Nacogdoches
the oldest town in Texas

June 4, 2021

Notice is hereby given of a Special Meeting of Nacogdoches City Council to be held on the above date via videoconference beginning at 4 p.m. for the purpose of considering the following agenda items.

In accordance with Orders of the Governor due to the COVID-19 pandemic, the City of Nacogdoches City Council meeting will be deemed as being conducted via teleconference or videoconference. However, some City Council Members may attend virtually, while others may be present in the above stated physical location. Regardless, the meeting will be streamed live at https://www.nactx.us/21 There will be an opportunity for the public to comment on agenda items either by teleconference or in person in Council Chambers. For those attending in person, strict adherence to COVID-19 related CDC guidelines will be enforced at all times.

Members of the public who wish to submit comments on a listed agenda item must contact the City Secretary's office by email at vinsonj@nactx.us or by calling 936-559-2506 and providing their name, telephone number and relevant agenda item upon which they wish to speak. All requests to make comments must be received by 12:00 p.m. on June 4, 2021 For all timely requests received, staff will call the submitted phone numbers directly during the meeting when the corresponding item comes up for comment. NOTE: The incoming phone call from City staff will be an unfamiliar number.

PLEASE LIMIT PRESENTATIONS TO THREE MINUTES
(UNLESS PRIOR APPROVAL IS OBTAINED)

1. Call to order.

2. Pledge of Allegiance.

3. Open Forum.

4. **REGULAR AGENDA:**

   A. Consider a resolution approving of the City of Nacogdoches, Texas requesting Texas Department of Transportation to allow closing Main Street (SH21) from its intersection with North Street Eastwardly to its intersection at University Drive for the 31st Annual Texas Blueberry Festival. (Director of Conventions and Tourism)

5. Adjourn.

Jan Vinson

Jan Vinson, City Secretary

THE CITY OF NACOGDOCHES TEXAS

This agenda is posted as required under G. C. Section 551.041. For more information or a copy of the Open Meetings Act, please contact Attorney General of Texas at 1-800-252-8011; City Secretary at 936/559-2506 or visit City of Nacogdoches web site at www.nactx.us.

CERTIFICATION

I certify the notice of meeting was posted in the directory outside of City Hall, 202 E. Pilar Street, Nacogdoches, Texas on June 1, 2021 at 3:45 p.m. and remained posted until meeting convened.

_____

Jan Vinson, City Secretary

PRESENTER: Sherry Morgan, Executive Director at Nacogdoches Convention & Visitors Bureau

ITEM/SUBJECT: Consider a resolution approving of the City of Nacogdoches, Texas requesting Texas Department of Transportation to allow closing Main Street (SH21) from its intersection with North Street Eastwardly to its intersection at University Drive for the 31st Annual Texas Blueberry Festival. (Director of Conventions and Tourism)

SUMMARY/BACKGROUND: Seeking approval by the Nacogdoches City Council for the temporary and partial closure of State-Right-of-Way for State Highway 21 (Main Street) beginning at 4:00 p.m. on Friday June 11, 2021 to 9:00 p.m. on Saturday, June 12, 2021 which will allow the annual Blueberry Festival to take place. The requested closure is: Main Street (SH 21) from its intersection with North Street eastwardly to its intersection at University Drive. A resolution is required by Texas Department of Transportation to be included in the application process. This event benefits Nacogdoches County Chamber of Commerce.

FINANCIAL:
No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES

Downtown Entertainment and Destination District
Community Engagement/Diverse Environment

CITY CONTACT: Sherry Morgan, Director of Conventions and Tourism
sherry@visitnacogdoches.org
936-564-7351

ATTACHMENTS:
1. Resolution Closing Main Street for Blueberry
2. TXDOT Agreement

RESOLUTION: 1274-06-21

RESOLUTION OF THE CITY OF NACOGDOCHES, TEXAS REQUESTING TEXAS DEPARTMENT OF TRANSPORTATION TO ALLOW CLOSING MAIN STREET (SH 21) FROM ITS INTERSECTION WITH NORTH STREET EASTWARDLY TO ITS INTERSECTION AT UNIVERSITY DRIVE FOR THE 30th ANNUAL TEXAS BLUEBERRY FESTIVAL.

