February 22, 2022

Notice is hereby given of a Regular Meeting of Nacogdoches City Council to be held on the above date in the City Council Chambers of City Hall, 202 E. Pilar Street, Nacogdoches, Texas, beginning at 5:30 p.m. for the purpose of considering the following agenda items.

Some City Council Members may attend via videoconference but a quorum of the City Council and the Presiding Officer will be present at the above-stated physical location. 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.

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 February 22, 2022. 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. Open Forum is an opportunity for citizens to speak about items not listed on the agenda. In order to address City Council please complete the Open Forum Form and submit it to the City Secretary prior to the start of the meeting. In accordance with the Texas Open Meetings Act, City Council shall not discuss, deliberate, or make any decisions on items discussed during Open Forum. Comments are limited to 3 minutes per person. Open Forum is limited to the first 5 citizens who submit an Open Forum Form.

4. ITEMS TO BE REMOVED FROM CONSENT AGENDA.

5. CONSENT AGENDA: Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.

    A. Consider approval of minutes from January 18, 2022 and February 1, 2022 regular meeting. (City Secretary)

    B. Consider approval of a Memorandum of Understanding between the City of Nacogdoches and the American Red Cross for office space located at City Hall. (City Manager)

    C. Consider approval of model ground lease at A.L. Mangham, Jr. Regional Airport. (Economic Development Director)

D. Consider adoption of a budget amendment for the purchase of a 2023 F-750 Dump Truck for the Parks Department. (Community Services Director)

E. Consider approval of the purchase of one dump truck for the Parks Department through BuyBoard contract. (Community Services Director)

F. Consider adoption of a budget amendment ordinance in the amount of $75,000 to purchase a new Brush Truck, Rear-Load Compactor Truck, Front-Load Compactor Truck, and a Side-Load Compactor Truck from Heil of Texas. (Public Works Manager)

G. Consider approval of the purchase of a new Brush Truck, Rear-Load Compactor Truck, Front-Load Compactor Truck, and a Side-Load Compactor Truck from Heil of Texas, for an amount not to exceed $1,160,000. (Public Works Manager)

6. REGULAR AGENDA: City Council will receive staff recommendations and public input on the following items, and may deliberate and take formal action on the item.

A. **Public Hearing:** Consider a request for approval of a Zone Change from R-3, Two Family to B-2, General Business for a portion of Lot 1-A-1, City Block 60 and 61, generally located at 2824 NW Stallings Drive. This request has been submitted by Genuine BTD, LTD. Case File ZON2022-01. (City Planner)

B. **Public Hearing:** Consider a request for approval of a Specific Use Permit for Recreational Vehicle Sales for Lot 1-A-1, City Block 60 and 61, generally located at 2824 NW Stallings Drive. This request has been submitted by Genuine BTD, LTD. Case File SUP2022-01. (City Planner)

C. Consider an Ordinance amending Chapter 106 "Utilities" of the City of Nacogdoches, Texas Code of Ordinances providing for bill adjustments in certain instances. (Finance Director)

D. Consider approval of a resolution to pursue claims for monetary damages, regarding franchise fees against video service providers, as required in the Texas Video Service Providers Act, Texas Utilities Code Sec. 66. **Texas Government Code 2254.1036 Public Notice is attached.** (City Attorney)

E. Consider a resolution joining the State of Texas and Texas Political Subdivisions' settlement with additional defendants (the ENDO/PAR Defendants) in the Texas opioid litigation, MDL NO. 2018-63587. (City Attorney)

F. Discuss and consider resolutions of support, no-opposition, or denial for developers applying for Texas Department of Housing and Community Affairs 2022 Competitive 9% Low-Income Housing Housing Tax Credit Program (LIHTC). (Economic Development Director) Project Name: Maroney Park Crossing, Project

Location: Maroney Drive, TDHCA LIHTC 9% Pre-Application Number: 22086

G. Discuss and consider resolutions of support, no-opposition, or denial for developers applying for Texas Department of Housing and Community Affairs 2022 Competitive 9% Low-Income Housing Housing Tax Credit Program (LIHTC). (Economic Development Director) Project Name: Pioneer Crossing for Seniors, Project Location: Maroney Drive, TDHCA LIHTC 9% Pre-Application Number: 22188

7. EXECUTIVE SESSION: Executive Sessions are for City Council to receive information and deliberate on matters specified in Subchapter D of the Texas Open Meetings Act. Council may reconvene in open session to vote on the matter.

A. A. Deliberation regarding Economic Development negotiations under Government Code Section 551.087 as follows:
1. Discuss or deliberate regarding commercial or financial information the City has received from business projects the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations; and
2. Deliberate offer of financial or other incentive to business prospects described by Subdivision 1 above.

8. Open for action, if any, on Executive Session item(s).

9. ADJOURN.

Jan Vinson, City Secretary

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 February 16, 2022 at 11:30 a.m. and remained posted until meeting convened.

Jan Vinson, City Secretary

City Council Meeting

Date: February 22, 2022

Agenda Item: 5.A.

PRESENTER:

ITEM/SUBJECT: Consider approval of minutes from January 18, 2022 and February 1, 2022 regular meeting. (City Secretary)

SUMMARY/BACKGROUND:

FINANCIAL:

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

CITY CONTACT: Jan Vinson, City Secretary
vinsonj@nactx.us
936-559-2506

ATTACHMENTS:
1. 01.18.22 Minutes
2. 02.01.22 Minutes

Regular Session
Nacogdoches City Council
January 18, 2022 – 5:30 p.m.
City Council Room – City Hall
202 East Pilar Street

DRAFT

City Council present in person: Mayor Jimmy Mize, Council Members Kathleen Belanger, Roy Boldon and Jay Anderson. **City Council present virtually**: Council Members Amelia Fischer.

1. Called to order at 5:30 p.m.

2. Pledge of Allegiance.

   Convened in Executive Session at 5:31 p.m.

3. **EXECUTIVE SESSION**:
   A. Consultation with City Attorney - Pursuant to Texas Government Code Section 551.071, deliberation regarding attorney's advice concerning pending or contemplated litigation or a settlement offer, or on a matter in which the duty of the attorney to the governmental body under Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter. The subject of this Executive Session relates to franchise fee litigation.

4. Returned from Executive Session at 5:41 p.m. taking no action.

5. No one spoke during Open Forum.

6. No items were removed from the Consent Agenda

7. **CONSENT AGENDA**: **Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.**

   A. Minutes for January 4, 2022 Regular Meeting.

   B. Consider approval of a budget amendment appropriating various amounts regarding the Texas Department of Transportation STEP-Impaired Driving Mobilization (IDM) Grant.

   C. Consider adoption of a resolution of the City Council of the City of Nacogdoches, Texas authorized by Section 418.108 of the Texas Government Code, declaring, continuing and extending a local state of disaster in the City of Nacogdoches, Texas due to the public health emergency created by the COVID-19 pandemic; and providing an effective date.

Council Member Kathleen Belanger moved approval; motion duly seconded by Council Member Jay Anderson and carried by unanimous vote.

8. **REGULAR AGENDA:**

   A. Discuss and consider approval of the redistricting of the single member City Council wards and establish new single-member ward boundary lines for City Council elections based on 2020 census data.

Alaina Helton, City Planner and Philip Arnold with Bickerstaff Heath Delgado Acosta LLP reviewed the redistricting process and timeline to date. Mr. Arnold presented the proposed redistricting map and discussed ward boundary lines.

Council Member Roy Boldon moved approval; motion duly seconded by Council Member Jay Anderson and carried by unanimous vote.

   B. **Public Hearing**: Consider a Zone Change from R-2, Single Family to R-4, Multi-Family for Lot 36-A, City Block 48, located on the north side of Harris Street, approximately 200 feet west of Burk Street. This request has been submitted by Guadalupe Salinas of Universal Construction &

Minutes unofficial until approved by City Council

Remodeling LLC. Case File ZON2021-08. **(THE APPLICANT FORMALLY WITHDREW THIS ZONE CHANGE REQUEST ON JANUARY 10, 2022)**

Mayor Mize opened the Public Hearing.

Alaina Helton, City Planner stated the area is predominantly single family and the residents have expressed opposition to the zone change. City staff recommended denial of the request to the Planning and Zoning Commission at their meeting on January 10, 2022. The Planning and Zoning Commission recommended denial of the request with prejudice which means no one can submit a new zone change application for said property for one year unless the request was for a less dense or less intense zoning district. Ms. Helton explained all options available to City Council concerning this item.

Council Member Fischer inquired about denying with prejudice versus accepting the applicant's withdrawal. Ms. Helton explained that the residents who attended the Planning and Zoning Commission meeting had major concerns and requested denial with prejudice which would prevent a similar zone change request for the next year.

Council Member Kathleen Belanger moved to deny with prejudice; motion duly seconded by Council Member Roy Boldon and carried by unanimous vote.

Public Hearing closed.

C. **Public Hearing**: Consider a Zone Change from R-2, Single Family to R-3, Two-Family for Lots 2, 3, 3-A, and 4, Block 2, of the Driver-Simpson Addition, located at 735 Harris Street, and 811, 817 Ford Street . This request has been submitted by Guadalupe Salinas of Universal Construction & Remodeling LLC. Case File ZON2021-09. **(THE APPLICANT FORMALLY WITHDREW THIS ZONE CHANGE REQUEST ON JANUARY 10, 2022)**

Mayor Mize opened the Public Hearing.

Alaina Helton, City Planner stated that the residents of this area are opposed to the zone change and the area is predominantly single family. Therefore, staff recommended denial of the request to the Planning and Zoning Commission at their meeting on January 10, 2022. The Planning and Zoning Commission recommended denial of the request with prejudice.

Council Member Kathleen Belanger moved denial with prejudice; motion duly seconded by Council Member Roy Boldon and carried by unanimous vote.

Public Hearing closed.

D. **Public Hearing**: Consider a Zone Change from B-2, General Business to R-2, Single Family for Lots 17, 18 of the Brookhollow Addition, Section 1, located on the west side of Brookhollow Drive, approximately 140 feet north of Ridgewood Drive. This request has been submitted by Antonio Huerta. Case File ZON2021-10.

Mayor Mize opened the Public Hearing.

Alaina Helton, City Planner stated this subdivision was created prior to the adoption of the City's Zoning Ordinances. The property was zoned general business in the 1970's however, it is predominantly single family. Approximately half of the subdivision is single family homes and the remainder is undeveloped.

Staff recommends approval of the request as did the Planning and Zoning Commission at their meeting on January 10, 2022.

Council Member Jay Anderson moved approval; motion duly seconded by Council Member Kathleen Belanger and carried by unanimous vote.

Public Hearing closed.

City Council took a 5 minute recess.

E. Consider approval of a contract for professional services with DTJ Design for the Comprehensive Land Use Plan and the Downtown Master Plan for an amount not to exceed $450,000.

City Engineer Steve Bartlett reviewed the timeline and the Request for Qualifications process in choosing DTJ Design. He discussed the four studies that will be completed as part of this project which include a Comprehensive Plan, I-69 Corridor Plan, Housing Needs Assessment and a Downtown Master Plan. Mr. Bartlett discussed the DTJ Design team which will include two local firms along with

discussion of the tasks and fees. The total fee for all four plans is not to exceed $450,000 and the project is estimated to be complete in fourteen months.

The following spoke during public comment:

Ed Pool stated he is in favor of the plans and believes they are crucial. He said we are paying for things today because things were not done in the past.

Carolyn Davis stated the contract is as generic as the presentation was several months ago. She doesn't believe City Council is listening to the public. She fears the City may spend more than $450,000 before the project is complete.

Pat Castella stated that City Council has ignored the current comprehensive plan. She believes contracting with DTJ Design will cost too much money. She asked if City Council is going to listen to the people that voted for them or listen to realtors and bankers.

Greg McIntire stated normal market forces don't apply here because people are speaking out against this project yet it is not moving the needle.

Tonya Kelley stated there is nothing in this plan that is unique to Nacogdoches. She asked who will make sure the plans are implemented. She believes we should update the current plan and use the money we will be spending to hire DTJ Design to implement the current plan.

Alvin Stanaland stated the City didn't follow the old plans and suggested using the money to fix our issues not to hire a consultant.

Mary McClarey stated the consultant does not know Nacogdoches, has no rural community experience and are too expensive. She also said City staff is not answering citizen questions about why DTJ Design was chosen. She believes money is being wasted and the additional costs will be unlimited.

Dave Watson asked for a definition of public participation.

Brad Maule stated the steering committees have not had any real input regarding hiring DTJ Design. He asked City Council to think about what their legacy will be.

Garth Hinze stated that what concerns him the most is the amount of money that will need to be spent on capital improvement projects and to maintain what is currently in place.

Erica Toller stated she supports the contract with DTJ Design and the plans can help preserve what is important to Nacogdoches.

Milton Moorer stated that the 1974 Downtown Master Plan is still valid today and staff may not need a new plan. He also stated he will support whatever decision City Council made.

Dana Woods stated that the businesses carry a larger portion of the load when it comes to paying taxes. He asked City Council to consider that they are using the taxpayer's money to hire DTJ Design.

Jack Murff stated he worked on the 2003 Comprehensive Plan which has not been followed. He also suggested the money be used to do what the 2003 Plan laid out and not on creating a new plan. One suggestion Mr. Murff had was installing sidewalks and improving lighting on Pearl Street.

Benjamin Sullivan stated he supports doing a Comprehensive Plan but the process should be postponed. He believes the money should be used to fix the infrastructure and improve the internet service.

Linda Greer is a downtown business owner and she stated that no one in DTJ Design understand what her retail problems are.

Larry King stated he strongly believes in strategic planning. He stated many of the ideas in the current Comprehensive Plan have not been implemented and he believes the steering committee can update the current plan without hiring a full service consulting firm. Consultants and advisors can be hired to work with the steering committee as necessary.

Vickie Boatman stated the citizens are concerned about the cost of the plan. She said that the money being proposed to spend on a consultant will go a long way to fix the City's infrastructure. Ms. Boatman presented a petition requesting City Council to postpone the entire comprehensive planning process until an investigation is made to seek alternatives that are less costly and a better fit for Nacogdoches.

Joanne Castleberry stated inflation is more than it has been in forty years. This money is needed for other things and she asked City Council not to spend this money now.

Joseph Irie Montes stated the money should be used to fix thing in our community that are broken such as infrastructure. The money it will cost to hire DTJ Design should be used to support Planning and Engineering.

Miles McCall stated elected officials and staff will come and go but the citizens will still be here. He hopes the citizens are willing to move forward no matter what the vote is.

Mayor Mize read a letter from Bill Elliott stating his supporting this hiring DTJ Design.

City Engineer Steve Bartlett confirmed the contract has a not to exceed amount of $450,000.

Council Member Belanger discussed possible charges over the original amount per the contract if the City extended the time limit and asked City Council to halt the project. She believes the City is overlooking many local assets which could keep this cost down, and staff should consider other alternatives. She also discussed capital improvement project costs. Council Member Belanger stated Council and staff needs to listen to the citizens.

Council Member Boldon discussed how public outreach will be handled. Council Member Boldon has received comments from citizens that stated the City is going to do what they want to do. He also stated that to be successful the City needs a plan and a vision.

Council Member Fischer discussed and explained the cost of the project, comparing updates with other cities, community input and community engagement. She stated she believes DTJ Design has the expertise to do these plans for Nacogdoches.

Council Member Anderson stated that opposition to these plans was formed by misinformation. Mr. Anderson discussed transparency in this process and facts relating to the process. He also stated that these plans will drive investment in our community, insure that our history is preserved and citizen will benefit from the growth and change that is coming.

Mayor Mize said he has supported this plan the whole time but still feels torn.

Council Member Amelia Fischer moved approval; motion duly seconded by Council Member Jay Anderson and carried by the following vote:
Ayes – Mayor Mize and Council Members Boldon, Fischer and Anderson
Nays – Council Member Belanger

9. Adjourned 7:57 p.m.

_____
Mayor Jimmy Mize
City Council
City of Nacogdoches

ATTEST:

_____
Jan Vinson, City Secretary

Regular Session
Nacogdoches City Council
February 1, 2022 – 5:30 p.m.
City Council Room – City Hall
202 East Pilar Street

DRAFT

City Council present in person: Mayor Jimmy Mize, Council Members Kathleen Belanger, Roy Boldon and Jay Anderson. **City Council present virtually**: Council Members Amelia Fischer.

1. Called to order at 5:30 p.m.

2. Pledge of Allegiance.

3. **WORK SESSION**:
   A. Receive a report regarding Public Library Policies and American Library Associates best practices.

Library Manager Mercedes Franks discussed accreditation and best practices for Texas public libraries. Mrs. Franks reviewed several policies adopted by the Nacogdoches public library as well as factors that influence policies and how the policies are adopted. She also discussed equitable distribution of resources, emerging Library trends and collaboration with Library partners.

Chris Englert spoke during public comment regarding the difference between equitable and equal.

Council Member Boldon discussed City's policies pertaining to the types of reading material at the library, controversial materials and who removes items from the library collections.

Mrs. Franks explained that the City's Collection Development Policy outlines criteria for selection and explained how the Nacogdoches Public Library chooses and acquires material. She stated that the library is for everyone and patrons should be able to see themselves in the library collection.

   B. Receive a presentation and hold a discussion regarding the Low Income Housing Tax Credit Program.

Economic Development Director Larissa Philpot-Brown stated the City was notified of several Housing Tax Credit applications at the end of 2021. Mrs. Philpot-Brown reviewed what housing tax credit program is, how it works and how city support plays a roll. She reviewed existing tax credit properties, properties that have applied for tax credits this year and the timeline for the process.

Jeff Reed stated he lives in the Appleby Sand area and wants the area to remain single family housing.

Russ Havard, who lives on Walnut Drive, also stated the Appleby Sand area should remain single family housing.

Charmaine Dickaut asked if it will be only one development or could it be multiple.

Collin Ortiz who lives on Carol Street asked about rezoning for these developments.

City Manager Mario Canizares stated rezoning to a higher density zoning will be difficult for staff to recommend.

Becky Reed who lives on Walnut Drive stated that her concern is flooding of the lower lying homes that are below the proposed development.

Chris Englert discussed the age which is considered elderly and the age of tenants in these developments.

Cynthia Tolson asked about the need for low income housing.

Vickie Boatman inquired about assisted living facility for low income residents.

Council Member Belanger asked about market studies, amenities and marketing.

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4. Keith Kiplinger, Fire Chief, spoke during open forum giving a brief update on the winter storm and what is expected.

5. No items were removed from the Consent Agenda

6. **CONSENT AGENDA**: **Items included under Consent Agenda require little or no deliberation by Council. Approval of Consent Agenda authorizes the City Manager or his designee to proceed with conclusion of each in accordance with staff recommendations as reflected in the minutes of this meeting.**

   A. Minutes for January 19, 2022 and January 25, 2022 City Board Interviews.

   B. Consider approval of the Airport Advisory Board Bylaws.

   C. Consider approval of appointing members to the Comprehensive Plan Advisory Committee and Downtown Master Plan Advisory Committee.

   D. Consider approval of a resolution calling the regular election of City Council Members for the Southeast Ward and Southwest Ward in and for the City of Nacogdoches, Texas.

   E. Consider approval of revisions to a previously approved 10-foot-wide utility easement and Right-of-Way to Oncor Electric at the Nacogdoches A.L. Mangham Regional Airport.

   F. Consider a donation of $29,784.00 from the Charles and Lois Marie Bright Foundation and budget amendment for construction of a new Disc Golf Course at Lake Nacogdoches West Park.

Council Member Jay Anderson moved approval; motion duly seconded by Council Member Roy Boldon and carried by unanimous vote.

7. **REGULAR AGENDA:**

   A. Receive End of Year Report from Visit Nacogdoches.

Sherry Morgan, Director of Conventions and Tourism, discussed 2021 annual goals. Staff met or exceeded six of the ten goals and fell short on four goals. Hotel occupancy, visits to visitnac.com, usage of Visit Nac app, visitors to the Convention and Visitors Bureau, music and cultural events and digital impressions met or exceeded goals. Increase in social media following, number of volunteers, requests for information and encourage travel reviews fell short of the goals set. Ms. Morgan discussed events, COVID restrictions, staff training, advertising and marketing for 2021. She also discussed 2022 goals.

   B. Receive report on status of special events from Convention and Visitor's Bureau.

Sherry Morgan, Director of Convention and Tourism, stated that the Convention and Visitor's Bureau (CVB) staff took over permitted special events downtown in April 2021 which is when the CVB began collecting data. Ms. Morgan discussed special events by size, type and marketing breakdown of the seventy seven permitted events. She also discussed anticipated events for 2022.

   C. Consider resolution closing East Main Street for the Old Town Rig Down event, September 16, 2022 through September 18, 2022.

Jessica Sowell, Assistant Director of Community Services, reviewed the upcoming event which is an eighteen wheeler custom truck show. This event will be three days and approximately one hundred trucks parked downtown along with auctions, vendors, food, evening light show and a concert in the park. Troy Massey, event organizer, stated he hopes to raise enough money to help with the Old University Building renovation and donate to the Boys and Girls Club of Nacogdoches.

Council Member Kathleen Belanger moved approval; motion duly seconded by Council Member Jay Anderson and carried by unanimous vote.

   D. Consider the following City board appointments: Airport Advisory Board, Building Standards Commission, Heath Code Advisory Board, Industrial Development Authority, Main Street Advisory Board and Pine Grove Cemetery Board.

Mayor Mize moved to appoint Lucinda McFarland, Kathy Partin, Justin Pitcock, Colin Smith and Taylor Jones to serve on the Airport Advisory Board; motion duly seconded by Council Member Boldon and carried by unanimous vote.

Mayor Mize moved to appoint Travis Davis and Sally Ann Swearingen to serve on the Building Standards Commission; motion duly seconded by Council Member Anderson and carried by unanimous vote.

Mayor Mize moved to appoint Jennifer Bryant, Lisa Page, Robin Thacker and Wendy Blount to serve on the Health Code Advisory Board; motion duly seconded by Council Member Belanger and carried by unanimous vote.

Mayor Mize moved to appoint Miles Bradshaw, Scott Bowyer and Wes McKnight to serve on the Industrial Development Authority; motion duly seconded by Council Member Anderson and carried by unanimous vote.

Mayor Mize moved to appoint Shelby DeWitt, Lachanda Maxie and Betty Jacobs to serve on the Pine Grove Cemetery Board; motion duly seconded by Council Member Boldon and carried by unanimous vote.

Mayor Mize moved to appoint Karen Harris, Erin Windham, Rebecca Calahan, Miles Bradshaw, CC Conn, Danielle LaBauve and Bret Arrant to serve on the Main Street Advisory Board; motion duly seconded by Council Member Belanger and carried by unanimous vote.

E. Consider approval of a resolution for non-payment of franchise fees against video service providers, as required in the Texas Video Service Providers Act, Texas Utility Code Sec. 66.

Mayor Mize pulled Item 7E. This item will be revised and placed on the February 22, 2022 City Council Meeting.

City Council convened into Executive Session at 7:15 p.m.

8. **EXECUTIVE SESSION:**

A. Deliberation regarding Economic Development negotiations under Government Code Section 551.087 as follows:
   1. Discuss or deliberate regarding commercial or financial information the City has received from business projects the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations; and
   2. Deliberate offer of financial or other incentive to business prospects described by Subdivision 1 above.

City Council reconvened in regular session with no action taken.

9. Adjourned 7:42 p.m.

_____
Mayor Jimmy Mize
City Council
City of Nacogdoches

ATTEST:

_____
Jan Vinson, City Secretary

City Council Meeting

Date: February 22, 2022

Agenda Item: 5.B.

PRESENTER: Mario Canizares, City Manager

ITEM/SUBJECT: Consider approval of a Memorandum of Understanding between the City of Nacogdoches and the American Red Cross for office space located at City Hall. (City Manager)

SUMMARY/BACKGROUND: For the past several years, the American National Red Cross (Red Cross) has utilized office space in Nacogdoches City Hall. The City agrees to provide, at no cost to the Red Cross, office space located at 202 East Pilar Street, Room 127 in Nacogdoches, Texas. Employees of the Red Cross will have access to and use of restrooms and a break room. Electricity and water will be paid for and provided by the City. This is a benefit to the City as it provides a local presence for our community when services are needed for disaster relief and assistance in the aftermath of an emergency.

The term of the agreement is for 12 months, beginning on March 1, 2022 and ending on February 28, 2023. The Red Cross will provide all furniture and supplies to be used by the Red Cross in the conduct of its activities. The Red Cross also agrees to reimburse the City for any damages resulting from misuse of the office. The Red Cross will provide any special or additional amenities or capabilities it may require, such as additional computer communications wiring, fixtures and the like.

FINANCIAL:
No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Not Applicable

CITY CONTACT: Mario Canizares, City Manager
canizaresm@nactx.us
936-559-2501

ATTACHMENTS: 1. Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING
THE AMERICAN NATIONAL RED CROSS
AND
CITY OF NACOGDOCHES, TEXAS

This Memorandum of Understanding is entered into between the American National Red Cross, hereinafter referred to as Red Cross, and the City of Nacogdoches, Texas, hereinafter referred to as the City.

SECTON 1. TERM OF AGREEMENT

The term of this Memorandum of Understanding, hereinafter referred to as the Agreement, is from March 1, 2022, and continues for a period of 12 months through February 28, 2023 Either party or both parties may choose to terminate this agreement pursuant to Section 6 of this agreement.

SECTION 2. EXPENSES

Except as otherwise provided in Section 3 and Section 4 of this agreement, the Red Cross expressly acknowledges any costs incurred by the Red Cross as a result of the obligations contained in this agreement will be the sole responsibility of the Red Cross and any costs incurred by the City as a result of obligations contained in the agreement will be the sole responsibility of the City.

SECTION 3. PERFORMANCE

The City agrees to provide, at no cost to the Red Cross, office space located at 202 East Pilar Street, 1st Floor, Room 127 in Nacogdoches, Texas. Employees of Red Cross will have access to and use of restrooms and a break room. Electricity and water will be paid for and provided by the City.

The Red Cross will provide all furniture and supplies to be used by the Red Cross in the conduct of its activities. The Red Cross also agrees to reimburse the City for any damages resulting from misuse of the office. The Red Cross will provide any special or additional amenities or capabilities it may require such as additional computer communications wiring, fixtures and the like.

The City will have the right to maintain a master key to the premises but will only enter the premises in the presence of employees of the Red Cross or in the event of a bona fide emergency. In the event of an emergency entry, the City will notify the Red Cross of the entry and the reason for such entry. The City will provide the Red Cross with access during and after normal business hours and on weekends.

The Red Cross agrees to utilize the City staff parking area behind City Hall for employee parking.

SECTION 4. MISCELLANEOUS

A. The City grants Red Cross the right to use the Room for the Permitted Use(s) described above. This grant includes reasonable ingress and egress to and from the Room through the Building's common areas. Red Cross shall not have the right to use any other space in the Building (such as library, conference rooms, break room, coffee room)

or any equipment belonging to City unless the City gives written permission to do so. This Agreement is not a lease and Red Cross is granted no leasehold interest in the Room.

B. On or before February 28, 2023, Red Cross shall vacate the Room. Red Cross shall repair all damage caused by Red Cross' occupancy, at Red Cross' sole cost and expense.

C. Red Cross agrees to keep the Room in good condition and promptly repair all damage to the Premises or the Building caused by Red Cross' negligence, and not to disrupt, adversely affect or interfere with other occupants of the Building.

D. The City makes no warranty or representation about the Room or the Building. Red Cross accepts the same "AS IS." The City is under no obligation to prepare or repair the Room or the Building for Red Cross.

E. Red Cross shall carry the following insurance coverage:

(1) Commercial General Liability with an occurrence limit of at least one-million dollars ($1,000,000) and an aggregate limit of at least two-million dollars ($2,000,000);

(2) Commercial Automobile Liability with a combined single limit of at least one-million dollars ($1,000,000);

(3) Workers Compensation coverage with statutory limits for the jurisdiction in which the premises are located and Employers' Liability with limits of at least one million dollars ($1,000,000.00) per accident, one million dollars ($1,000,000.00) disease – each employee and one million dollars ($1,000,000.00) disease – policy limit.

F. Red Cross shall not have any right to, assign or transfer, or sublicense this Agreement. The City shall have no obligation to consider or approve any such transfer, regardless of the circumstances.

G. Notwithstanding anything in this Agreement to the contrary, in the event that damage or casualty to all or a part of the Room occurs, this Agreement shall terminate and Red Cross shall have no right to restoration of the Room or to receive any compensation whatsoever.

H. This Agreement shall be governed by and construed under the laws of the state in which the Building is located, and venue for any and all disputes shall lie in Nacogdoches County, Texas. This Agreement shall be binding on the parties and their respective, successors, transferees and assigns.

I. Authority. Each party represents and warrants that it has the full power and authority to execute, deliver and perform under this Agreement.

SECTION 5. INDEMNIFICTION

RED CROSS SHALL DEFEND, HOLD HARMLESS, AND INDEMNIFY THE CITY AGAINST ANY LEGAL LIABILITY, INCLUDING REASONABLE ATTORNEY FEES, IN RESPECT TO BODILY INJURY, DEATH, AND PROPERTY DAMAGE ARISING FROM THE NEGLIGENCE OF THE SAID RED CROSS DURING ITS USE OF THE ROOM.

Nothing herein shall be considered a waiver of sovereign immunity or any other state or federal law to the Red Cross or the City.

SECTION 6. TERMINATION

Either party may terminate this agreement by providing at least sixty (60) days written notice to the other. Notice will be provided in accordance with Section 7 of this agreement.

SECTION 7. NOTICES

Any notices, approval, consent or communication by one Party to another must be in writing and addressed to the respective Parties as follows:

If the Red Cross: Executive Director, Real Estate Services
The American National Red Cross
9450 SW Gemini Drive, #75048
Beaverton, OR 97008-7105

And for issues requiring legal notice (e.g., default), a copy to:

Office of the General Counsel
The American National Red Cross
431 18th Street, NW
Washington, DC 20006
Attention: Real Estate Counsel

real.estate@redcross.org

If CITY: Mario Canizares, City Manager
City of Nacogdoches
202 East Pilar
Nacogdoches, Texas 75961

BY: _____
Mario Canizares, City Manager
City of Nacogdoches

Date: _____

BY: _____
Joseph D. Ward Executive Director, Real Estate Services
American National Red Cross

Date: _____

Digitally signed by Joseph D. Ward, Executive Director
DN: cn=Joseph D. Ward, Executive Director, o=American National Red Cross, ou=Real Estate Services, email=joe.ward@redcross.org, c=US
Date: 2022.01.12 16:04:34 -05'00'

City Council Meeting

Date: February 22, 2022

Agenda Item: 5.C.

PRESENTER: Joe Cefalu, Airport Manager

ITEM/SUBJECT: Consider approval of model ground lease at A.L. Mangham, Jr. Regional Airport. (Economic Development Director)

SUMMARY/BACKGROUND: The hangars at the A.L. Mangham, Jr. Regional Airport are constructed on airport property through a ground lease. With several ground leases nearing the end of their term, staff and the Airport Advisory Board took the opportunity to review the existing lease and propose amendments. The Airport Advisory Board requested hangar owners present the board with requested changes to the document. At their January 27, 2022 meeting, the Airport Advisory Board reviewed the requested changes and made recommendations as seen on the attached document and outlined below.

Suggested changes:
- Currently, if an existing hangar is purchased, the City allows the new owner to assume the existing lease for the hangar or negotiate a new lease. That right is now documented in the proposed new lease form. The Airport Advisory Board recommends this addition and staff concurs.

- The current lease contains a clause requiring the City to have a structure appraised before making an offer to purchase the structure. The appraisal process required three independent appraisals. The hangar owners and the Airport Advisory board requested to alter this clause to allow the City to make a fair offer to purchase a hangar. Should the hangar owner and the City be unable to reach an agreed upon value, then the 3 party appraisal process would commence. The Airport Advisory Board recommends this change and staff concurs.

- In the existing lease, the value derived in the three party appraisal process would be based upon the present value of a 10 year lease. The Airport Advisory Board, upon request of the hangar owners request this value be based upon a 20 year lease. Staff recommends the original language, utilizing the present value of a 10 year lease.

- The hangar owners requested, and the Airport Advisory Board recommended, in the event of a permanent or long-term airport closure (due to something similar to a natural disaster or closure by the FAA), the hangar owners be permitted to remove their hangars. The Airport Advisory Board recommended this request, and staff concurs.

Upon approval of this document by Council, staff will begin utilizing the new lease form.

FINANCIAL:
No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE

FOLLOWING CITY COUNCIL PRIORITIES
Economic Development

CITY CONTACT: Guiseppe "Joe" Cefalu, Airport Manager
cefaluj@nactx.us
936-560-9567

ATTACHMENTS: 1. Proposed Amended Ground Lease

CITY OF NACOGDOCHES

A.L. MANGHAM, JR REGIONAL AIRPORT

GROUND LEASE AGREEMENT

STATE OF TEXAS §

§ KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF NACOGDOCHES §

This lease is made and entered into this _____ day of _____, _____, by and between the City of Nacogdoches, hereinafter referred to as LESSOR and which is the owner of the A.L. Mangham, Jr. Regional Airport, hereinafter referred to as AIRPORT and _____ hereinafter referred to as LESSEE who covenant and agree as follows:

WHEREAS, Lessor and Lessee are committee to the proper operation, improvement and continued development of the AIRPORT; and

WHERAS, Lessor deems it advantageous to itself and to the operation of the Airport to lease to Lessee certain land/hangar/building/office as stated herein;

NOW THEREFORE, in accordance of the terms, considerations and privileges listed herein, Lessor and Lessee covenant and agree as follows:

I. LEASED AREA

Lessor, in consideration of the rents, covenants and promises by Lessee herein contained, does hereby lease to Lessee and Lessee does hereby rent and accept from Lessor that real property referred to as the leased premises and more particularly described as _____, located on the Airport as shown on Exhibit A attached hereto and incorporated herein by reference.

II. TERM

This Lease shall be for a term of twenty (20) years (the "lease term") beginning on _____ _____ and ending on _____, subject to earlier termination as hereinafter provided. At the end of the lease term the Lessee shall have the right of first refusal to re-lease the leased property on terms to be negotiated in good faith by both parties.

III. GROUNDS FOR TERMINATION

Grounds for termination of this lease at any time by Lessor shall include but not limited to:

1. Non-payment of rental.
2. Violation of any term, condition or promise contained or referenced herein.
3. Conduct of operations covered or controlled by categories A through G of Subsection 35 Minimum Standards for Fixed Base Operators and Airport Tenants to Section 3 1/4 Airports

and Aircraft of the Code of Ordinances of the City of Nacogdoches (incorporated herein by reference) as such may be amended in the future.

4. Violation by Lessee of any other provision of Chapter 3 1/4 Airports and Aircraft of the Code of Ordinances of the City of Nacogdoches as amended, and as amended in the future, all of which is incorporated herein by reference.
5. Violation of Airport Zoning or the lawful rules or orders of the City of Nacogdoches or the Airport Manager for the City of Nacogdoches.
6. Violation of the laws, rules, rulings, orders or regulations of the State of Texas, the United States or the Federal Aviation Administration pertaining to the A.L. Mangham, Jr. Regional Airport or tenants or aircraft operators thereon.

Prior to termination under this section the City of Nacogdoches shall provide Lessee with written notice of anything deemed to be a violation or cause for lease termination and Lessee shall, except as otherwise set forth herein, have seven (7) days to cease and desist such violation or to remedy such other act or omission. As to any such violation, act or omission deemed by the Airport Manager or appropriate officers or officials of Lessor to be a source of substantial or imminent danger to the safety of persons or property, including air or ground traffic, Lessee shall, upon written or oral notice from Lessor, immediately and forthwith cease and desist such violation, act or omission or Lessee's leasehold right hereunder shall be subject to immediate oral termination by Lessor. The seven (7) day notice, where applicable, shall further only apply to the first two notifications of violations, act or omissions by Lessee in any lease term, there being no necessity for such notice before termination thereafter.

