



Regular Meeting of the Board of Directors

City of Texarkana, Arkansas

216 Walnut Street

Agenda - Monday, December 16, 2024 - 6:00 PM

Call to Order

Roll Call

Invocation given by Director Steven Hollibush

Pledge of Allegiance led by Interim Public Works Director Tracie Lee

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.

Please fill out a Citizen Communication Card with your name and contact information for the City Clerk's records.

PRESENTATION(S)

1. Fire Chief David Fletcher to give a presentation. (TAFD)

CONSENT

2. Approval of the minutes of the rescheduled regular meeting December 3, 2024. (CCD) City Clerk Heather Soyars

REGULAR

3. Adopt an Ordinance levying the 2024 tax rate. (FIN) Interim Finance Director Laura Cowling
4. Consider the following:

Conduct a Public Hearing regarding the issuance of Waterworks and Sewer Facilities Revenue Bonds, Series 2025.

Adopt an Ordinance authorizing the City of Texarkana, Arkansas Public Facilities Board to proceed with the issuance of Waterworks and Sewer Facilities Revenue Bonds, Series 2025. (TWU) Executive Director Gary Smith and Jim Fowler of Counsel Rose Law Firm

The applicant requests an emergency clause. 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. (Hdbk. Const. Amend 7)

5. Adopt an Ordinance to amend Ordinance No. K-703 of the *City of Texarkana, Arkansas, Code of Ordinances*, to revise the definition of a loft apartment to delete “in the C-2 central business district” and add “as referenced in Sec. 28-22. - Commercial district”. (PWD-Planning) City Planner Jamie Finley

6. Adopt an Ordinance to create a Special Use Permit to allow for specific land uses related to family care facilities, group care facilities, and group homes in residential districts. (PWD-Planning) City Planner Jamie Finley

The applicant requests an emergency clause. 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. (Hdbk. Const. Amend 7)

7. Adopt an Ordinance to abolish Ordinance No. 14-2017, for the reemployment of Texarkana, Arkansas Employment Retirement System (TAPERS) recipients. (ADMIN) City Manager Tyler Richards

The applicant requests an emergency clause. 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. (Hdbk. Const. Amend 7)

8. Adopt an Ordinance amending the Texarkana, Arkansas Water Utilities Employee Retirement System (TWUPERS). City Manager Tyler Richards

The applicant requests an emergency clause. 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. (Hdbk. Const. Amend 7)

BOARD OF DIRECTORS' COMMENTARY

NEXT MEETING DATE: Monday, January 6, 2025

ADJOURN

2025 City Calendar

Texarkana Rec Center Calendar

Live to the Beat - 9AM-10AM - Monday through Friday

Ageless Grace - Mondays & Thursdays – 2PM - 3PM

The Fabric Shop - Thursdays - 8AM - 2PM

Quilters - Fridays - 9AM - 3PM

Gym Open - Daily - 3PM - 5PM

Dance Fitness - Tuesdays - 6PM & Saturdays - 11AM



CITY OF TEXARKANA, AR BOARD OF DIRECTORS

AGENDA TITLE:	Approval of the minutes of the rescheduled regular meeting December 3, 2024. (CCD) City Clerk Heather Soyars
AGENDA DATE:	December 16, 2024
ITEM TYPE:	Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Other <input checked="" type="checkbox"/> : Minutes
DEPARTMENT:	City Clerk Department
PREPARED BY:	Heather Soyars, City Clerk
REQUEST:	Approval of meeting minutes.
EMERGENCY CLAUSE:	N/A
SUMMARY:	Approval of meeting minutes
EXPENSE REQUIRED:	N/A
AMOUNT BUDGETED:	N/A
APPROPRIATION REQUIRED:	N/A
RECOMMENDED ACTION:	The City Clerk recommends Board approval.
EXHIBITS:	Meeting minutes.



Rescheduled Regular Meeting of the Board of Directors

City of Texarkana, Arkansas
216 Walnut Street

Minutes - Tuesday, December 03, 2024 - 6:00 PM

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

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

ALSO, PRESENT: City Manager Tyler Richards, City Attorney Josh Potter, City Clerk Heather Soyars, and Deputy City Clerk Jenny Narens.

Invocation given by Ward 1 Director Terry Roberts.

Pledge of Allegiance led by Fire Chief David Fletcher.

CITIZEN COMMUNICATION

Bob Bruggeman, Mayor of Texarkana, Texas, presented Assistant Mayor Jeff Hart an award for his service on the Texarkana Urban Transit Board.

Michele Kegley, 91 S. Valley Drive, asked why City residents paid a 40% road tax to Miller County on their personal property tax. She said no one in the Miller County Courthouse could find the ordinance to reference.

Ramona Flowers, 1217 E. 24th Street, let the Board know she was still having trouble with the sewer from the apartment complex near her house.

Cylestine Thorton, 6608 Harris Lane, spoke against the property on Laurel Street being rezoned commercial.

Brinder Bursey, 3720 County Avenue, also spoke against the property on Laurel Street being rezoned commercial.

PRESENTATION(S)

1. Presentation of the City of Texarkana, Arkansas Employee Service Awards. (ADMIN)

Heather Soyars

Joseph Roberts

CCD

TAFD

15 Years

5 Years

Kevin Jefferson
Elnora Payton

TWU
TWU

20 Years
30 Years

CONSENT

Assistant Mayor Hart made the motion to adopt the Consent agenda, Seconded by Director Roberts. The motion carried and the following item was approved:

2. Approval of the minutes of the regular meeting November 18, 2024. (CCD) City Clerk Heather Soyars

REGULAR

3. Resolution No. 2024-98 accepted the year end 2023 Audit Report. (FIN) Interim Finance Director Laura Cowling

After a brief discussion, the motion to adopt the resolution made by Director Brewer, Seconded by Assistant Mayor Hart.

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

The motion carried 7-0 and the Mayor declared the resolution adopted.

4. Consider the following action concerning the clean-up of sixteen (16) dilapidated nuisance properties.

Conduct a Public Hearing to receive comments regarding certification of certain delinquent taxes.

Mayor Brown opened the Public Hearing.

Interim Assistant Public Works Director Roger Douglas gave a brief presentation regarding the sixteen (16) dilapidated nuisance properties.

Mayor Brown asked if anyone would like to speak for or against this item.

No one came forward.

Mayor Brown closed the Public Hearing.

Resolution No. 2024-99 certified amount to be put on tax books as delinquent and collected accordingly. (PWD) Interim Assistant Public Works Director Roger Douglas

Motion to adopt the resolution made by Assistant Mayor Hart, Seconded by Director Roberts.

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

The motion carried 7-0 and the Mayor declared the resolution adopted.

5. Consider the following action concerning the clean-up of fifty-nine (59) overgrown properties.
Conduct a Public Hearing to receive comments regarding certification of certain delinquent taxes.

Mayor Brown opened the Public Hearing.

Interim Assistant Public Works Director Roger Douglas gave a brief presentation regarding fifty-nine (59) overgrown properties.

Mayor Brown asked if anyone would like to speak for or against this item.

No one came forward.

Mayor Brown closed the Public Hearing.

Resolution No. 2024-100 certified amount to be put on tax books as delinquent and collected accordingly. (PWD) Interim Assistant Public Works Director Roger Douglas

Motion to adopt the resolution made by Assistant Mayor Hart, Seconded by Director Roberts.

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

The motion carried 7-0 and the Mayor declared the resolution adopted.

6. **FAILED** - Adopt an Ordinance to rezone the property located at 805/807/815 Laurel Street, from R-4 Medium Density Residential to C-3 Open Display Commercial for the purpose of operating an automotive shop as a complement to the property owner's adjacent business. (Ward 2) (PWD-Planning) Planning Secretary Velvet Cool

After a brief discussion, the motion to suspend the rules and place the ordinance on its first reading in abbreviated form made by Assistant Mayor Hart, Seconded by Director Harris.

Voting Yay: Mayor Brown, Director Harris, and Director Hollibush.

Voting Nay: Director Roberts, Director Brewer, Director Jewell, and Assistant Mayor Hart.

The motion failed 3-4 and the ordinance was read on its first reading in its entirety.

Director Roberts left the Board room at 7:00 PM.

Motion to suspend the rules and place the ordinance on its second reading in abbreviated form made by Director Brewer, Seconded by Assistant Mayor Hart.

Voting Yay: Mayor Brown, Director Harris, Director Hollibush, Director Brewer, Director Jewell, and Assistant Mayor Hart.