WHEREAS, organizers of Texas Blueberry Festival desire to have a safe and successful event for all vendors and participants: and

WHEREAS, organizers of Texas Blueberry Festival are requesting the City of Nacogdoches close Main Street (SH 21) from its intersection with North Street eastwardly to its intersection at University Drive from 4:00 p.m. Friday, June 11th until 9:00 p.m. Saturday, June 12th, 2021 in order to provide safety for the vendors and participants; and

WHEREAS, after duly considering such request, it is the consent of City Council that a resolution be adopted requesting the Texas Department of Transportation to allow the closing of Main Street for the Texas Blueberry Festival.

NOW, THEREFORE BE IT RESOLVED by City Council of the City of Nacogdoches, Texas this resolution be adopted requesting Texas Department of Transportation to allow the closing of Main Street (SH 21) from its intersection with North Street eastwardly to its intersection at University Drive from 4:00 p.m., Friday June 11th, 2021 until 9:00 p.m., Saturday, June 12th, 2021 for Texas Blueberry Festival.

BE IT FURTHER RESOLVED that Mario Canizares, City Manager be authorized to execute an agreement with the **Texas Department of Transportation for the closing of Main Street (SH 21).**

PASSED AND APPROVED this the 4th day of June, 2021.

_____
Jimmy Mize, Mayor

ATTEST:

_____
Jan Vinson, City Secretary

Agreement No._____

STATE OF TEXAS §

COUNTY OF TRAVIS §

AGREEMENT FOR THE TEMPORARY CLOSURE OF STATE RIGHT OF WAY

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State," and the City of Nacogdoches, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the "local government."

W I T N E S S E T H

WHEREAS, the State owns and operates a system of highways for public use and benefit, including State Highway 21, in Nacogdoches, County; and

WHEREAS, the local government has requested the temporary closure of State Highway 21 for the purpose of Texas Blueberry Festival, from 4:00 pm 6/11/21 to 9:00 pm 6/12/21 as described in the attached "Exhibit A," hereinafter identified as the "Event;" and

WHEREAS, the Event will be located within the local government's incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State's right of way will be performed within the State's requirements; and

WHEREAS, on the 4th day of June, 2021, the Nacogdoches City Council passed Resolution / Ordinance No._____, attached hereto and identified as "Exhibit B," establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

A G R E E M E N T

Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event or unless terminated or modified as hereinafter provided.

Article 2. EVENT DESCRIPTION

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned physical modifications of any man-made or natural features in or adjacent to the right of way involved shall be attached hereto along with a location map and identified as “Exhibit C.”

Article 3. OPERATIONS OF THE EVENT

A. The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

B. The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State’s right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State’s Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.

C. The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.

D. The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.

E. The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

F. The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

G. The local government hereby assures the State that there will be appropriate passage

allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

H. The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

Article 4. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

Article 5. TERMINATION

A. This agreement may be terminated by any of the following conditions:

(1) By mutual written agreement and consent of both parties.

(2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.

(3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.

(4) By satisfactory completion of all services and obligations as set forth herein.

B. The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

Article 6. DISPUTES

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

Article 7. RESPONSIBILITIES OF THE PARTIES

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

Article 8. INSURANCE

A. Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period

that the local government and/or its contractors are encroaching upon the State right of way.
B. In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

Article 9. AMENDMENTS
Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

Article 10. COMPLIANCE WITH LAWS
The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right of way.

Article 11. LEGAL CONSTRUCTION
In case one or more of the provisions contained in this agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

Article 12. NOTICES
All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

Local Government:	**State:**
Sherry Morgan c/o City of Nacogdoches	Texas Department of Transportation
P.O. Box 635030	1805 N. Timberland Dr.
Nacogdoches, TX 75963	Lufkin, TX 75901

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

Article 13. SOLE AGREEMENT
This agreement constitutes the sole and only agreement between the parties hereto and supersedes any prior understandings or written or oral agreements respecting the within subject matter.

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE CITY OF Nacogdoches
Executed on behalf of the local government by:

Agreement No._____

By_____ Date_____
City Official

Typed or Printed Name and Title Mario Canizares
City Manager, Nacogdoches

THE STATE OF TEXAS
Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

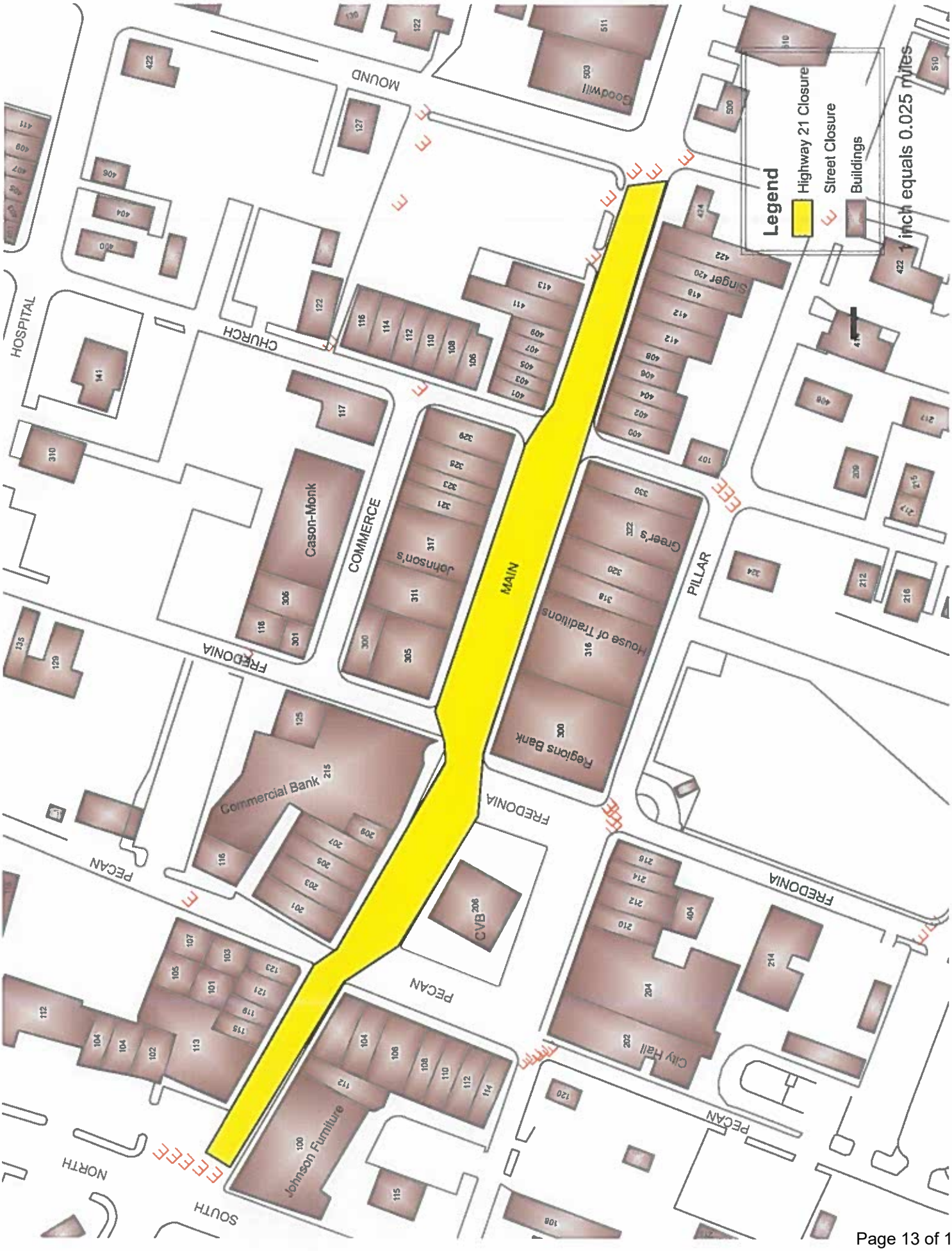
By_____ Date_____
District Engineer

Exhibit A

The Texas Blueberry Festival will take place in Nacogdoches County and will utilize State Highway 21, Pecan Street, Pillar Street, Fredonia Street, and Mound Street. Both lanes of State Highway 21 from Business 59 to Mound Street will be utilized. State Highway 21 is scheduled to be closed Friday, June 7th at 4:00 pm and will reopen at 9:00 pm, Saturday, June 8th.
The proposed activities for the Texas Blueberry Festival include: fresh blueberries for sale, tours of blueberry farms, motorcycle show, car show, art show, children's activities, live music, craft vendors, and food vendors. The number of attendees is expected to be approximately 20,000. There will be no physical modifications of any features in or adjacent to the right of way of State Highway 21.

Exhibit B

Exhibit C


Legend
Highway 21 Closure
Street Closure
Buildings
1 inch equals 0.025 miles
MAIN
COMMERCE
CHURCH
HOSPITAL
MOUND
FREDONIA
PECAN
PILLAR
NORTH
SOUTH
Cason-Monk
Johnson's
Greer's
House of Traditions
Regions Bank
Commercial Bank
CVB
City Hall
Johnson Furniture
Singer
Goodwill