IV. CONSIDERATION

1. In consideration for the lease of the Land/Hangar/Building/Office referenced herein, Lessee hereby agrees to pay yearly rental of _____ of approximately _____ square feet at $~~.2001 cents~~0.2145 per square foot for a total of $_____ per year, as may be modified set forth in this Ground Lease. The first year's payment shall be prorated to the beginning of the City's next fiscal year and shall be made in advance upon the signing of this lease. Thereafter, all future payments shall be billed during the first month of each fiscal year during the term of this contract plus any extensions thereto, and shall be payable within 20 days of billing.
2. Lessee agrees that the lease payment listed herein shall be subject to review annually by Lessor throughout the term of the lease and prior to any extensions granted. Any adjustments to the lease payment shall be based on the United States Consumer Price Index for all Urban Consumers (CPI-U) for the month of June preceding the change date. Any adjustment to the lease fee shall become effective the first day of the Lessor's fiscal year and shall not exceed five percent (5%) per year. Such increase in the lease payment shall begin immediately upon request from Lessor and continue at that rate until the next adjustment. Upon review, if the CPI shall have decreased as compared to the previous review date, the lease fee for the subject Land/Hangar/Office/Building shall not be decreased, but shall remain at the same level as was charged during the preceding 1-year period.
3. Lessee agrees to at all times keep the premises of the Land/Hangar/Building/office, including the inside and outside of the Hangar/Building/Office, clean and free of trash, litter, tall grass, weeds, junked automobiles, boats and scrap aircraft parts. Lessee shall abide by all applicable rules and regulations of the Environmental Protection Agency, the ~~Texas Natural Resources Conservation Commission~~ Texas Commission of Environmental Quality, the Texas Department of Agriculture,

Commented [LP1]: Updated to current rate

the Texas Department of Transportation, and any other public agency regarding the use, storage, and disposal of hazardous chemicals, fuel and/or oil. Lessee further agrees to abide by the manufacturer's directions in regards to the use, storage and disposal of all pesticides, herbicides, and other chemicals plus their containers used at the airport. Should Lessee fail to keep the leased premises clean and free of hazards, such failure shall be a ground for termination under this lease. Lessor may, after thirty (30) days written notice, arrange for the clean-up of the littered or hazardous area. Such clean-up shall be charged to Lessee and payable upon demand. Failure to render proper payment for such clean-up and/or general disregard of the considerations and restrictions listed in this lease agreement are ground for Lessor to terminate this lease.

4. Lessee agrees to maintain the hangar and improvements located on the leased premises in a good state of repair. Such Lessee shall further keep the leased premises insured with policies of general liability insurance, in any amount of $100,000.00 for each person injured, up to an aggregated $300,000.00 for personal injury in any one accident and $300,000.00 for property damage. Such policy originals shall name the City of Nacogdoches as an additional insured and be paid for and kept in force by lessee throughout the term of this lease and duplicates of such policies and renewals thereof and changes thereto shall promptly be delivered to Lessor.
5. Lessee shall be responsible for any and all taxes assess on improvements placed on leased premises.

V. PERMITTED USE

Lessor covenants and agrees that Lessee, on paying the rent and other charges herein provided for and observing and keeping the covenants, conditions, and terms of this lease on Lessee's part to be kept or performed, shall lawfully and quietly hold, occupy and enjoy the leased premises during the term of this lease without hindrance or molestation of Lessor or nay person claiming under Lessor except such portion of the leased premises, if any, as shall be taken under the power of eminent domain.

In the event the tract herein leased has a hangar or other improvements located thereon or such are subsequently placed thereon, Lessor expressly disclaims any express or implied warranties regarding such structure including soundness, habitability, safety or condition. Lessor further advises Lessee that it makes no warranties regarding the fitness for purpose of any equipment and fixtures and the like, Lessee taking them As Is and with all faults since this is a ground lease only.

Where T hangars are allowed by Lessor, lessee agrees to allow other Lessees of adjoining tracts subsequently constructing T hangars to attach to and use Lessee's walls and supports. Consideration for such use to the Lessee of the existing T hangar shall be prompt payment by the subsequent T hangar Lessee of one-half (1/2) of the actual cost of T hangar common walls payable to the current Lessees of the adjoining T hangars.

Lessee may store his privately owned property inside the hangar, provided that it meets local fire codes and at least fifty percent (50%) of the hangar floor area is sued for aircraft and aviation related purposes.

Lessee may store aviation related products or equipment inside the hangar for use in his aircraft so long, and only so long, as such products or equipment are contained in marked, approved containers,

and are stored in accordance with the Airport Rules and Regulations (2003) as amended and incorporated herein by reference. Such storage shall be at the discretion of and with written approval from the Nacogdoches Fire Marshal certifying such storage is allowed under local fire codes.

Lessor reserves the right to enter the leased premises at all reasonable times to inspect for compliance with this lease and the ordinances, regulations, laws, rules and orders of the Lessor, the State of Texas and of the United States.

At the expiration of the lease term, Lessee shall quit and surrender the leased premises herby demised in as good state and condition as they were in at the commencement of the term, excepted reasonable use and wear and tear thereof.

VI. RESTRICTED USE

Lessee agrees that he will not conduct any commercial activity on the leased premises. Where commercial operations or operations contained in Fixed Based Operator categories are conducted on such leaseholds, then permission for such operations must be granted in writing by Lessor and additional rental fees may be charged by Lessor. Lessee agrees to pay such fees directly to Lessor.

Lessee agrees that, subject to the other terms of this paragraph, the usage of at least fifty percent of the hangar floor area shall be limited to the parking/hangaring of Lessee's owned or leased aircraft and aviation related purposes. In addition, no personal property, including automobile, bus, truck, or other transportation mode, may be permanently stores or habitually parked on associated apron, paved or grass area.

A lessee shall not be deemed to be engaged in commercial operations for purposes of determining whether such person is or should become a Fixed Base Operator engaged in hangar rental if the Lessee:

A. Allows such storage or parking pursuant to a written sublease agreement on a form provided by the City of Nacogdoches which requires Sublessee to honor all terms and conditions of the Sublessor's lease with the City, and
B. Owns, leases or subleases not more than 35 percent of the number of hangars of all types located at the A.L. Mangham, Jr. Regional Airport, whether or not such hangars are subleased.

The fact that a Lessee or Sublessee is a corporation, partnership, joint venture, limited partnership, or association shall not, of itself, cause the Lessor's or Sublessor's use of the leased premises to be deemed commercial use. Use of the leased premises for purposes other than storage or parking of tenant's aircraft (whether owned or bona fide leased to tenant) and storage and use of aircraft related items such as tools and parts and Lessee's or Sublessee's maintenance on his owned or leased aircraft, or expense sharing as set out in this section, shall be deemed commercial. For purposes of number B above, a Lessee shall be considered to include persons related in the second degree of consanguinity or affinity or a legal entity majority owned or controlled by such person.

If a hangar is not presently located on the leased premises, Lessee represents that Lessee has the present intention of constructing a permanent conforming aircraft hangar on the leased premises and shall begin construction of such hangar within thirty (30) days of obtaining a building permit from the City of Nacogdoches, which permit shall be obtained within forty-five (45) days after the signing of this

Agreement. Such permit shall be sought with due diligence. Hangars shall be completed within two hundred seventy (270) days of the date of beginning of construction. All hangars constructed on the leased premises shall be built to minimum requirements of the Standard Building Code, as amended, as adopted by the City of Nacogdoches and as from time to time amended and Minimum Requirements for Construction of Airplane Hangars at A.L. Mangham, Jr. Regional Airport as required by the City of Nacogdoches which are incorporated herein by reference. Plans, construction, materials and workmanship of and in such hangar shall be subject to the same approval and inspection and certificates of occupancy by the building inspectors, officials, and sanitarians of the City of Nacogdoches as if such were located within the corporate limits of the City of Nacogdoches. Failure to obtain such building permit, to timely commence and complete such hangar construction, or to build such hangar in compliance with the referenced code and requirements or to obtain such inspections and certificate shall be an additional ground for termination of this lease by Lessor.

Nonconforming hangars already built on leased premises shall be allowed to remain unless abandoned for aircraft storage for one (1) year, destroyed or damaged to the extent of fifty percent (50%). Such abandoned, destroyed, or damaged hangars shall be forthwith removed by the Lessee at Lessee's expense. Such abandoned, destroyed or damaged hangar may be rebuilt in conforming manner as if it were new construction under the terms of Section V above.

Lessee agrees not to fuel or defuel any aircraft parked inside the hangar.

Lessee agrees to have a sufficient number of fire extinguishers of acceptable size as determined by the local fire marshal inside the hangar. Such fire extinguishers shall be readily available in the event of fire.

Lessee's agents, employees, invitees and guests shall be held to the same standards for conduct as Lessee, and their violations, acts or omissions hereunder shall be seen as those of Lessee for the purposes of this lease.

Lessee, in exercising any of the rights or privileges herein granted to it, shall not on the grounds of sex, race, color, or national origin discriminate or permit discrimination against any person or group of persons in any manner prohibited by Part 21 of the Regulations of the Secretary of Transportation, Part 15 of the Federal Aviation Regulations or by the United States or the State of Texas. The Lessor is hereby granted the right to take such action, anything for the contrary notwithstanding, as the United States, State of Texas or their agencies or courts may direct to enforce this nondiscrimination covenant.

VII. SUBLEASE, ASSIGNMENT OR SALE

Lessee agrees not to assign or sublease the leased premises or any improvements placed on leased premises, or allow any other person except Lessee's agents and employees to occupy the premises, without first obtaining Lessor's written consent. This lease is for the purpose of storing only aircraft owned or bona fide leased to Lessee or Sublessee. Upon written consent from Lessor to sublease or assign this leased premises, the proposed Sublessee or assignee shall agree to perform Lessee's duties and responsibilities contained in this Lease Agreement.

Should Lessee or Lessee's assignee in an assignment approved in writing by Lessor, have completed construction on a hangar on the leased premises and Lessee or Lessee's assignee desire to sell such improvements, assign or transfer such leasehold interest herein granted, or such leasehold interest

is terminated, then Lessor shall have the first option to purchase such improvements, based upon the following provisions.

a) Lessee may at his option sell any improvements placed by Lessee on the leased premises. If Lessee has received a bona fide offer to purchase the improvements, then Lessee shall serve written notice to Lessor of such offer~~, accompanied by an appraisal from a certified appraiser, enclosing a copy of such appraisal and offer which shall be made in writing. Value shall be based upon present value of improvements assuming a ten (10) year lease~~. Should Lessor elect not to exercise its option to purchase, such sale be made subject to approval by Lessor of a new lease to the purchaser of the improvements, (such approval shall not be unreasonably withheld, and provided such sale shall be subject to the right of first refusal provided above). Purchaser of the improvements shall have the right to assume the current lease or negotiate a new lease with the Lessor.

b) Lessee shall not serve written notice of such offer upon Lessor unless Lessee actually intends to accept same.

c) Upon receipt of such written notice, Lessor shall have the option to purchase Lessee's leasehold interest upon the same terms stated in such bona fide offer.

d) Lessor shall exercise such option to purchase by serving written notice to Lessee within ten (10) days after receipt of Lessee's written notice of the offer.

e) If Lessor fails to exercise its option to purchase in the manner provided in this section. Lessor's right to purchase shall terminate and Lessee may assign the remaining portion of the Lease (subject to Lessor's approval which shall not be unreasonably withheld) to the offeror in accordance with the terms of such written offer.

f) Lessee shall not assign this lease or sell such improvements except as herein provided, and any attempted assignment or sale in violation hereof shall be voidable by Lessor.

g) If improvements placed on the leased premises by Lessee are determined by Lessor to impede airport improvements or expansions detailed in the Airport Master Plan or Airport Layout Plan approved by the Texas Department of Transportation and the Federal Aviation Administration, Lessor may elect to terminate this lease or refuse any renewal term upon any proposed sale or assignment by Lessee. Further, Lessor may refuse to negotiate a further lease at the end of the lease term. In the event Lessor refuses renewal of this lease on the grounds stated above, then Lessor shall so notify Lessee in writing ~~and~~and the parties shall negotiate in good faith a purchase price for the improvements to be paid by the Lessor to the Lessee. If the parties cannot agree, then the Parties shall have the improvements appraised. Value shall be based upon present value of a 20 year lease.~~pay Lessee the appraised value of Lessee's improvements~~. The appraised value of the improvements shall be determined by a panel of three certified appraisers. Lessor and Lessee shall each appoint one certified appraiser, and the two appraisers so appointed shall selected a third person to serve as appraiser. The appraisers shall be selected by Lessor and Lessee within thirty (30) days after Lessor serves notice upon Lessee of its election not to re-lease the leased premises. If the Parties agree with the appraised value, Lessor shall pay Lessee the calculated appraised value of such improvements, and Lessee shall transfer and convey such improvements to Lessor within ninety (90) days after Lessor serves notice of its election not to re-lease the leased premises. If the Parties do not agree to the appraised value, then the Lessee may remove the improvements as set forth in the following paragraph (h).

Commented [LP2]: Airport board recommended deletion of this clause. Staff concurs.

Commented [LP3]: Airport board requested insertion of this clause. Staff concurs as this is the current practice.

Commented [LP4]: Airport board recommended this change.

Staff concurs, except staff recommends a 10 year versus a 20 year lease.

Commented [LP5]: Airport board recommended this change. Staff concurs.

Commented [LP6]: Airport board recommended this change. Staff concurs.

h) In the event of default by Lessee of any term or condition of this lease, and the lease is terminated by Lessor on grounds so specified in this Agreement, on in the event that Lessor and Lessee are unable in the exercise of good faith to agree on the terms of a re-lease of the leased premises at the end of the lease term, then Lessee may at his option either:
   1. Within a period of sixty (60) days, upon reasonable advance notice to the Airport Manager, remove all improvements placed upon the leased premises by Lessee, with the exception of common walls in T hangars, provided that if Lessee elects to remove such improvements he shall restore the leased premises to as good a condition as at the commencement of this Lease, normal use and wear and slab removal excepted. Lessee shall not remove the common wall on T hangars or on any other hangars having a common wall. If Lessee so elects to remove such improvements, he shall quit and surrender the leased premises to Lessor on the termination date of the Lease subject to his right of re-entry upon the Leased Premises for the sole purpose of removing such improvements and restoring the leased premises to its original condition.
   2. Elect to sell improvements placed on the leased premises. If Lessee elects to sell such improvements, Lessee shall serve written notice of such election upon Lessor within sixty (60) days after the termination of the Lease. Such notice shall be accompanied by payment of rent for a period of one (1) year, together with any rent arrearage owed by Lessee to Lessor. Upon giving notice and paying the rent stipulated above, Lessee shall have a period of one (1) year following the Lease termination date within which to sell such improvements, and upon such termination of such one-year period Lessee shall have an option to extend the time for selling such improvements for additional one-year periods by giving notice and paying one year's rent in the same manner set forth above. During such period of time, not to exceed five (5) years following termination of the Lease, the leased premises shall remain vacant and shall not be used for any purpose by Lessor or Lessee. Upon the sale of such improvements by lessee, Lessee's right and privilege to use the leased premises for any purpose whatsoever shall terminate, and the ratable portion of rent paid by Lessee for the remainder of the year during which the sale of such improvements is made shall be refunded by Purchaser to Lessee.

(i) If Lessee fails to remove or sell his improvements on the Leased Premises in the manner provided above, or if Lessee fails to serve such notices on Lessor and pay the rent required above for extending the time within which Lessee may sell such improvements, such improvements shall be deemed abandoned by Lessee sixty (60) days following the Lease termination date, and all improvements on the Leased Premises shall be forfeited to Lessor as liquidated damages for any past or future default by Lessee in payment of rent under this Agreement, and Lessee's obligation to pay rent hereunder, either arrearages or future rent, shall be terminated.

VIII. HOLD HARMLESS

Lessor shall not be liable for any loss, damage or injury of any kind or character to any person or property arising from any use of the leased premises, or any part thereof, or caused by any defect in any building, structure, or other improvement thereon or in any equipment or other facility therein, or caused by or arising from any act or omission of Lessee, or any of his agents, employees, licensees, or invitees, or by or from any accident on the land or any fire or other casualty thereon, or occasioned by the failure of

Lessee to maintain the premises in safe condition, or arising from any other cause whatsoever; and Lessee hereby waives on its behalf of all claims and demands against Lessor of any such loss, damage, or injury of Lessee, and hereby agrees to indemnify and hold Lessor entirely free and harmless from all liability for any such loss, damage or injury of other persons, and from all costs and expenses arising therefrom, even in the event of the concurrent negligence of Lessor.

IX. MAINTENANCE, IMPROVEMENT OF AIRPORT

Lessor has applied for and received or may receive a grant or grants of money from the Federal Aviation Administration pursuant to the Federal Airport Act of 1946, as amended, and/or the Texas Department of Transportation, and the Lessor may in the future apply for and receive other such grants. In connection therewith, Lessor has undertaken and may in the future undertake certain obligations respecting its operation of the airport and activities of its contractors, lessees, and permittees thereon. The performance by Lessee of the covenants, conditions, and obligations contained in this agreement is therefore a special inducement to and consideration for the execution of this lease by Lessor, and Lessee further covenants and agrees that if the Federal Aviation Administration, the Texas Department of Transportation or other governmental body or officer having jurisdiction over the enforcement of the obligations of Lessor in connection with federal or state aid shall make any orders, recommendations, or suggestions respecting the performance by Lessee of its obligations under this agreement, Lessee will promptly comply therewith at the time or when and to the extent that Lessor may direct.

Lessee agrees and understands that Lessor reserves the right to further expand, develop, or improve the airport, including the termination of this lease agreement, in such instance that the continued leasing of the leased premises would have a negative impact on, or impair any proposed development or improvements at the Airport. This contract agreement may be terminated regardless of the desires, wishes or views of Lessee and without interference or hindrance from Lessee, but only so long as such expansion, development or improvements are shown on a Texas Department of Transportation and/or FAA approved Airport Layout Plan or Master Plan. In this case, Lessor shall exercise its right to acquire such improvements as outlined in Section VII above.

Lessee understands and agrees that Lessor reserves the right, but not the obligation, to maintain the Airport to at least the minimum standards as recommended by the FAA and/or the Texas Department of Transportation. Such right includes the right to maintain and keep in repair all public use areas at the Airport and the right to direct and control all activities necessary at the Airport and may close the Airport at any time and at its own discretion. Such closure shall immediately void this contract and no damages or moneys or other compensation will be owed to Lessee by Lessor. In the event of permanent closure of the airport, Lessee shall be permitted to remove Lessee's building/hangar/office as described in section VII (h) above.

Commented [LP7]: Requested addition by Airport board. Staff concurs.

Lessee shall pay or cause to be paid all charges for water, heat, gas, electricity, sewers and any and all other utilities used on the leased premises throughout the term of this lease, including any connection fees.

X. EXCLUSIONS

No waiver by Lessor of any default or breach of any covenant, condition, or stipulation herein contained shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition, or stipulation hereof.

In the event Lessor or Lessee breaches any of the terms of this agreement whereby the party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the other party reasonable attorney's fees so incurred by such other party.

~~Lessee shall pay or cause to be paid all charges for water, heat, gas, electricity, sewers, and any and all other utilities used on the leased premises throughout the term of this lease, including any connection fees.~~

Commented [LP8]: Duplicated from Section IX above.

The numeric captions and headings are inserted solely for the convenience of reference and are not part of nor intended to govern, limit, or aid in the construction of any provision hereof.

Time is of the essence of this agreement.

For the purpose of this agreement, the singular number shall include the plural and the masculine shall include the feminine and vise-versa, whenever the context so admits or requires.

This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this agreement.

This agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Nacogdoches County, Texas.

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

This agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the written subject matter.

No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

The rights and remedies provided by this lease agreement are cumulative.

This lease entered into this the _____ day of _____, _____.

Lessor:

Lessee:

Mario Canizares, City Manager
City of Nacogdoches
PO Box 635030
Nacogdoches, TX 75963

Name
Street Address
City, ST Zip Code

Approval as to content: _____
Guiseppe "Joe" Cefalu, Airport Manager

City Council Meeting

Date: February 22, 2022

Agenda Item: 5.D.

PRESENTER: Brian Bray, Community Services Director

ITEM/SUBJECT: Consider adoption of a budget amendment for the purchase of a 2023 F-750 Dump Truck for the Parks Department. (Community Services Director)

SUMMARY/BACKGROUND: The Parks Department is requesting to purchase a 2023 F-750 Dump Truck. The original estimate for this vehicle, which was submitted with the 2021-2022 budget, was $83,600. With the increase in vehicle costs nation wide, the price for this vehicle today is $93,225.00. The Parks Department is requesting a budget amendment in the amount of $9,625.00 in order to purchase this vehicle.

FINANCIAL:
Item is not budgeted (Budget Amendment required – see attached)
Account No.: 01.86.680.02
Account Name: General Fund Reserves
Amount: $9,625.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Not Applicable

CITY CONTACT: Brian Bray, Community Services Director
bray@nactx.us
936-559-2935

ATTACHMENTS: 1. Budget Amendment Ordinance

AN ORDINANCE AMENDING ORDINANCE NO. 1881-09-21 APPROPRIATING VARIOUS AMOUNTS IN ACCORDANCE WITH BUDGET ADOPTED FOR THE ENSUING FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022.

WHEREAS, the City Council of the City of Nacogdoches, Texas has approved and adopted the budget for said city for the ensuing fiscal year beginning October 1, 2021 and ending September 30, 2022.

WHEREAS, in the 2021-2022 adopted budget the Parks Department was approved for $83,600 to purchase of a new dump truck to replace an existing vehicle in their fleet, and

WHEREAS, the BuyBoard state contract price exceeded the budget allocation, and

WHEREAS, with the adoption of this ordinance, the Parks Department is authorized to expend a total of $93,225 to purchase a 2023 Ford F750 Diesel Regular Cab with a 10ft 5/6 Yard dumpbed installed.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Nacogdoches that sums of money as herein set forth in said budget are hereby appropriated and amended for the payment of capital outlays of the city government of the City of Nacogdoches as follows:

Fund	Dept.	Acct.	Department	Description	Amt.
01	86	680.20	General Fund Reserves	Additional amount needed over budgeted cost for Dump truck	$9,625

PASSED AND APPROVED this the ____ day of _____.

_____
Jimmy Mize, Mayor
City of Nacogdoches

ATTEST:

_____
Jan Vinson,City Secretary

Approved as to form: _____
Steven Kirkland,City Attorney

Approved as to content: _____
Pamela Curbow, Director of Finance

City Council Meeting

Date: February 22, 2022

Agenda Item: 5.E.

PRESENTER: Brian Bray, Community Services Director

ITEM/SUBJECT: Consider approval of the purchase of one dump truck for the Parks Department through BuyBoard contract. (Community Services Director)

SUMMARY/BACKGROUND: The Parks Department is requesting approval for the purchase of a 2023 F-750 dump truck through the BuyBoard state contract with Cavendar Grande Ford. The vehicle price is $93,225.00 and is contingent on the Budget Amendment presented in 5.D.

FINANCIAL:
Item is budgeted:
Account No.: 01.22.680.20
Account Name: Vehicle Capital Expense
Amount: $93,225.00

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Not Applicable

CITY CONTACT: Brian Bray, Community Services Director
brayb@nactx.us
936-559-2940

ATTACHMENTS: 1. Truck Bid & Specifications

City of Nacogdoches

2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315

Client Proposal

Prepared by:
ROCKY SHOFFSTALL
Office: 210-860-7537
Email: rshoffstall@cavendergrandeford.com
Quote ID: 11322Nac
Date: 01/13/2022

Prepared by: ROCKY SHOFFSTALL
01/13/2022

Cavender Grande Ford | 4562 IH 10 East San Antonio Texas | 782194205

2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

Re: Quote ID 11322Nac 01/13/2022

To Whom It May Concern,

Thank you very much for your interest in acquiring a vehicle from our dealership. We concur that your interest is well deserved. We hope that an outstanding product lineup and our dedication to customer service will enhance your ownership experience should you decide to buy a vehicle from us.

Attached, please find additional information that I hope will assist you in making a more informed decision. Please feel free to contact me at any time as I would truly appreciate the opportunity to be of service to you.

Sincerely,

ROCKY SHOFFSTALL
Fleet Sales
210-860-7537
rshoffstall@cavendergrandeford.com

1/14/2022
City of Nacogdoches
Buy Board Contract 601-19

1 - 2023 Ford F750 with 10 Ft 5/6 Yard Warren U-10 installed Delivered to Nacogdoches $ 93,225.00

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

As Configured Vehicle

Code	Description	MSRP
Base Vehicle		
F7D	Base Vehicle Price (F7D)	$73,140.00
Engines		
99E	6.7L Power Stroke V8 Turbo Diesel - 300 HP @ 2500 RPM Includes Engine Exhaust Brake and manual regen capability. Torque: 725 ft.lbs. @ 1500 rpm. *Governed RPM: 3300. Includes CARB clean idle label - may be removed if un-necessary.*	$1,995.00
425	50-State Emissions	N/C
41H	Engine Block Heater, Phillips, 120 Volt/750 Watt	$60.00
98R	Active Regen Control *Allows Driver to Inhibit Automatic Regen until Regen can be performed in a Safe location.*	$205.00
Transmissions		
44G	Ford TorqShift HD 6-Speed Automatic - Double Overdrive, WITH PTO Provision and Tow/Haul	STD
Front Wheels & Tires		
643	Wheels, Front 22.5x8.25 White Powder Coated Steel, 10-Hole *(285.75MM BC) hub piloted, flanged nut, metric mount, 8.25 DC rims; with steel hubs.*	STD
T2B	Tires, Front Two 11R22.5G Goodyear Fuel Max RSA (497 rev/mile)	STD
Rear Wheels & Tires		
663	Wheels, Rear 22.5x8.25 White Powder Coated Steel, 10-Hole *(285.75MM BC) hub piloted, flanged nut, metric mount, 8.25 DC rims; with steel hubs.*	STD
R2G	Tires, Rear Four 11R22.5G Goodyear Fuel Max RTD (493 rev/mile)	$140.00

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

As Configured Vehicle (cont'd)

Code	Description	MSRP
Brakes		
67A	Air Brakes (4 WHEEL DRUM) - Straight Truck w/Traction Control *Meritor Q-Plus with ABS. Bendix Anti-Lock Brake System, 4-channel. Includes 15" x 4" front brakes, dual direct reading air pressure gauges, brake lines color coded nylon, Bendix 13.2 CFM capacity air compressor, instrument panel mounted yellow knob parking brake control valve, automatic slack adjusters front and rear, two rear spring parking air brake chambers mounted on front of rear axle, three drain valves and two air tanks (Reference Body Builders Book for location). Rear brake size and components dependent upon axle selection. Uses existing ABS system to minimize wheel slipping during acceleration. Usage determined by the air brake package selected. (Should NEVER be used with Hi-Rail Train Systems).* *Includes:* *- Air Dryer, Bendix AD/IS w/Heater* *Mounted left frame rail (for Hydraulic brake diesel applications that include air suspension or stand alone engine air compressor).*	$2,530.00
18A	Electronic Stability Control DELETE *Deletes the standard ESC feature.*	-$290.00
62D	Air Dryer, Bendix AD/IS w/Heater *Mounted left frame rail (for Hydraulic brake diesel applications that include air suspension or stand alone engine air compressor).*	Included
Front Axle and Suspension		
43N	10,000 lb. Cap. Non-Driving - Dana E-1002I - I-Beam Type	STD
61C	Taper-Leaf Springs, Parabolic - 10,000 lb. Cap *2-leaf, 62" x 3.15". Also includes, standard duty, dual, double acting shock absorbers.*	STD
60A	Lube, Front Axle, EmGard 50W, Synthetic Oil	$50.00
Rear Axle and Suspension		
475	21,000 lb. Single Reduction - Open - Dana / Spicer 21060S *NOTE: When specifying an axle ratio, check performance guidelines for startability and gradeability.*	STD
18P	Driveshaft Upgrade *A heavy duty drive line is optional. Heavy duty drive line components are required in more demanding applications, such as higher torque engines or deep reduction low gear(s). The heavier SPL-140 driveshaft is powertrain dependent and should be used when more durability is required by the vocation or customer.*	$185.00
68P	Multi-Leaf Springs - 21,000 lb. Cap *11-leaf. Includes 2,000 lb auxiliary springs for load stabilization.*	STD

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

As Configured Vehicle (cont'd)

Code	Description	MSRP
607	Lube, Rear Axle, EmGard 75W-90, Synthetic Oil	$100.00
X6D	6.50 Axle Ratio	N/C
Wheelbase		
158WB	158" Wheelbase/84" CA/49" AF/246" OAL	STD
Frame		
536	Single Channel - Straight 'C' 14.18 SM, 120,000 PSI *1,701,600 RBM. Heat treated alloy steel; 10.125" x 3.580" x 0.312" (257.2mm x 90.9mm x 8.0mm).*	$365.00
18D	Special Rating GVWR - Limited to 25,999 lb. GVWR Only available to GAWR combinations that EXCEED 26,000 lbs.	$120.00
Exhaust		
91G	Under Cab, Right Side Outlet, Switchback-Style *Single, horizontal muffler, right side, under cab, outside of frame rail with rear discharge.*	STD
Fuel Tanks		
65B	Fuel Tank - LH 50 Gallon Rectangular - Aluminum	STD
12	12 Gal. Single Tank Fuel Fill. Mandatory Charge Applied, Based On Tank Selection	$0.00
Electrical / Alternator / Battery		
STDALT	Extra Heavy Duty Alternator - 12-Volt, 200 Amp Denso SC5	Included
55M	Jump Start Stud - Remote Mounted	$90.00
63B	Battery - Two 900 CCA, 1800 Total, Includes Steel Battery Box *12Volt, Motorcraft.*	$60.00

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

As Configured Vehicle (cont'd)

Code	Description	MSRP
17M	Back-Up Alarm - Electric, 102 dBA	$110.00
86M	Upfitter Interface Module	$320.00
16V	Voltmeter *Available in message center.*	$100.00
Seats		
88G	30/70 Air Ride Driver (External Air Source) & Fixed 2-Passenger Bench - Vinyl	$395.00
Cab Interior		
600A	Preferred Equipment Package 600A *Includes:* *- Bumper, Front - Black, Full Width* *- Wheel Seals, Front - Oil lubricated, SKF ScotSeal PlusXL Seals* *- Wheel Seals, Rear - Oil lubricated, SKF ScotSeal PlusXL Seals* *- Manual Regen Initiation - Driver Interface in Message Center* *- Engine Exhaust Brake* *- Extra Heavy Duty Alternator - 12-Volt, 200 Amp Denso SC5* *- Painted Grille - Plastic* *- Lights - Roof Marker/Clearance - Amber Lenses, 5 Lights* *- Tow Hooks, Front (2) - Frame-Mounted, Painted Black* *- Four Body Builder Switches - Mounted in Center Instrument Panel* *With connector access located in engine compartment. Amperages vary by switch: 10, 15, 25, 25.* *- Floor Covering - Black Vinyl* *- Intelligent Oil Life Monitor* *- Steering Column - Tilt / Telescoping* *- Steering Wheel - Black PVC w/Integral Cruise Control Switches, includes Audio Controls* *- Body Builder Wiring - At Back of Cab, Combined* *Includes sealed connectors for 2 ground circuits, with combined left/stop, combined right/stop, park lamps, back up lamps. Also includes 2 additional pass through wires to cab.*	N/C
90P	Power Equipment Group - (Included in (90A) Appearance Group) *Includes power front side windows, power door locks and door trim panel.*	$470.00
55P	110 A/C Outlet - in Lower Center Finish Panel	$100.00
588	Radio: AM/FM Stereo w/2 Speakers, USB input, Clock Display and Bluetooth	STD
85A	SecuriLock Passive Anti-Theft System *The SecuriLock Passive Anti-Theft System is designed to help prevent the engine from being started unless a coded key, programmed to the vehicle, is used. It helps protect against drive-away theft through an electronically coded ignition key, its electronically coded ignition key features billions of possible codes to start the vehicle and is not compatible with non-OEM aftermarket remote start systems.*	$120.00

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

As Configured Vehicle (cont'd)

Code	Description	MSRP
Cab Exterior		
85K	Remote Keyless Entry w/2 Key Fobs	$195.00
59A	Horn, Air - Black, Single Trumpet *Air solenoid operated, chassis mounted on rail back of bumper.*	$90.00
54R	Mirrors, Dual - Heated & Motorized Rectangular, XL2020 - 102" Width *Integral spot mirror, sail type, solid black finish.*	$275.00
Ship-Thru		
21A	Pre-Delivery Inspection Selection requires that you also choose either (314) or (31F) or (31V) to have the Inspection performed. Required with any final Ship-To that is not a dealer.	N/C
31F	Ship-Thru - NFS National Fleet Services MAY be selected w/o adding (21A). For MODIFICATIONS ONLY, Dealer must make arrangements directly with NFS (please use CVT Resources for add. Info).	N/C
Miscellaneous		
PAINT	Paint Type - Environmentally Friendly, "3 - Wet System"	STD
Exterior Color		
YZ_01	Oxford White	N/C
SUBTOTAL		$80,925.00
Destination Charge		$2,095.00
TOTAL		$83,020.00

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

Selected Equip & Specs

Dimensions

• Exterior length: 246.0" • Cab to axle: 84.0" • Exterior width: 96.7" • Exterior height: 94.3" • Wheelbase: 158.0" * **Front track: 83.5" * Rear track: 72.7"** • Rear tire outside width: 96.0" • Front legroom: 41.4" • Front headroom: 40.7" • Front hiproom: 67.6" • Front shoulder room: 68.0"

Powertrain

*** 300hp 6.7L OHV 32 valve intercooled turbo V-8 engine with diesel direct injection** • Recommended fuel : diesel • federal • 6 speed automatic transmission with overdrive • Rear-wheel drive • Fuel Economy Cty: N/A • Fuel Economy Highway: N/A • 50.0 gal. rectangular Left front fuel tank • Fuel/water separator • Transmission PTO provision • Standard rear differential • Right mounted horizontal muffler • Right mounted horizontal tailpipe

Suspension/Handling

• Front non-independent leaf spring suspension • Rear rigid axle leaf spring suspension • Hydraulic power-assist re-circulating ball Steering • Front and rear 22.5 x 8.25 wheels • 11.0R22.5 AS front and rear tires • Dual rear wheels • Rubber auxiliary rear springs

Body Exterior

• 2 doors * **Driver and passenger power remote heated, manual folding door mirrors** • Black door mirrors • Black bumpers • Side steps • Clearcoat paint • Straight front bumper ends • Hood mounted grille • Front and rear 22.5 x 8.25 white steel wheels with 10 wheel studs • 2 front tow hook(s)

Convenience

• Manual air conditioning • Cruise control with steering wheel controls * **Power front windows * Driver and passenger 1-touch up * Driver and passenger 1-touch down * Remote power door locks with 2 stage unlock and illuminated entry** • Manual tilt steering wheel • Manual telescopic steering wheel • Wireless phone connectivity • Front cupholders • Passenger visor mirror * **Back-up alarm * Single air horn** • Automatic gearshift steering column lever * **Driver and passenger door bins** • Upfitter switches

Seats and Trim

*** Seating capacity of 3** • Fixed driver seat • Fixed passenger seat * **Driver centre front armrest * Bucket driver seat, two person bench passenger seat * Driver seat folding back,** • Low back seats * **Driver seat air suspension,** • Driver seat with 4 way direction control, passenger seat with 2 way direction control • Manual fore/aft seats

Entertainment Features

• AM/FM stereo radio • Auxiliary audio input • External memory control • Steering wheel mounted radio controls • 2 speakers • Streaming audio • Fixed antenna

Lighting, Visibility and Instrumentation

• Halogen aero-composite headlights • Delay-off headlights • Auto on/off headlights • Variable intermittent front windshield wipers • Speed sensitive wipers • Light tinted windows • Front reading lights • Tachometer * **Voltmeter** • Oil pressure gauge • Oil temperature gauge • Trip computer • Trip odometer • RNDM

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

Selected Equip & Specs (cont'd)

Safety and Security

• 4-wheel ABS brakes * **Air brakes** • ABS traction control * **Power remote door locks with 2 stage unlock and panic alarm * Security system with stolen vehicle tracking system**

Dimensions

General Weights

*** Curb**	**10,454 lbs.**	Front GAWR	10000 lbs.
Rear GAWR	21000 lbs.	GVWR	25999 lbs.
GCWR	50000 lbs.		

Front Weights

*** Front curb weight**	**6,592 lbs.**	Front axle capacity	10,000 lbs.
Front spring rating	10,000 lbs.	Front tire/wheel capacity	12,350 lbs.

Rear Weights

*** Rear curb weight**	**3,862 lbs.**	Rear axle capacity	21,000 lbs.
Rear spring rating	21,000 lbs.	Rear tire/wheel capacity	23,360 lbs.

Fuel Tank type

Left front Fuel tank capacity	50.01 gal.