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

Motion to suspend the rules and place the ordinance on its third and final reading in abbreviated form made by Director Harris, Seconded by Assistant Mayor Hart.

Voting Yay: Mayor Brown, Director Harris, Director Hollibush, Director Brewer, Director Jewell, and Assistant Mayor Hart.

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

Director Roberts came back into the Board room at 7:03 PM.

Motion to adopt the ordinance made by Director Brewer, Seconded by Director Roberts.

Mayor Brown asked if anyone would like to speak for or against this ordinance.

Tri-State Auto representative said they wanted to build a designated garage for the vehicles on their lot to potentially be serviced if needed.

Brinder Bursey said once the zoning was changed and businesses came in, the residents would go out.

Voting Yay: Mayor Brown and Director Hollibush.

Voting Nay: Assistant Mayor Hart, Director Roberts, Director Harris, Director Jewell,

The motion failed 2-4 and the Mayor declared the ordinance did not pass.

7. Ordinance No. 29-2024 rezoned the rear portion of parcels 00187100 and 00187104, located at 4101 East 58th Street from R-1 Rural Residential to C-3 Open Display Commercial for the purpose of constructing and operating an equipment business. (Ward 6) (PWD-Planning) Planning Secretary Velvet Cool

After a brief discussion, the motion to suspend the rules and place the ordinance on its first reading in abbreviated form made by Director Hollibush, Seconded by Director Roberts.

Voting Yea: Mayor Brown, Director Roberts, Director Harris, Director Hollibush, Director Brewer, and Director Jewell.

Voting Nay: Assistant Mayor Hart.

The motion carried 6-1 and the ordinance was read the first time in abbreviated form.

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

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

Voting Nay: Director Jewell.

The motion carried 6-1 and the ordinance was read the second time in abbreviated form.

Motion to suspend the rules and place the ordinance on its third and final reading in abbreviated form made by Director Hollibush, Seconded by Assistant Mayor Hart.

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

Voting Nay: Director Jewell.

The motion carried 6-1 and the ordinance was read the third time in abbreviated form.

Motion to adopt the ordinance made by Assistant Mayor Hart, Seconded by Director Hollibush.

Mayor Brown asked if anyone would like to speak for or against this ordinance.

No one came forward.

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

The motion carried 7-0 and the Mayor declared the ordinance adopted.

8. Ordinance No. 30-2024 rezoned the property located at 5813 Mt. Olive Drive from C-4 Crossroads Business to R-2 Single Family Residential for the purpose of expanding the current non-conforming residence. (Ward 6) (PWD-Planning) Planning Secretary Velvet Cool

After a brief discussion, the motion to suspend the rules and place the ordinance on its first reading in abbreviated form made by Assistant Mayor Hart, Seconded by Director Roberts.

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

The motion carried 7-0 and the ordinance was read the first time in abbreviated form.

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

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

The motion carried 7-0 and the ordinance was read the second time in abbreviated form.

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

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

The motion carried 7-0 and the ordinance was read the third time in abbreviated form.

Motion to adopt the ordinance made by Assistant Mayor Hart, Seconded by Director Harris.

Mayor Brown asked if anyone would like to speak for or against this ordinance.

No one came forward.

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

The motion carried 7-0 and the Mayor declared the ordinance adopted.

BOARD OF DIRECTORS' COMMENTARY

Director Brewer wanted to remind residents of Ward 4, the second community meeting would be held at the Rec Center on December 10, 2024, at 5:30PM.

CITY MANAGER REPORT

City Manager Tyler Richards said the “Shop with a Cop”, was held today and it was extremely successful. He said he was hoping for a budget workshop on December 16, 2024, and apologized it was so late. City Manager Richards said a called meeting would probably be set to vote on the budget.

EXECUTIVE SESSION

The Board of Directors entered Executive Session at 7:17 PM to discuss appointments with the City Beautiful Commission and the Historic District Commission.

The Mayor reconvened the meeting at 7:21 PM and the following action was taken.

9. Resolution No. 2024-101 appointed Velvet Cool to the City Beautiful Commission. (CCD)
City Clerk Heather Soyars

After a brief discussion, the motion to adopt the resolution made by Director Hollibush, Seconded by Director Brewer.

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

The motion carried 7-0 and the Mayor declared the resolution adopted.

10. Resolution No. 2024-102 made an appointment to the Historic District Commission. (CCD)
City Clerk Heather Soyars

After a brief discussion, the motion to appoint Jeff Brown to the Historic District Commission made by Assistant Mayor Hart, Seconded by Director Roberts.

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

The motion carried 7-0 and the Mayor declared the resolution adopted.

NEXT MEETING DATE: Monday, December 16, 2024

ADJOURN

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

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

The motion carried 7-0 and the meeting adjourned at 7:23 PM.

APPROVED this the 16th day of December 2024.

Allen L. Brown, Mayor

Heather Soyars, City Clerk



CITY OF TEXARKANA, AR BOARD OF DIRECTORS

AGENDA TITLE:	Adopt an Ordinance levying the 2024 tax rate. (FIN) Interim Finance Director Laura Cowling
AGENDA DATE:	December 16, 2024
ITEM TYPE:	Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Other <input type="checkbox"/> : _____
DEPARTMENT:	Finance Department
PREPARED BY:	Laura Cowling, Interim Finance Director
REQUEST:	Levy the tax rate.
EMERGENCY CLAUSE:	N/A
SUMMARY:	<p>Each year, the City is required to establish the property tax levy for that year which is then applied by the County to property tax bills in the next year. The proposed 2024 tax levy is the same as in prior years—5 mils for general fund operations, 1 mil for the fire pension fund, 1 mil for the police pension fund, 1 mil for the library fund, and 2.5 mils for general obligation bond debt service payments. Passage of this ordinance will not increase property tax rates for any City resident. The current property tax levy is budgeted to generate the amounts below in 2024:</p> <p>The revenue generated from this tax levy will be approved during the budget process.</p>
EXPENSE REQUIRED:	\$0
AMOUNT BUDGETED:	\$0
APPROPRIATION REQUIRED:	\$0
RECOMMENDED ACTION:	
EXHIBITS:	Ordinance

ORDINANCE NO. _____

AN ORDINANCE LEVYING THE 2024 TAX RATES AND FOR OTHER PURPOSES

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

Section 1. That upon each and every dollar of taxable property, real and personal, there shall be and is hereby levied the following rate of taxation for the year 2024:

- (a) For defraying the general expenses of the City known as taxes for general purposes, 5 mills on the dollar.
- (b) For creating a fund to be used for the maintenance of a Public Library, 1 mill on the dollar.
- (c) For creating a fund to be used for the payment of Firemen pensions, 1 mill on the dollar.
- (d) For creating a fund to be used for the payment of Policemen pensions, 1 mill on the dollar.
- (e) For creating a fund to be used for general obligation bond debt service payments, 2.5 mills on the dollar.

Section 2. The County Clerk of Miller County, Arkansas, on receipt of a duly certified copy of this ordinance from the City Clerk of the City of Texarkana, Arkansas, is directed to enter upon the Tax Books of Miller County, Arkansas, for the year 2024, the foregoing rate of taxation by which all property, both real and personal, is assessed in the City of Texarkana, Arkansas, and pay over to the Treasurer of the City of Texarkana, Arkansas, the respective amounts so collected and found due to said City on this statement with the County Clerk of Miller County, Arkansas.

PASSED AND APPROVED this 16th day of December, 2024.

