delivering to the Retirement Committee and Trustee, if any, notice of such termination. Upon termination, distribution of the Participants' Accrued Benefits, to the extent funded, shall be made at such time and in such manner as though the Plan had not been terminated. Such payments may be made through the purchase of annuities. Any assets exceeding those necessary to fund the Participants' Accrued Benefits as of date of termination and pay applicable Plan expenses shall revert to the Employer.

**1002. NONFORFEITURE PROVISIONS.** It is hereby expressly provided that upon termination of the Plan, the rights of all Participants to benefits accrued to the date of such discontinuance, to the extent then funded, shall be nonforfeitable.

## ARTICLE 11.

### MISCELLANEOUS PLAN PROVISIONS

**11.01. HEADINGS AND SUBHEADINGS.** The headings and subheadings in this Agreement are inserted for convenience of reference only and are not to be considered in construction of the provisions hereof.

**11.02. INTERPRETATION.** This Plan and Trust shall be construed, administered and governed in all respects under and by the laws of the State of Arkansas. In that connection, wherever appropriate, singular words used in this Agreement may include the plural, the plural may include the singular, and the masculine may include the feminine or neuter gender.

**11.03. SUCCESSORS AND ASSIGNS.** This Agreement shall inure to the benefit or, and be binding upon, the parties hereto, their beneficiaries, heirs, executors, administrators, and assigns.

**11.04. FAILURE OF INITIAL QUALIFICATION.** In the event this Plan or Trust shall initially fail to qualify under § 401 of the Internal Revenue Code of 1986, as amended, all contributions, together with any income received or accrued thereon, less appropriate expenses payable by the Trustee which have not been paid by the Employer, shall be returned to the Employer, or to the person making such contribution, as the case may be, within one year after the date the initial qualification is denied. Notwithstanding any other provision to the contrary in this Plan or the Trust Agreement, no Participant or Beneficiary shall have any vested right or claim to any assets of the Trust Fund resulting from Employer contributions prior to the issuance by the Internal Revenue Service of a favorable letter of determination, providing application for determination of qualification is made within the time prescribed by law for filing the Employer's tax return for the tax year in which the Plan is adopted.

**11.05. SUCCESSOR EMPLOYER.** In the event of a dissolution, merger or consolidation of the Employer, provisions may be made by the successor for the continuance of this Plan, and said successor shall in such event be substituted in the place of the present Employer by an instrument authorizing such substitution executed by the Employer and its successor, a copy of which shall be delivered to the Trustee, if any.

**11.06. SERVICE FOR PREDECESSOR EMPLOYER.** For all purposes of this Plan, if the Employer is maintaining the Plan of a predecessor employer, service for such predecessor shall be treated as service for the Employer.

**11.07. CONTROLLED CORPORATIONS, AFFILIATED SERVICE GROUPS AND LEASED EMPLOYEES.** For all purposes of this Plan, service with certain related employers is treated as service for the Employer. These related employers include members of a controlled group of corporations (within the meaning of Internal Revenue Code Section 563(a), determined without regard to subsections (a)(4) and (e)(3)(c) thereof), trades or businesses (whether or not incorporated) which are under common control, and affiliated service groups (within the meaning of Section 414(m) of the Internal Revenue Code. Also, for purposes of the pension requirements of Section 414(n) (3) of the Code, leased employees (as defined in Section 414(n) (2), shall be treated as employees of the Employer.

**11.08. MISTAKE IN CONTRIBUTION.** In the event that a contribution is made by reason of a mistake of fact, it shall be returned to the Employer. The amount to be returned to the Employer is the excess of (a) the amount contributed over (b) the amount which would have been contributed had there not occurred a mistake of fact. The return to the Employer of the amount involved must be made within one year of the mistake in payment. Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. If the withdrawal of the amount attributable to the mistake in contribution will cause the balance of Plan assets to be reduced to less than the balance which would have existed had the mistaken amount not been contributed, then the amount to be returned to the Employer shall be reduced so as to avoid such reduction.

**11.09. SPENDTHRIFT CLAUSE.** No person entitled to any benefits under this Plan shall have any right to assign, transfer, hypothecate, encumber, commute or anticipate his interest in any benefits under this Plan, and such benefits shall not in any way be subject to any legal process or levy of execution upon, or attachment or garnishment proceedings against, the same for the payment of any claim against any such person.

The above paragraph shall not apply to the creation, assignment or recognition of any benefit payable with respect to any Participant pursuant to a domestic relations order, to the extent required by applicable law.

**11.10. LOANS TO PARTICIPANTS.** No loans shall be made to a Participant.

**11.11. EXCLUSIVE BENEFIT.** The Employer shall have no beneficial interest in the Fund or any part thereof, and no part of the Fund shall ever revert or be repaid to the Employer, either directly or indirectly, except as set forth in the Plan. The corpus or income of the Fund may not be diverted to or used for other than the exclusive benefit of the Participants and their Beneficiaries

**11.12. NON-TRANSFERABILITY OF ANNUITY CONTRACTS.** All annuity contracts issued under the Plan shall be non-transferable at any time when such contracts are held by any person other than a Trustee. On any distribution of annuity contracts held hereunder, such contracts shall first be endorsed to provide in substance that such contracts may not be sold, assigned, discounted, or pledged as collateral for a loan or as security for the performance of any obligation or for any other purpose, to any person other than the insurance company issuing such contracts.

Executed by Employer on this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF TEXARKANA, ARKANSAS

By \_\_\_\_\_  
Its \_\_\_\_\_