Front Frame

Height loaded	35 "	Height unloaded	37 "

Rear Frame

Height loaded	36 "	Height unloaded	38 "

Front And Rear GAWR Total Will Exceed Overall GVWR

Powertrain

Engine Type

Block material	Iron	Cylinders	V-8
Head material	Aluminum	Ignition	Compression
Injection	Diesel direct injection	Liters	6.7L
Orientation	Longitudinal	Recommended fuel	Diesel
Valves per cylinder	4	Valvetrain	OHV
Forced induction	Intercooled turbo		

Engine Spec

Bore	3.90"	Compression ratio	16.2:1
Displacement	406 cu.in.	Stroke	4.25"

Engine Power

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

Selected Equip & Specs (cont'd)

***Output**	**300 HP @ 2,500 RPM**	***Torque**	**725 ft.-lb @ 1,500 RPM**
***Governed RPM**	**3,300**		

Alternator

Type	HD	Amps	200

Battery

***Cold cranking amps**	**1,800**	Location	Forward right
Step	Yes	Type	Dual

Engine Extras

***Block heater**	**Yes**

Transmission

Electronic control	Yes	Lock-up	Yes
Overdrive	Yes	Speed	6
Type	Automatic		

Transmission Gear Ratios

1st	3.974	2nd	2.318
3rd	1.516	4th	1.149
5th	0.858	6th	0.674
Reverse Gear ratios	3.128		

Transmission Torque Converter

Stall ratio	1.85

Transmission Extras

Driver selectable mode	Tow/Haul Mode	Sequential shift control	Yes
Oil cooler	Regular duty	PTO provision	Yes

Drive Type

Type	Rear-wheel

Drive Feature

Traction control	ABS	Power take-off provision	Yes

Drive Axle

***Ratio**	**6.5**

Exhaust

Material	Aluminized steel	System type	Single

Emissions

CARB	Federal

Engine Retarder

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Selected Equip & Specs (cont'd)

Type	Yes

Driveability

Brakes

ABS	4-wheel	ABS channels	4
* **Type**	**Air brakes**		

Suspension Control

Ride	Regular

Front Suspension

Independence	Non-independent	Type	Leaf

Front Spring

Type	Tapered leaf	Grade	Regular

Front Shocks

Type	Regular

Rear Suspension

Independence	Rigid axle	Type	Leaf

Rear Spring

Type	Multi-leaf	Grade	Regular
Auxiliary	Rubber		

Steering

Activation	Hydraulic power-assist	Type	Re-circulating ball

Steering Specs

# of wheels	2

Exterior

Front Wheels

Diameter	22.5"	Width	8.25"

Rear Wheels

Diameter	22.5"	Width	8.25"
Dual	Yes		

Front Tires

Aspect	82	Diameter	22.5"
Sidewalls	BSW	Tread	AS
Width	11.0"	LT load rating	G
RPM	497		

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

Selected Equip & Specs (cont'd)

Rear Tires

Aspect	82	Diameter	22.5"
Sidewalls	BSW	Tread	AS
Width	11.0"	LT load rating	G
*** RPM**	**493**		

Wheels

*** Front track**	**83.5"**	*** Rear track**	**72.7"**
Turning radius (to curb)	22'	Turning radius (to bumper)	23'
Wheelbase	158.0"	Rear tire outside width	96.0"

Body Features

Front splash guards	Yes	Body material	Composite/galvanized steel
Side steps	Yes	Front tow hook(s)	2

Body Doors

Door count	2

Exterior Dimensions

Length	246.0"	Body width	96.7"
Body height	94.3"	Cab to axle	84.0"
Axle to end of frame	49.0"	*** Frame section modulus**	**14.2cu.in.**
*** Frame yield strength (psi)**	**120000.0**	*** Frame rail depth**	**10.1"**
*** Frame rail width**	**3.6"**	*** Frame rail thickness**	**0.3"**
*** Max RBM (in.-lbs.)**	**1,780,800.0**	Frame rail section	9.5"
Front bumper to Front axle	39.0"	*** Nominal RBM (in.-lbs.)**	**1,701,600.0**

Safety

Security

*** Panic alarm**	**Yes**

Seating

Passenger Capacity

*** Capacity**	**3**

Driver Seat

Type	Bucket	Back	Folding
Back type	Low	*** Suspension**	**Air**
Way direction control	4	Fore/aft	Manual

Passenger Seat

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

Selected Equip & Specs (cont'd)

*** Type**	**Two person bench**	Back type	Low
Way direction control	2	Fore/aft	Manual

Front Armrest

Driver	Yes	*** Centre**	**Yes**

Front Seat Trim

Material	Vinyl	Back material	Carpet

Convenience

AC And Heat Type

Air conditioning	Manual

Audio System

Auxiliary audio input	Yes	Radio	AM/FM stereo
Radio grade	Regular	Seek-scan	Yes
External memory control	External memory control		

Audio Speakers

Speaker type	Regular	Speakers	2

Audio Controls

Steering wheel controls	Yes	Streaming audio	Yes

Audio Antenna

Type	Fixed

Cruise Control

Cruise control	With steering wheel controls

Convenience Features

Driver foot rest	Yes	12V DC power outlet	2
Wireless phone connectivity	Bluetooth	*** 120V AC power outlet**	**1**
*** Back-up alarm**	**Yes**	*** Horn**	**Single air**
Upfitter switches	Yes		

Door Lock Activation

*** Type**	**Power with 2 stage unlock**	*** Remote**	**Keyfob (all doors)**
*** Auto locking**	**Yes**		

Instrumentation Type

Appearance	Analog

Instrumentation Gauges

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

Selected Equip & Specs (cont'd)

Tachometer	Yes	Oil pressure	Yes
Engine temperature	Yes	***Voltmeter**	**Yes**
Oil temperature	Yes	Transmission fluid temp	Yes
Engine hour meter	Yes	***Primary air pressure**	**Yes**

Instrumentation Warnings

Oil pressure	Yes	Battery	Yes
Lights on	Yes	Key	Yes
Low fuel	Yes	Door ajar	Yes
Service interval	Yes	Brake fluid	Yes
Transmission fluid temp	Yes		

Instrumentation Displays

Clock	In-radio display

Instrumentation Feature

Trip computer	Yes	Trip odometer	Yes
Shift indicator	RNDM		

Steering Wheel Type

Material	Urethane	Tilting	Manual
Telescoping	Manual		

Front Side Windows

***Window 1st row activation**	**Power**

Window Features

***1-touch down**	**Driver and passenger**	***1-touch up**	**Driver and passenger**
Tinted	Light		

Front Windshield

Wiper	Variable intermittent	Speed sensitive wipers	Yes

Rear Windshield

Window	Fixed

Automatic Gearshift

Location	Steering column lever

Interior

Passenger Visor

Mirror	Yes

Headliner

Coverage	Full	Material	Cloth

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

Selected Equip & Specs (cont'd)

Floor Trim

Coverage	Full	Covering	Vinyl/rubber

Trim Feature

Gear shifter material	Urethane

Lighting

Dome light type	Delay	Front reading	Yes
*** Illuminated entry**	**Yes**	Variable IP lighting	Yes

Storage

*** Driver door bin**	**Yes**	Front Beverage holder(s)	Yes
Glove box	Yes	*** Passenger door bin**	**Yes**
Dashboard	Yes		

Legroom

Front	41.4"

Headroom

Front	40.7"

Hip Room

Front	67.6"

Shoulder Room

Front	68.0"

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2023 F-750 Diesel Regular Cab Base (F7D)

Price Level: 315 | Quote ID: 11322Nac

Warranty

Standard Warranty

Basic			
Distance	Unlimited miles	Months	24 months
Powertrain			
Distance	Unlimited miles	Months	24 months
Corrosion Perforation			
Distance	Unlimited miles	Months	36 months
Roadside Assistance			
Distance	Unlimited miles	Months	24 months
Diesel Engine			
Distance	250,000 miles	Months	60 months
Transmission			
Distance	250,000 miles	Months	60 months
Frame Rail			
Distance	Unlimited miles	Months	60 months

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UTEC

5860 Pfeil Road
Schertz, TX 78154

Quote

Date	Quote #
1/13/2022	3788

Name / Address
CAVENDER GRANDE FORD 4358 LOCKHILL SELMA RD STE 200 SAN ANTONIO , TEXAS 78249

Rep	Project
AR	

Description	Qty	U/M	Total
INSTALL WARREN MODEL U-10 DUMP BODY FOR 84" CA DUAL REAR WHEEL TRUCK COMPLETE WITH PTO / PUMP , HOSES AND FITTINGS , FULL WIDTH CABSHIELD , 8" APRON , LED LIGHT PACKAGE , MUD FLAPS , MANUAL PULL TARP AND PAINT DUMP BODY ONE SOLID COLOR CONTACT : ROCKY END USER : CITY OF NACOGDOCHES TEXAS (6-8 WEEKS OUT ON DUMP BODY WILL TAKE 7-8 DAYS TO COMPLETE INSTALLATION)	1	ea	18,970.00

Thank you for your business.

Phone #
210-566-2704

Total $18,970.00

Remittance Advice

Payment Date:12/28/2021

TO:

CAVENDER GRANDE FORD

Vendor No. 069487
Email:
RWALKER@CAVENDERGRANDEFORD.COM
Fax:

From:

ARI-Accounts Payable
Phone:856-778-1500
Fax:856-273-1568

Please be advised that we have submitted a request for Electronic Payment to your account. The following is a summary of the payment transactions:

Check No.	ARI PO No.	/	Invoice No.	Invoice Date	Process Amt
4343146		/	1FDRF3HT1NDA01479	12/23/2021	82972.19
4343146		/	1FDRF3HT8NDA01480	12/23/2021	82972.19
4343146		/	1FTFW1E5XMFD12655	12/24/2021	50780.00
4343146		/	1FT8W3BT2NEC92111	12/23/2021	67066.00

Items: 4 Total: 283,790.38

Page 1 ADVICE ONLY Payments subject to verification by Wells Fargo National Bank.
If you need to contact us, do not reply directly to this email, instead, email our Accounting Department at SupplierRelations@arifleet.com.

City Council Meeting

Date: February 22, 2022

Agenda Item: 5.F.

PRESENTER: Cary Walker, Public Works Manager

ITEM/SUBJECT: Consider adoption of a budget amendment ordinance in the amount of $75,000 to purchase a new Brush Truck, Rear-Load Compactor Truck, Front-Load Compactor Truck, and a Side-Load Compactor Truck from Heil of Texas. (Public Works Manager)

SUMMARY/BACKGROUND: City Council previously approved $1,085,000 for sanitation vehicle purchases for the current fiscal year. Prices were obtained from Heil of Texas through HGAC Buy Board for a new Brush Truck, Rear-Load Compactor Truck, Front-Load Compactor Truck and a Side-Load Compactor Truck in the total amount of $1,160,000 which exceeds the budgeted amount. Staff is requesting consideration of a budget amendment in the amount of $75,000 for purchase of these sanitation vehicles. This amount would be from available reserve funds in the Sanitation Fund.

FINANCIAL:

Item is not budgeted (Budget Amendment required – see attached)

Account No.: 31.40 680.20
Account Name: Sanitation Collection Vehicle Capital Expense
Amount: $75,000

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

Not Applicable

CITY CONTACT: Cary Walker, Public Works Manager
walkercl@nactx.us
936-559-2583

ATTACHMENTS:

1. Budget Amendment Ordinance
2. PowerPoint Presentation

AN ORDINANCE AMENDING ORDINANCE NO. 1881-09-21 APPROPRIATING VARIOUS AMOUNTS IN ACCORDANCE WITH BUDGET ADOPTED FOR THE ENSUING FISCAL YEAR BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022.

WHEREAS, the City Council of the City of Nacogdoches, Texas has approved and adopted the budget for said city for the ensuing fiscal year beginning October 1, 2021 and ending September 30, 2022.

WHEREAS, the City Council previously approved $1,085,000 for sanitation vehicle purchases in the budget for fiscal year beginning October 1, 2021 and ending September 30, 2022, and

WHEREAS, prices for the purchase of vehicles exceed the budgeted amount for the current fiscal year, and

WHEREAS, with the adoption of this ordinance, the City is authorized to utilize available reserve funds in the Sanitation Fund in the amount of $75,000, and

WHEREAS, with the adoption of this ordinance, the Public Works Department is authorized to expend a total of $1,160,000 for the sanitation vehicle purchases.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Nacogdoches that sums of money as herein set forth in said budget are hereby appropriated and amended for the payment of capital outlays of the city government of the City of Nacogdoches as follows:

Fund	Dept.	Acct.	Department	Description	Amt.
31	40	680.20	Sanitation	Sanitation Collection Vehicle Capital Expense	$75,000

PASSED AND APPROVED this the 22nd day of February 2022.

_____
Jimmy Mize, Mayor
City of Nacogdoches

ATTEST:

_____
Jan Vinson, City Secretary

Approved as to form: _____
Steven Kirkland, City Attorney

Approved as to content: _____
Pamela Curbow, Director of Finance

Sanitation Truck Purchases

- Prices through HGAC Buy Board
- Requires Budget Amendment for purchase

Equipment	Budget	Actual price	Difference
Brush Truck	195,000	216,500	21,500
Rear Load Garbage Truck	190,000	196,000	6,500
Front -Load Commercial Truck	330,000	350,000	20,000
Side-load Residential Truck	370,000	397,000	27,000
Total	**1,085,000**	**1,160,000**	**$75,000**

City Council Meeting

Date: February 22, 2022

Agenda Item: 5.G.

PRESENTER: Cary Walker, Public Works Manager

ITEM/SUBJECT: Consider approval of the purchase of a new Brush Truck, Rear-Load Compactor Truck, Front-Load Compactor Truck, and a Side-Load Compactor Truck from Heil of Texas, for an amount not to exceed $1,160,000. (Public Works Manager)

SUMMARY/BACKGROUND: The Public Works Department has received quotes from Heil of Texas through the HGAC Buy-board for the purchase of four (4) new trucks for the Sanitation Collection Division, including a Freightliner Brush Truck, a Freightliner Rear-Load Commercial Compactor Truck, a Mack Front-Load Commercial Compactor Truck and a Mack Side-Load Residential Compactor Truck. Staff recommends the purchase of these trucks at the quoted prices. A Budget Amendment will be required for these purchases due to purchase prices being higher than budgeted amounts, as shown below.

EQUIPMENT	***BUDGETED***	***ACTUAL***	***INCREASE***
Brush Truck	$195,000	$216,500	$21,500
Rear-Load Truck	$190,000	$196,000	$6,500
Front-Load Truck	$330,000	$350,000	$20,000
Side-Load Truck	$370,000	$397,000	$27,000
TOTAL	**$1,085,000**	**$1,160,000**	**$75,000**

FINANCIAL:
Item is budgeted:
Account No.: 31.40 680.20
Account Name: *Sanitation Collection Vehicle Capital Expense*
Amount: $1,160,000

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Not Applicable

CITY CONTACT: Cary Walker, Public Works Manager
walkercl@nactx.us
936-559-2582

ATTACHMENTS: 1. Sanitation Truck Quotes

Brush Truck

HGACBuy	CONTRACT PRICING WORKSHEET For MOTOR VEHICLES Only	Contract No.:	HT06-20	Date Prepared:	1/6/2022

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.

Buying Agency:	City of Nacogdoches	Contractor:	Houston Freightliner
Contact Person:		Prepared By:	Adam Neuse
Phone:		Phone:	713-580-8148
Fax:		Fax:	713-955-6282
Email:		Email:	adam.neuse@strhouston.com

Product Code:	D5	Description:	2023 M2-106, Conventional Cab, SBFA, SRA (PRL-20M)

A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 63147

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
B6.7 260 HP 660 LB FT TQ ENGINE	3302	315/80R22.5 20 Ply RR Tires	711
RH Outboard Under Step Mtd Horizontal Aftertreatment with v	617	2-1/2" Fender Extensions	206
Battery Disconnect MTD LH of Driver Seat	150	Dual West Coast Mirrors w/LH-RH Remote	215
3500 RDS AUTOMATIC TRANSMISSION	5033	Basic High Back Air Driver Seat	159
DA-F-14.7-3 14,700 LB FRONT AXLE	602	2 Man Passenger Seat	144
16,000 LB TAPERLEAF FRONT SUSPENSION	833	Adjustable Steering Column	359
RS-26-185 26,000 LB REAR AXLE	4586	AM/FM/WB Radio with Bluetooth	368
Driver Controlled Differential Lock (One Axle)	551		
261" Wheelbase	1228		
7/16x3-9/19x11-1/8" Frame 120KSI	755	Special Epsilon M100L72 loader	118522
1/4" Inner Frame Reinforcement	775	Subtotal From Additional Sheet(s):	
315/80R22.5 20 Ply FR Tires	552	Subtotal B:	139668

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
DTNA MY 2023 Materials Surcharge	2900		
		Subtotal From Additional Sheet(s):	0
		Subtotal C:	2900

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). **For this transaction the percentage is:** 1%

D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)

Quantity Ordered:	1	X Subtotal of A + B + C:	205715	=	Subtotal D:	205715

E. H-GAC Order Processing Charge (Amount Per Current Policy) Subtotal E: 1500

F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges

Description	Cost	Description	Cost
Additional Add on Equipment			
From City after delivery			8785
		Subtotal F:	8

Delivery Date:		G. Total Purchase Price (D+E+F):	+ 207215

Total = 216,000

CONTRACT PRICING WORKSHEET For Standard Equipment Purchases	Contract No.:	HT06-20	Date Prepared:	12/10/2021

This Form must be prepared by Contractor and given to End User. The H-GAC administrative fee shall be shown in Section F. End User issues PO to Contractor, and MUST also fax a copy of PO, together with completed Pricing Worksheet, to H-GAC @ 713-993-4548. Please type or print legibly.

Buying Agency:	City of Nacogdoches	Contractor:	Grande Truck Center
Contact Person:		Prepared By:	Bob Davie
Phone:		Phone:	512-632-6622
Fax:		Fax:	210-666-7216
Email:		Email:	bdavie@grandetruck.com

Product Code:	I17	Description:	Mack LR613

A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 49900

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
Transmission Cooler	3200	Frame liner	3200
Allison Vocational package	3550	20K Front Axle	9800
Power divider Lockout	4550	LH & RH front hinged doors	4660
MP7 355 HP	8200	315/80R22.5 Front Tires	2250
Diffuser	3250	Skid Plate	2750
Dual Drive	9800	Antisway Springs	1950
Allison Neutral Control	4200	315/80R22.5 Rear Tires	4250
Flaming River Disconnect	3150	Air Assist Cab Lift	2950
20K Taperleaf Springs	7200	Maintenance Moniter	2745
Synthetic Lube Allison Transmission	2450	22.5/9.00 Alum Front Wheels	2150
210 Wheelbase	4750	**Subtotal From Additional Sheet(s):**	
TA Difflock	4200	**Subtotal B:**	95205

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
Skid Plate under Bumper	2764	Refuse Vocation package	4200
22.5x9rear wheels	3650	**Driveline Brake**	15700
Cab Corner Protection	3154	**Subtotal C:**	29468

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). **For this transaction the percentage is:** 20%

D. Other Cost Items Not Itemized Above (e.g. Installation, Freight, Delivery, Etc.)

Description	Cost	Description	Cost
Surcharge	1000	Model 22A to 23 escalator	3400
Heil ASL Python	207544	**Subtotal D:**	211944

E. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C+D) 386517

Quantity Ordered:	1	X Subtotal of A + B + C + D:	386517	=	Subtotal E:	386517
HGAC					Subtotal F:	1500

G. Trade-Ins / Other Allowances / Special Discounts

Description	Cost	Description	Cost		
Additional Add-on equipment after purchase			$8983	Subtotal G:	8983 X

Delivery Date:		H. Total Purchase Price (E+F+G):	+ 388017

Total = 397,000

Rear load

HGACBuy	CONTRACT PRICING WORKSHEET For MOTOR VEHICLES Only	Contract No.:	HT06-20	Date Prepared:	1/6/2022

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.

Buying Agency:	City of Nacogdoches	Contractor:	Houston Freightliner
Contact Person:		Prepared By:	Adam Neuse
Phone:		Phone:	713-580-8148
Fax:		Fax:	713-955-6282
Email:		Email:	adam.neuse@strhouston.com

Product Code:	D5	Description:	2023 M2-106, Conventional Cab, SBFA, SRA (PRL-20M)

A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 63147

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
L9 300 HP 860 LB FT TQ ENGINE	8747	315/80R22.5 20 Ply RR Tires	711
RH Outboard Under Step Mtd Horizontal Aftertreatment with v	617	2-1/2" Fender Extensions	206
Battery Disconnect MTD LH of Driver Seat	150	Dual West Coast Mirrors w/LH-RH Remote	215
3500 RDS AUTOMATIC TRANSMISSION	5033	Basic High Back Air Driver Seat	159
12,000 LB FLAT LEAF FRONT SUSPENSION	350	2 Man Passenger Seat	144
RS-23-160 23,000 LB REAR AXLE	654	Adjustable Steering Column	359
Driver Controlled Differential Lock (One Axle)	551	AM/FM/WB Radio with Bluetooth	368
186" Wheelbase	688		
11/32x3-1/2x10-15/16" Frame 120KSI	464		
1/4" Inner Frame Reinforcement	775	Special Heil PT1000 18YD	107940
LH 80 Gallon Fuel Tank	218	**Subtotal From Additional Sheet(s):**	
315/80R22.5 20 Ply FR Tires	552	**Subtotal B:**	128901

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
DTNA MY 2023 Materials Surcharge	2900		
		Subtotal From Additional Sheet(s):	0
		Subtotal C:	2900

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). **For this transaction the percentage is:** 2%

D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)

Quantity Ordered:	1	X Subtotal of A + B + C:	194948	=	Subtotal D:	194948

E. H-GAC Order Processing Charge (Amount Per Current Policy) **Subtotal E:** 1500

F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges

Description	Cost	Description	Cost
		Subtotal F:	0

Delivery Date:		**G. Total Purchase Price (D+E+F):**	196448

Fleet load

CONTRACT PRICING WORKSHEET For Standard Equipment Purchases	Contract No.:	HT06-20	Date Prepared:	12/10/2021

This Form must be prepared by Contractor and given to End User. The H-GAC administrative fee shall be shown in Section F. End User issues PO to Contractor, and MUST also fax a copy of PO, together with completed Pricing Worksheet, to H-GAC @ 713-993-4548. Please type or print legibly.

Buying Agency:	City of Nacogdoches	Contractor:	Grande Truck Center
Contact Person:		Prepared By:	Bob Davie
Phone:		Phone:	512-632-6622
Fax:		Fax:	210-666-7216
Email:		Email:	bdavie@grandetruck.com

Product Code:	I12	Description:	Mack TE64R

A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 44900

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
RDS 4500 6 speed	18500	Frame liner	3250
Allison Vocational package	3500	80 gallon fuel tank	1900
Power divider Lockout	4550	LHRH motorized mirrors	1650
MP7 355 HP	8900	315/80R22.5 Rear Tires	4250
Diffuser	3200	Skid Plate	2750
Static Load Cushions	3220	Antisway Springs	1950
Allison Neutral Control	4200	Emmision OBD	3250
Flaming River Disconnect	3150	20K Front Axle	7700
20K Taperleaf Springs	7700	Maintenance Moniter	3200
Synthetic Lube Allison Transmission	3250	Axle Ratio	1650
210 Wheelbase	4500	**Subtotal From Additional Sheet(s):**	0
Mack 46K axle	9800	**Subtotal B:**	106020

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
Pump Mount Provisions	1967		
Driveline brake	15700		
		Subtotal C:	17667

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). **For this transaction the percentage is:** 12%

D. Other Cost Items Not Itemized Above (e.g. Installation, Freight, Delivery, Etc.)

Description	Cost	Description	Cost
22A to 23 model year price escalator	3400		
Heil Frontloader	176016	**Subtotal D:**	179416

E. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C+D) 348003

Quantity Ordered: 1 X **Subtotal of A + B + C + D:** 348003 = **Subtotal E:** 348003

\ **Subtotal F:** 1500

G. Trade-Ins / Other Allowances / Special Discounts

Description	Cost	Description	Cost
		Subtotal G:	0

Delivery Date: **H. Total Purchase Price (E+F+G):** 349503

H-GAC BUY THE SMART PURCHASE SOLUTION

City Council Meeting

Date: February 22, 2022

Agenda Item: 6.A.

PRESENTER: Alaina Helton, City Planner

ITEM/SUBJECT: Public Hearing: Consider a request for approval of a Zone Change from R-3, Two Family to B-2, General Business for a portion of Lot 1-A-1, City Block 60 and 61, generally located at 2824 NW Stallings Drive. This request has been submitted by Genuine BTD, LTD. Case File ZON2022-01. (City Planner)

SUMMARY/BACKGROUND: The request is for a zone change from R-3, Two Family to B-2, General Business for approximately 2.4 acres, being a portion of Lot 1-A-1, City Block 60 and 61, generally located at 2824 NW Stallings Drive. The B-2 district is intended to accommodate business activities that are oriented toward the automobile, or whose operations may require limited truck access. Generally this district is located along major traffic arteries where strip business development exists.

The front half of the property is zoned B-2, General Business and the eastern portion is zoned R-3, Two Family. The property is developed as a Recreational Vehicle (RV) Sales facility and has been in operation since December, 2003. RV Sales is a permitted use in the B-2 district, with approval of a Specific Use Permit (SUP). The RV Sales facility was developed prior to City's adoption of certain development standards, including the requirement for an SUP for these types of uses. The applicant is proposing to construct a new wash bay, which has triggered the need to update the zoning, and bring the property into compliance with City development codes through the SUP process. This request has been submitted in conjunction with an application for an SUP (Case File SUP2022-01).

Adjacent Land Use & Zoning

The property is zoned R-3, Two Family and is developed as a RV Sales facility. The surrounding zoning and land uses are as follows:

Direction	Comprehensive Plan	Zoning	Land Use
North	Single Family Residential	R-3, Two Family	Single Family & Undeveloped
South	Single Family Residential	R-3, Two Family	Undeveloped
East	Single Family Residential	R-3, Two Family	Manufactured Home & Undeveloped
West	Commercial	B-2, General Business	Commercial

The front half of the property (approximately 2.6 acres) is zoned B-2, General Business and the remaining portion is zoned R-3, Two Family. The property is already developed as an RV Sales facility and majority of the property itself is zone B-2. The surrounding properties fronting NW Stallings Drive are primarily zoned and developed with commercial uses. The properties to the north fronting W. Austin Street are part of the Morrison Subdivision and are zoned R-3, Two Family and include a mix of single family homes and vacant lots. The 4-acre tract to the east is developed with a single manufactured home, and there is an 83-acre tract to the south that is undeveloped and also zoned R-3, Two Family.

REVIEW CRITERIA: Per Section 118.139 of the Nacogdoches Zoning Ordinance, the following conditions shall be considered when reviewing an application for zoning change:

Compatibility: The specific use will be compatible with and not injurious to the use and enjoyment of other property in the immediate vicinity, nor significantly diminish or impair property values within the immediate vicinity;
The proposed B-2, General Business zoning district is consistent with the current zoning of the majority of the property and the overall developed use as an RV Sales facility. The B-2 zoning is also consistent with the existing zoning and development of the surrounding properties fronting the NW Stallings commercial corridor. The property does abut R-3, Two Family to the north, east and south.

The boundaries of the zone change only encompass the existing RV Sales facility, and would not have the effect of the expanding the footprint of the existing commercial development. Additionally, this application is accompanied by an SUP application, which includes the addition of a new screening fence along the north side of the property, and a 30 to 130-foot tree preservation buffer along the east and southern boundaries of the property.

Orderly Growth and Development: The establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property;
The large 40.20 acre undeveloped tract located to the south of the proposed zone change has direct access to Gasaway Drive on the southwest corner of the tract, as well as water and sewer utilities along Gasaway Drive. The lot to the east has a manufactured home on the property and has direct access to West Austin Street and public utilities. There residential subdivision to the north also has direct access to West Austin Street and public utilities. The approval of this zone change would not impede the normal development of the surrounding properties.

Supporting Facilities: Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;
The subject property takes direct access from NW Stallings Drive, an expressway which functions as primary access for the property. The roadway is adequate to accommodate the nature and volume of traffic typically generated by the uses permitted under the B-2, General Business zoning district.

The property has access to public utilities, with a 12-inch water main located along NW Stallings Drive and an 8-inch sewer main located along the southeast corner of the property. Per the FEMA Floodplain Map, there is no floodplain located on the subject properties.

Drives and Parking: The design, location and arrangement of all driveways and parking spaces provides for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;
The existing development meets all current driveway and parking requirement.

Nuisances: Adequate nuisance-prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration;
The only addition proposed is to replace an existing metal shed with a new wash bay, located interior to the property. The accompanying SUP also includes the construction a new 6-foot wooden screening fence and landscape buffer along the northern property line, and a natural preservation area to control the noise levels and screen views from the adjacent residential properties.

Lighting: Any lighting to be provided will be directional so as not to disturb or adversely affect neighboring properties;
If the zone change request is approved, any new outdoor lighting would be subject to the City's current standards, which requires light fixtures to utilize a down lighting design, and prohibits fixtures that directly project light in all directions.

Landscaping: Sufficient landscaping and screening to ensure harmony and compatibility with adjacent property exists or will be provided;
Per the accompanying SUP, the applicant will be adding street trees between the front property line and the existing white fence to satisfy the commercial street landscaping requirements, as well as 6-foot wooden privacy fence along 665 feet of the northern property line with a 10-foot landscape buffer. The applicant will also be preserving the existing trees along a portion of the north, south and eastern property lines to serve as a natural landscape buffer.

Comprehensive Plan: The proposed use is in accordance with the comprehensive plan.
Future Land Use: Per the 2003 Nacogdoches Comprehensive Plan, the Future Land Use Plan (FLUP) Map designates the subject property as *Single Family Residential*. The *Single Family Residential* FLUP category is described as, "Conventional one-family detached dwellings (also includes duplexes)."

Thoroughfare Plan: NW Stallings Drive is an Expressway. The roadway is adequate to accommodate the nature and volume of traffic typically generated by the proposed use.

Land Use Policies, Goals & Objectives: This rezoning is a response to current needs for commercial growth and therefore fits into the goals of the Comprehensive Plan; specifically, the goal to encourage *Avoiding Undesirable Development Outcomes – High-quality development that respects community character and the natural environment and does not overburden public services and infrastructure.* Some of the targeted objectives include:

- Ensure compatible development when differing land use types or intensities are located in close proximity.
- Assure the quality of development in both residential and non-residential areas. Promote growth where adequate infrastructure exists.
- Coordinate future development with the physical environment to preserve and protect natural features.

Staff finds that while the FLUP designation of the property is not consistent with the current and proposed zoning, however the request and accompanying SUP is otherwise in compliance with the Comprehensive Plan.

NOTICES:
Staff mailed 14 notices to property owners within the 200 foot notification area. Since the time of this report, Staff has received two (2) general inquiries and one (1) written opposition

letter.The property owner in opposition is concerned about potential increases in property taxes as a result of the zone change.

This zoning application was also subject to the additional noticing practices that were approved by City Council in January, 2021. These included: a zoning notice sign located on the subject property; notices published on the City's Planning & Zoning webpage and social media platforms; and, mailed courtesy notices to property owners within 500 feet of the subject property.

RECOMMENDATION:

Staff Recommendation

Based on the above findings, Staff recommends approval of a change of zoning for the subject property from R-3, Two Family to B-2, General Business.

P&Z Commission Recommendation

The Planning & Zoning Commission considered this item at their regular meeting on February 14, 2022 and voted unanimously (5-0) to approve the request.