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

Joshua L. Potter, City Attorney



CITY OF TEXARKANA, AR BOARD OF DIRECTORS

AGENDA TITLE:	Consider the following: Conduct a Public Hearing regarding the issuance of Waterworks and Sewer Facilities Revenue Bonds, Series 2025. Adopt an Ordinance authorizing the City of Texarkana, Arkansas Public Facilities Board to proceed with the issuance of Waterworks and Sewer Facilities Revenue Bonds, Series 2025. (TWU) Executive Director Gary Smith and Jim Fowler of Counsel Rose Law Firm <i>The applicant requests an emergency clause. 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. (Hdbk. Const. Amend 7)</i>
AGENDA DATE:	December 16, 2024
ITEM TYPE:	Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Other <input type="checkbox"/> : _____
DEPARTMENT:	TWU
PREPARED BY:	Heather Soyars, City Clerk
REQUEST:	Adopt an Ordinance authorizing the City of Texarkana, Arkansas Public Facilities Board to proceed with the issuance of Waterworks and Sewer Facilities Revenue Bonds, Series 2025.
EMERGENCY CLAUSE:	YES
SUMMARY:	Adopt an Ordinance authorizing the City of Texarkana, Arkansas Public Facilities Board to proceed with the issuance of Waterworks and Sewer Facilities Revenue Bonds, Series 2025.
EXPENSE REQUIRED:	EnterText
AMOUNT BUDGETED:	EnterText
APPROPRIATION REQUIRED:	EnterText
RECOMMENDED ACTION:	
EXHIBITS:	Ordinance

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY OF TEXARKANA, ARKANSAS PUBLIC FACILITIES BOARD TO PROCEED WITH THE ISSUANCE OF \$____,____,000 OF WATERWORKS AND SEWER FACILITIES REVENUE BONDS, SERIES 2025; APPROVING CERTAIN AGREEMENTS AND DOCUMENTS IN CONNECTION WITH THE CITY'S PARTICIPATION IN THE TRANSACTION; PRESCRIBING OTHER MATTERS RELATED THERETO; AND DECLARING AN EMERGENCY

WHEREAS, pursuant to the Constitution and laws of the State of Arkansas, including, particularly, Amendment 65 and the Public Facilities Boards Act of 1975, codified as Arkansas Code Annotated Sections 14-137-101 et seq. as amended (the "Act"), and the *City of Texarkana, Arkansas, Code of Ordinances*, (the "City"), the City of Texarkana, Arkansas Public Facilities Board (the "Board") is authorized in furtherance of the public purposes described in the Act to finance various capital improvements of a public nature, including facilities for waterworks and water supply services and sewer services, by the issuance of its revenue bonds; and

WHEREAS, the Board has previously issued and there are presently outstanding its \$9,085,000 original principal amount Waterworks Facilities Revenue Refunding Bonds, Series 2007 (the "Series 2007 Bonds") and its \$20,655,000 Waterworks Facilities Revenue Bonds, Series 2023 (the "Series 2023 Bonds"), issued under and secured by that certain Trust Indenture dated as of October 15, 1985, as subsequently amended (the "Original Indenture"), between the Board and Regions Bank, Little Rock, Arkansas, as trustee (the "Trustee"); and

WHEREAS, the City has determined that certain capital improvements to the water and sewer treatment, transmission, and distribution facilities of the City (the "2025 Project") are necessary and in order to provide funds for such purpose, the City has determined to authorize

the issuance of the Board's Waterworks and Sewer Facilities Revenue Bonds, Series 2025, in the aggregate principal amount of \$____,000 (the "Series 2025 Bonds"); and

WHEREAS, the Series 2025 Bonds will be issued in accordance with and secured by the Original Indenture, as amended by an Eighth Supplemental Trust Indenture (the "Eighth Supplemental Indenture") by and between the Board and the Trustee; and

WHEREAS, pursuant to the terms and provisions of a Sale Agreement dated as of October 15, 1985, and subsequently amended (the "Original Sale Agreement") between the Board and the City, the Board has sold prior waterworks and sewer facilities projects to the City in exchange for payments sufficient to provide for payment of the principal of, premium, if any, and interest on the Series 2007 Bonds and the Series 2023 Bonds; and

WHEREAS, the Original Sale Agreement will be amended and supplemented pursuant to an Eighth Supplemental Sale Agreement (the "Eighth Supplemental Sale Agreement"), by and between the Board and the City, pursuant to which the Board will sell the 2025 Project in exchange for payments sufficient to provide for payment of the principal of; premium, if any, and interest on the outstanding Series 2025 Bonds; and

WHEREAS, in order to provide for continuing disclosure of certain financial and operating information with respect to the City and its water and sewer utility in compliance with U.S. Securities and Exchange Commission Rule 15c2-12, the City is required to enter into a Continuing Disclosure Agreement to be dated as of the date of delivery of the Series 2025 Bonds (the "Continuing Disclosure Agreement"); and

WHEREAS, copies of the proposed Eighth Supplemental Sale Agreement, the Eighth Supplemental Indenture, the Continuing Disclosure Agreement, and the Preliminary Official Statement dated December __, 2024, pursuant to which the Series 2025 Bonds were offered (the "Preliminary Official Statement"), have been presented to and are before this meeting;

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

Section 1. Findings. The Board of Directors of the City hereby finds and determines that the issuance of the Series 2025 Bonds will benefit the City and its residents in furtherance of public purposes of the Act and the ordinances of the City creating the Board. The Board of Directors hereby

finds and determines that the City's obligations under the Original Sale Agreement are in the nature of bonded indebtedness secured by the net revenues of the City's water and sewer utility.

Section 2. Approval of the Form of Transaction. The Board of Directors has received and reviewed drafts of the Eighth Supplemental Sale Agreement, the Eighth Supplemental Indenture, the Continuing Disclosure Agreement, and the Preliminary Official Statement to be used in connection with the issuance of the Series 2025 Bonds, and such documents are hereby approved in substantially the forms presented to this meeting. Copies of drafts of the Eighth Supplemental Sale Agreement, the Eighth Supplemental Indenture, the Continuing Disclosure Agreement, and the Preliminary Official Statement substantially the forms authorized to be executed are on file in the office of the City Clerk and are available for inspection by any interested person.

Section 3. Approval of the Series 2025 Bonds. Pursuant to Section 1 of Ordinance No. K-150, adopted by the City on June 17, 1985, the City hereby approves the issuance by the Board of \$____,000 in principal amount of the Series 2025 Bonds. The Series 2025 Bonds shall be generally issued in the form and authorized denominations set forth in the Eighth Supplemental Indenture, shall be initially dated as of the date of their delivery, shall mature, and shall bear rates of interest as set forth in the Eighth Supplemental Indenture and in the resolution of the Board adopted December 16, 2024, authorizing the issuance of the Series 2025 Bonds (the "Authorizing Resolution"). The Series 2025 Bonds shall not constitute an indebtedness for which the faith and credit of the City is pledged but shall be payable from and secured solely by a pledge of the revenues and moneys described under the Original Sale Agreement and as otherwise provided by the Original Indenture, as supplemented by the Eighth Supplemental Indenture.

Section 4. Execution of Documents. The Mayor and City Clerk are hereby authorized and empowered to confer with the Board, officers of Texarkana Water Utilities, and Rose Law Firm, a Professional Association, Bond Counsel, for the purpose of approving the final terms and conditions of the Eighth Supplemental Sale Agreement, the Continuing Disclosure Agreement and any other documents and agreements requiring the signature of the City thereon in connection with the financing described hereinabove, the signatures of such persons on such documents being conclusive evidence of their approval of such documents. The Mayor and, if required, the City Clerk, are hereby authorized to execute and deliver the Eighth Supplemental Sale Agreement, the Continuing Disclosure Agreement and such further certificates, instruments and documents as may be necessary, appropriate or desirable, including a Tax Regulatory Agreement, to consummate the issuance of the Series 2025 Bonds on the terms and conditions contemplated by the Authorizing Resolution and as hereinabove authorized.

Section 5. Preliminary Official Statement Deemed Final. As of its date, the Preliminary Official Statement is "deemed final" by the City for purposes of U.S. Securities and Exchange Commission Rule 15c2-12(b) (1).

Section 6. Compliance with Arkansas Revenue Bond Act. In accordance with the provisions of the Arkansas Code Annotated Sections 19-9-606 and 19-9-607, on December 16, 2024, a public hearing was held pursuant to notice published on December 1, 2024, in the *Texarkana Gazette*, allowing persons interested to appear and speak concerning the proposed issuance of the Series 2025 Bonds.

Section 7. Severability. The sections, paragraphs, sentences, clauses and phrases of this Ordinance are hereby declared to be severable, and if any section, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction such invalidity or unconstitutionality shall not void or affect any of the remaining portions or provisions of this Ordinance.

Section 8. Conflicts. All ordinances and resolutions and parts or ordinances and resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9. Emergency. There is hereby found and declared to be an immediate need for the 2025 Project. The 2025 Project, through the issuance of the Series 2025 Bonds, will benefit the public health and welfare of the City and its inhabitants, and the issuance and sale of the Series 2025 Bonds approved hereby and the taking of the other actions authorized herein are immediately necessary in connection with such issuance. It is, therefore, declared that an emergency exists and this Ordinance, being necessary for the immediate preservation of the public health and welfare, shall be in force and take effect immediately upon and after its passage.