FINANCIAL:

No financial impact associated with this item

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

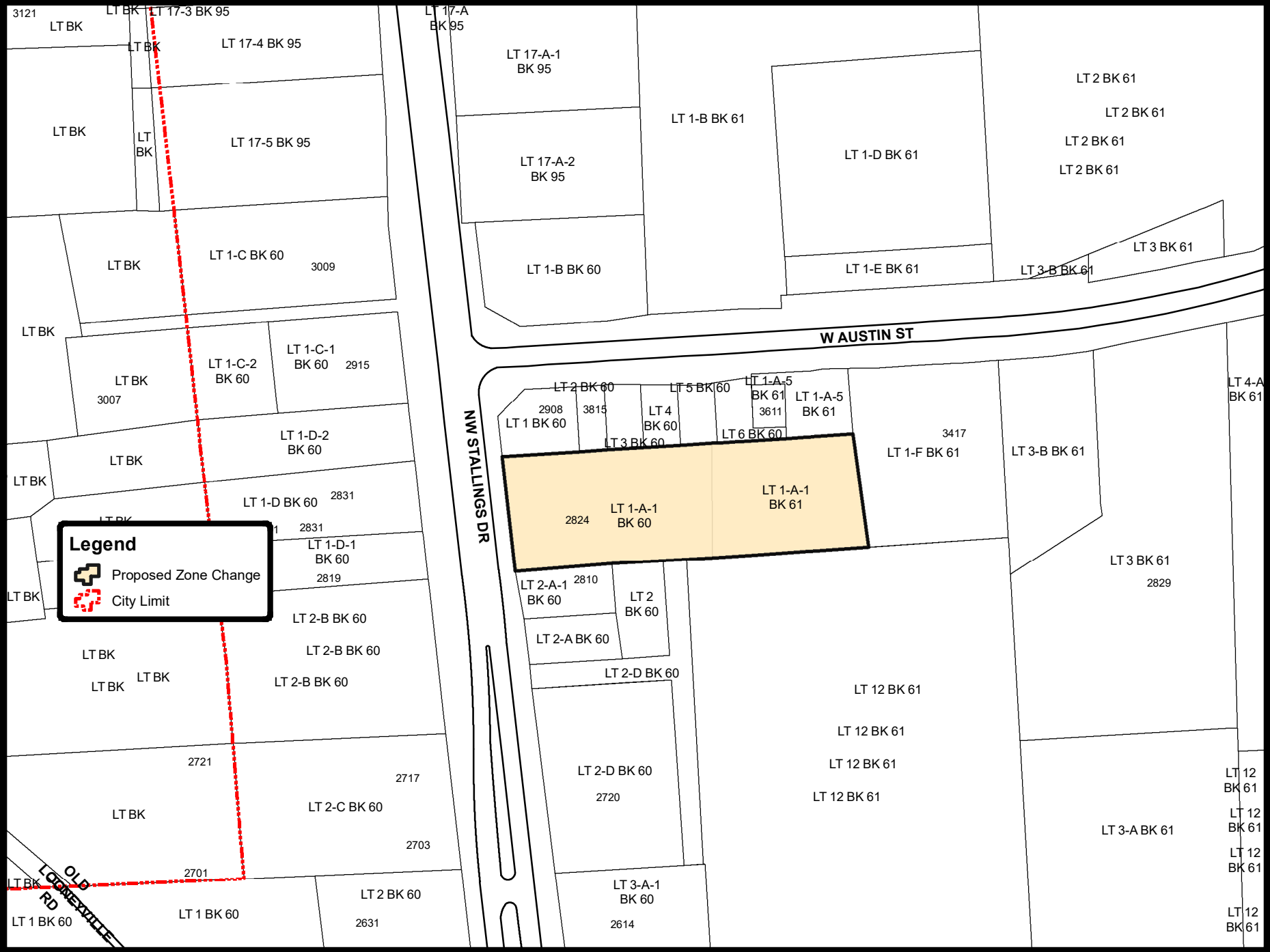
Economic Development

CITY CONTACT: Alaina Helton, AICP,Director of Planning & Neighborhood Services
heltona@nactx.us
(936) 559-2572

ATTACHMENTS:

1. Location Map
2. Aerial Map
3. Zoning Map
4. Future Land Use Map
5. Notification Map
6. Response Letter
7. Site Photos
8. Ordinance

ZON 2022-01



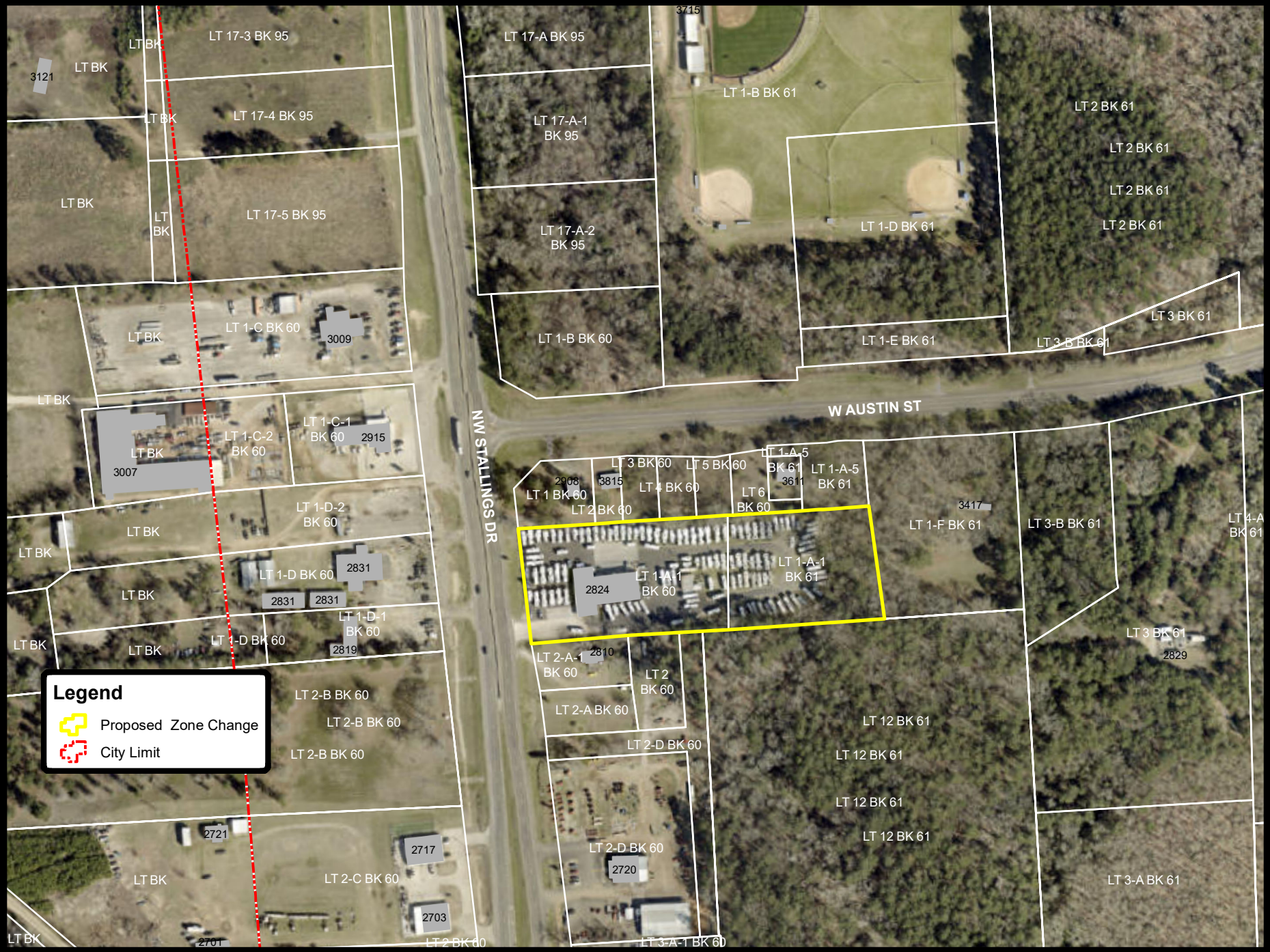
Notice: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

0 75 150 300 Feet

Date Created: January 26, 2022 Software: ArcGIS 10.8.1

Nacogdoches
Engineering Department
GIS Division

ZON 2022-01



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0 75 150 300 Feet

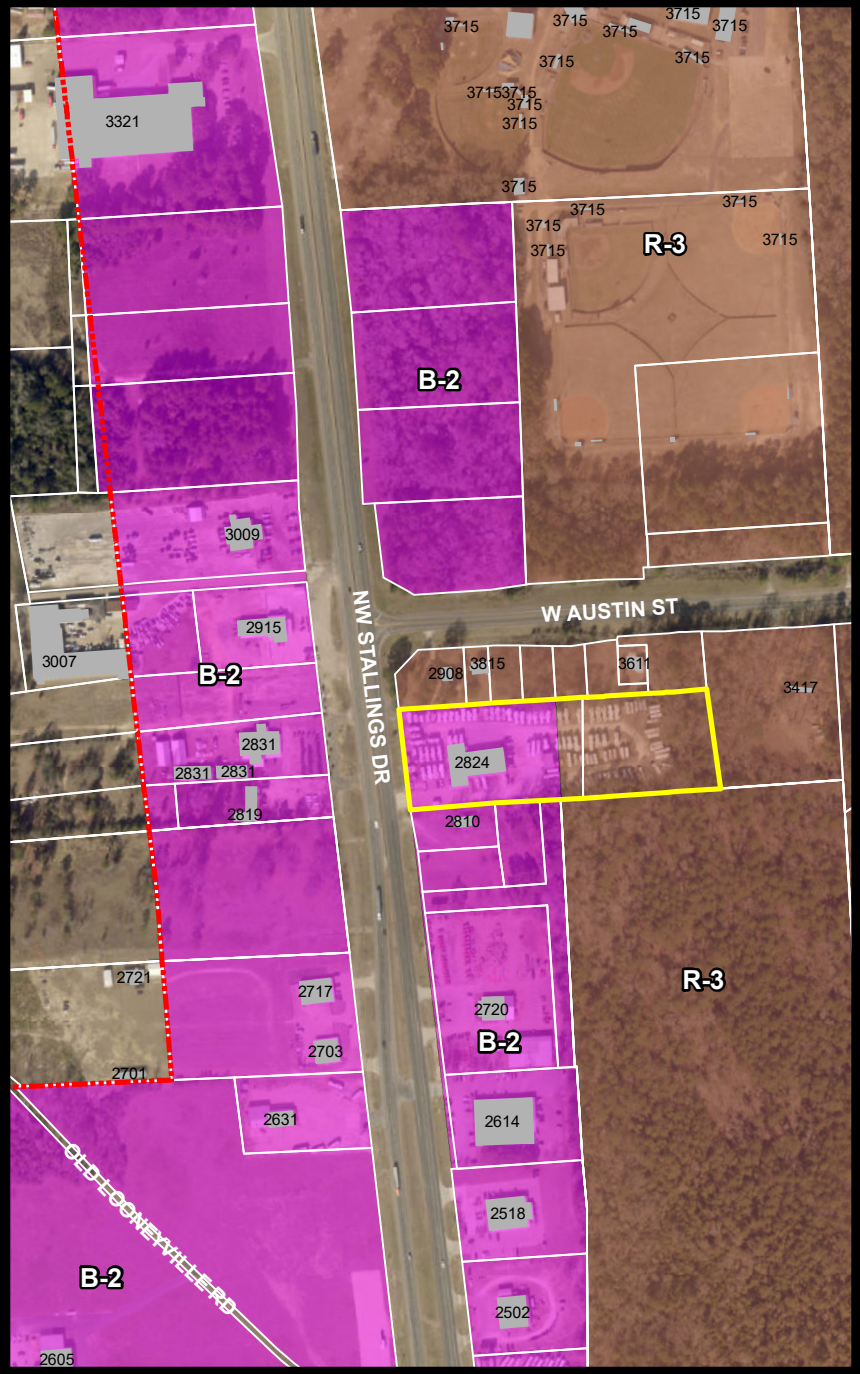
Date Created: January 26, 2022 Software: ArcGIS 10.8.1

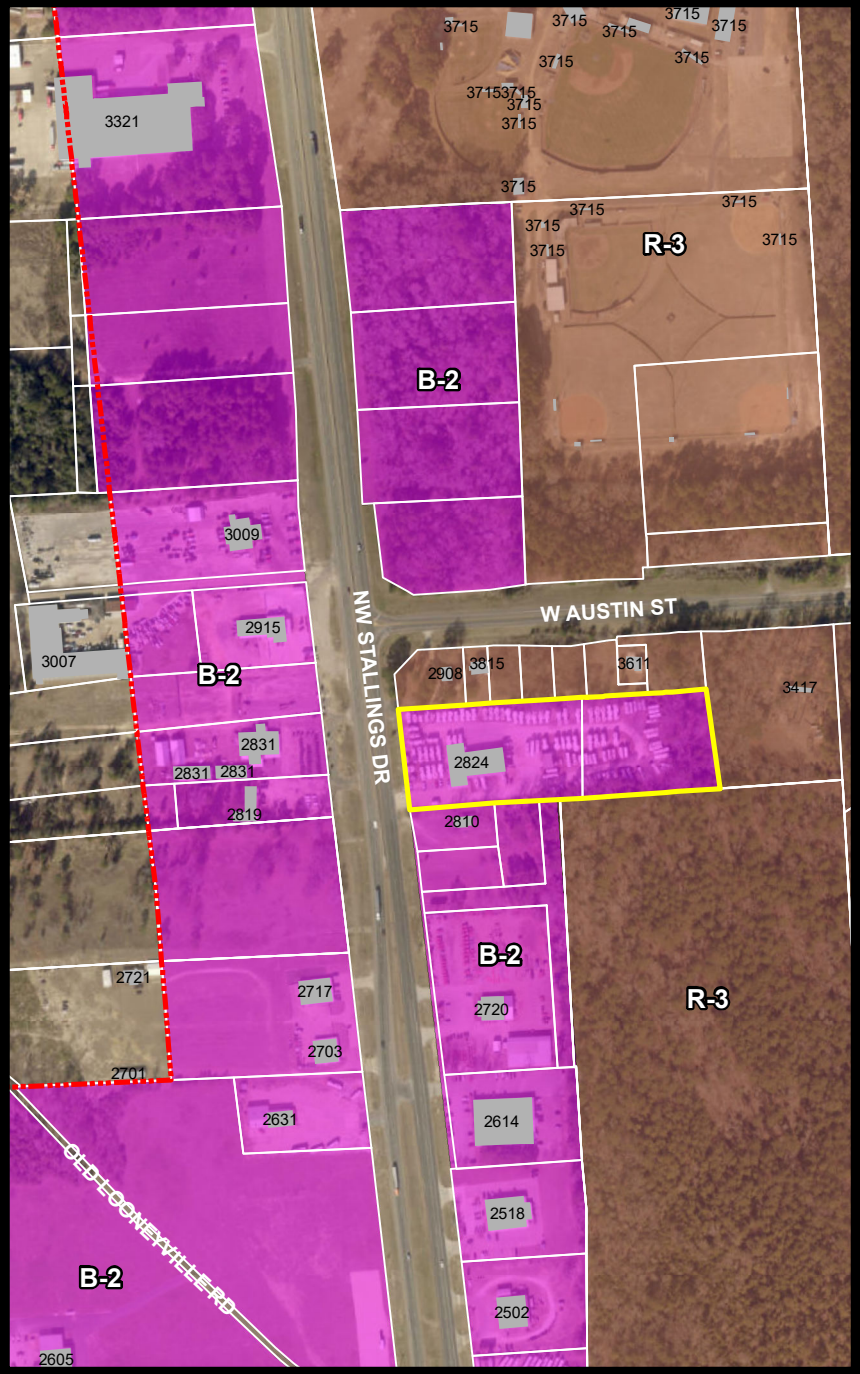
Nacogdoches
Engineering Department
GIS Division

Existing Zoning

ZON 2022-01

Proposed Zoning





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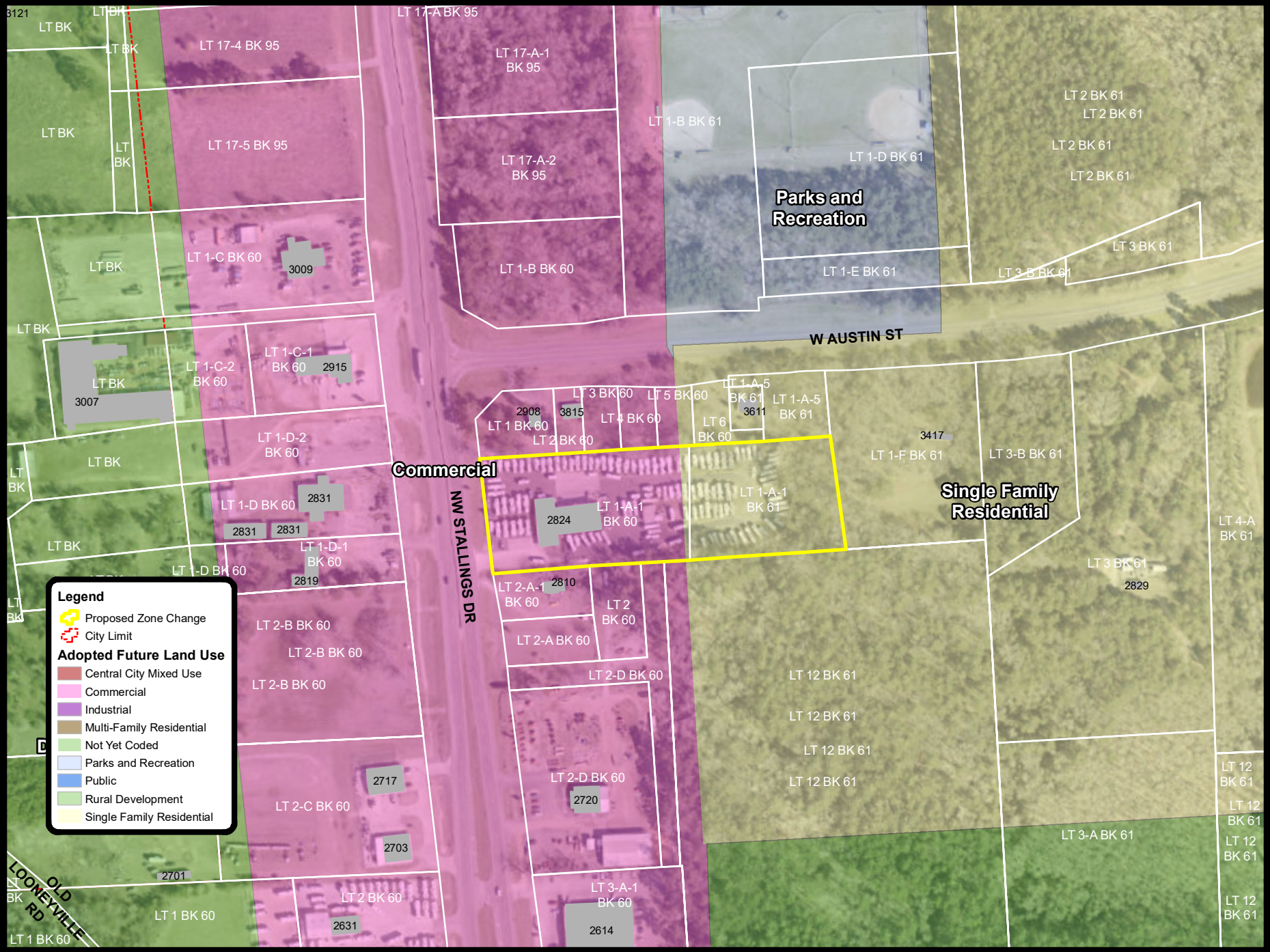
N W E S

0 125 250 500 Feet

Date Created: January 26, 2022 Software: ArcGIS 10.8.1

Nacogdoches
Engineering Department
GIS Division

ZON 2022-01



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Date Created: January 26, 2022 Software: ArcGIS 10.8.1

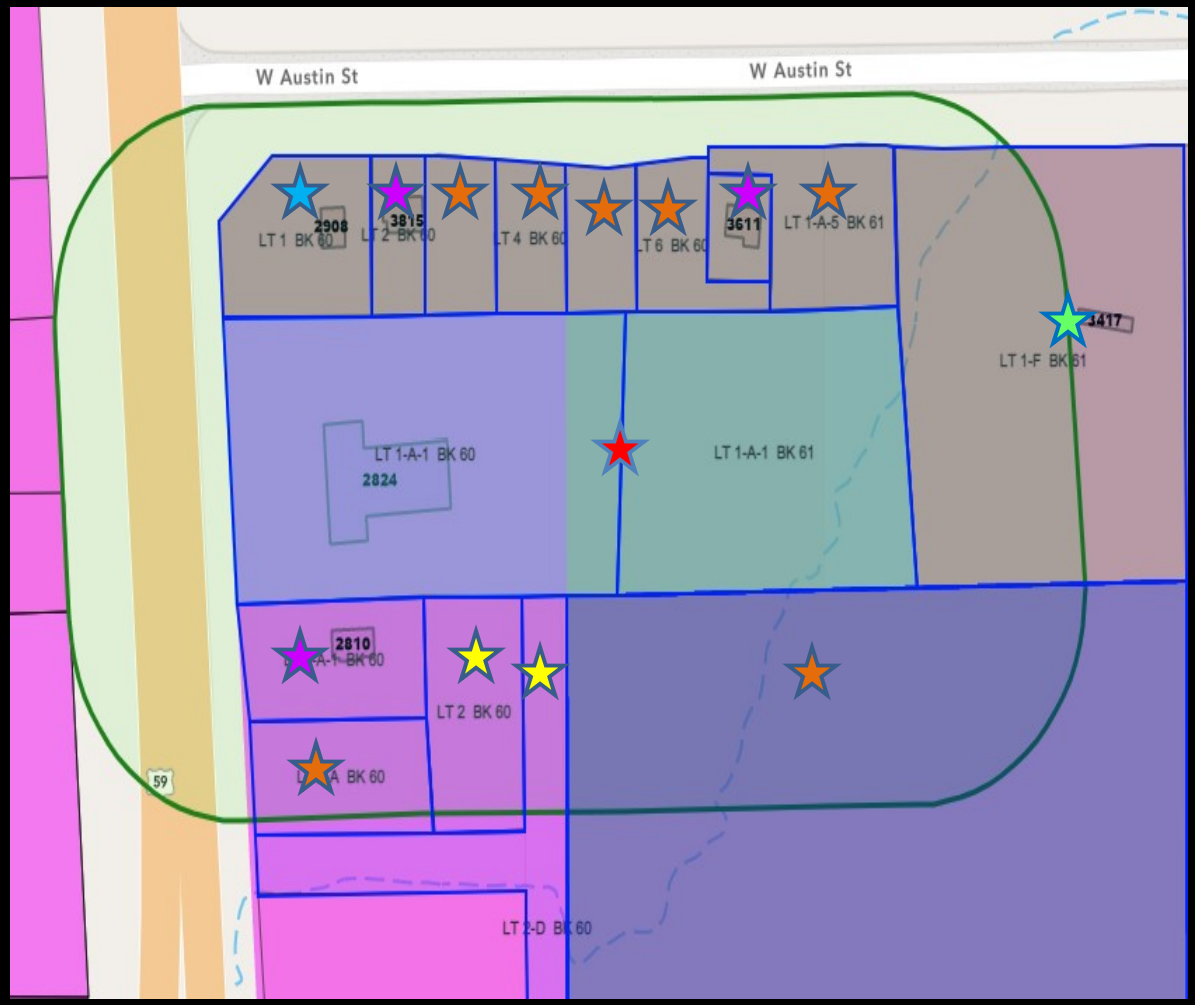
Nacogdoches
Engineering Department
GIS Division

200 Foot Notification Map

ZON2022-01: 2824 NW Stallings Dr.

Legend

- 200 Foot Buffer
- Proposed Zone Change
- Commercial
- Single Family- Rental
- Single Family- Owner Occupied
- Manufacture Home
- Vacant



Project Number: ZON2022-01

Please circle one: ☐ In favor of request ☒ Opposed to request

Comments:

Signature: Elizabeth Brookins

Printed Name: ELIZ Abeth BROOKIN

Street Address: 3317 Seevers Ave

City, State and Zip Code: DALLAS TX 75216

Phone Number: 214-725-6976

Email Address: teanniebabyE@msn.com

Physical Address of Property within 200 Feet:

ZON2022-01 Site Photos

Street view

ZON2022-01 Site Photos

Front entrance

ZON2022-01 Site Photos

Maintenance bay behind sales area

ZON2022-01 Site Photos

North side of property line

ZON2022-01 Site Photos

North side of the property line

ZON2022-01 Site Photos

Adjacent residential houses to the north

ZON2022-01 Site Photos

Northeast property line

ZON2022-01 Site Photos

East property line

ZON2022-01 Site Photos

Southern property line

ZON2022-01 Site Photos

Adjacent residential house to the south

Commercial property to the west (across NW Stallings Dr.)

ORDINANCE NO. 1898-02-22

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, AMENDING THE BOUNDARIES OF A ZONING DISTRICT WITHIN THE CITY OF NACOGDOCHES FROM R-3, TWO FAMILY TO B-2, GENERAL BUSINESS FOR A PORTION OF LOT 1-A-1, CITY BLOCK 60 AND 61, BEING APPROXIMATELY 2.4 ACRES, LOCATED AT 2824 NW STALLINGS IN NACOGDCHES, TEXAS; CONTAINING FINDINGS; PROVIDING A REPEAL CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Zoning Ordinance of the City of Nacogdoches allows the City Council to amend the official zoning map; and

WHEREAS, the property described above and depicted in **"Exhibit A"** is currently zoned R-3, Two Family; and

WHEREAS, the property owner has requested the zoning classification of said property to be changed to B-2, General Business; and

WHEREAS, the City Council of the City has conducted, in the time and manner and after the notice required by law and the Zoning Ordinance of the City, a public hearing on such request for change in zoning classification; and

WHEREAS, the City Council now deems it appropriate to grant such requested change in classification.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS:

SECTION I
Findings.

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct, and same are deemed to be in furtherance of a public purpose.

SECTION II
Approval of Zoning Change

Pursuant to the requirements of Chapter 118 of the Code of Ordinances of the City of Nacogdoches, Texas, a change in Zoning Classification from R-3, Two Family to B-2, General Business is hereby approved by the City Council.

SECTION III
Repeal

This Ordinance shall in no manner repeal, amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting change in Zoning Classification as herein provided.

SECTION IV
Effective Date

This Ordinance shall take effect following its passage and publication as may be required by governing law.

SECTION V
Severability

If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION VI
Proper Notice and Open Meetings

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION VII
Filing

The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this Ordinance in and among the records of the City of Nacogdoches, Texas.

PASSED AND APPROVED, this the ____ day of _____, 2022, by a vote of ____(*ayes*) to _____ (*nays*) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

_____
JAN VINSON, City Secretary

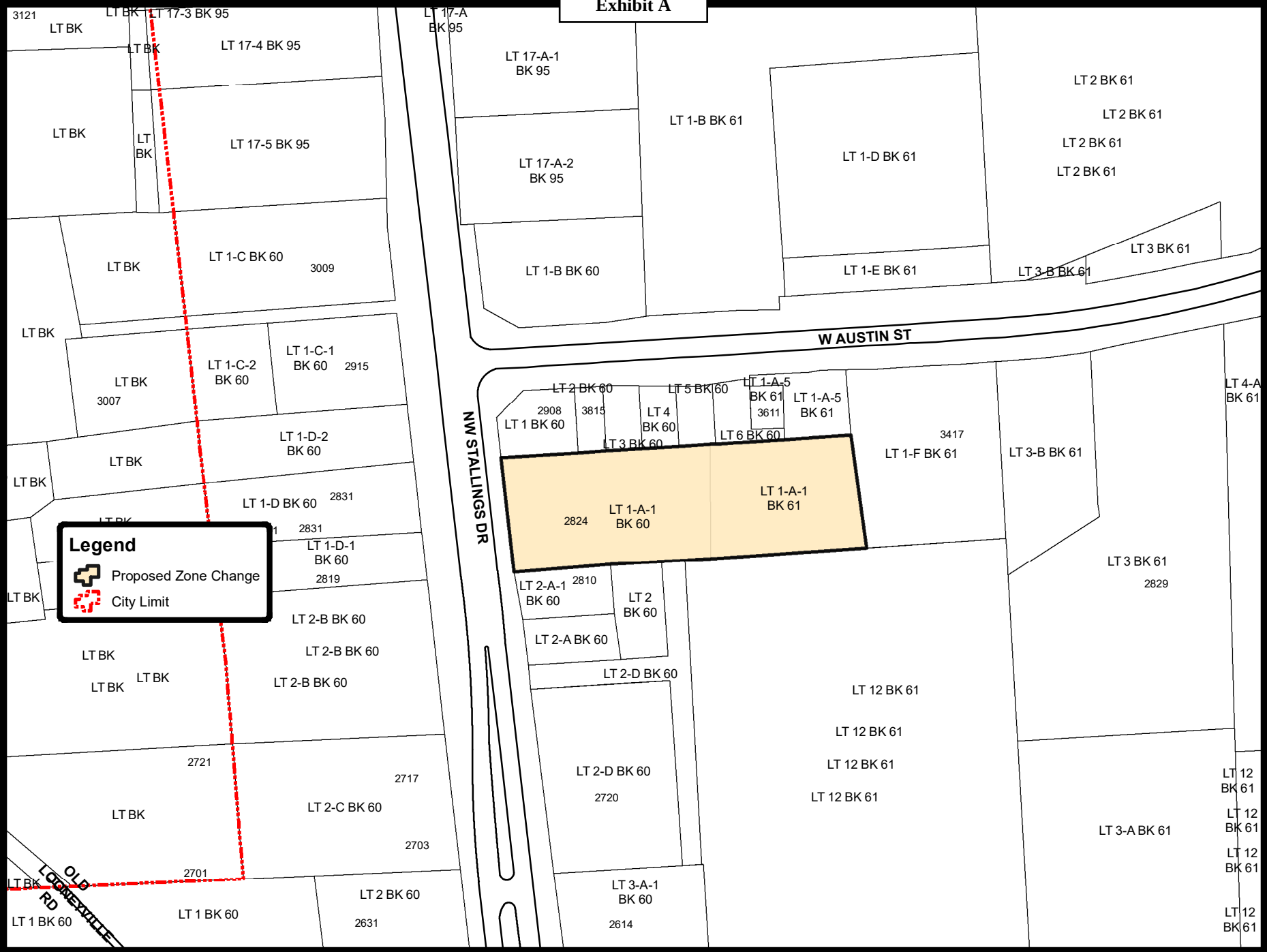
APPROVED AS TO FORM:

_____
STEVEN KIRKLAND, City Attorney

APPROVED AS TO CONTENT:

_____
ALAINA HELTON, City Planner

ZON2022-01: Exhibit A



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0 75 150 300 Feet

Date Created: January 26, 2022 Software: ArcGIS 10.8.1

Nacogdoches
Engineering Department
GIS Division

City Council Meeting

Date: February 22, 2022

Agenda Item: 6.B.

PRESENTER: Alaina Helton, City Planner

ITEM/SUBJECT: Public Hearing: Consider a request for approval of a Specific Use Permit for Recreational Vehicle Sales for Lot 1-A-1, City Block 60 and 61, generally located at 2824 NW Stallings Drive. This request has been submitted by Genuine BTD, LTD. Case File SUP2022-01. (City Planner)

SUMMARY/BACKGROUND: The request is for a Specific Use Permit for Recreational Vehicle (RV) Sales facility. The property is zoned B-2, General Business and R-3, Two Family and is currently developed as an RV Sales facility. Per the Zoning Ordinance, Recreational Vehicle Sales is a permitted use in the B-2, General Business district with the approval of a Specific Use Permit (SUP). The applicant, Genuine RV, has been in operation since December, 2003, prior to the adoption of the ordinance amendment No. 1676-7-14, requiring a Specific Use Permit for the operation of Truck/Recreational Vehicle Sales in a B-2, General Business district, therefore rendering the business legal non-conforming.

The applicant is proposing to replace an existing metal shed with a 4,050 square foot metal building with three (3) service bays that will be used for pre-delivery inspections. The south side of the building will have an overhang covering an existing wash bay. Section 118-202 (1)(b) states that " *a nonconforming building or structure shall not be added to or enlarged in any manner unless such additions and enlargements are made to conform to all of the requirements of the district in which such building structure is located*", therefore, requiring the approval of a Specific Use Permit.

This request has been submitted in conjunction with a zone change request (Case File ZON2022-01), from R-3, Two Family to B-2, General Business for a portion of the property. If the zone change request is denied, then the SUP must also be denied.

Adjacent Land Use & Zoning

The subject property is zoned B-2, General Business and R-3, Two Family and is currently developed as a Recreational Vehicle Sales/Maintenance facility. The surrounding zoning and land uses are as follows:

Direction	Comprehensive Plan	Zoning	Land Use
North	Single Family Residential	R-3, Two Family	Single Family & Undeveloped
South	Single Family Residential/ Commercial	R-3, Two Family/B-2, General Business	Undeveloped
East	Single Family Residential	R-3, Two Family	Manufactured Home &

			Undeveloped
West (across from NW Stallings Dr)	Commercial	B-2, General Business	Commercial

The front half of the property (approximately 2.6 acres) is zoned B-2, General Business and the remaining portion is zoned R-3, Two Family. The property is already developed as an RV Sales facility and majority of the property itself is zone B-2. The surrounding properties fronting NW Stallings Drive are primarily zoned and developed with commercial uses. The properties to the north fronting W. Austin Street are part of the Morrison Subdivision and are zoned R-3, Two Family and include a mix of single family homes and vacant lots. The 4-acre tract to the east is developed with a single manufactured home, and there is an 83-acre tract to the south that is undeveloped and also zoned R-3, Two Family.

REVIEW CRITERIA: Per Section 118.139 of the Nacogdoches Zoning Ordinance, the following conditions shall be considered when reviewing an application for a Specific Use Permit:

Compatibility: The specific use will be compatible with and not injurious to the use and enjoyment of other property in the immediate vicinity, nor significantly diminish or impair property values within the immediate vicinity;
The proposed RV Sales facility is consistent with the current use of the property and the surrounding zoning and commercial development fronting the NW Stallings Drive commercial corridor. The subject property also abuts R-3, Two Family to the north, east, and south. The SUP includes the addition of a new 6-foot screening fence and landscape buffer along the north side of the property, and a 30 to 130-foot tree preservation buffer along the east and southern boundaries of the property to satisfy the commercial screening requirements. The only addition/expansion of the commercial use of the property includes the replacement of an existing metal shed with a new wash bay, located interior to the property. This addition will not expand the overall footprint or intensity of the existing RV Sales facility, and thus should not be injurious to the use and enjoyment of other property in the immediate vicinity.

Orderly Growth and Development: The establishment of the specific use will not impede the normal and orderly development and improvement of surrounding vacant property;
The large 40.20 acre undeveloped tract located to the south of the proposed zone change has direct access to Gasaway Drive on the southwest corner of the tract, as well as water and sewer utilities along Gasaway Drive. The lot to the east has a manufactured home on the property and has direct access to West Austin Street and public utilities. There residential subdivision to the north also has direct access to West Austin Street and public utilities. The approval of this zone change would not impede the normal development of the surrounding properties.

Supporting Facilities: Adequate utilities, access roads, drainage and other necessary supporting facilities have been or will be provided;
The subject property takes direct access from NW Stallings Drive, an expressway which functions as primary access for the property. The roadway is adequate to accommodate the nature and volume of traffic typically generated by the uses permitted under the B-2, General Business zoning district. The property has access to public utilities, with a 12-inch water main located along NW Stallings Drive and an 8-inch sewer main located along the southeast corner of the property. Per the FEMA Floodplain Map, there is no floodplain located on the subject properties.

Drives and Parking: The design, location and arrangement of all driveways and parking spaces provides for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;
The existing development meets all current driveway and parking requirement.

Nuisances: Adequate nuisance-prevention measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration;
The only addition proposed is to replace an existing metal shed with a new wash bay, located interior to the property. The SUP includes the construction a new 6-foot wooden screening fence and landscape buffer along the northern property line, and a natural preservation area to control the noise levels and screen views from the adjacent residential properties.

Lighting: Any lighting to be provided will be directional so as not to disturb or adversely affect neighboring properties;
If the SUP is approved, any new outdoor lighting would be subject to the City's current standards, which requires light fixtures to utilize a down lighting design, and prohibits fixtures that directly project light in all directions.

Landscaping: Sufficient landscaping and screening to ensure harmony and compatibility with adjacent property exists or will be provided;
The applicant is proposing to add street trees between the front property line and the existing white fence to satisfy the commercial street landscaping requirements, as well as 6-foot wooden privacy fence along 665 feet of the northern property line with a 10-foot landscape buffer. The applicant will also be preserving the existing trees along a portion of the north, south and eastern property lines to serve as a natural landscape buffer.

Comprehensive Plan: The proposed use is in accordance with the comprehensive plan.
Future Land Use: Per the 2003 Nacogdoches Comprehensive Plan, the Future Land Use Plan (FLUP) Map designates the subject property as *Commercial* on the west side of the property and *Single Family Residential* on the east side. The *Commercial* FLUP category is described as, "Shopping and service facilities for the sale of goods and services, including small shops and larger retail stores and centers…" The *Single Family Residential* FLUP category is described as, "Conventional one-family detached dwellings (also includes duplexes)."

Thoroughfare Plan: NW Stallings Drive is an Expressway. The roadway is adequate to accommodate the nature and volume of traffic typically generated by the proposed use.

Land Use Policies, Goals & Objectives: This rezoning is a response to current needs for commercial growth and therefore fits into the goals of the Comprehensive Plan; specifically, the goal to encourage *Avoiding Undesirable Development Outcomes – High-quality development that respects community character and the natural environment and does not overburden public services and infrastructure.* Some of the targeted objectives include:

- Ensure compatible development when differing land use types or intensities are located in close proximity.
- Assure the quality of development in both residential and non-residential areas. Promote growth where adequate infrastructure exists.
- Coordinate future development with the physical environment to preserve and protect natural features.

Staff finds that while the FLUP designation of the property is not consistent with the current and proposed zoning, the request and accompanying SUP is otherwise in compliance with the Comprehensive Plan.

NOTICES:
Staff mailed 14 notices to property owners within the 200 foot notification area. Since the time of this report, Staff has received two (2) general inquiries and one (1) written opposition letter.The property owner in opposition is concerned about potential increases in property taxes as a result of the zone change.

This zoning application was also subject to the additional noticing practices that were approved by City Council in January, 2021. These included: a zoning notice sign located on the subject property; notices published on the City's Planning & Zoning webpage and social media platforms; and, mailed courtesy notices to property owners within 500 feet of the subject property.

RECOMMENDATION:
Staff Recommendation
Based on the above findings, Staff recommends approval of the Specific Use Permit for the subject property.

P&Z Commission Recommendation
The Planning & Zoning Commission considered this item at their regular meeting on February 14, 2022 and voted unanimously (5-0) to approve the request. This request has been submitted in conjunction with a zone change request (Case File ZON2022-01), from R-3, Two Family to B-2, General Business for a portion of the property. If the zone change request is denied, the SUP request must also be denied.

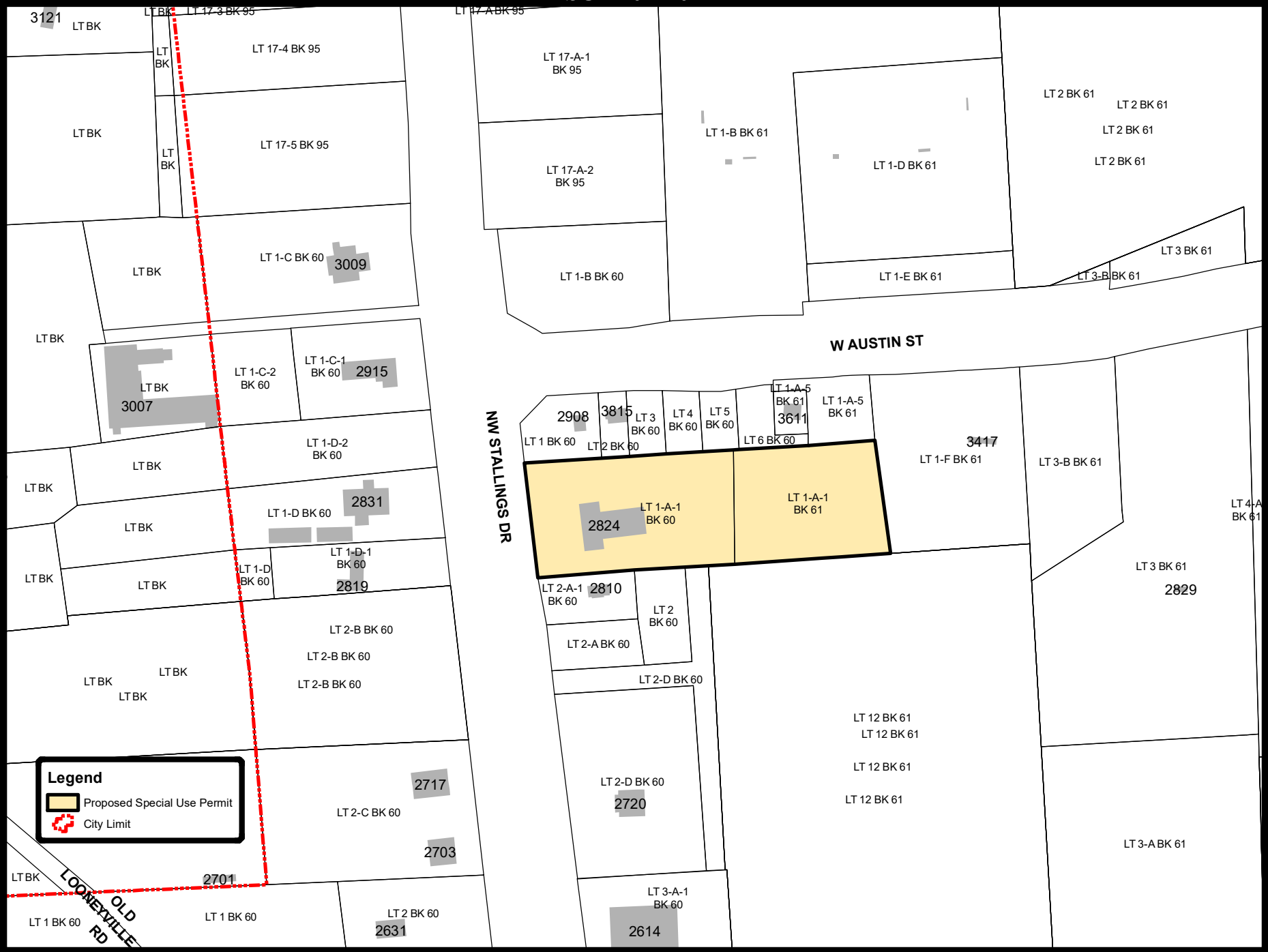
FINANCIAL:
No financial impact associated with this item

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

CITY CONTACT: Alaina Helton, AICP,Director of Planning & Neighborhood Services
heltona@nactx.us
(936) 559-2572

ATTACHMENTS:
1. Location Map
2. Aerial Map
3. Zoning Map
4. Future Land Use Map
5. Notification Map
6. Response Letter
7. Site Photos
8. Site Plan
9. Ordinance

SUP 2022-01



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Nacogdoches
Engineering Department
GIS Division

SUP 2022-01

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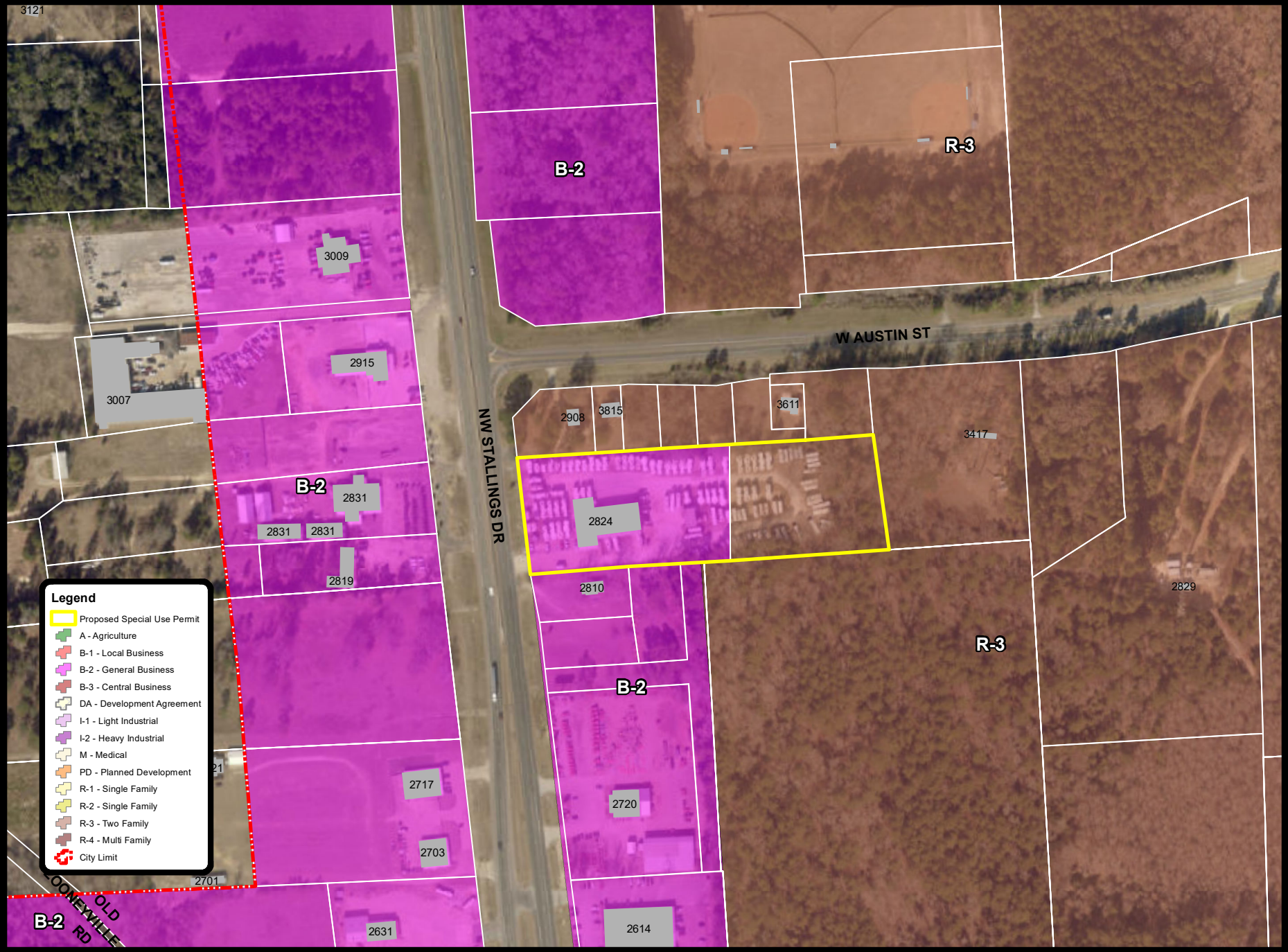

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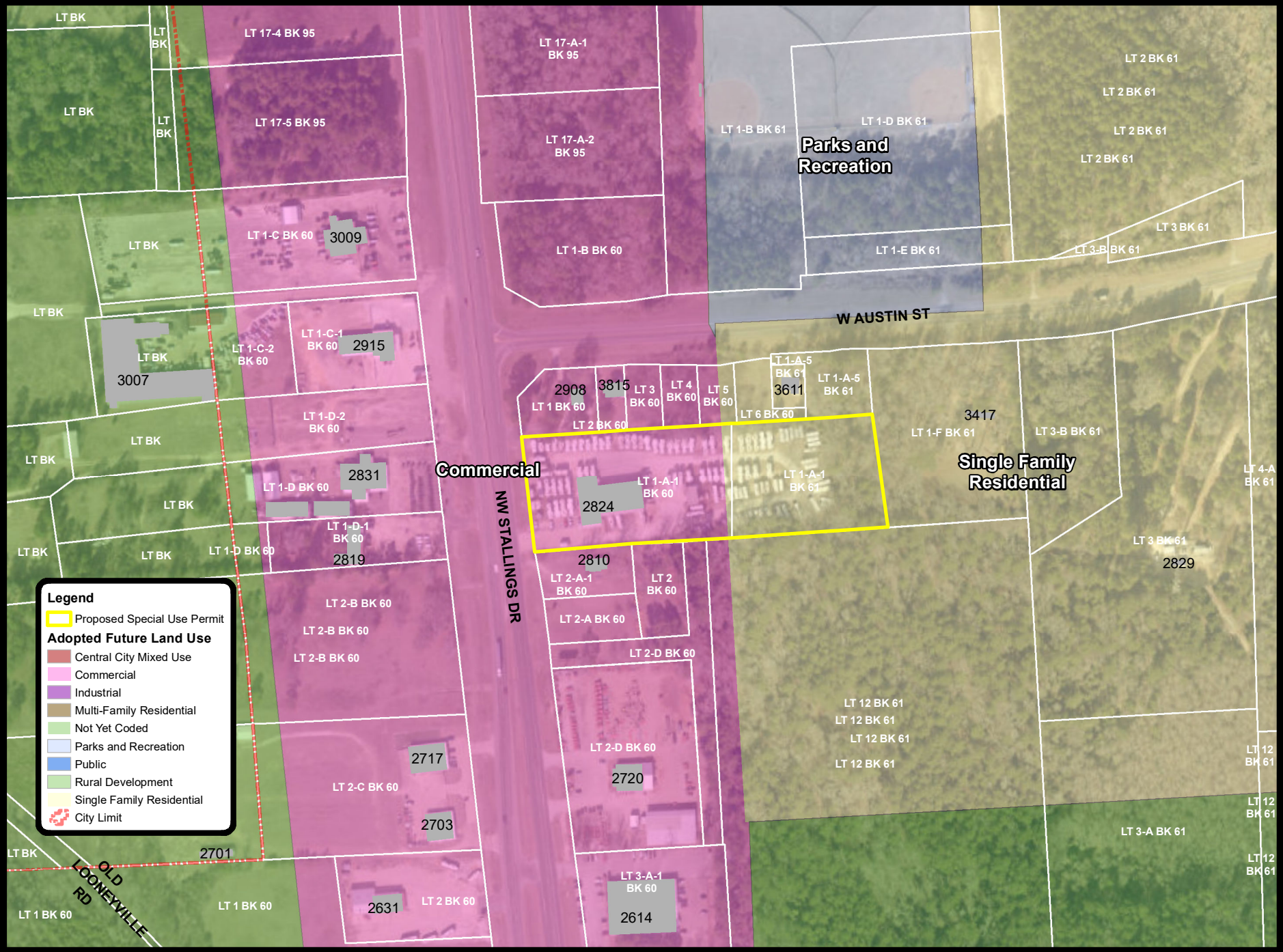

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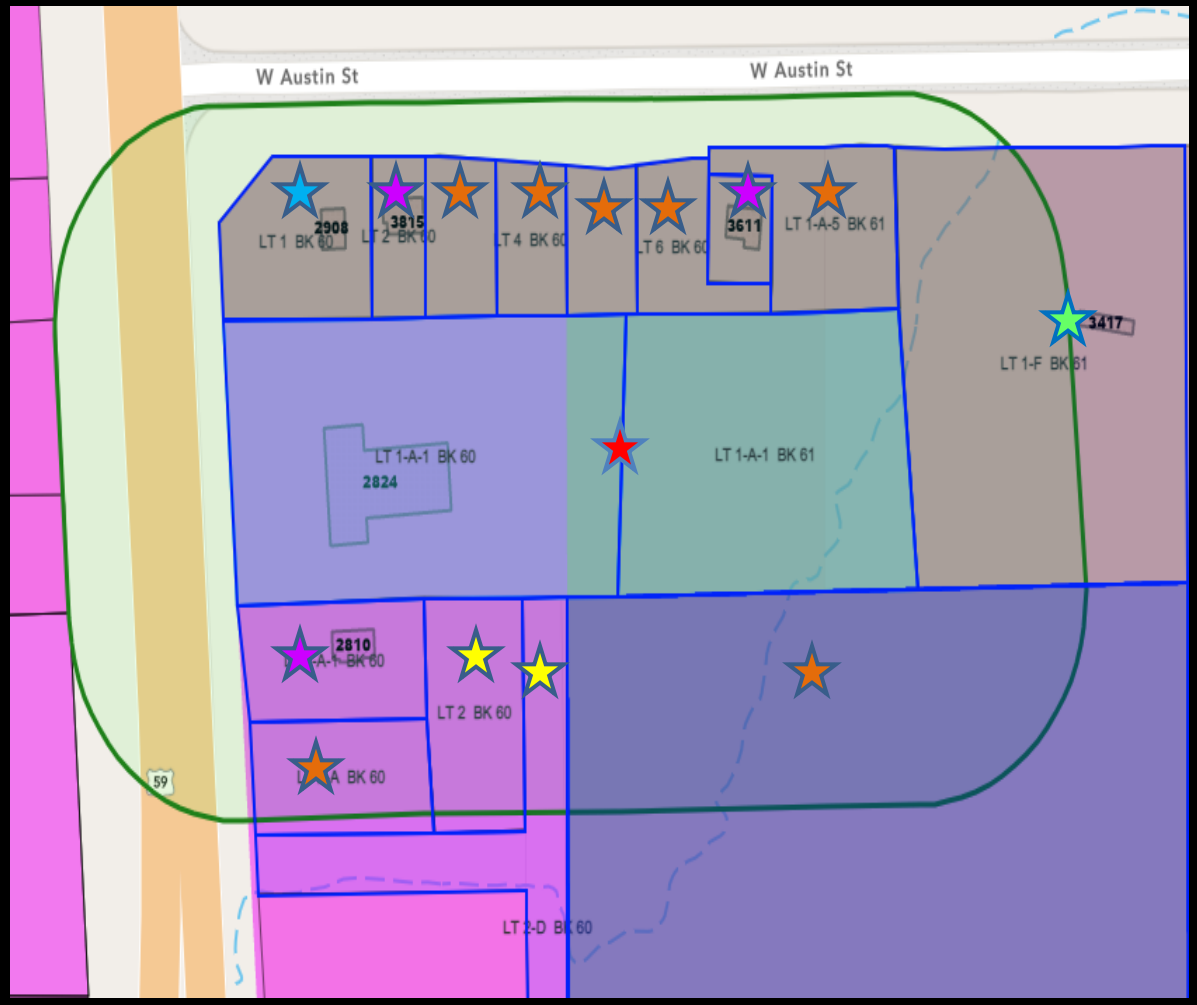
Nacogdoches
Engineering Department
GIS Division

200 Foot Notification Map

Legend

- 200 Foot Buffer
- Proposed SUP
- Commercial
- Single Family- Rental
- Single Family- Owner Occupied
- Manufacture Home
- Vacant

SUP2022-01: 2824 NW Stallings Dr.



Project Number: SUP2022-01

Please circle one: ☐ In favor of request ☐ Opposed to request

Comments:

Signature: Elizabeth Brookins

Printed Name: Elizabeth Brookins

Street Address: 3317 Seevers Ave

City, State and Zip Code: Dallas TX 75216

Phone Number: 214-725-6976

Email Address: teanniebaby@msn.com

Physical Address of Property within 200 Feet: dont know the Address

City of Nacogdoches
202 E. Pilar – PO Drawer 635030 – Nacogdoches, TX 75963
936-559-2574 Fax 936-559-2910 www.nactx.us
Home of Stephen F. Austin State University www.sfasu.edu

SUP2022-01 Site Photos

Street view

SUP2022-01 Site Photos

Front entrance

SUP2022-01 Site Photos

Maintenance bay behind sales area

SUP2022-01 Site Photos

North side of property line

SUP2022-01 Site Photos

North side of the property line

SUP2022-01 Site Photos

Adjacent residential houses to the north

SUP2022-01 Site Photos

Northeast property line

SUP2022-01 Site Photos

East property line

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Southern property line

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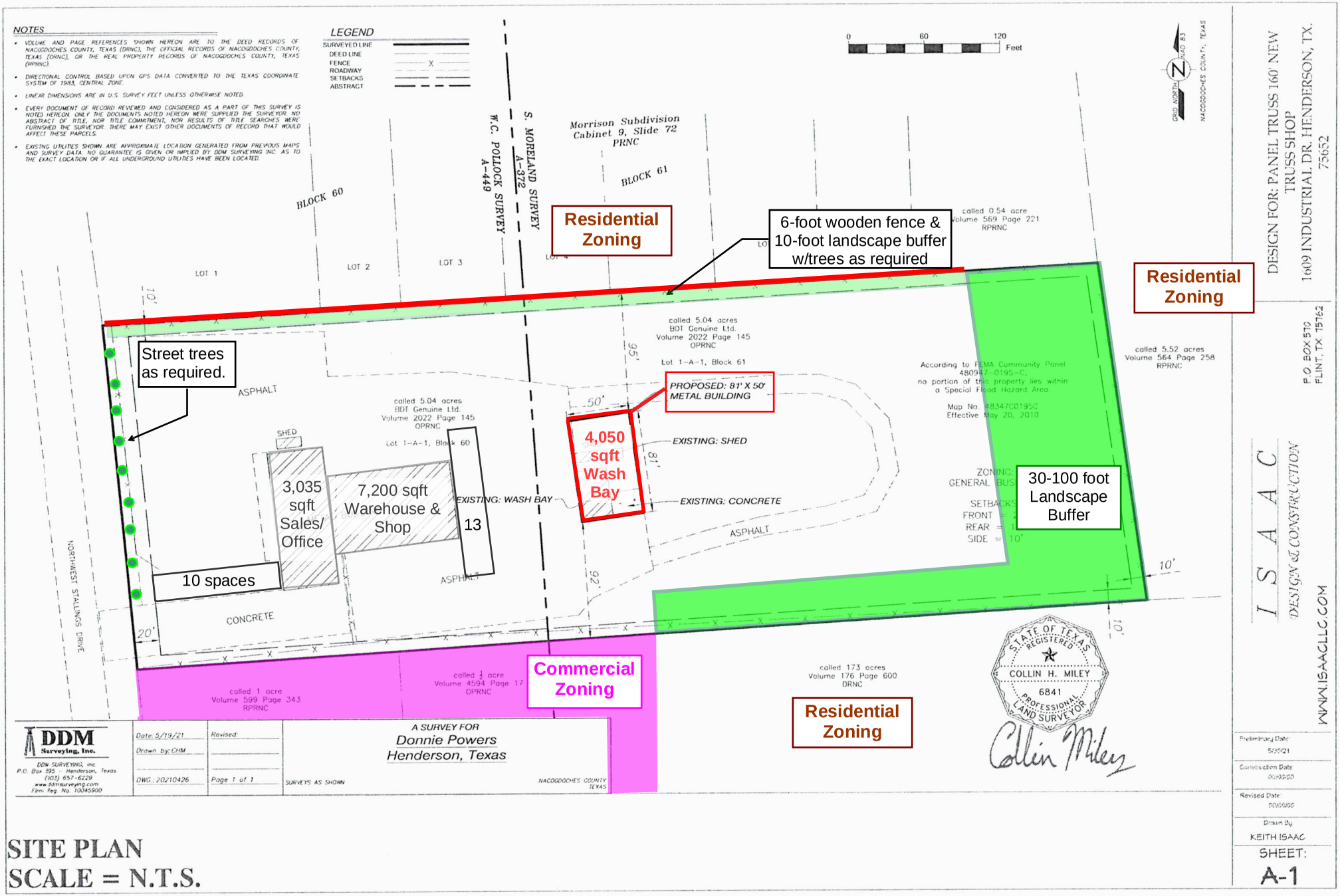
Adjacent residential house to the south

Commercial property to the west (across NW Stallings Dr.)



SITE PLAN
SCALE = N.T.S.

ORDINANCE NO. 1899-02-22

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, GRANTING AN AMENDMENT TO A SPECIFIC USE PERMIT FOR RECREATIONAL VEHICLE SALES LOCATED WITHIN THE B-2, GENERAL BUSINESS ZONING DISTRICT, BEING LOT 1-A-1, CITY BLOCK 60 AND 61, LOCATED AT 2824 NW STALLINGS DRIVE IN NACOGDOCHES, TEXAS, PROVIDING REQUIREMENTS AND CONDITIONS FOR SAID SPECIFIC USE PERMIT; CONTAINING FINDINGS; PROVIDING A REPEAL CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Specific Use Permit process allows the Planning and Zoning Commission and City Council to consider the conditions specific to individual tracts of land and operational characteristics of various businesses; and

WHEREAS, Genuine BTD, LTD, filed an application for a Specific Use Permit for Recreational Vehicle Sales on property that is currently zoned as B-2, General Business; located at 2824 NW Stallings Drive, said tract being legally described as Lots 1-A-1, City Block 60 and 61 (the "Property"), and situated within the corporate limits of the City of Nacogdoches, Texas (the "City"), being more particularly described in **Exhibit "A"** and **Exhibit "B",** attached hereto and made a part hereof for all purposes; and

WHEREAS, the Owner of the Property, through its above mentioned and duly authorized representatives, has presented an application to the City for the granting a Specific Use Permit to use said Property for the purpose of Recreational Vehicle Sales (the "Specific Use"), as authorized by the City's Zoning Ordinance; and

WHEREAS, after satisfaction of all conditions precedent required by law, the Planning and Zoning Commission held a public hearing and did make recommendation to City Council for approval of the Specific Use Permit application submitted for the above referenced site; and

WHEREAS, after satisfaction of all conditions precedent required by law and receiving the recommendation of the Planning and Zoning Commission, the City Council conducted a public hearing, and immediately thereafter approved the application for a Specific Use Permit allowing for the construction, operation and maintenance of Recreational Vehicle Sales.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES, TEXAS:

SECTION I
Findings.

The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct, and same are deemed to be in furtherance of a public purpose.

SECTION II

Approval of Specific Use Permit

Pursuant to the requirements of Chapter 118 of the Code of Ordinances of the City of Nacogdoches, Texas, a Specific Use Permit is hereby approved allowing for the construction, operation and maintenance of Recreational Vehicle Sales at the above described location, as outlined in **"Exhibit B"**.

SECTION III
Repeal

This Ordinance shall in no manner repeal, amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting of the Specific Use Permit as herein provided.

SECTION IV
Effective Date

This Ordinance shall take effect following its passage and publication as may be required by governing law.

SECTION V
Severability

If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION VI
Proper Notice and Open Meetings

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION VII
Filing

The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this Ordinance in and among the records of the City of Nacogdoches, Texas.

PASSED AND APPROVED, this the ____ day of _____, 2022, by a vote of ____(*ayes*) to _____ (*nays*) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

_____
JAN VINSON, City Secretary

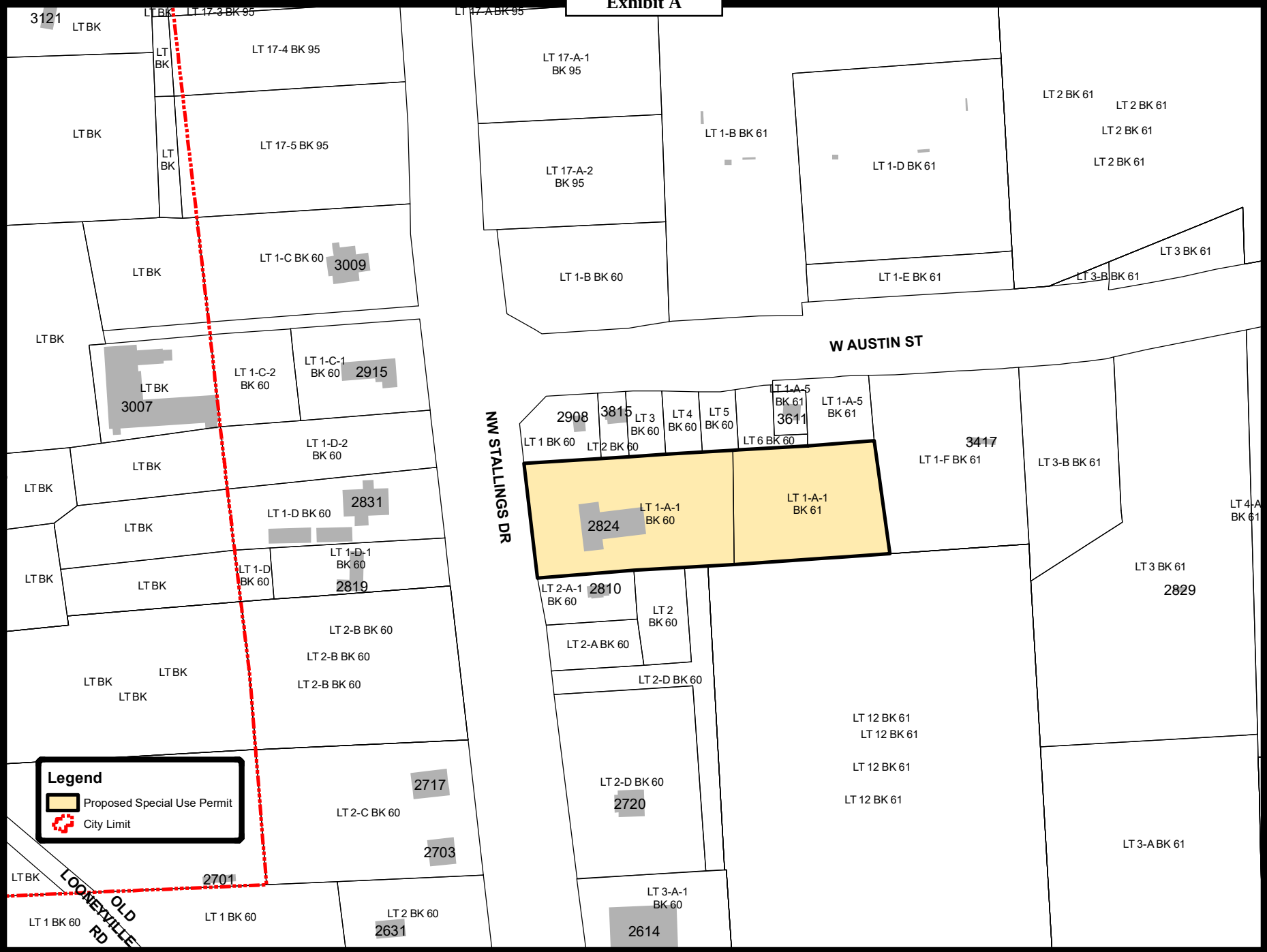
APPROVED AS TO FORM:

_____
STEVEN KIRKLAND, City Attorney

APPROVED AS TO CONTENT:

_____
ALAINA HELTON, City Planner

SUP2022-01: Exhibit A



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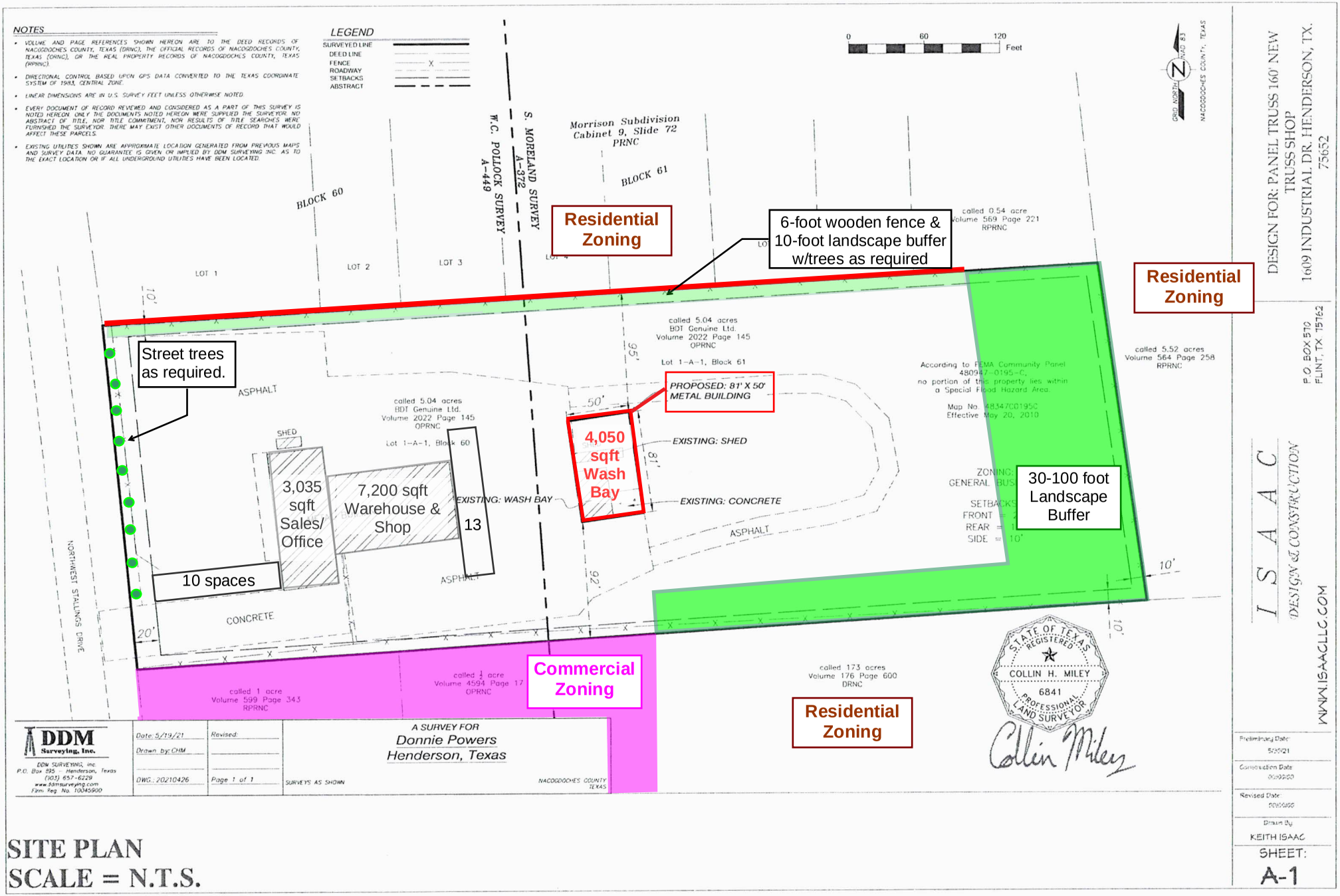
Nacogdoches
Engineering Department
GIS Division

SUP2022-01: Exhibit B



SITE PLAN
SCALE = N.T.S.

City Council Meeting

Date: February 22, 2022

Agenda Item: 6.C.

PRESENTER: Pam Curbow, Finance Director

ITEM/SUBJECT: Consider an Ordinance amending Chapter 106 "Utilities" of the City of Nacogdoches, Texas Code of Ordinances providing for bill adjustments in certain instances. (Finance Director)

SUMMARY/BACKGROUND: Ordinance amendment will authorize City staff to make billing adjustments in the event of a customer's water line defect. This ordinance will provide a uniform set of procedures to be followed by both the customer and City staff to address and remedy excessive usage billings due to an excusable defect defined in the ordinance.

FINANCIAL:
No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Not Applicable

CITY CONTACT: Pam Curbow, Finance Director
curbowp@nactx.us
(936) 559-2526

ATTACHMENTS:
1. Ordinance amending Chapter 106. Bill Adjustment
2. PowerPoint Presentation

AN ORDINANCE AMENDING CHAPTER 106 "UTILITIES" OF THE CITY OF NACOGDOCHES, TEXAS CODE OF ORDINANCES PROVIDING FOR BILL ADJUSTMENTS IN CERTAIN INSTANCES

WHEREAS, the City of Nacogdoches owns and operates a water treatment and distribution system, and

WHEREAS, system safety requires the system be operated under pressure to prevent infiltration of contaminants into the system, and

WHEREAS, breaks and leaks in customer lines adversely impacts the system by lowering system pressures, and

WHEREAS, providing bill adjustments when customers find and repair breaks and leaks in their lines will encourage customers to make such repairs and thereby aid system integrity,

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Nacogdoches, Texas

SECTION I

All of the above recitals are found to be true and correct legislative and factual findings.

SECTION II

Chapter 106 of the Code of Ordinances of the City of Nacogdoches, Texas is amended to add the following section:

Sec. 106-322. - Adjustment of bill as result of defect in customer's line.

(a) Any retail user or account holder of the city water system (the “Customer”) may request a correction of any water bill showing excessive usage due to a loss of water through an excusable defect in the Customer's water system for a period not to exceed two months. As used in this section the term *"excusable defect"* shall mean a rupture or leakage of the customer's water system as may be caused by freezing weather, settlement, corrosion, wear or accident. The term does not apply to defective or out-of-repair faucets. Any Customer who can show diligence in repair may request an additional time for repair not to exceed twelve months from the time the excessive usage began as determined by the automated meter infrastructure system (AMI) or any successor system the City may adopt.

(b) In order to apply for the correction, the Customer must file a written application with the utility official within six months of the repair of the excusable defect. The Customer may apply for no more than two such adjustments in any 12-month period for any one account. Such application shall contain the following matters and such other information as the utility official may require:

(1) The name of the Customer, the address or description of the property or premises furnished water, the bill which is sought to be corrected, the date of the bill and the period of water usage covered thereby.

(2) A statement of the date on which the excusable defect in the Customer's water system was discovered and the date on which it was repaired; and a statement that water was lost through the city water meter serving such property and that such water was not used in any manner by anyone.

(3) The application must show whether or not there has been any additional water consuming devices placed in use on the customer's premises during the period covered by such bill.

(4) Documentation shall be submitted detailing the exact nature and date of repairs to the customer's water line.

(5) A statement that the customer is personally familiar with all of the matters of facts stated in the application and sworn to therein, that they are made on his personal knowledge and that they are each true and correct.

(6) The Customer shall execute a statement setting forth an understanding that the application is a government record subject to criminal prosecution for false statements under chapter 37 of the Texas Penal Code and shall state that the customer certifies that the application contains no false statements.

(c) Applications under this section shall be made on forms prescribed by the Director of the Finance Department. The Director shall designate a utility official who shall administer this section.

(d) Upon receipt of a properly completed application, the utility official shall review such application, and if the application is approved as being in compliance with this section, the customer's bill shall be corrected in the following manner:

(1) The Utility Official shall calculate the customer’s normal usage. The customer's normal usage shall be determined as an average of the actual usages of this customer at this location as measured by the City’s AMI in the same month of the prior three years, or if the customer has not been a customer at this location for a sufficient length of time to make such determination, customer's normal usage shall be determined as an average of the prior three months actual usage of this customer or at this location as measured by the City’s AMI. The Utility Official shall utilize their discretion to ensure the integrity of the system.

(2) From the total water consumption shown on the bill submitted for correction, the normal usage will be deducted. The resulting figure will hereafter be referred to as "excess usage."

(3) The sewer charges attributable to the excess usage will not be charged on the corrected bill.

(4) If the excess usage is equal to or greater than four times the normal usage, the water rate will be adjusted as follows. The regular rate for customers in the customer's rate classification will be applied to the normal usage.

(5) One half of the Tier 1 rate in the customers' rate classification will be applied to the excess usage.

(6) These amounts will be added together to determine the amount due for water usage during the period covered by the corrected bill.

(e) If the Customer has already paid the bill for which an adjustment is authorized under this section the department shall credit the Customer's account the amount of the adjustment to be applied to the charges thereafter accruing. However, if the Customer requests a refund, the department shall refund the amount of the credit remaining on their account to the account holder. If a Customer discontinues water service before subsequent charges have depleted the credit, the department shall refund to the account holder the remaining credit balance at the time of discontinuance minus any overdue debt the Customer owes the city.

(f) A determination by the utility official of the amount of a correction to be made in a Customer's water bill in accordance with the provisions of this section shall be final unless appealed to the City Manager in writing within 3 business days.

(g) Any customer who is dissatisfied with decision of the utility official may appeal the decision to the City Manager. The City Manager may affirm the decision or adjust the determination if the City Manager finds that an adjustment is in the best interests of the citizens of the City of Nacogdoches or is necessary for the integrity of the system.

SECTION III

All ordinances, resolutions, or parts thereof, that are inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matter regulated.

SECTION IV

If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be held to be invalid or unconstitutional, such holding shall in no way affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

SECTION V

All provisions of Chapter 106 of the Code of Ordinances of the City of Nacogdoches not specifically amended or repealed herein remain in full force and effect. This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Nacogdoches, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as

the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

SECTION VI

This Ordinance shall take effect immediately upon its passage.

SECTION VII

Proper Notice & Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED, this the ___ day of _____, 2021,by a vote of ____ (ayes) to _____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

_____
Jan Vinson, City Secretary

APRROVED AS TO FORM:

_____
Steven Kirkland, City Attorney

REQUESTED BY:

_____
Pam Curbow, Finance Director

Utility Leak Adjustment Ordinance

February 22, 2022

Nacogdoches
the oldest town in Texas

Leak Adjustment Procedures

- Customer Initiated – written application
- Two month time limit
- "Excusable Defect" – a rupture or leakage of the customer's water system as may be caused by freezing weather, settlement, corrosion, wear or accident (does not apply to defective or out-of-repair faucets)
- Customer must show due diligence in repair
- Limited to two adjustments in twelve month period

Nacogdoches
the oldest town in Texas

Leak Adjustment Procedures

- Average usage is determined for the account and deducted from total consumption on the bill in question
- Sewer charges attributable to excess usage will be waived
- Water rate will be adjusted if the excess usage is four times the normal usage
- Utility Official's determination is final unless appealed to City Manager in writing within three business days

Nacogdoches
the oldest town in Texas

City Council Meeting

Date: February 22, 2022

Agenda Item: 6.D.