PASSED AND APPROVED this 16th day of December, 2024.

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

Joshua L. Potter, City Attorney



CITY OF TEXARKANA, AR

BOARD OF DIRECTORS

AGENDA TITLE:	Adopt an Ordinance to amend Ordinance No. K-703 of the <i>City of Texarkana, Arkansas, Code of Ordinances</i> , to revise the definition of a loft apartment to delete “in the C-2 central business district” and add “as referenced in Sec. 28-22. - Commercial district”. (PWD-Planning) City Planner Jamie Finley
AGENDA DATE:	December 16, 2024
ITEM TYPE:	Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Other <input type="checkbox"/> : _____
DEPARTMENT:	Public Works/Planning
PREPARED BY:	Jamie Finley, City Planner
REQUEST:	Amend Ordinance K-703 of the <i>City of Texarkana, Arkansas, Code of Ordinances</i> , to revise the definition of a loft apartment to delete “in the C-2 central business district” and add “as referenced in Sec. 28-22.- Commercial district”.
EMERGENCY CLAUSE:	N/A
SUMMARY:	There is a conflict between Sec. 28-142. – Definitions and Sec. 28-22. – Commercial districts as it relates to loft apartments, request that Ordinance No. K-703 be amended to revise the definition of a loft apartment to delete “in the C-2 central business district” and add “as referenced in Sec. 28-22.-Commercial district”.
EXPENSE REQUIRED:	0
AMOUNT BUDGETED:	0
APPROPRIATION REQUIRED:	0
RECOMMENDED ACTION:	The Planning Commission recommends approval of the request.
EXHIBITS:	Ordinance, Memo to City Manager, Ordinance No. K-703, Draft wording, original wording

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. K-703 OF THE *CITY OF TEXARKANA, ARKANSAS, CODE OF ORDINANCES*, IN ORDER TO REVISE THE DEFINITION OF “LOFT APARTMENT”; AND FOR OTHER PURPOSES

WHEREAS, the City Planner requests the approval of the City of Texarkana, Arkansas, Board of Directors, to amend Ordinance No. K-703 in order to revise the definition of “Loft Apartment”; and

WHEREAS, there is a conflict between Section 28-142. – Definitions and Section 28-22. – Commercial Districts as it relates to loft apartments; and

WHEREAS, the requested change deletes the conflicting language and makes the definition of loft apartment more clear;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Texarkana, Arkansas, that the following amendments to Ordinance No. K703 and Section 28-142 of the *City of Texarkana, Arkansas, Code of Ordinances*, be adopted:

Section 1: The following definition of “Loft apartment” found in Ordinance No. K-703 and reflected in Section 28-142. – Definitions is hereby amended as follows:

Loft apartment: One (1) or more dwelling units located on the upper floor(s) of a building utilized principally for commercial or office purposes as reflected in Sec. 28-22. – Commercial districts.

Section 2. Except as specifically amended herein, the Code remains in full force and effect.

PASSED AND APPROVED this 16th day of December, 2024.

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

Joshua L. Potter, 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: Tyler Richards, City Manager

FROM: Jamie Finley, City Planner

DATE: November 25, 2024

SUBJECT: Board of Directors Agenda item for 12-16-2024, request approval to amend Ordinance K-703 to revise definition of loft apartment to remove “in the C-2 central business district” and add “as reflected in Sec. 28-22.-Commercial district”.

REASON FOR REQUEST: As it has been determined there is a conflict between Sec. 28-142. – Definitions and Sec. 28-22. – Commercial districts as it relates to loft apartments, request that Ordinance K-703 be amended to revise the definition of a loft apartment to delete “in the C-2 central business district” and add “as referenced in Sec. 28-22.-Commercial district”.

COMPLIANCE: 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 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, 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, October 27, 2024 edition of the Texarkana Gazette.

**PLANNING
COMMISSION
CERTIFICATION:**

The Planning Commission met on November 12, 2024 and certified recommendation to revise the ordinance described previously in this document. A motion was made by Commissioner Cori Mobbs seconded by Commissioner Anderson Neal. Motion passed with a roll call vote of 7-0, with none absent.

OPPOSITION: None

BOARD ACTION REQUESTED:

Anderson Neal	Yes
Anita Pickett	Yes
Chris Owens	Yes
Jason Dupree	Yes
Randall Hickerson	Yes
Boots Thomas, Chairperson	Yes
Cori Mobbs	Yes

The City Board is requested to approve the request described previously in this document.

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.

RECOMMENDED REVISION TO DEFINITION:

Sec. 28-142. – Definitions.

Loft apartment: One (1) or more dwelling units located on the upper floor(s) of a building utilized principally for commercial or office purposes ~~in the C-2 central business district~~ as reflected in Sec. 28-22.-Commercial districts.

ORDINANCE NO. K-703

AN ORDINANCE AMENDING SECTION 28-22 (b)(4), ARTICLE III, CHAPTER 28, OF THE CODE OF ORDINANCES CONVERTING LOFT APARTMENTS FROM A CONDITIONAL USE TO A USE BY RIGHT IN THE C-2 CENTRAL BUSINESS ZONE; ADDING PROPRIETOR DWELLING UNIT AS A USE BY RIGHT IN THE O-1 OFFICE AND QUIET BUSINESS, C-1 GENERAL COMMERCIAL, AND C-3 OPEN DISPLAY COMMERCIAL ZONES; PROVIDING DEFINITIONS FOR LOFT APARTMENT AND PROPRIETOR'S DWELLING UNIT; AND FOR OTHER PURPOSES.

WHEREAS, the Planning Commission, after public hearing has approved said zoning ordinance text amendments and recommended that the Board of Directors adopt the ordinance converting loft apartments from a "conditional use" requiring Planning Commission review and approval to a use by right in the C-2 Central Business zone, adding proprietor dwelling unit as a use by right in the O-1 Office and Quiet Business, C-1 General Commercial, and C-3 Open Display Commercial zones; and providing definitions for loft apartments and proprietor dwelling unit;

WHEREAS, the staff, Planning Commission, and City Board of Directors had the foresight to add loft apartments as a conditional use in the C-2 Central business zone in 1988 when the twenty-five year-old zoning ordinance was rewritten in order to encourage a strong Central Business District (CBD);

WHEREAS, loft apartments enhance the Central Business District (CBD) by creating a mix of businesses and single-family residences that contribute to a pleasing quality of life;

WHEREAS, the City receives requests each year from commercial property owners regarding establishing a single-family dwelling unit within commercial developments in the C-3 Open Display Commercial zone;

WHEREAS, loft apartments encourage existing business owners to live above their businesses or rent and/or sell the loft apartments to others which contributes to the success of a strong CBD;

WHEREAS, loft apartments help subsidize existing and/or proposed mortgages by combining a residence and business into one mortgage or by generating additional income for existing business that rent and/or sell the loft apartments to others;

WHEREAS, loft apartments have become a highly sought after housing type and/or choice that are very popular with young single people or couples, young professionals, existing business owners, etc. due to their spaciousness, flexible floor plans, soaring ceilings, and typically large expanses of glass windows;

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

Section 1: Section 28-22(b)(4), Article III, Chapter 28, of The Code of Ordinances is hereby amended to convert loft apartments from a conditional use requiring Planning Commission review and approval to a use by right in the C-2 Central Business zone; and

Section 2: Section 28-22 (b) (4), Article III, Chapter 28, of The Code of Ordinances is hereby amended to is hereby amended to add proprietor dwelling

unit as a use by right in the O-1 Office and Quiet Business, C-1 General Commercial, and C-3 Open Display Commercial zones;

Section 3: Section 28-142, Article XI, Chapter 28, of The Code of Ordinances is hereby amended to incorporate the following definitions: 1) Loft apartment – One or more dwelling units located on the upper floor(s) of a building utilized principally for commercial or office purposes in the C-2 Central Business District; and 2) Proprietor Dwelling Unit – A single-family dwelling unit clearly incidental to the primary commercial use and in all instances shall be located within the principal commercial structure. The proprietor dwelling unit shall not occupy more than fifty percent (50%) of the total area occupied by the combined square footage of the commercial use and proprietor's dwelling unit. The proprietor (owner) or manager of the commercial use shall occupy the proprietor's dwelling unit.

PASSED AND APPROVED this 1st day of March, 1999.



Danny Gray, Mayor

ATTEST:



Sandra Powell, City Clerk

APPROVED:



Ned A. Stewart, Jr., City Attorney

In the ordinance, by definition a “loft apartment” can only exist in the C -2 Central Business District however, in the use matrix we allow them in a O-1 and C-1 as a conditional use permit and in C-4 and C-4 Overlay as a use by right. We need to amend one section in order to reconcile them.

Sec. 28-142. – Definitions.

Loft apartment: One (1) or more dwelling units located on the upper floor(s) of a building utilized principally for commercial or office purposes in the C-2 central business district.

Sec. 28-22. - Commercial district.

Permitted Uses		O-1	C-1	C-2	C-3	C-4	C-4 Overlay
	<i>Commercial uses:</i>						
	Loft apartments (second floor as a use by right)			X		X	X
	<i>Residential uses:</i>						
	Loft apartment	CU	CU	X			



CITY OF TEXARKANA, AR

BOARD OF DIRECTORS

AGENDA TITLE:	Adopt an Ordinance to create a Special Use Permit to allow for specific land uses related to family care facilities, group care facilities, and group homes in residential districts. (PWD-Planning) City Planner Jamie Finley <i>The applicant requests an emergency clause. 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. (Hdbk. Const. Amend 7)</i>
AGENDA DATE:	December 16, 2024
ITEM TYPE:	Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Other <input type="checkbox"/> : _____
DEPARTMENT:	Public Works/Planning
PREPARED BY:	Jamie Finley, City Planner
REQUEST:	Adopt an ordinance to create a Special Use Permit to allow for specific land uses related to family care facilities, group care facilities, and group homes in residential districts. The City does not currently have an ordinance addressing these land uses.
EMERGENCY CLAUSE:	YES
SUMMARY:	The Planning Commission recommendation is approval.
EXPENSE REQUIRED:	0
AMOUNT BUDGETED:	0
APPROPRIATION REQUIRED:	0
RECOMMENDED ACTION:	Adopt an ordinance to create a Special Use Permit to allow for specific land uses related to family care facilities, group care facilities, and group homes in residential districts.
EXHIBITS:	Ordinance, Memo to City Manager, proposed ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS OF THE *CITY OF TEXARKANA, ARKANSAS, CODE OF ORDINANCES*, TO CREATE A SPECIAL USE PERMIT FOR GROUP CARE FACILITIES IN RESIDENTIAL DISTRICTS; FOR DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, in order to update the current *City of Texarkana, Arkansas, Code of Ordinances*, (the “Code”) to allow a Special Use Permit for specific land uses related to family care facilities, group care facilities, and group homes in residential districts, certain portions of the Code need to be updated and amended as hereinafter set forth; and

WHEREAS, the City Manager and staff recommend approval;

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

Section 1. The following definitions are added to Article XI – Interpretations and Definitions.

Sec. 28-142. Definitions

Special use permit: A permit issued by the Planning Commission which allows specific uses as noted in the *City of Texarkana, Arkansas, Code of Ordinances*, Section ARTICLE III. - SPECIFIC DISTRICT REGULATIONS and may impose special conditions regarding use of the property. Special use permits shall not be transferable in any manner. Permits cannot be passed from owner to owner, location to location or use to use. Special use permits approved by the Commission must be initiated within one (1) year of the date of approval, unless an extension of time is granted by the Commission. Otherwise, the commission’s approval of the special use permit shall be considered void.

Family care facility: A facility which provides resident service in a family-like environment to not more than twelve (12) individuals under the supervision of no fewer than two (2) on-site personnel at all times. These individuals require a minimum level of supervision and are provided service and supervision in accordance with their individual needs. All medical and counseling services must be provided off site.

Group care facility: A facility provided shelter, counseling and other rehabilitative services to not more than twelve (12) individuals. The individuals require some level of supervision or care. The facility shall be licensed and/or approved by the State of Arkansas. No medical or nursing care shall take place on site except as licensed and/or approved by the State of Arkansas. Staff or supervisory personnel requirements for its site shall be at the levels and/or ratios required by licensing and/or approval of the State of Arkansas.

Group home: A facility that does not fall within another defined facility category within this section and which provides housing in a family-like environment to not more than twelve (12) persons covered under the Americans with Disabilities Act.

Developmentally disabled: An impairment that:

- A. Is attributable to an impairment of general intellectual functioning or adaptive behavior, including cerebral palsy, spina bifida, Down syndrome, epilepsy, or autism;
- B. Is attributable to any other condition of a person found to be closely related to intellectual and developmental disability because the condition results in an impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual and developmental disability or requires treatment and services similar to that required for a person with an intellectual and developmental disability; or
- C. Is attributable to dyslexia resulting from a disability
- D. Originates before the person attains twenty-two (22) years of age;
- E. Has continued or can be expected to continue indefinitely; and
- F. Constitutes a substantial impairment to the person's ability to function without appropriate support services, including, but not limited to, planned recreational activities, medical services such as physical therapy and speech therapy, and sheltered employment or job training.

Section 2. The following table shall be added to Article III. – Specific District Regulations:

ARTICLE III. – SPECIFIC DISTRICT REGULATIONS

	R-1	R-2	R-3	RM	R-4	R-1 OVERLAY
SINGLE-FAMILY DETACHED	X	X	X		X	
SINGLE-FAMILY, ZERO LOT LINE			X		X	
SINGLE-FAMILY, ATTACHED			X		X	
TOWNHOUSES			X		X	
TWO-FAMILY DWELLINGS			X		X	
MULTIPLE-FAMILY DWELLINGS					X	
NURSING OR REST HOME					CU	
ROOMING OR BOARDING HOUSE					X	
FAMILY CARE FACILITY	SU	SU	SU	SU	X	-
GROUP HOME	SU	SU	SU	SU	X	
GROUP CARE FACILITY	SU	SU	SU	SU	X	

Section 3. The following shall be added as Article XIII and entitled “Special Use Permits”

ARTICLE XIII. – SPECIAL USE PERMITS

Section 28-153. - Purpose

- a) *General purpose.* The purpose of this section is to provide a method of oversight of certain land uses which, while not requiring the full review process of the conditional use permits, do require some review procedure which allows for determination of their appropriateness within the neighborhood for which they are proposed and for public comment.
- b) *Application procedure.* The property owner or an authorized agent shall apply for a special use permit under the guidelines and process provided by the planning and zoning department through submission of a Planning Commission Application. The planning commission shall notify all property owners within 100’ of the proposed site of the requested action. A public hearing on the special use permit will be held by the planning commission.
- c) *Appeals:* Appeals from the action of the planning commission shall be filed with the Board of Directors. All appeals must be filed in writing with the City Clerk within 30 calendar days of the decision of the planning commission. Appeal should

include why the applicant considers the planning commission's findings and decisions in error. No activity which requires said permit shall be conducted prior to final approval. Decisions of the Board of Directors shall be final and binding.

- d) *Uses requiring special use permits.* Uses which are determined to require special use permits will be designated in ARTICLE III. – SPECIFIC DISTRICT REGULATIONS of the *Texarkana Arkansas Code of Ordinances*.
- e) *Transfer of permits and initiation of permits.* Special use permits shall not be transferable in any manner. Permits cannot be passed from owner to owner, location to location or use to use. The special use approved by the commission must be initiated within one (1) year of the date of approval, unless an extension of time is granted by the commission. Otherwise, the commission's approval of the special use permit shall be considered void.
- f) *Development criteria:* The site and location criteria for uses requiring special use permits are as follows:
 - 1. All family care facilities, group care facilities or group homes located in R-1 or R-2 zones must be located in single family homes adhering to the R-1 and R-2 development criteria as stated in the *City of Texarkana, Arkansas, Code of Ordinances*, Section 28-21 and no physical changes are permitted which would provide other than sleeping accommodations.
 - 2. Parking requirements shall be as stated in the *City of Texarkana, Arkansas, Code of Ordinances*, Section 28-91, item (c) 14.
 - 3. The fire marshal shall approve the use of any structure proposed as a family care facility, group care facility or group home.
 - 4. All family care facilities, group care facilities or group homes shall meet the requirements of the most current *International Residential Code* in effect at the time of application for approval.
 - 5. Family care facilities, group care facilities, or group homes shall be operated within any and all applicable licensing and procedural requirements established by the state of Arkansas, and the city of Texarkana, Arkansas.
 - 6. Community-based, state -licensed, and supervised residential homes providing a single-family environment for developmentally disabled person are exempt from any requirements to obtain a conditional use permit or special use permit as stated in A.C.A Section 20-48-604 of the *Arkansas Code of 1987 Annotated*.
- g) *Additional items to be considered are:*
 - 1. The number and spacing of existing similar facilities in the neighborhood.
 - 2. Existing zoning and land use patterns.