PRESENTER: Steven Kirkland, City Attorney

ITEM/SUBJECT: Consider approval of a resolution to pursue claims for monetary damages, regarding franchise fees against video service providers, as required in the Texas Video Service Providers Act, Texas Utilities Code Sec. 66. **Texas Government Code 2254.1036 Public Notice is attached.** (City Attorney)

SUMMARY/BACKGROUND: The City of Nacogdoches, Texas ("City") intends to pursue claims for monetary damages, declaratory relief, and other legal remedies ("Damages") against Netflix, Inc., Hulu LLC, Disney DTC LLC, and other video service providers ("VSPs") as determined for non-payment of franchise fees as set forth under the Texas Video Services Providers Act, Tex. Util. Code Sec. 66 (the "Litigation"). The City's desired outcome in pursuing the Litigation is to recover from the VSPs Damages owed to the City for failure to pay franchise fees and obtain an order requiring the VSPs to pay the franchise fees going forward, in addition to other relief allowed under the law. Therefore, there is substantial need for the legal services.

FINANCIAL:
No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Not Applicable

CITY CONTACT: Steven Kirkland, City Attorney
kirklands@nactx.us
936-559-2503

ATTACHMENTS:
1. Resolution
2. Contract
3. Fee Allocation Agreement
4. Public Notice

RESOLUTION NO. 1291-02-22

WHEREAS, the City intends to pursue claims for monetary damages, declaratory relief, and other legal remedies ("Damages") against Netflix, Inc., Hulu LLC, Disney DTC LLC, and other video service providers ("VSPs") as determined for non-payment of franchise fees as required in the Texas Video Service Providers Act, Texas Utilities Code Sec. 66 (the "Litigation"); and

WHEREAS, the City's desired outcome in the Litigation is to recover from the VSPs Damages owed to the City for failure to pay franchise fees and obtain an order requiring the VSPs to pay the franchise fees going forward, in addition to other relief allowed under the law; and

WHEREAS, the VSPs deliver video programming to their customers via broadband internet through wireline facilities located at least partially in the public right of way; and

WHEREAS, the VSPs do not pay franchise fees to the City as required in section 66.005 of the Texas Utilities Code; and

WHEREAS, the City has a substantial need of the legal services of counsel to represent it in the Litigation; and

WHEREAS, the City requires legal counsel that specialize in complex litigation and are highly knowledgeable and experienced in the legal issues surrounding the non-payment of franchise fees by the VSPs; and

WHEREAS, the City now desires to enter into a contingent fee contract ("Contract") for legal services with McKool Smith, P.C., Ashcroft Sutton Reyes LLC, and Korein Tillery LLC ("Counselors") to represent the City in the Litigation; and

WHEREAS, Subchapter C of Chapter 2254 of the Texas Government Code ("Chapter 2254") requires that a political subdivision of the State of Texas, including the City, may enter into a contingent fee contract for legal services only after: (i) the governing body of the political subdivision has provided written notice to the public stating certain provisions enumerated within Chapter 2254; (ii) the governing body of the political subdivision approved such contract in an open meeting called, in part or in whole, for the purposes of considering such contract; and (iii) the governing body of the political subdivision stated in writing certain findings made by the governing body upon the approval of such contract; and

WHEREAS, before the contingent fee contract for legal services is effective and enforceable, the City must receive approval of the Contract by the Office of the Attorney General of Texas or the Contract is otherwise allowed under Tex. Gov't Code §2254, as amended; and

WHEREAS, the City has caused notice of this resolution, this meeting, and certain provisions enumerated within Chapter 2254 to be provided to the public in accordance with the Texas Open Meetings Act and Chapter 2254; and

WHEREAS, the meeting at which this resolution is being considered is an open meeting called, in part or in whole, for the purpose of considering: (i) the City's need for legal counsel to represent it in the Litigation; (ii) terms of the Contract; (iii) the competence, qualifications, and experience of the Counselors; and (iv) the reasons that the Contract is in the best interest of the City and complies with Chapter 2254; and

WHEREAS, the City Council hereby finds and determines that the adoption of this resolution is in the best interests of the residents of the City.

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

SECTION 1. That the recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

SECTION 2. That the City Council hereby finds that: (i) there is a substantial need for the legal services to be provided in the Litigation; (ii) the legal services to be provided in the Litigation cannot adequately be performed by the attorneys and supporting personnel currently employed by the City; (iii) the legal services to be provided in the Litigation cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the Litigation and without imposing an unnecessary cost and burden on the City's finances; and (iv) the relationship between the City or the City Council and the Counselors is not improper and would not appear improper to a reasonable person.

SECTION 3. That based on the findings by the City Council described above, the City Council hereby authorizes the City Manager to execute a legal services contract with McKool Smith, P.C., Ashcroft Sutton Reyes LLC, and Korein Tillery LLC, approved as to form by the City Attorney, effective only upon approval by the Office of the Attorney General of Texas or as otherwise allowed under Tex. Gov't Code §2254, as amended.

SECTION 4. That it is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this resolution, was given, all as required by Chapter 551 as amended, Texas Government Code.

SECTION 5. That the City will pay the Counselors a contingency fee and expenses in accordance with the rates in Attachment A to this resolution and contingent upon the recovery, if any, by the City in the Litigation.

SECTION 6. That this Resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Nacogdoches, and it is accordingly so resolved.

_____
, Mayor
City of Nacogdoches, Texas

ATTEST:

_____
_____, City Secretary

APPROVED AS TO FORM & LEGALITY:

_____
Steven Kirkland, City Attorney

ATTACHMENT A

The fees for legal services provided by the Counselors in connection with the Litigation are contingent upon the recovery by the City of Damages in the Litigation and will be paid out of such recovery, if any, as follows:

If the City obtains a recovery and collection on behalf of the City before a trial or appeal, the Counselors will receive attorneys' fees in the amount of Thirty Percent (30%) of the gross recovery. If recovery for the City occurs after (1) the beginning of trial (at the beginning of opening argument), or (2) upon appeal of any judgment, the Counselors will instead receive attorneys' fees in the amount of the Thirty-Three and One-Third (33 1/3%).

The Counselors will advance all costs associated with the Litigation. The City agrees to reimburse the Counselors for all reasonable costs out of its share of the gross recovery.

AGREEMENT FOR PROVIDING
LEGAL SERVICES TO CITY OF NACOGDOCHES
IN CONNECTION WITH RECOVERY OF FRANCHISE FEES

The City of Nacogdoches, Texas ("City") and the law firms of McKool Smith, P.C., Korein Tillery LLC, and Ashcroft Sutton Reyes LLC (collectively, "Counselors") enter into this agreement ("Contract") to provide legal services on behalf of the City, its elected or appointed officials and employees with such services regarding the matter below. The City and Counselors shall collectively be referred to as the "Parties."

1. PROFESSIONAL LEGAL SERVICES

A. Counselors are hereby retained to provide legal representation to the City in connection with litigation seeking damages, declaratory relief, attorneys' fees, interest and other appropriate relief from Netflix, Inc., Hulu, LLC, Disney DTC LLC and other video service providers ("Defendants") as may be decided for the non-payment of franchise fees ("Franchise Fees," as referenced in Section 66.005, of the Texas Utilities Code, as amended) (collectively, the "Litigation"). The services shall be referred to as "Professional Legal Services."

B. Counselors hereby agree to perform the Professional Legal Services necessary, in accordance with the terms of this Contract. This Contract shall be administered on behalf of City by its City Attorney. At the request of the City Attorney, Counselors will provide case status reports, and will participate from time to time in both open and closed session briefings of the City Council.

2. PAYMENT

For the performance of Professional Legal Services and advance of Costs by Counselors, City agrees to pay Counselors on a contingency fee and reimburse costs out of any recovery as detailed on Exhibit A which is incorporated herein.

3. RECITALS PURSUANT TO TEX. GOV'T CODE CH. 2254

Counselors' further duties in compliance with Tex. Gov't Code Ch. 2254, as amended, are set out in Exhibit A.

4. TERM

The term of this Contract shall begin 90 days after it is received by the Office of the Attorney General of Texas ("OAG") pursuant to Tex. Gov't Code Ch. 2254, as amended, unless it is not approved by that time. Once it is either approved by the OAG, or 90 days have passed, the Contract shall continue until completion of the Litigation or terminated as provided herein. All services under this Contract are to be completed timely and in the highest professional manner.

5. TERMINATION

A. The City Attorney may terminate the performance of services at any time, with or without cause by giving at least ten (10) days written notice to Counselors. The notice must be delivered by email and by certified mail with return receipt for delivery to the City.

1. Termination Without Cause: (i) if City terminates this Contract without cause, Counselors shall be paid for the reasonable value of the legal services provided plus reimbursement for all Costs incurred at the time of termination; (ii) if the City resolves the Litigation through final settlement, award, or judgment, Counselors shall be paid Attorneys' Fees pursuant to Exhibit A at the time a Recovery.

2. Termination with Cause: If Counselors fail to satisfactorily perform any material obligation under this Contract, such failure constitutes a Default. If Counselors fail to satisfactorily cure a Default within thirty (30) calendar days of receiving written notice from the City specifying the nature of the Default, the City may terminate this Contract for cause, in which case compensation and Costs due Counselors, if any, shall be calculated considering the particular facts and circumstances involved in such termination, and paid only out of any Recovery.

B. Counselors may withdraw as permitted under the Rules of Professional Conduct of the State Bar of Texas. The circumstances under which withdrawal is permitted include the following: (a) the City consents, (b) the City's conduct renders it unreasonably difficult for Counselors to carry out the employment effectively, (c) the City fails to pay Attorneys' Fees or Costs as required by this Contract; or (d) Counselors determine it is not economically feasible for Counselors to perform the Services. If Counselors properly withdraw from representing the City pursuant to subparagraph (a)–(c) above or because it is required to do so by the Rules of Professional Conduct, the City agrees to compensate Counselors for the reasonable value of the legal services provided, plus reimbursement for Costs. The reasonable value of legal services shall not exceed thirty-three and one-third percent (33.33%) of the City's total recovery or, if reimbursed on an hourly basis, shall not exceed the hourly rates provided in Exhibit A, Section 8.8. In such a situation, both Fees and reimbursement of Costs will be paid by City to Counselors at the time a Recovery is collected by the City. If Counselors withdraw from representing City pursuant to subparagraph (d) above, Attorneys' Fees and Costs due Counselors, if any, shall be calculated considering the particular facts and circumstances involved in such withdrawal, and only out of any Recovery. Any disputes regarding the reasonable value of such legal services or Costs shall be mediated by the Judicial Arbitration and Mediation Services (JAMS).

6. <u>VENUE AND GOVERNING LAW</u>

This Contract is made subject to the Charter and ordinances of the City, as amended, and all applicable laws of the State of Texas. This Contract is performable in Dallas County, Texas, and venue for any legal action under this Contract shall lie in Dallas County, Texas; and in construing this Contract, the laws and court decisions of the State. Any disputes regarding the Contract including the reasonable value of legal services or Costs shall be mediated by the Judicial Arbitration and Mediation Services (JAMS) before any litigation is undertaken.

7. NO REPRESENTATION OF ANY ADVERSE PARTY

Counselors acknowledge that they are not currently involved in any litigation in which it represents a party who is adverse to the City, and Counselors agree that they will not undertake any litigation adverse to the City or to an employee or officer of the City, except with prior disclosure to and written consent by the City Attorney.

8. CONFLICTS

The City and Counselors acknowledge that other Texas cities and individual government entities may seek to become named parties in the Litigation and be represented by Counselors. The City recognizes that there may be potential conflicts or actual conflicts of interest if Counselors represents other cities in litigation like the Litigation. The City understands that it would be to its benefit for other parties to become named parties as it may enhance the case and lower the City's expenses. Accordingly, the City has conferred with the City Attorney and has determined that it is in its own best interests to waive all potential or actual conflicts of interest which may occur as a result of Counselors representing other government entities in this or similar litigation. The City therefore waives all such potential or actual conflicts of interest which may occur because of the Counselors representing other government entities in this Litigation or similar litigation.

9. REPRESENTATION OF RELATED INTERESTS

Counselors shall have the right to represent other municipalities, or governmental subdivisions in other video service provider franchise fee actions or similar litigation without the consent of the City, subject to the Texas Disciplinary Rules of Professional Conduct ("Rules of Professional Conduct") relating to conflicts of interest.

10. CONFLICT OF INTEREST

It is understood and agreed that the Counselors will notify the City in writing of the potential for any conflict of interest in any legal matter or case within 24 hours of its discovery.

11. NOTICES

Except as otherwise provided in Section 14, any notice, payment, statement, or demand required or permitted to be given under this Contract by either party to the other may be affected by email and personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If intended for City, to:
Steven Kirkland, City Attorney
City of Nacogdoches, Texas
202 East Pilar Street
Nacogdoches, Texas 75961
Email: kirklands@nactx.us

If intended for Counselors, to:
Steven Wolens
McKool Smith
300 Crescent Ct., Ste. 1500
Dallas, TX 75201
Email: swolens@mckoolsmith.com

Steven M. Berezney
Korein Tillery LLC
505 N. 7th Street, Ste. 3600
St. Louis, MO 63101
Email: SBerezney@KoreinTillery.com

Austin R. Nimocks
Ashcroft Sutton Reyes LLC
919 Congress Ave., Ste. 1325
Austin, TX 78701
Email: animocks@ashcroftlawfirm.com

12. LEGAL SERVICES SPECIFICALLY EXCLUDED

Counselors do not agree to provide any representation beyond that described in Section 1.A. above. If the City wishes to retain Counselors to provide any legal services not provided under this Contract, a separate written agreement between Counselors and the City will be required.

13. AUTHORITY OF COUNSELORS

Counselors may execute, at his/her option, all reasonable and necessary court documents connected with the handling of the Litigation. If the City Attorney gives Counselors sufficient notice of documents he/she wishes to jointly sign with Counselors, Counselors will undertake good faith efforts to accomplish same.

14. ATTORNEYS' LIEN

Counselors will have a lien to the fullest extent of Texas law for attorneys' fees and costs on all claims and causes of action that are the subject of its representation of the City under this Agreement and on all proceeds of any recovery collected (whether by settlement, Court judgment, or otherwise).

15. COMMUNICATIONS

The City designates Steven Kirkland, the City Attorney, or any other person designated by the City Attorney as the authorized representative of the City to direct Counselors. Correspondence will be forwarded to him at kirklands@nactx.us. Counselors designate Steven Wolens to be the primary individual to communicate with the City regarding the subject matter of Counselor's representation of the City under this Agreement. Correspondence will be forwarded to him at swolens@mckoolsmith.com.

16. NO ASSIGNMENT

Counselors shall not sell, assign, transfer, or convey this Contract, in whole or in part, without the prior written consent of the City Attorney.

17. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. If this Contract is executed in counterparts, then it shall become fully executed only as of the execution of the last such counterpart called for by the terms of this Contract to be executed. Any signature delivered by a party by facsimile or electronic transmission (including email transmission of a PDF image) shall be deemed to be an original signature hereto.

18. CAPTIONS

The captions to the various clauses of this Contract are for informational purposes only and shall not alter the substance of the terms and conditions of this Contract.

19. ENTIRE AGREEMENT; NO ORAL MODIFICATIONS

This Contract (with all referenced Exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both parties, superseding all oral or written previous and contemporary agreements between the parties relating to matters set forth in this Contract. Except as otherwise provided elsewhere in this Contract, this Contract cannot be modified without written supplemental agreement executed by both parties.

20. MISCELLANEOUS

City recognizes that no result has been guaranteed by Counselors, and that this Contract is not based upon any such promise or anticipated result. City further acknowledges that it is exclusively responsible for all personal liability, or potential liability, awarded against it by a court because of a claim, counterclaim, protest suit, or otherwise, and that by undertaking to represent City pursuant to this Contract, Counselors assume none of City's joint and/or individual liability.

21. AUTHORITY TO SETTLE LITIGATION

City does not relinquish authority or responsibility through this Contract to settle the Litigation. City has the sole authority to settle the Litigation on behalf of the City and its citizens, and Counselors shall inform the City Attorney of all settlement offers.

22. APPROVAL BY THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS

The Parties agree that this Contract is not effective until approved by the Office of the Attorney General of Texas ("OAG") or as otherwise allowed under Tex. Gov't Code Ch. 2254, as amended.

23. COMPLIANCE WITH CERTAIN STATE LAW

.

1. *Anti-Boycott of Israel*. Each Firm certifies that it is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

2. *Anti-Boycott of Energy Companies*. Each Firm certifies that the Firm is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of energy companies as defined by Section 809.001 of the Texas Government Code.

3. *Anti-Boycott of Firearm Entities or Firearm Trade Associations*. Each Firm certifies that the Firm does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, or will not discriminate against a firearm entity or firearm trade association for the duration of this Agreement, as defined by Section 2274.001 of the Texas Government Code.

4. *Certification of No Business with Foreign Terrorist Organizations*. For purposes of Section 2252.152 of the Texas Government Code, Each Firm certifies that, at the time of this Agreement neither Firm nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Firm, is a company listed by the Texas Comptroller of Public Accounts under Sections 2252.153 or 2270.0201 of the Texas Government Code as a company known to have contracts with or provide supplies to a foreign terrorist organization.

EXECUTED this the _____ day of _____, 2021.

COUNSELORS

MCKOOL SMITH, P.C.

_____
Steven D. Wolens

KOREIN TILLERY, LLC

_____
Steven M. Berezney

ASHCROFT SUTTON REYES LLC

_____
Austin R. Nimocks

CITY OF NACOGDOCHES, TEXAS

_____
_____, City Manager

ATTEST:

_____
_____, City Secretary

_____
Date

APPROVED AS TO FORM & LEGALITY:

_____
Steven Kirkland, City Attorney

EXHIBIT A
COMPENSATION AND COSTS

1. **Compensation ("Attorneys' Fee(s)").**

The employment of Counselors will be on a contingency fee basis. Specifically, if the City obtains a recovery and collection on behalf of the City before a trial or appeal, Counselors will receive attorneys' fees in the amount of Thirty Percent (30%) of the Gross Recovery. If recovery for the City occurs after the beginning of trial (at the beginning of opening argument) or 2) upon appeal of any judgment, Counselors will instead receive attorneys' fees in the amount of the Thirty-Three and One-third percent (33 1/3 %) ("Attorneys' Fee(s)" or "Contingency Fee(s)"). This Attorneys' Fee is not set by law but is negotiable between the City and Counselors.

Counselors shall be entitled to such Contingency Fees regardless of whether the recoveries are a result of an accounting, settlement, judgment, litigation, ordinance, legislation, voluntary payment, credit, refund, adjustment, offset, reduction in future charges, protest suit, or some other method or source. Counselors' Contingent Fee shall be allocated among City and any other participants in the recovery in proportion to the gross amount of that recovery by each participant.

City and Counselors acknowledge that the litigation may result in the payment of either or both of Franchise Fees for periods before the effective date of any final court judgment, settlement agreement, or other document establishing the right to a recovery (such effective date hereafter referred to as the "Effective Date" and such Franchise Fees for periods before the Effective Date hereafter referred to as "Historical Franchise Fees") and Franchise Fees for periods on or after the Effective Date ("Prospective Franchise Fees").

City and Counselors also acknowledge that resolution of the Litigation might discount Historical Franchise Fees for Prospective Franchise Fees. If the amount of Historical Franchise Fees paid from a source by judgment, agreement, or otherwise is less than the sum of what that source would have paid, in full, in Franchise Fees for all fiscal quarters preceding the Effective Date (the "Benchmark Franchise Fees"), then Counselors shall be entitled to Attorneys' Fees in the amount of 33 1/3 % of the gross amount of that source's payments of Prospective Franchise Fees until the total Franchise Fees paid by that source equal the Historical Franchise Fees. However, Counselors shall not, in any circumstance, collect from the City more than 33 1/3% of the City's total recovery.

The sole contingency upon which the City will pay Fees to Counselors is a recovery and collection on behalf of the City, whether by settlement, court judgment, or otherwise.

2. **Gross Recovery.**

The term "Gross Recovery" shall include, without limitation, the then present value of any monetary payments agreed or ordered to be made and the fair market value of any property or services agreed or ordered to be made and the fair market value of any property or services agreed or ordered to be transferred or rendered for the benefit of the City by the adverse parties to the Litigation or their insurance carrier(s), whether by settlement, court judgment, or otherwise.

If payment of any part of the relief to the City will be in the form of property and services ("In Kind"), the value of such property and services for purposes of calculating the Gross Recovery shall be calculated based on the present value, as of the time of the settlement or final court judgment, of the In Kind relief to be received thereafter. The Attorneys' Fees for the value of the In Kind relief shall be paid out of any initial lump-sum payment by the defendants. If the initial lump sum payment is insufficient to pay the Attorneys' Fees in full, the balance will be paid from subsequent payments on the recovery before any distribution to the City.

If the Parties disagree with respect to the value of any In Kind relief, they will proceed as follows: Within thirty (30) days each party will select an appraiser qualified to conduct an appraisal of the value of the In Kind relief. Each Party's selected appraiser will thereafter meet and confer. If resolution of the dispute is not reached within sixty (60) days of the initial meet and confer, the appraisers will select a third qualified appraiser within fifteen (15) days. The third appraiser's valuation will be final and binding on the Parties.

Notwithstanding the foregoing, if there is no monetary recovery and the City receives In Kind relief, Attorneys' Fees will be based on the value of the In Kind relief, which will be determined through the mutual agreement of the Parties. If the Parties disagree with respect to the values of any In Kind relief, they will proceed with an appraisal process as set forth above. If there is no monetary recovery, all Attorneys' Fees and Costs due to Counselors under this Contract shall be paid from the City's funds at the time of recovery and collection.

3. **Costs.**

It will be necessary for Counselors to incur and advance certain court costs and other types of expenses for the City ("Costs"). These Costs and other expenses may include, but are not limited to, the following: filing and service fees; costs of investigative services; travel expenses (including air fare, ground transportation, vehicle mileage, lodging, and meals); deposition expenses and court reporters fees; outside trial services providers; trial equipment rental and operation fees; preparation of exhibits and graphics; the costs of briefs and transcripts on appeal, and miscellaneous copying, postage, shipping, and courier expenses. In addition, it will be necessary to employ expert witnesses and Counselors, with prior approval from the City, may employ and pay these expert witnesses, and such expenditures shall be included within Costs.

The City agrees to reimburse Counselors for all reasonable Costs out of its share of the Gross Recovery, after the payment of Attorneys' Fees specified in Sections 1 and 2 above.

The City understands that Counselors may incur certain expenses, including, for example, expenses for travel, experts, and copying that jointly benefit multiple cities in the Litigation. The City agrees that Counselors may allocate such expenses among such cities based on their pro rata share of the relief obtained, or on any other reasonable basis of which all affected clients are fully informed.

In some instances, it may be necessary for Counselors to retain special outside counsel to assist on matters other than prosecuting the City's claims. Examples of such instances include: a defendant may seek bankruptcy protection; a defendant may attempt to fraudulently transfer some of its assets to avoid paying the City's claim; a complex, multi-party settlement may require an

ethics opinion from outside counsel; or a separate lawsuit may need to be filed against a defendant's insurance company. The City agrees that Counselors, with written permission of the City, may retain such special outside counsel to represent the City when Counselors deem such assistance to be reasonably necessary. In such an instance, the fees of such special outside counsel shall be advanced by Counselors, shall be deemed a part of Costs, and as such shall be reimbursed to Counselors by the City from its share of the Gross Recovery provided that (1) the City finds that such costs were reasonable, proper, necessary, and were actually incurred on behalf of the City, and (2) such costs were in compliance with, and do not exceed, the rates and limits provided in Section 8.8 of Exhibit A. If there is no recovery, Counselors will be solely responsible for payment of the Cost.

4. **Application for Attorneys' Fees.**

The City and Counselors intend to seek an order for payment by Defendants of the City's Attorneys 'Fees and Costs (as defined in Sections 1-3 above), if the City prevails, in whole or in part, in the Litigation. The City agrees to use its best efforts to support any such application.

If the amount of the Attorneys 'Fees awarded and collected from a court order regarding Attorneys 'Fees and Costs exceeds the amount called for under the contingency fee calculation in Section 1 of Exhibit A, Counselors shall be entitled to the amount of the Attorneys' Fee awarded and collected from the Defendants as a reasonable fee, in lieu of payment by the City of the Attorneys' Fee. If, however, the amount of the Attorneys' Fee awarded and collected from a court order regarding Attorneys' Fees and Costs is less than the amount as calculated under the Contingency Fee, Counselor's Attorneys' Fee shall remain as calculated by the Contingency Fee calculation in Paragraph 1 of Exhibit A, and, in that instance, the City may direct that the statutory attorneys' fee award be paid directly to Counselors by the Defendants, and the City shall pay the difference between the Contingency Fee and the attorneys' fee awarded out of the City's recovery in the Litigation.

5. **Reasonableness.**

The City and Counselors have discussed the reasonableness of the contingency fees provided for in this Contract, as opposed to an hourly rate, a fixed fee, quantum merit, or some other possible basis for calculating the Attorneys' Fees to be paid to Counselors. The City and Counselors agree that under all the circumstances a contingency fee is the most reasonable and equitable way to compensate Counselors in light of the effort required, the risks to be undertaken in the Litigation, and other applicable factors. The City and Counselors further understand that the substantial effort required will not be compensated if there is no recovery. Therefore, the City agrees that it will not contest the reasonableness or fairness of this contingency fee contract.

6. **Possible Efforts of Defendants to Invalidate Agreement.**

The City and Counselors are aware that, in the past, defendants in litigation involving public entities have challenged and sought to invalidate contingency fee arrangements between public entities and outside counsel. The City and Counselors believe that any such challenges to this Contract would lack merit and that this contingency fee arrangement as set forth above is valid and in the public interest. The City agrees to join Counselors in opposing any such challenge. However, if this contingency fee contract is found to be invalid, Counselors agree to continue to

represent the City. Under said circumstances, if there is a recovery, Counselors shall be compensated based on the reasonable value of its legal services and will be reimbursed for Costs. If there is no recovery, the City will owe nothing for Attorneys' Fees or Costs.

7. **Division of Attorneys' Fees.**

Counselors may divide the Attorneys' Fees received for the legal services provided under this Contract with other attorneys or law firms retained as associate counsel and approved by the City in writing. The terms of the division, if any, will be disclosed to the City. The City is informed that, under the Rules of Professional Conduct of the State Bar of Texas, such division may be made only with the City's written consent after a full disclosure to the City in writing that a division of Attorneys' Fees will be made, the identity of the lawyer or law firms involved, the basis upon which Attorneys' Fees will be divided, and of the terms of such division. The City will not unreasonably withhold approval of associate counsel recommended by Counselors or unreasonably refuse to consent to a proposed division of Attorneys' Fees among counsel.

8. **Recitals Pursuant to Tex. Gov't Code Ch. 2254.**

8.1 Counselors shall keep current and complete written time and expense records that describe in detail the time and money spent each day in performing the contract, as required under Tex. Gov't Code § 2254.104(a).

8.2 Counselors shall permit the governing body or governing officer of the City, the attorney general, and the state auditor, or other officials as appropriate, to inspect or obtain copies of the time and expense records at any time on request, as required under Tex. Gov't Code § 2254.104(b).

8.3 On conclusion of the matter for which Counselors were obtained, Counselors shall provide the City with a complete written statement that describes the outcome of the matter, states the amount of any recovery, shows the Counselors' computation of the amount of the contingent fee, and contains the final complete time and expense records, as required under Tex. Gov't Code § 2254.104(c). The complete written statement required under this section is public information subject to disclosure under Tex. Gov't Code § 2254.104(d).

8.4 All time and expense records required herein are public information subject to required public disclosure under Texas Government Code Chapter 552. Information in the records may be withheld from a member of the public under Section 552.103 only if, in addition to meeting the requirements of Section 552.103, the City Attorney determines that withholding the information is necessary to protect the City's strategy or position in pending or reasonably anticipated litigation. Information withheld from public disclosure shall be segregated from information that is subject to required public disclosure. Public disclosure may not be withheld, and is required, regarding the written statement required by Tex. Gov't Code § 2254.104(d).

8.5 Any subcontracted legal or support services performed by a person who is not a contracting attorney, partner, shareholder, or employee of Counselors is an expense

subject to reimbursement only in accordance with Tex. Gov't Code § 2254.105(4).

8.6 The method for payment of litigation and other expenses and, if reimbursement of any expense is contingent on the outcome of the matter or reimbursable from the amount recovered in the matter, whether the amount recovered for purposes of the contingent fee computation is the amount obtained before or after expenses are deducted, as required under Tex. Gov't Code § 2254.105(3).

8.7 The amount of the contingent fee and reimbursement of expenses under the Contract will be paid and limited in accordance with Tex. Gov't Code § 2254.105(5).

8.8 Counselors' contingent fee is limited to the lesser of 1) the contingent fee set forth in paragraph 1. above or 2) four times Counselors' base fee, as that term is used in Tex. Gov't Code § 2254.106.

Because of the expected difficulties in performing the work under this Agreement, the amount of expenses expected to be risked by Counselors, the expected risk of no recovery, and the expected long delay in recovery, a reasonable multiplier for the base fee in this matter is four. Counselors' reasonable hourly rate for the work performed under the Agreement is $990 an hour for principals and partners of any members of the three Counselors 'firms, $855 for of counsel/senior counsel, $795 an hour for senior level associates practicing 10 years or more; $550 per hour for other attorneys, and $325 per hour for paralegals or law clerks consistent based on the reasonable and customary rate in the relevant locality for the type of work performed and on the relevant experience , demonstrated ability, and standard hourly billing rate, if any, of the person performing the work, as required under Tex. Gov't Code § 2254.106(a). These rates apply to the subcontracted work performed, if any, by an attorney, law clerk, or paralegal. The base fee will be computed pursuant to Subchapter C, Chapter 2254 of the Texas Gov't Code by multiplying the number of hours the attorney, paralegal or law clerk worked in providing legal or support services for the City times the reasonable hourly rate for the work performed by the attorney, paralegal or law clerk. The base fee is computed by adding the resulting amounts. The computation of the base fee does not include hours or costs attributable to work performed by a person who is not employed by Counselors.

CITY OF NACOGDOCHES, TEXAS
Fee Allocation Agreement

This Fee Allocation Agreement ("FAA"), executed on the respective date indicated below, is made and entered into among Korein Tillery, LLC ("KT"), McKool Smith, P.C. ("MS"), and Ashcroft Sutton Reyes LLC (dba Ashcroft Law Firm) ("Ashcroft") (collectively, the "Firms" or "Parties" individually, a "Firm").

Recitals

WHEREAS, the Firms wish to associate with each other in the prosecution of litigation by the City of Killeen, Texas ("City") against certain video service providers for nonpayment of franchise fee ("Litigation"), as defined in the Professional Services Contract for Legal Services between City and Firms ("Contract"),

WHEREAS, the Parties to this FAA agree to divide such work and tasks as will be mutually agreed; and

WHEREAS, the Parties to this FAA desire to acknowledge and set out the terms of the allocation of fees and costs regarding the representation of Cities in the Litigation.

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the following FAA is entered into:

1. Fee Sharing. The attorneys' fees shall be apportioned as follows:

   (a) From the attorneys' fees collected pursuant to the Contract, an amount will be deducted that reflects actual Costs incurred in the Litigation by MS, KT, and Ashcroft that are not deducted from the City's recovery in the Litigation, in accordance with the Contract, to determine the Net Fees. For example, actual travel and lodging costs may exceed the amount the City may reimburse for such costs. In this instance, the amount by which the travel and lodging expenses exceed that allowed to be reimbursed by the City will be deducted from the Gross Fees before calculation and apportionment of the attorneys' fees.

   (b) Of the Net Fee as calculated in paragraph l (a) above, KT will receive 40% of the fees, MS will receive 40%, and Ashcroft will receive 20%.

2. Cost Sharing. Any Costs (as defined in the Contract) which must be advanced on behalf of the City will be advanced by the Firms as follows: KT 40%, MS 40%, and Ashcroft 20%.

   (a) The allocation of Costs as provided above shall not apply to general litigation expenses, including, but not limited to postage, in-house copying, shipping, and courier expenses which shall be advanced by the firm incurring same. In the event the recovery is not sufficient to reimburse all Costs, the Firms will each be reimbursed the portion equal to their percentage of the total Costs they have advanced.

Costs for purposes of this Fee Allocation Agreement include only actual payments made by a Party, in connection with the Litigation, to persons or entities that are not, directly or indirectly, controlled by such Party and do not include any charges for overhead or other internal charges (such as rent, word processing, depreciation, and similar items). Costs include the actual amounts paid for filing fees; court and jury fees; fees for service of process; deposition-related fees and expenses, including court reporters', videographers', and electronic exhibit and live-streaming service fees; expert consultant fees; storage fees; fees for preparation of deposition and trial exhibits; fees for hearing or trial transcripts; fees for obtaining records; and expert witness fees and expenses. Costs further include all travel expenses and lodging and meal expenses. Costs also include general litigation expenses, including, but not limited to postage, in-house copying, shipping, and courier expenses which shall be advanced during the engagement. Costs are limited to amounts that are reasonable and customary in the relevant market for the goods or services for which the costs are incurred and shall not include any markup or margin for overhead or profit. Wages, salaries, or other compensation paid to personnel employed by a Firm, including but not limited to attorneys, secretaries, clerks, legal assistants, and paralegals, shall not be Costs for the purpose of this Understanding.

(b) Periodically, and no less than biannually, Parties shall account to one another for each of their respective expenses advanced for these general litigation costs and reimburse one another as necessary so that the percentage of costs advanced by KT, MS, and Ashcroft shall be equal to their allocated percentages.

3. Division of Work. Each Firm shall devote time in prosecuting the Litigation in proportion to their relative attorneys' fees division.

4. City and AG Approval. All Firms acknowledge that any allocation of fees between the City and Firms is subject to the prior approval of the City, and that any Contract with the City is subject to prior approval of the Office of the Attorney General of Texas or as otherwise allowed under Tex. Gov't Code §2254 as amended.

5. Terms of Understanding. Except as otherwise agreed in writing by the Parties, this FAA shall continue in effect until the resolution of the Litigation and the allocation of fees and expenses from the Litigation between or among the Firms.

[Remainder of page left intentionally blank. Signatures on following page.]

AGREED TO:

_____ _____
Steven D. Wolens Date
McKool Smith, P.C.

_____ _____
Austin R. Nimocks Date
Ashcroft Sutton Reyes LLC

_____ _____
Steve Berezney Date
Korein Tillery, LLC

APPROVED:

City Attorney
Nacogdoches, Texas

By: _____ _____
Date

Name: _____

PUBLIC NOTICE
In association with Resolution No. 1291-02-22

This notice is given pursuant to Tex. Gov't Code § 2254.1036.

A. The City of Nacogdoches, Texas ("City") intends to pursue claims for monetary damages, declaratory relief, and other legal remedies ("Damages") against Netflix, Inc., Hulu LLC, Disney DTC LLC, and other video service providers ("VSPs") as determined for non-payment of franchise fees as set forth under the Texas Video Services Providers Act, Tex. Util. Code Sec. 66 (the "Litigation"). The City's desired outcome in pursuing the Litigation is to recover from the VSPs Damages owed to the City for failure to pay franchise fees and obtain an order requiring the VSPs to pay the franchise fees going forward, in addition to other relief allowed under the law. Therefore, there is substantial need for the legal services.

B. The City wishes to engage the following three law firms ("Counselors"): McKool Smith, P.C., Ashcroft Sutton Reyes LLC, and Korein Tillery LLC. Details regarding their competence, qualifications and experience are attached at Exhibit 1.

C. The relationship with the three Counselors would span from the time of engaging them in the Litigation until it is completed. The City has had no prior relationship with the Korein Tillery or Ashcroft Sutton Reyes firms. The City was a member of a class of cities represented by McKool Smith and Mr. Wolens to recover municipal hotel occupancy taxes. The City was pleased with the representation provided by McKool Smith and Mr. Wolens.

D. The legal services for which the Counselors are retained cannot be adequately performed by the attorneys and supporting personnel of the City. The City's budget is strained and has limited resources for its legal department. The City Attorney's office is engaged in hundreds of transactional matters and in overseeing, managing and litigating hundreds of matters. In addition, the investigation, research, and litigation of the claims will require the expenditure of large sums of money and require the work of numerous attorneys, paralegals and

others who are familiar with the VSPs' wrongful actions and/or inactions. Thus, the City does not have the resources it believes will be necessary to engage in protracted, time-consuming, and expensive litigation.

E. The legal services for which the law firms are retained cannot reasonably be obtained from attorneys in private practice under a contract providing for the payment of hourly fees without regard to the outcome of the matter for the following reasons:

(1) TIME: It is not economically feasible for the City to pay outside counsel on an hourly basis for what the City anticipates will require significant hours of attorney time and significant costs advanced in pursing the relief the City expects to achieve.

The issues involved in the City's claim have not been adjudicated and determined since the Texas Video Services Providers Act was passed in 2005. As an unsettled matter of law, the VSPs will likely aggressively oppose all aspects of the Litigation. It will require the skill of attorneys who have familiarity with complex litigation. It is the City's experience that attorneys with this familiarity and experience have high billable hourly rates and are not receptive to taking on contingency fee cases such as this where recovery is not certain; doing so would preclude them from taking other cases on an hourly paid basis.