3. Area wide availability of facilities providing like services.
4. Readily available access to public or quasi-public transportation.
5. Access needed support services such as social services agencies, employment agencies and medical service providers.

h) Development review standards: Issues the planning commission will consider during its review of a family care facility, group care facility or group home include, but are not limited to:

1. Separation, spacing and procedural requirements for family care facilities, group care facilities and group homes will be determined by the planning commission so as not to adversely impact the surrounding properties and neighborhood.
2. Spacing, number and availability of existing similar facilities.
3. Existing zoning and land use patterns.
4. The maximum number of individuals proposed to be served, the number of employees proposed, and the type of services being proposed.
5. The need and provision for readily accessible public or quasi-public transportation.
6. Access needed support services such as social services agencies, employment agencies and medical service providers.
7. Lawful provisions of a valid bill of assurance, covenants, homeowner association agreements, etc. for the subdivision within which the subject property is located.
8. Availability of adequate off-street parking.

i) Revocation procedure: Any approved special use permit may, upon review and action by the planning commission, be revoked. Revocation proceedings may be initiated by staff or upon receipt by staff of a petition signed by the majority of owners of the properties located within two hundred (200) feet of the property for which a special use permit has been approved. Prior to revocation proceedings, applicants shall be given notice of pending revocation proceedings identifying the issues/complaints being considered. Said notification letter shall outline an appropriate remediation period during which applicant may correct said issues and halt the revocation proceedings. Should the issues remain uncorrected after the allocated remediation period, the planning commission may revoke the special use permit if it is determined the use approved under the special use permit is being conducted contrary to the original approved application or contrary to any laws of the city, state and/or federal government, that there has been a substantial changed in circumstance since the approval to the extent the use has become detrimental to

the residential character of the neighborhood. Appeals from the action of the planning commission shall be as set forth above in item (c) Appeals.

- j) *Accommodation*: Should an applicant believe that circumstances make it necessary to seek an accommodation from the requirements of this section, the applicant is responsible for submitting a request to the City's Planning Staff setting forth in detail the needed accommodation. The request shall subsequently be referred to the Planning Commission for a decision on the request. Appeals from the action of the Planning Commission shall be as set forth above in item (c) Appeals.

Section 4. The following is added to Section 28-91:

Section 28-91, item (c) 14

(14) Drives and parking shall not exceed that required by ordinance for a single-family residence.

Section 5. This action being necessary for the preservation of the public peace, health and safety (including the need to commence prompt compliance with federal law), 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.

Section 6. Except as specifically amended herein, the Code remains in full force and effect.

PASSED AND APPROVED this 16th day of December, 2024.

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

Joshua L. Potter, 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: Tyler Richards, City Manager

FROM: Jamie Finley, City Planner

DATE: November 13, 2024

SUBJECT: Board of Directors Agenda item for 12-3-2024, request to create an ordinance establishing a Special Use Permit to address family care facility, group care facility and group home land uses in residential zones.

REASON FOR REQUEST: As the city does not currently have an ordinance addressing family care facilities, group care facilities and group homes and as we have recently had several requests for said land uses, the Planning Commission request to enact an ordinance addressing these land uses in residential zones.

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 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, 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, October 27, 2024 edition of the Texarkana Gazette.

OPPOSITION: None

PLANNING COMMISSION CERTIFICATION:

The Planning Commission met on November 12, 2024 and certified recommendation to approved the ordinance described previously in this document. A motion was made by Commissioner Randall Hickerson seconded by Commissioner Cori Mobbs. Motion passed with a roll call vote of 7-0.

Anderson Neal	Yes
Anita Pickett	Yes
Chris Owens	Yes
Jason Dupree	Yes
Randall Hickerson	Yes
Boots Thomas, Chairperson	Yes
Cori Mobbs	Yes

**BOARD ACTION
REQUESTED:**

The City Board is requested to approve the ordinance described previously in this document.

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.



CITY OF TEXARKANA, AR

BOARD OF DIRECTORS

AGENDA TITLE: Adopt an Ordinance to abolish Ordinance No. 14-2017, for the reemployment of Texarkana, Arkansas Employment Retirement System (TAPERS) recipients. (ADMIN) City Manager Tyler Richards

The applicant requests an emergency clause. 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. (Hdbk. Const. Amend 7)

AGENDA DATE: December 16, 2024

ITEM TYPE: Ordinance ☒ Resolution ☐ Other ☐: _____

DEPARTMENT: Administration

PREPARED BY: Heather Soyars, City Clerk

REQUEST: Adopt an Ordinance to abolish Ordinance No. 14-2017, for the reemployment of Texarkana, Arkansas Employment Retirement System (TAPERS) recipients.

EMERGENCY CLAUSE: YES

SUMMARY: Ordinance No. 14-2017, allows a participant of TAPERS, upon reaching the normal retirement age of 65, who terminated employment with the City would be able to be reemployed on a part-time basis. The TAPERS committee met on December 11, 2024, and agreed to bring this ordinance before the Board.

EXPENSE REQUIRED: N/A

AMOUNT BUDGETED: N/A

**APPROPRIATION
REQUIRED:** N/A

**RECOMMENDED
ACTION:**

EXHIBITS: Ordinance and Ordinance No. 14-2017

ORDINANCE NO. _____

AN ORDINANCE DELETING ORDINANCE NO. 14-2017; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, the Board of Directors adopted Ordinance No. 14-2017, on May 1, 2017, which allowed for employees participating in the public employee retirement system (commonly known as TAPERS) to terminate his or her employment with the City upon reaching the normal retirement age of 65, and thereafter be eligible for reemployment on a part-time basis and receive TAPERS benefits accrued as a result of the original employment, but not otherwise be eligible for additional retirement benefits under the plan as a result of such reemployment; and

WHEREAS, on December 11, 2024, the TAPERS committee met and agreed to bring this ordinance before the Board for deletion;

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

Section 1: Ordinance No. 14-2017 is deleted in its entirety.

Section 2: This action being necessary for the preservation of the public peace, health and safety (including the need to enact employment policies in a timely manner for the city's employees), and a separate and distinct vote having been taken on this emergency clause, an emergency is therefore declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 16th day of December, 2024.

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

Joshua L. Potter, City Attorney

ORDINANCE NO. 14-2017

AN ORDINANCE AMENDING THE TEXARKANA, ARKANSAS EMPLOYMENT RETIREMENT SYSTEM PLAN (TAPERS); AND FOR OTHER PURPOSES.

WHEREAS, Pursuant to Ordinance No. M-20, the City of Texarkana, Arkansas, originally adopted a public employee retirement system 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, the TAPERS Committee suggests further amendment of the current version of the plan to allow a participant, upon reaching the normal retirement age of 65, to terminate his or her employment with the City and thereafter be eligible for reemployment on a part-time basis, receive TAPERS benefits accrued as a result of the original employment, but not otherwise be eligible for additional retirement benefits under the plan as a result of such reemployment; and

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

SECTION 1. That the current version of the Texarkana, Arkansas Public Employee Retirement Plan is amended to include the following new section:

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.

SECTION 2. Likewise, the corresponding "Summary Plan Description" is amended to include the following new section:

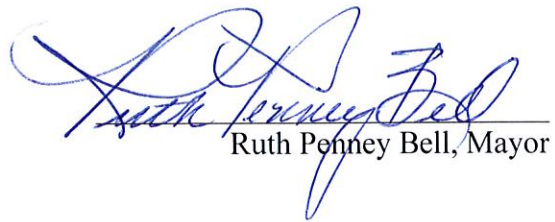
L. RETIREMENT AND REEMPLOYMENT

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.

SECTION 3. Except as specifically amended above, the Texarkana, Arkansas Public Employment Retirement Plan (TAPERS) adopted by Ordinance M-20 and amended and reinstated by Ordinance M-49 remains unmodified and in full effect.


SECTION 4. All prior ordinances are superseded to the extent inconsistent with this Ordinance.

PASSED AND APPROVED this 1st day of May, 2017.




Ruth Penney Bell, Mayor

ATTEST:



Heather Soyars, City Clerk

APPROVED:



George M. Matteson, City Attorney



CITY OF TEXARKANA, AR

BOARD OF DIRECTORS

AGENDA TITLE: Adopt an Ordinance amending the Texarkana, Arkansas Water Utilities Employee Retirement System (TWUPERS). City Manager Tyler Richards

The applicant requests an emergency clause. 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. (Hdbk. Const. Amend 7)

AGENDA DATE: December 16, 2024

ITEM TYPE: Ordinance ☒ Resolution ☐ Other ☐: _____

DEPARTMENT: Administration

PREPARED BY: Heather Soyars, City Clerk

REQUEST: Amend TWUPERS policy.

EMERGENCY CLAUSE: YES

SUMMARY: The Employee Retirement System Committee met on December 11, 2024, to discuss the TWUPERS Late Retirement Benefits policy. The policy states those employees who continue to work past their normal retirement date will be entitled to a late retirement benefit based on the formula as of his actual retirement date, with Years of Service and Average Monthly Compensation determined as of his actual retirement date. The Committee would like to amend the policy to reference Late Retirement based on Actuarial Equivalence.

EXPENSE REQUIRED: N/A

AMOUNT BUDGETED: N/A

**APPROPRIATION
REQUIRED:** N/A

**RECOMMENDED
ACTION:** The Committee recommends approval.

EXHIBITS: Ordinance, TWUPERS policy

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE TEXARKANA, ARKANSAS WATER UTILITIES EMPLOYEE RETIREMENT SYSTEM LATE RETIREMENT BENEFIT POLICY; FOR DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, the Employee Retirement System Committee met on December 11, 2024, to discuss the Texarkana, Arkansas Water Utilities Employee Retirement System (TWUPERS) late retirement benefits policy; and

WHEREAS, the current policy states that those employees who continue to work past their normal retirement date will be entitled to a late retirement benefit based on the formula of his or her actual retirement date, with years of service and average monthly compensation determined as of his or her actual retirement date; and

WHEREAS, the Committee recommends that the retirement policy be amended to reference late retirement increases based on actuarial equivalence;

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

Section 1: The late retirement benefits policy in the Texarkana, Arkansas Water Utilities Retirement System is amended to reference late retirement increases based on actuarial equivalence.

Section 2: This action being necessary for the preservation of the public peace, health and safety (including the need to promptly commence the employee benefits policy for the city employees), and a separate and distinct vote having been taken on this emergency clause, an emergency is therefore declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 16th day of December, 2024.

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

Joshua L. Potter, City Attorney

TEXARKANA, ARKANSAS, WATER UTILITIES
EMPLOYEE RETIREMENT PLAN

TEXARKANA, ARKANSAS, WATER UTILITIES

EMPLOYEE RETIREMENT PLAN

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TEXARKANA, ARKANSAS, WATER UTILITIES

EMPLOYEE RETIREMENT PLAN

The Texarkana, Arkansas, Water Utilities, a political subdivision of 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 July 1, 2010, except as otherwise provided, to maintain compliance with the Internal Revenue Code of 1986, as amended and other laws.

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.

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

DEFINITIONS

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

"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. A Participant shall not accrue any additional benefit after November 15, 2000.

"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.

For purposes of determining the present value of a lump sum distribution, for distributions before January 1, 2011, 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.

For purposes of determining the present value of a lump sum distribution, for distributions on or after January 1, 2011, the Actuarial Equivalent shall be determined using (a) the applicable mortality table, as determined under Code section 417(e)(3)(B), and (b) the applicable interest rate, as determined under Code section 417(e)(3)(C).

Notwithstanding the above, the lump sum shall not be less than the amount using the actuarial table in accordance with the above and a composite interest rate of 6%.

“ADMINISTRATOR” OR “PLAN ADMINISTRATOR” shall mean the person or persons or corporation named pursuant to Article 2 to administer the Plan.

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

"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).

“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 plan years of service.

"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.

“CODE” shall mean the Internal Revenue Code of 1986, as amended.

"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. Differential Wage Payments (as defined in Code section 3401(h)(2) paid to an individual in active Qualified Military Service shall not be treated as Compensation under this section.

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.

"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.

"EFFECTIVE DATE" of this Plan as amended and restated shall mean July 1, 2011, unless otherwise provided.

"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.

"EMPLOYER" shall mean Texarkana, Arkansas, Water Utilities or any organization which assumes the obligations of this Plan.

"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.

Leaves of absence shall be authorized if granted by the Plan Administrator 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.

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

"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.

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

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

"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.

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

"PLAN ADMINISTRATOR" shall mean the person or persons or corporation named pursuant to Article 8 to administer the Plan.

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

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

"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.

"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 the Trust, or any person or persons or corporation having trust powers duly appointed as a successor Trustee.

"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.

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.

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

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

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.

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 including 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:

the pregnancy of the Employee;

the birth of a child of the Employee;

the adoption of a child by the Employee; or

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 provision in the Plan to the contrary, Years of Service shall not include periods after November 15, 2000, except as otherwise provided in this Plan.

ELIGIBILITY AND PARTICIPATION

ELIGIBILITY REQUIREMENTS.

Any Employee shall become a Participant on the Entry Date coincident with or next following his completion of one (1) Year of Service. However, no Employee shall become a Participant after November 15, 2000.

Notwithstanding paragraph (a), the following shall be excluded from this Plan:

- (i) Any person who is included in a class of Employees covered by another retirement plan covering the same service and which is intended to qualify under Code Section 401(a) and maintained by the Employer or to which the Employer contributes (even if such person is not a participant in such plan);
- (ii) Uniformed police and fire personnel;
- (iii) Leased Employees; and
- (iv) Elected officials.

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 an Employee who is excluded becomes eligible for participation in the Plan, Employment while a member of the excluded class shall be counted for purposes of determining eligibility and vesting under this Plan, but shall not be counted for purposes of accrual or eligibility for early retirement.

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

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.

CONTRIBUTIONS

FUNDING OF BENEFITS. The Employer may contribute from time to time such amounts in cash or property as the Employer determines.

The Employer intends, but 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.

EMPLOYEE CONTRIBUTIONS. Employees are neither required nor permitted to make contributions to this Plan.

BENEFITS

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. No credit shall be given for purposes of determining Normal Retirement Income for service after November 15, 2000.

EARLY RETIREMENT.

██████████ 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.

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 the Participant's 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 1/360th 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.

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.

For purposes of determining eligibility for early retirement under this section 4.02, Years of Service shall include Years of Service after November 15, 2000.

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.

DISABILITY BENEFIT.

██████████ If a 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 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. For purposes of determining whether a Participant has completed 10 Years of Service, Years of Service after November 15, 2000 shall be counted.

For a Participant who becomes disabled after November 15, 2000, the amount of monthly disability benefit shall be the Participant's Accrued Benefit as of November 15, 2000.

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:

(i) 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;

(ii) 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

(iii) 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.

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 Accrued Benefit 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.

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

(i) 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 Administrator, completely unable to perform any and every duty pertaining to his occupation;

(ii) 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 Administrator, due to such disability, wholly prevented from engaging in any substantial gainful employment for wage or profit.

The Administrator 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 Administrator, that the Participant has become disabled as provided herein. No more than twice each calendar year after commencement of disability retirement income, the Administrator 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 Administrator 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.

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

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

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

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

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

LIMITATION ON MAXIMUM BENEFITS.

██████ 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.)

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.

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 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.

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.

BENEFITS NONFORFEITABLE UPON RETIREMENT. A Participant's right to his retirement benefits is nonforfeitable upon the attainment of his Normal Retirement Age.

TERMINATION PRIOR TO EARLY RETIREMENT. If a Participant terminates employment prior to his Early Retirement Age, his benefit shall be payable under Article 5.

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.

MILITARY SERVICE. Effective as of December 12, 1994, notwithstanding any provision of this Plan to the contrary, benefits and service credits with respect to qualified military service will be provided in accordance with Code Section 414(u).

TRANSFER OF EMPLOYMENT TO CITY OF TEXARKANA, TEXAS.

██████ 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.

██████ 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.

██████ 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:

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.

(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 $\frac{1}{360}$ 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 .

TERMINATION OF SERVICE

VESTED INTEREST ON TERMINATION.

██████ If a Participant terminates service for reasons other than death or disability (in accordance with Section 4.03) 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%

Notwithstanding the above, any Employee with an Accrued Benefit who is employed on November 15, 2000, shall be 100% vested in his or her Accrued Benefit.