(2) COMPLEXITY/DAMAGES: Besides legal issues, determining damages may be complicated to calculate. Damages will be based, in part, on: 1) gross receipts of each VSP, with data going back thirteen years to 2007, and 2) individual subscriptions to residents of the City. It is unclear in what format the data is kept to determine gross receipts, but it is anticipated to be complex and difficult to understand. It will require experienced lawyers with the assistance of experts to decipher the data and determine a mathematical or formulaic calculation for each defendant for receipts generated over 13-plus years. Because there are at least three distinct defendants, it is likely that they have different business practices and ways of maintaining their data.

(3) EXPENSES: Finally, the Counselors the City requests to employ have agreed to advance expenses in the case, which are likely to be significant given the need for experts in several fields and the general high expense of litigation. These expenses include but are not limited to: filing and service fees; costs of investigative services; travel expenses; deposition expenses and court reporter fees; outside trial services providers; expert witness fees; trial equipment rental and operation fees; preparation of exhibits and graphics; the costs of briefs and transcripts on appeal; and miscellaneous copying, postage, shipping, and courier expenses.

F. The advance of expenses is risky because, under the terms of the legal services agreement, expenses are reimbursed only out of any recovery. Because the City has limited funds to advance for litigation expenses, it is especially in the City's interest, and that of its residents, to have attorneys advance those expenses and only be reimbursed by the City out of any recovery if the City is successful. Entering a contingent fee contract for legal services is in the best interest of the residents of the City because it will allow the City to recoup franchise fees owed the City since approximately 2007 and obtain a declaratory judgment ordering the VSPs to pay the fees in the future. Franchise fees recovered in the Litigation will be used to support other essential City services. Retaining counsel who will advance expenses in the litigation will allow the City to use those funds instead to support necessary city services.

EXHIBIT 1

McKOOL SMITH P.C.

McKool Smith was founded in 1991 with offices in Dallas, Austin, Houston, Marshall, Los Angeles, and New York. It represents clients in complex commercial litigation, insurance recovery, intellectual property, bankruptcy, and white-collar defense matters.

In the past 15 years, the firm has secured 12 nine-figure jury verdicts and 15 eight-figure jury verdicts. It has also won more VerdictSearch and The National Law Journal "Top 100 Verdicts" than any other law firm in the country. Recent recognitions include:

> Recognized by BTI Consulting as one of ten "Awesome Opponents," the firms most feared by senior in-house counsel, in its annual Litigation Outlook Report (2019-2020).
>
> Ranked a "Tier 1" law firm for bankruptcy, commercial, securities, banking & finance, intellectual property, patent, real estate, and regulatory enforcement litigation by U.S. News & World Report - Best Law Counselors (2020).
>
> Ranked as a leading firm for Commercial Litigation, Insurance Policyholder Litigation, and Securities Plaintiff Litigation by Chambers USA (2020).
>
> Ranked as a "Highly Recommended" Litigation Firm and Plaintiff Firm by Benchmark Litigation (2020).
>
> Awarded "Insurance Group of the Year" by Law360 (2020).
>
> Recognized as a "Texas Powerhouse Firm" by Law360 (2019).
>
> Awarded "Trial Group of the Year" by Law360 (2018).

Steven Wolens is a principal at McKool Smith. He has practiced law since 1976. He received a B.A. with distinction from Stanford University in 1973, and a J.D. from Southern Methodist University Law School in 1976. He represents clients in complex class-action claims and commercial litigation. He is peer-reviewed as an AV rated lawyer by Martindale Hubbell.

In certifying a class action on behalf of 173 Texas cities in *City of San Antonio v Hotels.com, t*he district court found "With regard to adequacy of counsel, the Court must determine whether class counsel has the qualifications, experience and training to litigate the case to its conclusion…The lead attorneys in this case are Steven Wolens and Gary Cruciani. Both attorneys have a wealth of experience in complex litigation, including substantial class action experience." *City of San Antonio v. Hotels.com*, No. SA-06-CA-381-OG, 2008 WL 2486043, at *8 (W.D. Tex. May 27, 2008).

For 24 years, he served as a member of the Texas Legislature and authored landmark legislation covering partnerships and limited liability corporations, ethics reforms, antitrust laws, and electric deregulation. Texas Monthly magazine named him one of the "Ten Best Legislator" in the state on six separate occasions. He currently serves on the Texas Ethics Commission, which he chaired from 2017–2019.

ASHCROFT SUTTON REYES LLC

Ashcroft Sutton Reyes LLC (d/b/a/ Ashcroft Law Firm) was founded in 2008 by former U.S. Attorney General, Governor, and Senator John Ashcroft. Together with the select group of seasoned, respected, and experienced senior executives he recruited to join him—many of whom helped to lead the U.S. Department of Justice during a significant time in our nation's history following the attacks on 9/11—the Ashcroft Firm has earned a reputation for integrity and a track record for accelerating successful resolutions of even the most complex matters.

In addition to General Ashcroft, the Ashcroft Firm is comprised of the former U.S. Attorney for the Western District of Texas, former Deputy Assistant to the President of the United States, former member of the Executive Administration of the Texas Attorney General's Office, former Assistant United States Attorney, former Deputy Associate Attorney General and Chief of Staff in the U.S. Department of Justice, former General Counsel and Assistant General Counsel to the Special Inspector General for Iraq Reconstruction, former Assistant General Counsel to the Governor of Texas, and several other highly skilled and experienced attorneys, all of whom know and understand government.

The Ashcroft Firm's attorneys are litigators who have led multi-plaintiff lawsuits against formidable foes, like the federal government, other states, and local government entities. Ashcroft attorneys have appeared in federal and state courts throughout the United States and internationally, ranging from the Supreme Court of the United States to municipal courts in Texas.

Additionally, the Ashcroft Firm provides legal and consulting services to world-leading clients, including Fortune 500, nation states, elected officials, multi-national corporations, and corporate executives. The Ashcroft Firm regularly leads large entities (government and private) through a large range of regulatory matters including issues involving the FCPA, FATCA, OFAC, SOX, ITAR, FCA, the FAR and the Bank Secrecy Act (Anti- Money Laundering).

Ashcroft attorneys have tried countless civil and criminal cases to verdict in state and federal courts throughout the country. The legal experience and efforts of Ashcroft attorneys has resulted in governmental entities recovering billions for contractual breaches, theft, tax evasion, waste, fraud, and abuse.

KOREIN TILLERY LLC

Korein Tillery — based in Chicago and St. Louis — is one of the country's most successful plaintiffs' complex-litigation firms, representing a broad array of clients in high-stakes lawsuits and delivering over $18 billion in verdicts and settlements over the last 16 years. The National Law Journal has consistently deemed Korein Tillery to be one of the country's top plaintiffs' firms by naming it to its "Plaintiffs' Hot List" seven times in the past 16 years. In 2014 and 2015, Korein Tillery was named by the NLJ as a member of its top 50 Elite Trial Lawyers.

Since 2007, Korein Tillery has represented Missouri municipalities in litigation that sought to recover unpaid license taxes. In suits against wireless and wireline carriers, Korein Tillery recovered hundreds of millions of dollars of license tax revenues—both retrospectively and prospectively—for more than 350 cities throughout Missouri. Korein Tillery has recovered more than $1 billion for Missouri municipalities. As a result of their work in these cases, the Missouri Lawyers Weekly recognized Korein Tillery partners with awards in the "largest plaintiff wins" category in 2007, 2009, 2010, 2015, and 2017. On two separate occasions corporate defendants have secured state legislation banning the litigation. In both instances Korein Tillery has successfully challenged the legislation as unconstitutional in the Supreme Court of Missouri. *See, e.g.*, *State ex rel. Collector of Winchester v. Jamison*, 357 S.W.3d 589 (Mo. 2012).

Steven Berezney is a partner in Korein Tillery's St. Louis office. He received his J.D. from the University of Illinois in 2003, where he served as Editor-in-Chief of the Law Review. After graduation, Mr. Berezney served as a judicial law clerk for Judge Laura Denvir Stith of the Supreme Court of Missouri.

While in private practice at Husch Blackwell, Mr. Berezney was part of the team that won a $1 billion judgment that, at the time, was the fourth largest patent infringement jury verdict in U.S. history, according to Bloomberg. *Monsanto Co. v. E.I. DuPont de Nemours & Co.,* 4:09-cv-00686-ERW (E.D. Mo. Aug. 1, 2012). At Korein Tillery, Mr. Berezney managed and litigated all aspects of multi-billion-dollar cases in federal trial and appellate courts against Wall Street investment banks arising from misrepresentations made about residential mortgage-backed securities. Mr. Berezney played a significant role in obtaining over $5 billion in recoveries. Mr. Berezney has also been part of the team litigating Sherman Act price fixing conspiracy claims raised against 16 investment bank defendants in *In re: Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-07789-LGS (S.D.N.Y.), resulting in $2.3 billion in recoveries to date.

Garrett Broshuis received his J.D. from Saint Louis University, where he graduated valedictorian and served as Editor-in-Chief of the Law Journal. Before law school, Mr. Broshuis played six years as a pitcher in the San Francisco Giants' organization, working at all levels of minor league baseball.

Since joining Korein Tillery, Mr. Broshuis has represented minor league baseball players in a novel case seeking to increase the players' pay, which recently had its class action status affirmed and expanded by the Ninth Circuit Court of Appeals. *Senne v. Kansas City Royals Baseball Corp.*, 934 F.3d 918, 922 (9th Cir. 2019). He also represents classes of Missouri municipalities in several actions against Fortune 500 and other large companies.

Mr. Berezney and Mr. Broshuis are both responsible for litigating the first known filed lawsuit (in Missouri) seeking to require streaming companies to pay franchise fees to municipalities. They are litigating similar cases in Indiana and Georgia.

City Council Meeting

Date: February 22, 2022

Agenda Item: 6.E.

PRESENTER: Steven Kirkland, City Attorney

ITEM/SUBJECT: Consider a resolution joining the State of Texas and Texas Political Subdivisions' settlement with additional defendants (the ENDO/PAR Defendants) in the Texas opioid litigation, MDL NO. 2018-63587. (City Attorney)

SUMMARY/BACKGROUND: On October 19, 2021, City Council approved a resolution supporting the Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet, which released claims of the City against certain defendants in the Texas Opioid MDL. The State of Texas had sued various manufacturers and distributors of opioid drugs for deceptive trade and marketing violations, primarily misrepresenting the risk of addiction to opioid drugs. The City joined the State's previous settlement with drug manufacturer Johnson & Johnson and three distributors: AmerisourceBergen, Cardinal Health, and McKesson.

Special Counsel and the State of Texas have reached an additional settlement agreement with Endo Health Solutions Inc., Endo Pharmaceuticals Inc., Endo International plc, Par Pharmaceutical, Inc., and Par Pharmaceutical Companies, Inc. (collectively, "Endo/Par" or "Defendants") and recommends that City of Nacogdoches join that settlement agreement.

Per the terms of the settlement, the City may receive a direct allocation of $9000, and the Statewide Opioid Trust fund will receive an additional $56 million.

FINANCIAL:
No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Not Applicable

CITY CONTACT: Steven Kirkland, City Attorney
kirklands@nactx.us
936-559-2503

ATTACHMENTS: 1. Opiod Settlement Resolution

CITY OF NACOGDOCHES, TEXAS
RESOLUTION NO. 1293-02-22

A RESOLUTION JOINING THE STATE OF TEXAS AND TEXAS POLITICAL SUBDIVISIONS' SETTLEMENT WITH ADDITIONAL DEFENDANTS IN THE TEXAS OPIOD LITIGATION, MDL NO. 2018-63587.

WHEREAS, upon the recommendation of Special Counsel and the State of Texas, the City of Nacogdoches City Council via Resolution **1281-10-21** supported the adoption and approved the May 13, 2020 Texas Opioid Abatement Fund Council and Settlement Allocation Term Sheet (hereafter, the Texas Term Sheet) in its entirety which released claims of the City against certain defendants in the Texas Opioid MDL, *In Re: Texas Opioid Litigation*, MDL No. 2018-63587, in the 152d District Court of Harris County, Texas.

WHEREAS, the lawuit was brought by the State of Texas, and various Political Subdivisions of the State to hold opiod manufacturers and opiod distributors accountable for their respective roles in the Opiod epidemic; specifically, claims of fraudulent and/or reckless marketing and/or distribution of opioids that have resulted in addictions and overdoses that have resulted in significant financial costs to the City; and

WHEREAS, Special Counsel and the State of Texas have reached an additional settlement agreements with Endo Health Solutions Inc., Endo Pharmaceuticals Inc., Endo International plc, Par Pharmaceutical, Inc., and Par Pharmaceutical Companies, Inc. (collectively "Endo/Par"); and Teva Pharmaceutical Industries Ltd., Teva Pharmaceuticals USA, Inc., Cupric Holding Co., Inc., Teva Pharmaceutical Holdings Cooperative U.A., Teva Pharmaceuticals Europe B.V., Cephalon, Inc., Watson Laboratories, Inc., Actavis LLC; Actavis Pharma, Inc. f/k/a Watson Pharma, Inc., Warner Chilcott Co., LLC, Actavis South Atlantic LLC, Actavis Elizabeth LLC, Actavis Mid Atlantic LLC, Actavis Totowa LLC, Actavis Kadian LLC, Actavis Laboratories UT, Inc. f/k/a Watson Laboratories Inc.-Salt Lake City, Actavis Laboratories FL, Inc. f/k/a Watson Laboratories, Inc.-Florida, and Anda, Inc. (collectively "Teva") and recommends that City of Nacogdoches join that settlement agreement.

NOW, THEREFORE, be it resolved by the City Council of the City of Nacogdoches, Texas that:

1. Finds as follows:

    a. There is a substantial need for repayment of opioid-related expenditures and payment to abate opioid-related harms in and about the City of Nacogdoches; and

    b. The City Council approves joinder in this additional settlement under the terms and conditions described in the Endo/Par Texas State-Wide Opioid Settlement Agreement between Endo/Par, the State of Texas, and the Counties of Dallas, Bexar, Harris and Tarrant, and authorizes execution of the Texas Subdivision and Special District Election and Release Form (Exhibt A).

    c. The City Council approves joinder in this additional settlement under the terms and conditions described in the Teva Texas State-Wide Opioid Settlement Agreement between Endo/Par, the State of Texas, and the Counties of Dallas, Bexar, Harris and Tarrant, and authorizes execution of the Texas Subdivision and Special District Election and Release Form (Exhibt B).

    d. The City Council agrees to the distribution of proceeds pursuant to the allocation method for opioid settlement proceeds as set forth in the Texas Term Sheet previously approved in Resolution **1281-10-21**.

PASSED AND APPROVED, this the ___ day of _____, 2021,by a vote of ____ (ayes) to _____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

_____
Jan Vinson, City Secretary

APRROVED AS TO FORM:

_____
Steven Kirkland, City Attorney

Exhibit A

TEXAS SUBDIVISION AND SPECIAL DISTRICT ELECTION AND RELEASE FORM

This Election and Release Form for Texas Participating Subdivisions[1] resolves opioid-related Claims against Endo/Par under the terms and conditions set forth in the Endo/Par Texas State-Wide Opioid Settlement Agreement between Endo/Par, the State of Texas, and the Counties of Dallas, Bexar, Harris and Tarrant (the "Agreement"), the provisions of which are here incorporated by reference in their entirety. Upon executing this Election and Release Form, a Participating Subdivision agrees that, in exchange for the consideration described in the Agreement, the Participating Subdivision is bound by all the terms and conditions of the Agreement, including but not limited to the Release found in Section VII of the Agreement and the provisions concerning participation by Subdivisions or Special Districts in Section VIII, and the Participating Subdivision and its signatories expressly represent and warrant on behalf of themselves that they have, or will have obtained on or before the Effective Date or on or before the execution of this Election and Release Form if executed after the Effective Date, the authority to settle and release, to the maximum extent of the Subdivision's and Special District's power, all Released Claims related to Covered Conduct. If this Election and Release Form is executed on or before the Initial Participation Date, the Participating Subdivision shall dismiss Endo/Par and all other Released Entities with prejudice from all pending cases in which the Participating Subdivision has asserted Covered Claims against Endo/Par or a Released Entity no later than the Initial Participation Date. If this Election and Release Form is executed after the Initial Participation Date, the Participating Subdivision shall dismiss Endo/Par and all other Released

[1] The Agreement defines a "Participating Subdivision" as a Subdivision or Special District that signs this Election and Release Form and meets the requirements for becoming a Participating Subdivision under subsection VIII.A. of the Agreement.

Entities with prejudice from all pending cases in which the Participating Subdivision has asserted Covered Claims against Endo/Par or a Released Entity concurrently with the execution of this form. By executing this Election and Release Form, the Participating Subdivision submits to the jurisdiction of the Honorable Robert Schaffer, *In Re: Texas Opioid Litigation*, MDL No. 18-0358, Master File No. 2018-63587, in the 152nd Judicial District Court, Harris County, Texas.

Dated: _____

Texas Subdivision Name: _____

By: _____
[NAME]
[TITLE]
[ADDRESS]
[TELEPHONE]
[EMAIL ADDRESS]

Exhibit B

TEXAS SUBDIVISION AND SPECIAL DISTRICT ELECTION AND RELEASE FORM

This Election and Release Form for Texas Participating Subdivisions[1] resolves opioid-related Claims against Teva under the terms and conditions set forth in the Teva Texas State-Wide Opioid Settlement Agreement between Teva, the State of Texas, and the Counties of Dallas, Bexar, Harris and Tarrant (the "Agreement"), the provisions of which are here incorporated by reference in their entirety. Upon executing this Election and Release Form, a Participating Subdivision agrees that, in exchange for the consideration described in the Agreement, the Participating Subdivision is bound by all the terms and conditions of the Agreement, including but not limited to the Release found in Section VII of the Agreement and the provisions concerning participation by Subdivisions or Special Districts in Section VIII, and the Participating Subdivision and its signatories expressly represent and warrant on behalf of themselves that they have, or will have obtained on or before the Effective Date or on or before the execution of this Election and Release Form if executed after the Effective Date, the authority to settle and release, to the maximum extent of the Subdivision's and Special District's power, all Released Claims related to Covered Conduct. If this Election and Release Form is executed on or before the Initial Participation Date, the Participating Subdivision shall dismiss the Released Claims with prejudice and sever Teva and all other Released Entities from all pending cases in which the Participating Subdivision has asserted Covered Claims against Teva or a Released Entity no later than the Initial Participation Date. If this Election and Release Form is executed after the Initial Participation Date, the Participating Subdivision shall dismiss the

[1] The Agreement defines a "Participating Subdivision" as a Subdivision or Special District that signs this Election and Release Form and meets the requirements for becoming a Participating Subdivision under subsection VIII.A. of the Agreement.

Released Claims with prejudice and sever Teva and all other Released Entities from all pending cases in which the Participating Subdivision has asserted Covered Claims against Teva or a Released Entity concurrently with the execution of this form. By executing this Election and Release Form, the Participating Subdivision submits to the jurisdiction of the Honorable Robert Schaffer, *In Re: Texas Opioid Litigation*, MDL No. 18-0358, Master File No. 2018-63587, in the 152nd Judicial District Court, Harris County, Texas.

Dated: _____

Texas Subdivision Name: _____

By: _____
[NAME]
[TITLE]
[ADDRESS]
[TELEPHONE]
[EMAIL ADDRESS]

City Council Meeting

Date: February 22, 2022

Agenda Item: 6.F.

PRESENTER: Larissa Philpot, Economic Development Director

ITEM/SUBJECT: Discuss and consider resolutions of support, no-opposition, or denial for developers applying for Texas Department of Housing and Community Affairs 2022 Competitive 9% Low-Income Housing Housing Tax Credit Program (LIHTC). (Economic Development Director) Project Name: Maroney Park Crossing, Project Location: Maroney Drive, TDHCA LIHTC 9% Pre-Application Number: 22086

SUMMARY/BACKGROUND: The Low Income Housing Tax Credit (LIHTC) program (or HTC program) is a federal program created in 1986 designed to finance the construction of affordable rental housing.The LIHTC program is the primary way new affordable housing is constructed in the United States. More than $83 million in tax credits has been provided to Texas for the 2022 allocation. In Texas, this program is administered by the Texas Department of Housing and Community Affairs (TDHCA).

Nacogdoches contains several housing tax credit developments that were constructed using LIHTC financing in previous years. The developments below represent a total of 784 units, or approximately 16% of the total multi-family units inside the City.

Development	**Address**	**Year Awarded**
Cordova Rental Units	Various	1993
Commonwealth Apartments	5319 Northway Drive	1996
Commonwealth, Phase II	5319 Northway Drive	1999
Cypress Ridge	2701 Logan Circle	2000
Cardinal Village	1630 Cardinal Street	2002
Spring Hill Apartments	3413 East Main	2002
Nacogdoches Senior Village	605 Harris Street	2006
Vista Pines Apartment Homes	1602 Park Street	2006
Park Estates	1600-2026 Pruitt Hill	2007
Pine Lake Estates	2012 Durst Street	2013
Tower Village	Tower Rd & Park St	2013

This year, the City of Nacogdoches received requests for resolutions of support from four developers representing five different multi-family developments (one development team submitted two adjacent projects). All five proposed developments are located in the Northeast Ward. Introductory meetings were held with each developer, Larissa Philpot, City Manager

Canizares, Mayor Mize or Mayor Pro Tem Boldon, and Northeast Ward Council Member Belanger.

All the developers were invited to make presentations and answer community member questions at a community meeting to be held on February 2nd at the C.L. Simon Recreation Center. A recording of the meeting can be found here: HTC Community Meeting - 2-2-22 (https://youtu.be/chk8H_7CXYw?t=1420).

In the days following the community meeting, two of the proposed developments withdrew their requests for support. The two remaining developments are:

	Development Name	Maroney Park Crossing	Pioneer Crossing for Seniors
	Location	SWC of Maroney Dr and Kenbrook Dr	NEC of N University Dr and Maroney Dr
	Non-Profit?	Yes	No
Units	Low Income	60	72
	Market	0	8
	Total	60	80
	Target Population	Eldery (62+)	Eldery (55+)
	Estimated Capital Expenditure	$13,000,000	$11,000,000
	Current Zoning	PD	B2
	Proposed Density (Units/Acre)	5 units/acre	8 units/acre

The two remaining developments have requested the following:
- A resolution of support
- A waiver of fees equivalent to $250. This is a point category from the state's qualified allocation plan. The development's application receives one point if they are provided a "loan, grant, reduced fees or contribution of other value that equals...$250 or more for Applications in Rural subregions". Each development has requested this $250 fee waiver.

Timeline:

Council Workshop	February 1, 2022
Community meeting	February 2, 2022, 5:30 PM at the C.L. Simon Recreation Center
Consideration of resolutions of support	February 22, 2022 City Council meeting
Full application from developer due to TDHCA	March 1, 2022
TDCHA issuance of credit allocations	July 2022
Construction complete	End of 2024

The Texas Department of Housing and Community Affairs recommends residents of a community that is considering a resolution for a LIHTC ask the following questions. Staff encourages Council to review and consider these questions. The answers to most of these questions are provided in the attached information provided by the applicants.
- What other developments has the developer built and where are they located?
- What are the developer's long-term goals for the property?
- How will the development fit in with the existing neighborhood?
- What types of supportive services will be provided to residents?
- Who are the proposed tenants and how will they be screened?

Council has several options regarding each request:
- Adopt a resolution of support, including a $250 fee waiver
- Adopt a resolution of support, excluding the requested $250 fee waiver
- Adopt a resolution of no objection
- Adopt a resolution of opposition
- Take no action

FINANCIAL:
No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Neighborhood Revitalization and Attainable Housing

CITY CONTACT: Larissa Philpot-Brown, Economic Development Director
lphilpot@nedco.org
936-559-1255

ATTACHMENTS:
1. HTC Presentation 2.22.2022
2. Maroney Park Crossing - Updated Development Summary and Market Analyis
3. Resolution 1294-02-22 Maroney Park Crossing LIHTC - No Objection
4. Resolution 1294-02-22 Maroney Park Crossing LIHTC - Support

2022 Housing Tax Credit Applications

What is a Housing Tax Credit?

- Created in 1986
- Federal incentive for investors to provide affordable housing
- Dollar for dollar credit on federal income tax
- Claimed over 10 years
- Gives state housing agencies $8 billion annually to allocate
- Administered by the Texas Department of Housing and Community Affairs – TDHCA.
- Not Section 8

Housing Tax Credits Explained

- Qualified allocation plan
- Regions defined
- Competitive scoring
  - Amenities
  - Income and rent levels
  - Proximity to jobs
  - Location in a recent disaster area
  - Resolution of support from city

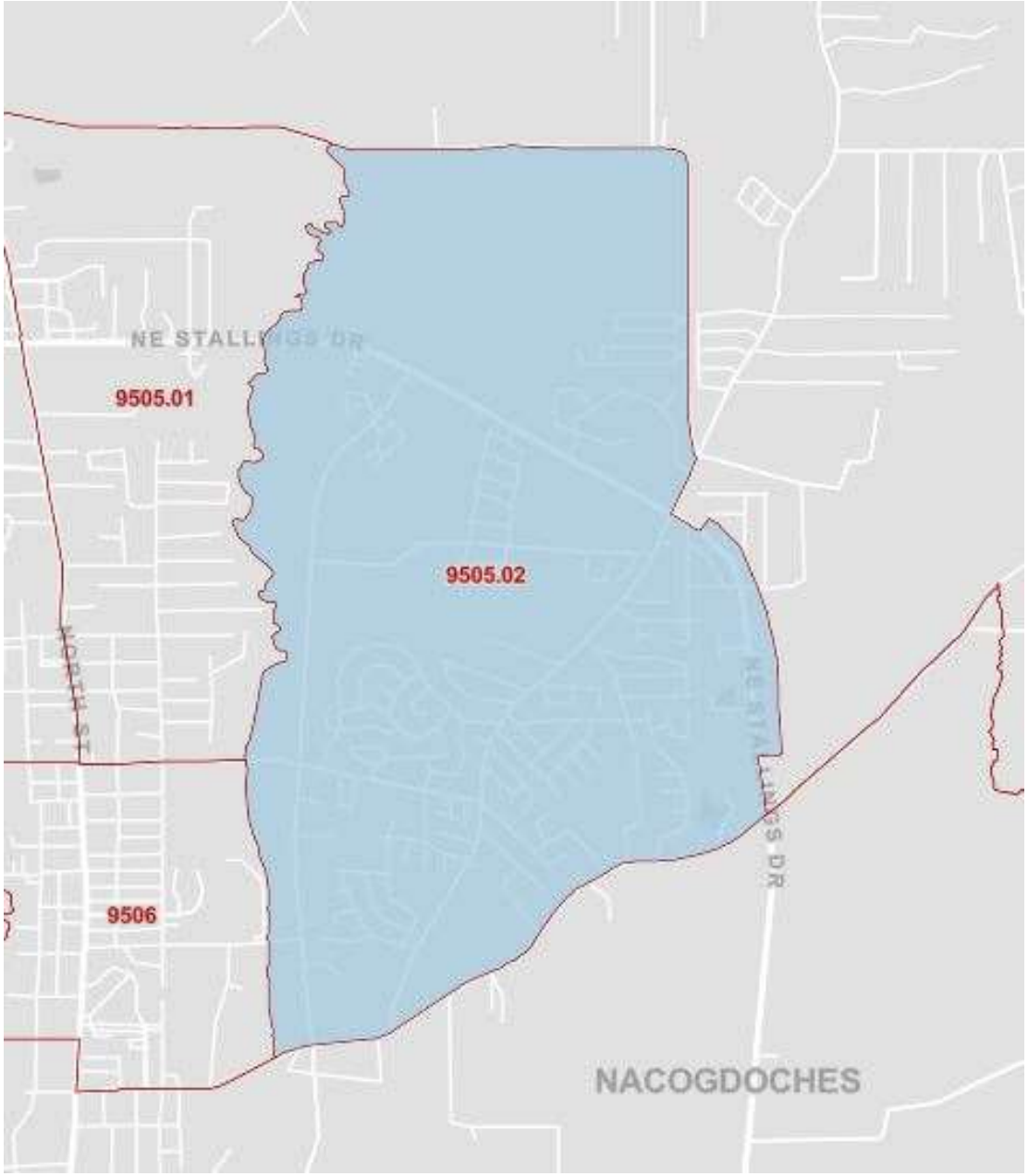
Point System

- Opportunity index
  - Within a census tract with a poverty rate of less than 20%. This tract is at 14%.
  - Within 5 miles of a grocery store, pharmacy, hospital, Head Start, library, park, university or community college, recreation facility
  - Low crime rate
  - With a high percentage of educated adults
  - Meals on Wheels service area
  - School with A or B rating
  - Economically distressed area, no HTC development within 15 years
  - Near jobs
  - Federal disaster area

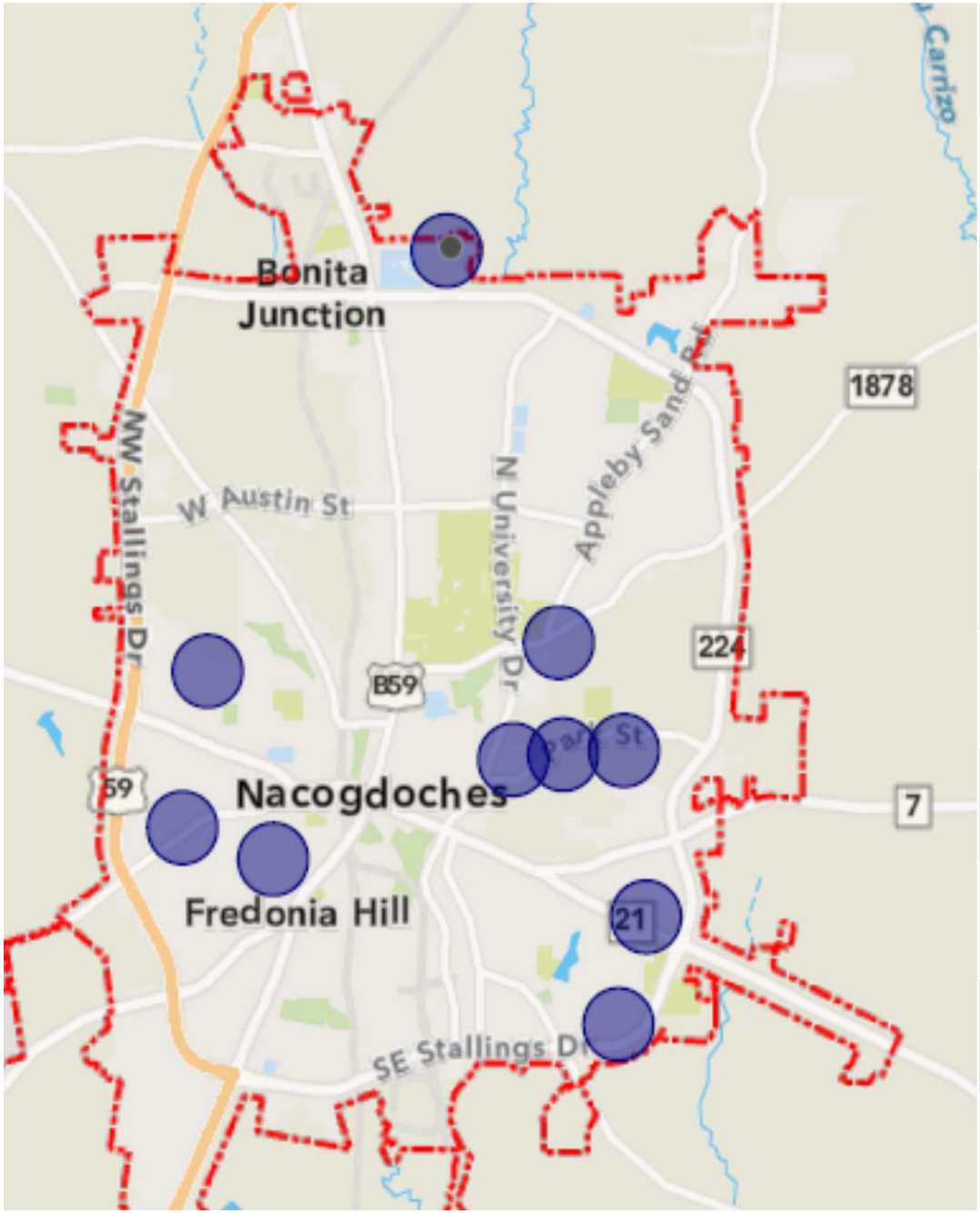
Point System

- Local government support
- Development funding (<$250)
- State representative support
- Community service organization support
- Property owner association support
- Financial feasibility
- Cost of development
- Pre application participation

Census Tract 9505.02



Existing Tax Credit Properties



Cordova Rental Units	Various	1993
Commonwealth I & II	Northway Drive	1996 & 1999
Cypress Ridge	Logan Circle	2000
Cardinal Village	Cardinal Street	2002
Spring Hill	East Main Street	2002
Senior Village	Harris Street	2006
Vista Pines	Park Street	2006
Park Estates	Pruitt Hill	2007
Pine Lake Estates	Durst Street	2013
Tower Village	Tower & Park	2013

2022 Applications

Name	Maroney Park Crossing	Pioneer Crossing for Seniors
Address	SWC Maroney & Kenbrook	NEC N. University & Maroney
Non-Profit	Yes	No
Low income units	60	72
Total units	60	80
Target	62+	55+
Est. Capital Expenditure	$13 million	$11 million
Current zoning	PD	B-2

SWC of Maroney Dr and Kenbrook Dr

Nacogdoches, Texas

Maroney Park Crossing

Location

PIONEER CROSSING FOR SENIORS
- LOCATION -

Timeline

- February 1, 2022 Workshop
- February 2, 2022 Public meeting
- February 22, 2022 Resolutions
- March 1, 2022 Final application due
- July 2022 Issuance of allocations
- December 31, 2024 Construction complete

Comprehensive Plan Goals

- **A variety of safe, high-quality residential areas that meet the needs of Nacogdoches residents.**
- **High-quality development that respects community character and the natural environment and does not overburden public services and infrastructure**
- **A variety of quality housing options that are appropriately available to new and current residents of Nacogdoches and affordable at all income levels.**
- **Housing and neighborhood design that successfully addresses the needs of an aging population while taking advantage of amenities attractive to retirees.**
- **Neighborhoods that are protected through diligent enforcement of appropriate ordinances, regulations and incentives.**
- **Sensible growth in Nacogdoches that takes advantage of proximity to services and amenities and minimizes the strain on tax revenue.**

Questions to Consider

- What other developments has the developer built and where are they located?
- What are the developer's long-term goals for the property?
- How will the development fit in with the existing neighborhood?
- What types of supportive services will be provided to residents?
- Who are the proposed tenants and how will they be screened?

Options?

- Adopt a resolution of support including $250 fee waiver
- Adopt a resolution of support excluding $250 fee waiver
- Adopt a resolution of no objection
- Adopt a resolution of opposition
- Take no action

February 8, 2022

Councilmember Kathleen Belanger
City of Nacogdoches
P.O. Box 635030
Nacogdoches, TX 75963

RE: Maroney Park Crossing / 9% HTC Senior Housing Development / 501(c)3 Non-Profit

Dear Councilmember Belanger,

I hope this note finds you well. On behalf of CSH Maroney Park Crossing, Ltd., I sincerely appreciated the opportunity to speak to the community last week. As a brief follow-up, I wanted to share a few discussion points that my development team and I are integrating into *Maroney Park Crossing*. At your earliest convenience, it would be terrific if you could share this with Mayor Mize and your fellow councilmembers.

- Target Population will now be for seniors aged 62 and older.
- The current market study indicates a need for over 1,000 senior units in your city for this demographic. See attached.
- To ease impact, we have reduced our development footprint to only 60 total units
- The prior Planned Development (PD) zoning for this site had over 140 units of multi-story, multi-family senior units approved, along with restaurants and cottages that impacted over 40 acres of land.
- Our new Planned Development (PD) zoning for this site is requesting only 60 units of senior units proposed on less than 12 acres of land, which can be single-story and incorporate perimeter cottages reducing impact to only 5.04 units/acre.
- The benefit of a new PD that is re-created through the P&Z process is that *Maroney Park Crossing* can be seen, crafted, designed, and developed with community input, unlike an already-zoned development site that does not require any community input on its design.
- Most importantly, the further benefit of a new PD is that the residents are awarded the gift of more time where they can be heard in the planning process, which is what some in the community are requesting; and it also allows the residents, the city, and the developer to engage in more connected communication which, in our experience, can create a senior development everyone can be proud of.
- Our development team has already engaged P&Z, and we have a pre-development meeting this week to incorporate suggestions and receive more feedback.
- Again, *Maroney Park Crossing* seeks to be all single-story, mirroring the height of single-family residential in the Kenbrook neighborhood.
- The development seeks to be the least invasive to the environment and topography.