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. However, upon request of the Participant, distribution shall be made in a single sum payment equal to the present value of the Participant's vested Accrued Benefit at any time after termination of employment. Distribution shall be made as soon as administratively feasible after request.

SMALL BENEFITS. In the event that the present value of the terminated Participant's vested Accrued Benefit is less than or equal to \$1,000, then the present value of such 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 a single sum payment is made in accordance with this Section, no further benefit will be payable to the Participant, his Beneficiary of this Section, the lump sum present value of a benefit shall be computed according to the interest rate and mortality assumptions used to calculate the lump sum payment under Section 1.02.

OTHER TERMINATION OF EMPLOYEE. If a Participant's Employment is terminated and he is not entitled to a benefit under Section 5.01, no benefit shall be payable under the Plan.

FORM OF BENEFITS

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.

██████ 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.

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.

ELECTION OF OPTIONAL RETIREMENT BENEFITS.

██████ 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.

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 Plan Administrator 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.

The Plan Administrator 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.

OPTIONAL PAYMENT FORMS.

██████████ 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.

Any optional form of distribution shall be the Actuarial Equivalent of the life annuity for the Participant computed under Section 1.02.

REQUIRED DISTRIBUTIONS.

██████████ For all distributions under the Plan, this section will meet the requirements of Treas. Reg. 1.401(a)(9)-2 through 1.401(a)(9)-9, including the incidental benefit requirements of IRC section 401(a)(9)(G). Notwithstanding any other provision of this Plan, distribution shall commence no later than the required beginning date. The required beginning date is April 1 following the later of (i) the calendar year in

which the Participant reaches age 70 ½ or (ii) the calendar year in which the Participant retires.

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).

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.

DISTRIBUTION TO MINOR BENEFICIARY. In the event a distribution is to be made to a minor, then the Plan Administrator 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.

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 Plan Administrator 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.

DIRECT ROLLOVER. A distributee may elect, at the time and in the manner prescribed by the Plan Administrator, 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 allow a Direct Rollover of after tax amounts from this Plan into a qualified plan, a defined contribution or defined benefit plan, or into an annuity contract described in Code section 403(b). This provision is effective for tax years beginning on or after December 31, 2006. The Plan will allow a direct trustee-to-trustee transfer from this Plan as a Qualified Rollover Contribution to a Roth IRA described in Code section 408A. For taxable years beginning before January 1, 2010, an individual can not make a Qualified Rollover Contribution from this Plan to a Roth IRA if, for the year the Eligible Rollover Distribution is made, his modified adjusted gross income exceeds \$100,000 or he or she is married and files a separate return.

DEATH BENEFITS

DEATH OF PARTICIPANT BEFORE ANNUITY STARTING DATE.

██████████ If a Participant dies prior to the Anniversary 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 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.

The Administrator 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 Administrator may deem desirable. The Administrator's determination of death and the right of any person to receive payment shall be conclusive.

DEATH BENEFITS UNDER USERRA-QUALIFIED MILITARY SERVICE. In the event that a Participant dies while performing Qualified Military Service (as defined in Code section 414(u)), the Beneficiary of the Participant shall receive any additional benefits provided under the Plan as if the Participant had 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.

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 Plan Administrator and shall be effective for all purposes upon the delivery thereof to the Plan Administrator. 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 Plan Administrator. However, the requirements of Section 7.04 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:

██████████ To his spouse, if living, or

If his spouse is not then living, to his descendants, by right of representation, or

If neither his spouse nor any descendants are then living, to his estate.

SPOUSAL CONSENT. The designation under Section 7.03 of a Beneficiary other than the Participant's spouse shall not be effective unless

██████████ 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

it is established to the satisfaction of the Plan Administrator 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.

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.

DISTRIBUTIONS TO AN INHERITED INDIVIDUAL RETIREMENT PLAN OF NON-SPOUSE BENEFICIARY.

██████████ For distributions made after December 31, 2006, the Plan permits a direct trustee-to-trustee transfer, to an individual retirement account or annuity ("IRA") established on behalf of an individual who is a designated Beneficiary of the Participant and who is not the surviving spouse of the Participant. The transfer of a distribution to the non-spouse Beneficiary will not be included in the Beneficiary's income in the year in which the transfer occurs. When made these transfers shall be treated as an inherited IRA, pursuant to Code section 408(d)(3)(C).

For distributions made after December 31, 2007, the Plan will permit a non-spouse Beneficiary to request a direct trustee-to-trustee transfer to an individual retirement account or annuity described in Code section 402(c)(11). When made these transfers shall be treated as an Eligible Rollover Distribution.

PLAN ADMINISTRATOR

DESIGNATION AND ACCEPTANCE. The Employer shall appoint two or more members to serve as the Plan Administrative Committee or Retirement Committee. The committee so formed shall be known as the Administrative Committee and all references in the Plan and Trust to the Plan Administrator shall be deemed to refer to the Administrative Committee. The Employer may appoint one or more of the members of the 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.

The Plan Administrator is hereby designated as agent for the service of legal process.

The Plan Administrator shall not be required to be a Participant.

RESIGNATION AND REMOVAL.

██████ The Plan Administrator, or any member of the Administrative 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.

The Plan Administrator, or any member of the Administrative 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.

The Employer, upon receipt of or giving notice of the resignation or removal of the Plan Administrator, shall promptly designate a successor Plan Administrator who must signify acceptance of this position in writing. In the event no successor is appointed, the Employer will function as the Plan Administrator until a new Plan Administrator has been appointed and has accepted such appointment.

A simple majority of the members of the Administrative 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 Administrative Committee. The Administrative 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.

POWERS. The Plan Administrator shall have full power and discretion to administer the Plan and to construe and apply all of its provisions. The Plan Administrator's powers and duties, unless properly delegated, shall include, but are not limited to:

██████ Determining questions of eligibility and benefit entitlement;

Establishing policies for leaves of absence;

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;

Authorizing the Trustee, as applicable, to make payment of all benefits as they become payable under the Plan;

Adopting rules and regulations for the administration of the Plan, not inconsistent with the Plan and Trust Agreement, if applicable;

Engaging such legal, administrative, actuarial, investment, accounting, and other professional services as necessary;

Interpreting the provisions of the Plan and making rules for the regulation of the Plan;

Doing and performing such other matters as may be provided for in other parts of this Plan or the Trust Agreement, if applicable.

ACTIONS. The Plan Administrator, 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 Plan Administrator 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.

EXPENSES. The Employer, or in its absence, the trust fund, if any, shall reimburse the Plan Administrator for any necessary or proper expenses incurred in exercising its duties. Except for such reimbursement, the Plan Administrator shall not receive any compensation for the administration of the Plan.

CLAIM PROCEDURE. Any Participant or Beneficiary may file with the Plan Administrator 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 Plan Administrator's attention.

██████ If a claim is wholly or partially denied, notice of the decision shall be furnished by the Plan Administrator 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.

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.

A claimant may obtain a full and fair review by appealing a denied claim to the Plan Administrator 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. The claimant may request review by the Board of Directors of the Employer, in addition to the Plan Administrator. 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.

INDEMNIFICATION OF THE PLAN ADMINISTRATOR. The Plan Administrator 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 Plan Administrator shall be entitled to rely conclusively upon, and shall be protected by the Employer in any action it may take or suffer in reliance upon, information furnished by the Employer. The Employer and Plan Administrator 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 Plan Administrator.

INVESTMENT MANAGER. The Plan Administrator 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:

██████████ Registered as an investment advisor under the Investment Advisor's Act of 1940,

A bank as defined in the Act, or

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 Plan Administrator 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 Plan Administrator.

AMENDMENT OF PLAN

RIGHT OF EMPLOYER TO AMEND PLAN. The Employer shall have the right to amend this Plan at any time to any extent that it may deem advisable. Any amendment shall be made pursuant to action of the legally constituted authority of the Employer. 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:

No amendment shall increase the duties or liabilities of the Trustee or the Plan Administrator without their respective written consents.

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.

TERMINATION OF PLAN

TERMINATION OF PLAN. The Employer shall have the right to terminate the Plan at any time by delivering to the Plan Administrator 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 shall revert to the Employer.

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.

MISCELLANEOUS PLAN PROVISIONS

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.

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.

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.

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.

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.

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.

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.

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.

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.

LOANS TO PARTICIPANTS. No loans shall be made to a Participant.

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

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 January, 2011.

TEXARKANA, ARKANSAS, WATER UTILITIES

By _____
Its _____