Texas Inter-Faith Housing Corporation 3701 Kirby Drive, Suite 860 Houston, Texas 77098 p: 713-526-6634 f: 713-526-7019

- The development can be designed using a low-density single-story plan with ample detention flowing to natural contours.
- The development seeks to maintain current eastern tree line buffers, while planting more trees and natural vegetation with a thoughtfully incorporated landscaping plan, all of which can be viewed as an improvement to the prior PD's impervious surface area impact.
- And lastly, a handful of residents approached me personally after the community meeting and expressed both interest and support for *Maroney Park Crossing*, its location, and its affiliation to non-profit ownership, management and development that empowers seniors. See attached list of our robust resident services list for retirees, seniors and the elderly.

Ultimately, I hope that this can be a helpful summary of information that underscores our willingness to grow with the City of Nacogdoches. I look forward to hearing from you and seeing you all again very soon. Thank you so much for the ongoing consideration!

Kind Regards,

CSH Maroney Park Crossing, Ltd., a Texas limited partnership

By: CSH Maroney Park Crossing GP, LLC, its general partner

By: Texas Inter-Faith Housing Corporation, a Texas non-profit corporation

By: _____

Russ Michaels, its Executive Director
rmichaels@interfaithgroup.org
212-960-3913 mobile
713-526-6634 office

(Old & Current) PD Design That Was Approved by City

TIMBER SPRINGS

SEPTEMBER 2009

NACOGDOCHES, TEXAS

SITE DEVELOPMENT
MASTER PLAN

0' 30' 60' 120'

REES
architecture planning interiors

LINE	BEARING	DISTANCE
L1	S 82°09'36" W	50.72
L2	S 48°54'39" W	35.19
L3	S 34°22'24" W	29.53
L4	S 74°58'24" W	18.52
L5	S 49°38'26" W	43.35
L6	S 00°39'30" W	39.58
L7	S 55°24'09" W	48.03
L8	S 04°28'22" W	45.81
L9	S 56°30'54" W	15.88
L10	N 59°22'31" W	46.25
L11	S 55°31'51" W	61.21
L12	S 70°31'12" W	100.13
L13	S 85°50'02" W	34.33
L14	N 58°03'58" W	51.81
L15	S 79°38'09" W	53.16
L16	N 79°34'50" W	57.07
L17	N 62°50'24" W	44.62
L18	N 70°59'09" W	29.20
L19	N 45°17'24" W	22.75
L20	S 46°05'11" W	158.77
L21	N 52°48'49" W	76.41
L22	N 24°49'49" W	32.59
L23	N 68°45'25" W	89.22
L24	N 55°51'25" W	44.31
L25	N 50°43'07" W	53.54
L26	N 83°43'02" W	78.64
L27	N 39°08'20" W	45.76
L28	S 64°00'08" W	55.43
L29	S 78°15'18" W	51.35
L30	N 65°17'01" W	40.20
L31	N 51°25'37" W	34.71
L32	S 53°56'17" W	95.66
L33	S 64°46'40" W	56.59
L34	S 78°49'38" W	60.02
L35	N 84°08'55" W	71.77
L36	N 40°23'53" W	27.74
L37	N 60°00'50" W	58.49
L38	S 89°23'46" W	38.39
L39	S 51°47'35" W	33.00
L40	S 03°31'21" W	29.43
L41	S 41°10'53" W	14.48
L42	S 83°39'36" W	22.67

LINE	BEARING	DISTANCE
L43	N 20°02'08" W	16.80
L44	N 08°24'01" W	14.46
L45	N 65°25'57" W	53.59
L46	N 38°34'52" W	33.98
L47	N 76°14'16" W	54.42
L48	N 81°16'42" W	44.12
L49	N 50°00'12" W	99.63
L50	N 72°59'23" W	68.62
L51	N 68°45'56" W	80.15
L52	N 43°13'00" E	40.35
L53	N 78°25'21" W	49.93
L54	N 59°59'25" W	60.28
L55	N 49°49'20" W	69.27
L56	N 69°07'16" W	53.13
L57	N 01°12'28" E	140.44
L58	S 88°49'38" E	189.84
L59	N 86°47'25" E	25.99
L60	N 41°47'25" E	73.31
L61	N 03°12'35" W	21.92
L62	N 41°47'25" E	151.01
L63	N 08°55'28" E	37.19
L64	S 46°04'33" E	21.92
L65	N 88°55'28" E	73.31
L66	N 43°55'27" E	21.92
L67	N 38°59'42" W	109.63
L68	N 41°47'25" E	38.18
L69	N 41°47'25" E	113.63
L70	S 13°49'52" E	144.47
L71	S 58°53'17" E	44.09
L72	S 14°46'44" E	43.59
L73	S 08°53'20" W	176.01
L74	N 24°59'02" W	115.08
L75	S 65°00'58" W	99.66
L76	S 75°10'08" W	53.17
L77	N 75°37'25" W	125.15
L78	N 22°56'49" W	64.75
L79	N 01°34'11" W	82.37
L80	N 25°50'15" E	89.33
L81	N 38°54'23" W	124.29
L82	N 82°59'36" W	70.31
L83	N 01°13'52" W	176.80

CURVE	ARC	DELTA	RADIUS	CHORD LENGTH	CHORD BEARING
C1	399.38	43°23'31"	527.35	389.90	N 69°28'36" E
C2	388.82	47°00'02"	472.55	377.55	N 65°21'26" E
C3	163.89	17°48'21"	527.35	163.23	N 56°41'01" E
C4	170.01	20°36'33"	472.55	169.10	N 52°05'42" E
C5	218.81	26°31'29"	472.55	216.86	N 75°39'43" E
C6	291.53	43°42'54"	382.93	284.51	S 16°16'14" E
C7	99.38	07°35'00"	750.83	99.30	S 31°57'22" W
C8	129.15	14°01'57"	527.35	128.83	N 72°36'10" E
C9	87.03	09°27'20"	527.35	86.93	N 84°20'43" E
C10	19.31	02°05'54"	527.35	19.31	S 89°02'30" E

NOTES

SURVEYOR DID NOT ABSTRACT FOR EASEMENTS OR OWNERSHIP.
TITLE COMMITMENT, GF NO. 2009-3321, EFFECTIVE 03/25/2009, ISSUED BY STEWART TITLE GUARANTY CO., USED TO PREPARE THIS SURVEY.
DATUM: TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE, U.S. SURVEY FEET, BASED UPON THE CITY OF NACOGDOCHES GPS MONUMENTS (1992 & 1997) HAVING A CONVERGENCE ANGLE OF 02°56'08" AND A CF OF .99992474.
THIS PROPERTY APPEARS TO LIE IN "ZONE C" PER FEMA FLOOD INSURANCE RATE MAP, COMMUNITY-PANEL NUMBER 480497 0006B, DATED 2/19/1981.
SOUTH BOUNDARY IS SUBJECT TO CHANGE DUE TO NATURAL CAUSES.
■ = 1/2" IRON ROD SET.

All that certain tract or parcel of land lying and being situate in the City of Nacogdoches, Nacogdoches County, Texas on the SAMUEL MARSHALL SURVEY, A-365, being part of a 98.4 acre tract described as 1st Tract of Second Tract, part of a 34.1 acre tract described as Third Tract, part of a 7.111 acre tract described as Fifth Tract, and part of a 13.592 acre tract described as Seventh Tract in a deed from C.R. Jones, et ux, to Lone Star Breeder Farm, Inc., dated January 24, 1958, recorded in Volume 272, Page 359 of the DRNCT, and part of a 240.7 acre tract described as First Tract in a deed from Christian Medical Foundation, Inc., to Lone Star Breeder Farm, Inc., recorded in Volume 334, Page 122 of the DRNCT, and more particularly described as follows:

BEGINNING at a 1-1/2" iron pipe found at the base of a fence corner post for the SWC of the Kenbrook North Addition, recorded in Volume 3, Page 5-7 of the Plat Records of Nacogdoches County, Texas (PRNCT), the NWC of the 13.592 acre tract, and in the EBL of the 98.4 acre tract;

THENCE N 86°12'34" E (called N 86°45' E in 272/359 and N 89°36'53" E in 3/5-7 PRNCT) with the NBL of the 13.592 acre tract and the SBL of Kenbrook North Addition, at 208.9 feet pass a point 1.7 feet south of a 3/4" iron rod found, at 408.6 feet pass a point 0.3 feet north of a 1/2" iron rod found, at 525.6 feet pass a point 1.4 feet south of a 3/4" iron rod found, at 768.9 feet pass a point 1.0 feet south of a 3/4" iron pipe found, at 866.6 feet pass a point 0.5 feet south of a 5/8" iron rod found, and in all 992.29 feet (called 1119.4' in 272/359 and 994.08' in 3/5-7 PRNCT) to a 2" iron pipe found for angle corner in the SBL of Kenbrock North Addition, the occupied NEC of the 13.592 acre tract, the NWC of a 11.3 acre tract described as Tract Two in a deed from Texas Service Life Insurance Company to Lyle Thorstenson, et ux, dated November 4, 1992, recorded in Volume 828, Page 30 of the DRNCT;

THENCE S 06°42'53" W (called S 10' W in 272/359 and S 11' W in 828/30) with the occupied EBL of the 13.592 acre tract and the WBL of the 11.3 acre tract, at 302.81 feet pass a 3/8" iron rod found for the SWC of the 11.3 acre tract and the NWC of a 10.39 acre tract described in a deed from Tom Jones to Charles Logan, et ux, dated July 22, 1955, recorded in Volume 337, Page 372 of the DRNCT, and in all 382.11 feet to a point for corner in the centerline of a branch and the WBL of the 10.39 acre tract;

THENCE with the meanders of the centerline of said branch as follows:

1. S 82°09'36" W, 50.72 feet; 2. S 48°54'39" W, 35.19 feet; 3. S 34°22'24" W, 29.53 feet; 4. S 74°58'24" W, 18.62 feet;
5. S 49°38'26" W, 43.35 feet; 6. S 00°39'30" W, 39.58 feet; 7. S 55°24'09" W, 48.03 feet; 8. S 04°28'22" W, 45.81 feet;
9. S 56°30'54" W, 15.88 feet; 10. N 59°22'31" W, 46.25 feet; 11. S 55°31'51" W, 61.21 feet; 12. S 70°31'12" W, 100.13 feet;
13. S 85°50'02" W, 34.33 feet; 14. N 58°03'58" W, 51.81 feet; 15. S 79°38'09" W, 53.16 feet; 16. N 79°34'50" W, 57.07 feet;
17. N 62°50'24" W, 44.62 feet; 18. N 70°59'09" W, 29.20 feet; 19. N 45°17'24" W, 22.75 feet; 20. S 46°05'11" W, 156.77 feet;
21. N 52°48'49" W, 76.41 feet; 22. N 24°49'49" W, 32.59 feet; 23. N 68°45'25" W, 89.22 feet; 24. N 55°51'25" W, 44.31 feet;
25. N 50°43'07" W, 53.54 feet; 26. N 83°43'02" W, 78.64 feet; 27. N 39°08'20" W, 45.75 feet; 28. S 64°00'08" W, 55.43 feet;
29. S 78°15'18" W, 51.35 feet; 30. N 65°17'01" W, 40.20 feet; 31. N 51°25'37" W, 34.71 feet; 32. S 53°56'17" W, 95.66 feet;
33. S 64°46'48" W, 56.59 feet; 34. S 78°49'38" W, 60.02 feet; 35. N 84°08'55" W, 71.77 feet; 36. N 40°23'53" W, 27.74 feet;
37. N 60°00'50" W, 58.49 feet; 38. S 89°23'46" W, 38.39 feet; 39. S 51°47'35" W, 33.00 feet; 40. S 03°31'21" W, 29.43 feet;
41. S 41°10'53" W, 14.48 feet; 42. S 83°39'36" W, 22.67 feet; 43. N 20°02'08" W, 16.80 feet; 44. N 08°24'01" W, 14.46 feet;
45. N 65°25'57" W, 53.59 feet; 46. N 38°34'52" W, 33.50 feet; 47. N 76°14'16" W, 54.42 feet; 48. N 81°16'42" W, 44.12 feet;
49. N 50°00'12" W, 99.63 feet; 50. N 72°59'23" W, 68.62 feet; 51. N 68°45'56" W, 80.15 feet; 52. N 43°13'00" E, 40.35 feet;
53. N 78°25'21" W, 49.93 feet; 54. N 59°59'25" W, 60.28 feet; 55. N 49°49'20" W, 69.27 feet; 56. N 69°07'16" W, 53.13 feet to a point for corner in the EBL of Lot 2, University Park Subdivision, recorded in Volume 5, Page 33 of the PRNCT, from which a 1/2" iron rod found for witness bears N 01°12'28" E, 30.50 feet;

THENCE N 01°12'28" E, 140.44 feet (called N 04°39'37" E in 5/33 PRNCT) with the EBL of Lot 2 to a 1" iron pipe found for corner, from which a fallow snag bears S 54° W, 2.0 feet;

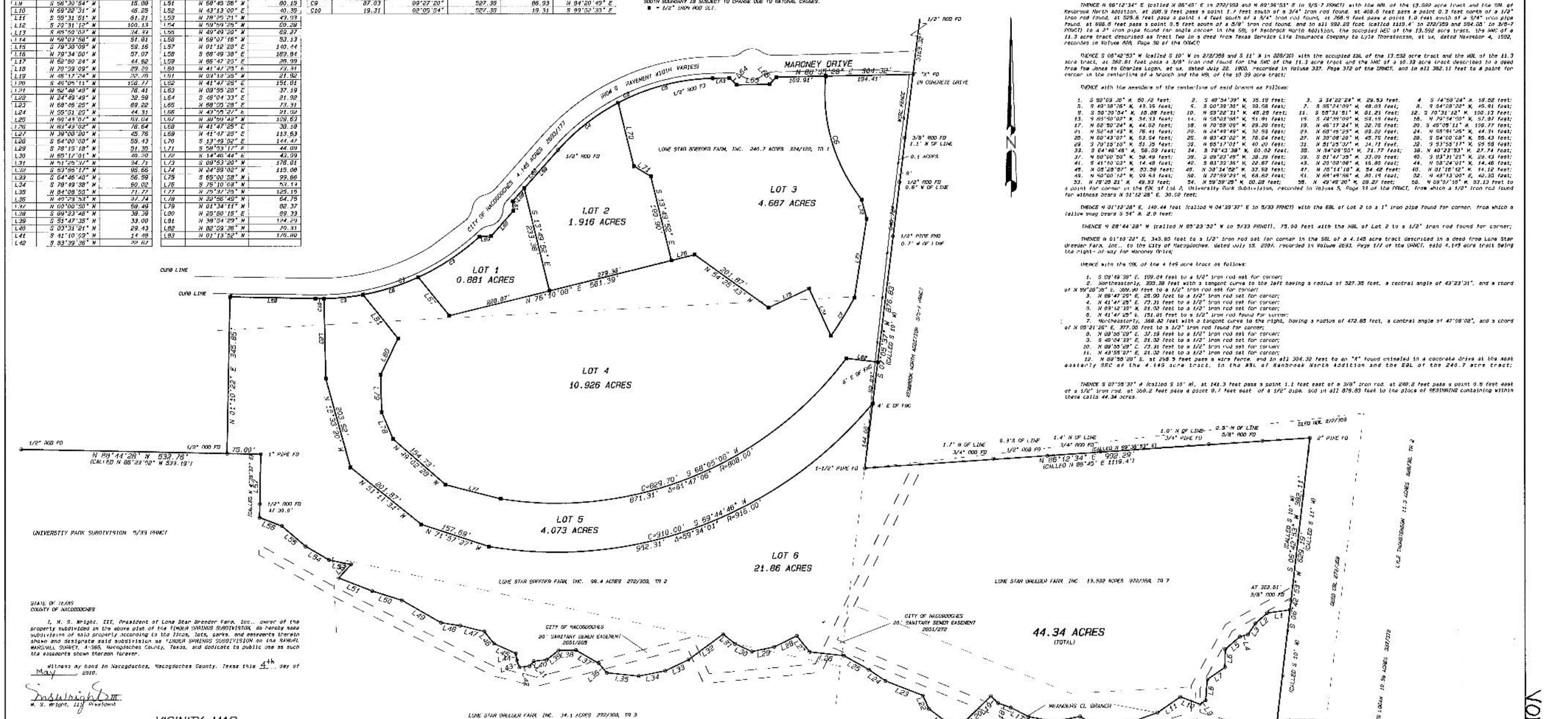
THENCE N 88°44'28" W (called N 85°23'52" W in 5/33 PRNCT), 75.00 feet with the NBL of Lot 2 to a 1/2" iron rod found for corner;

THENCE N 01°10'22" E, 345.85 feet to a 1/2" iron rod set for corner in the SBL of a 4.145 acre tract described in a deed from Lone Star Breeder Farm, Inc., to the City of Nacogdoches, dated July 18, 2007, recorded in Volume 2693, Page 177 of the DRNCT, said 4.145 acre tract being the right-of-way for Maroney Drive;

THENCE with the SBL of the 4.145 acre tract as follows:

1. S 88°49'38" E, 189.84 feet to a 1/2" iron rod set for corner;
2. Northeasterly, 399.38 feet with a tangent curve to the left having a radius of 527.35 feet, a central angle of 43°23'31", and a chord of N 69°28'36" E, 389.90 feet to a 1/2" iron rod set for corner;
3. N 86°47'25" E, 25.99 feet to a 1/2" iron rod set for corner;
4. N 41°47'25" E, 73.31 feet to a 1/2" iron rod set for corner;
5. N 03°12'35" W, 21.92 feet to a 1/2" iron rod set for corner;
6. N 41°47'25" E, 151.01 feet to a 1/2" iron rod found for corner;
7. Northeasterly, 388.82 feet with a tangent curve to the right, having a radius of 472.55 feet, a central angle of 47°00'02", and a chord of N 65°21'26" E, 377.55 feet to a 1/2" iron rod found for corner;
8. N 88°55'28" E, 37.19 feet to a 1/2" iron rod set for corner;
9. S 46°04'33" E, 21.92 feet to a 1/2" iron rod set for corner;
10. N 88°55'28" E, 73.31 feet to a 1/2" iron rod set for corner;
11. N 43°55'27" E, 21.92 feet to a 1/2" iron rod set for corner;
12. N 88°55'28" E, at 256.5 feet pass a wire fence, and in all 304.32 feet to an "X" found chiseled in a concrete drive at the most easterly SEC of the 4.145 acre tract, in the WBL of Kenbrook North Addition and the EBL of the 240.7 acre tract;

THENCE S 07°05'37" W (called S 10' W), at 141.3 feet pass a point 1.1 feet east of a 3/8" iron rod, at 240.2 feet pass a point 9.6 feet east of a 1/2" iron rod, at 350.2 feet pass a point 0.7 feet east of a 1/2" pipe, and in all 876.83 feet to the place of BEGINNING containing within these calls 44.34 acres.



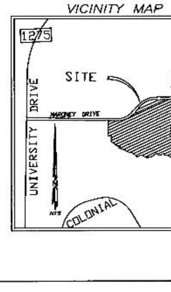
STATE OF TEXAS
COUNTY OF NACOGDOCHES

I, W. S. Wright, III, President of Lone Star Breeder Farm, Inc., owner of the property subdivided in the above plat of the TIMBER SPRINGS SUBDIVISION, do hereby make subdivision of said property according to the lines, lots, parks, and easements thereon shown and designate said subdivision as TIMBER SPRINGS SUBDIVISION on the SAMUEL MARSHALL SURVEY, A-365, Nacogdoches County, Texas, and dedicate to public use as such the easements shown thereon forever.

Witness my hand in Nacogdoches, Nacogdoches County, Texas this 4th day of May, 2010.

W. S. Wright, III, President

VICINITY MAP



STATE OF TEXAS
COUNTY OF NACOGDOCHES

BEFORE ME, the undersigned authority, on this day, personally appeared W. S. Wright, III, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein set forth.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 4th day of May 2010.

Notary Public in and for Nacogdoches County, Texas

JERRI P. TURNER
Notary Public
STATE OF TEXAS
My Comm. Exp. 12-6-2010

CERTIFICATE OF APPROVAL BY THE PLANNING COMMISSION

This is to certify that the City Planning Commission of Nacogdoches, Nacogdoches County, Texas has approved this plat of the TIMBER SPRINGS SUBDIVISION as shown hereon.

IN TESTIMONY WHEREOF witness the official signature of the Chairman and Secretary of the City Planning Commission in Nacogdoches, Nacogdoches County, Texas this 10th day of May 2010.

Chairman

Secretary

I, Tommy Findeisen, a duly Registered Professional Land Surveyor for the State of Texas, hereby state that the above plat and field notes were prepared from a survey made by me on the ground the 20th day of April, 2010. USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR BY OTHER PARTIES SHALL BE AT THEIR RISK AND UNDERSIGNED IS NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM.

Tommy Findeisen RPLS No. 1916

CERTIFICATE OF REGISTRATION

STATE OF TEXAS
COUNTY OF NACOGDOCHES

I, Carol Wilson, of the County Court of Nacogdoches County, Texas, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on May 11, 2010, at 9 o'clock A.M., in Volume 11 Page 10 of the Plat Records for said County.

WITNESS my hand and seal of office, at Nacogdoches, the day and date last above written.

Carol Wilson, County Clerk,
Nacogdoches County, Texas

By Becky Crawford Deputy

SURVEYED FOR
TIMBER SPRINGS SUBDIVISION

N. T. SAMSON & ASSOCIATES
1001 PARK STREET
NACOGDOCHES, TEXAS 75961
PHONE (936) 564-6402 FAX (936) 564-7992

SAMUEL MARSHALL SURVEY, A-365,
NACOGDOCHES, TEXAS

REVISIONS			
NO.	DATE	REMARKS	DATE. 4/20/2010
			SCALE: 1" = 100'
			JOB NO: 433/2
			SHEET NO. 1 OF 1

VOL 11 Page 10

(New & Proposed) PD Design Concept / Re-Creation with City

SWC of Maroney Dr and Kenbrook Dr

Maroney Park Crossing

for seniors

Nacogdoches, Texas

Location

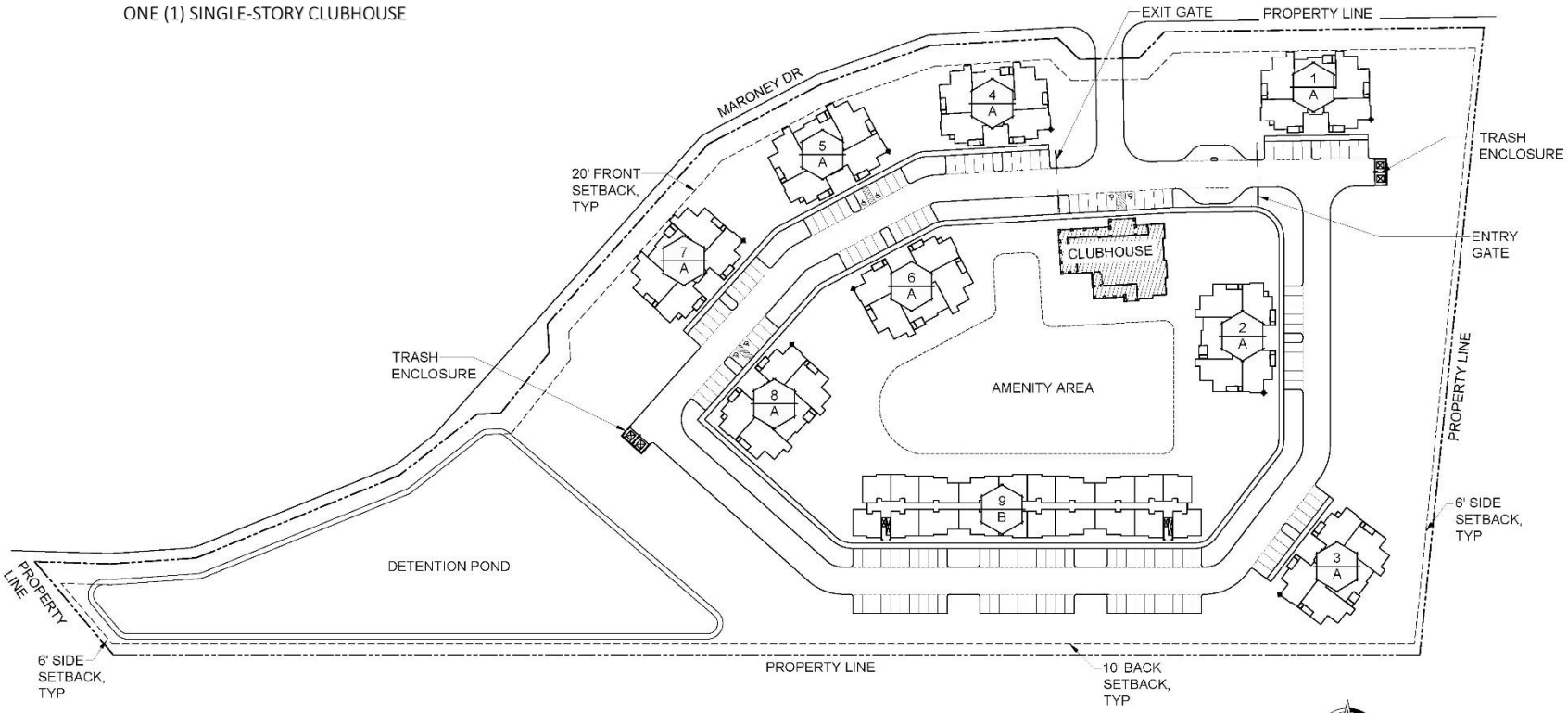
APPROXIMATELY SIXTY (60) TOTAL UNITS

11.9 +/- ACRES

EIGHT (8) SINGLE-STORY COTTAGES

ONE (1) SINGLE-STORY MULTIFAMILY BUILDING

ONE (1) SINGLE-STORY CLUBHOUSE



SITE PLAN

0 50 100

1 INCH = 50 FEET

Cross architects

SCHEMATIC

MARONEY PARK CROSSING
NACOGDOCHES, TEXAS

DATE: 01.12.22

A1.0

SITE PLAN

Copyright © 2022

SWC of Maroney Dr and Kenbrook Dr

Nacogdoches, Texas

Maroney Park Crossing

for seniors

60 Total Units / Attainable Housing For Seniors

Serving Senior Residents of Nacogdoches Aged 62+

Proposed 9% Housing Tax Credit Development

by CSH Maroney Park Crossing , Ltd.

[DISCLAIMER: all photos, numbers, units, calculations, and development concept/scope are subject to change. For informational purposes only.]

SWC of Maroney Dr and Kenbrook Dr

Maroney Park Crossing

for seniors

Nacogdoches, Texas

OWNER / DEVELOPER
CSH Maroney Park Crossing , Ltd. – TEXAS
Texas Inter-Faith Housing Corporation / Russ Michaels, its Executive Director

GENERAL CONTRACTOR
Nations Construction, Ltd. - TEXAS

ARCHITECT
Cross Architects , PLLC - TEXAS

MANAGEMENT
Texas Inter-Faith Management Corporation - TEXAS (501c3)

RESIDENT SERVICES
Portfolio Resident Services, Inc. - TEXAS (501c3)

DEVELOPMENT CONSULTANTS
SuperUrban Realty Ventures, LLC – TEXAS (HUB)

Team

[DISCLAIMER: all photos, numbers, units, calculations, and development concept/scope are subject to change. For informational purposes only.]

SWC of Maroney Dr and Kenbrook Dr

Maroney Park Crossing

for seniors

Nacogdoches, Texas

CSH Maroney Park Crossing, Ltd. is proposing to secure an award of housing tax credits from TDHCA to develop an upscale and attainable rental community for seniors and retirees aged 62 and older, consisting of one single-story apartment building, a clubhouse with amenities, and multiple single-story cottages for the residents of Nacogdoches.

Narrative

[DISCLAIMER: all photos, numbers, units, calculations, and development concept/scope are subject to change. For informational purposes only.]

SWC of Maroney Dr and Kenbrook Dr

Nacogdoches, Texas

Maroney Park Crossing

for seniors

Proposed amenities may include:

- Gated Community
- Fitness Center
- Business Center
- Pool
- Patios
- Resident Gardens
- Controlled Bldg Access
- On-Site Maintenance
- Spacious Walk-In Closets
- Trails / Green Space
- Washer & Dryer Connections
- Energy Efficient Appliances
- Premium Counter Tops
- Wood Plank Flooring
- Theater / Library
- Wi-Fi
- Dog Park / Privacy Fence
- Barbeque & Picnic Areas

[DISCLAIMER: all photos, numbers, units, calculations, and development concept/scope are subject to change. For informational purposes only.]

PORTFOLIO
RESIDENT SERVICES

SAMPLE OF SERVICES
SENIOR PROPERTIES

***all programming is customized to resident & management feedback*

Adult Development
GNP Women's Group
Financial Planning
Legal Assistance
Abuse Awareness
Counseling & Crisis Support
Identity Theft & Fraud Prevention
Self Defense Education
Credit Counseling
Computer Training
Character & Leadership
Personal Growth
Income Tax Preparation Help

Health & Nutrition
Chair Volleyball
Yoga
Nutrition Education
Prevention Education
Cooking Classes
Fitness Classes
Walk & Talk Club
Health Fairs
Health Screening
Immunization Program
Physician Referrals
Recipe Exchange

Neighborhood Development
New Resident Tours
Resident Council
Fire Safety
Community/Patio Gardening
Volunteer Opportunities

Recreational Activities
Happy Hour
Brunch
Wine & Cheese Tasting
Travel Planning
Paint & Sip Classes
BINGO
Arts & Crafts Maker Club
Karaoke
Cards, Puzzles & Board Games
Social Events
Monthly Birthday Celebration
Seasonal Activities
Creative Writing Workshop
Community Potluck
Meet & Greet
Ice Cream Social
Book Club
Knitting Group
Dancing Events
Pen Pal Program

PORTFOLIO
RESIDENT SERVICES

PULSE POINTS

Over 140 different lessons designed to be flexible and adjustable to each site's needs and schedule.

Areas of impact include:

- Adult Development
- Family Development
- Youth Development
- Neighborhood Development
- Health & Nutrition
- Job & Career Development
- Social Services & Referrals
- Recreational Activities

ENHANCED PULSE POINTS

Includes a video component to enhance the material and allow for unique stories or information to be shared at multiple properties

Disaster Relief
Strength & Posture Exercises for Seniors
Building Bridges with Law Enforcement
Pen Pals
Building Communities
Elder Abuse
Teamwork Challenge
Boys to Men
Families in Transition
Easter Eggstravaganza
Cyber Safety
Project Derm
App-ology
Nutrition
Housecleaning 101
Financial Literacy

PORTFOLIO
RESIDENT SERVICES

Community Partners

(condensed list)

Total Community Partners is over 600 non-profits and businesses in all markets.

4-H Clubs
Aetna
ACE Financial Services
Advantax
AGA Medicare Options
All State Insurance
Amerigroup
AT&T
Bank of America
Better Business Bureau
Boy Scouts of America
Bright Home Health Care
Carrabba's
Catholic Charities
Cheddars
Chick-Fil-A
Chili's
Chipotle
Cigna Health
Clear Captions
Comcast/Xfinitiy
Connect Hearing
Comprehensive Health
Dignity Memorial
Department of Health & Human Services
Dollar General
Dunkin Donuts
Edible Memories
Elf Louise
Encompass Health
Farmers Insurance
Feeding America Food Banks
Feeding the Gulf Coast
Fire Departments
Frost Bank
Girl Scouts of America
Golden Outlook
Gulf South Benefits Solutions
Harvest Program
H-E-B
Hobby Lobby
IHOP
Independent School Districts
In Each Region
Jewel Foundation
Junior Achievement
Kendra Scott Jewelry Foundation
Kids for Christ
Kidz Grub
Kroger
Liberty Mutual
Lincoln Heritage Life
Loft
Lowe's
Lucent Home Health
Mary Kay
MD Anderson
Meals on Wheels
Medico MD
Monarch Home Health
National Guardian Life
Olive Garden
Outback Steakhouse
Panera Bread
Papa John's
Paparazzi Jewelry
Pizza Hut
Police Departments
Professional Career Training Institute
Project Mend
Public Libraries
Raul Jimenez Foundation
Ready To Work
Red Lobster
Repair Express Med
SAMMs Ministries
Sam's Club
Smoothie King
St. Edward's University
Starbucks
State Farm
Succeeding At Work Network
SWJ Cares Foundation
Target
Texas A&M
Texas Roadhouse
Texsport
Toys for Tots
Unify
United Health Care
University Health System
Urban League
Urban Specialist
USDA
Verizon Wireless
Walgreens
Walmart
We Are Uniforms
Well Med
What About The Children
WIC
Woodforest National Bank
Workforce Agencies
YMCA
Youth Leadership
YMCA

APARTMENT MARKETDATA, LLC
CONSULTANTS, ECONOMISTS, ANALYSTS

February 3, 2022

Eleanor M.C. Fanning
CSH Maroney Park Crossing, Ltd.
3701 Kirby Dr.
Houston, Texas 77098

Re: Preliminary Analysis
Maroney Park Crossing
Nacogdoches, Texas

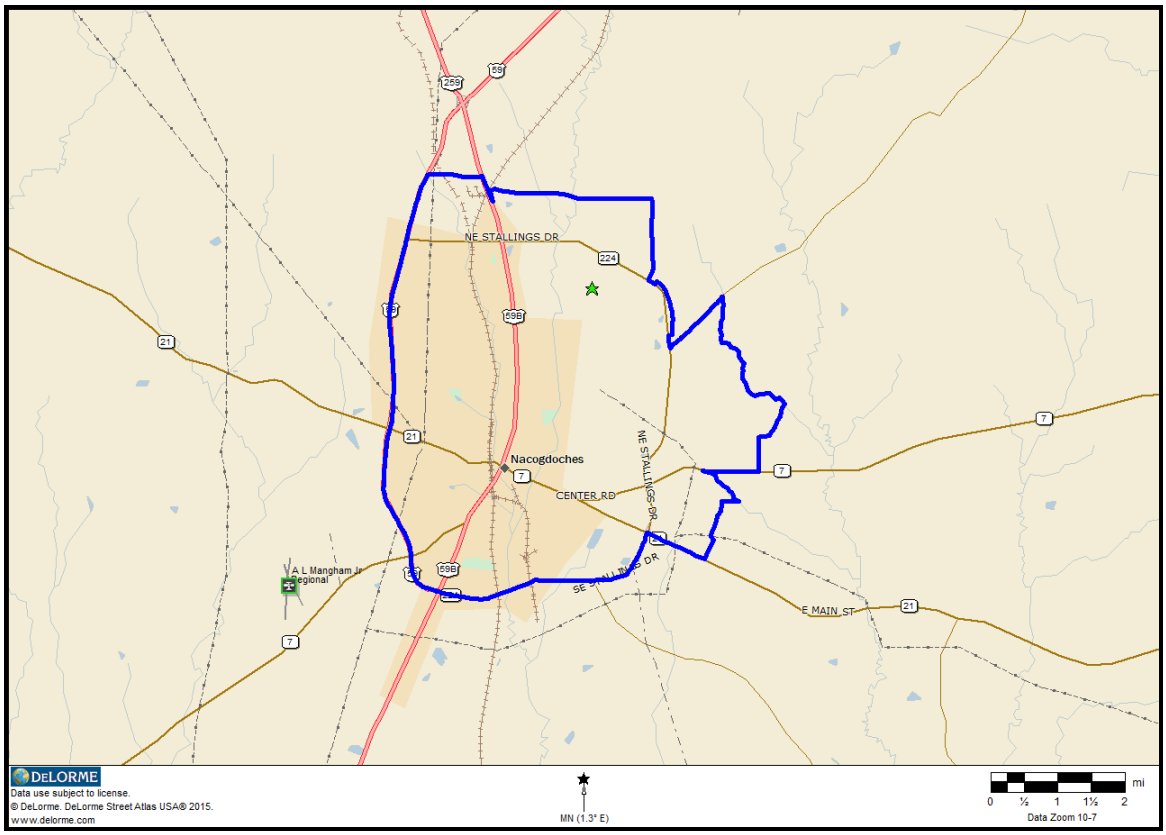
Greetings:

Per your request, we have conducted a preliminary demand analysis for a proposed senior (62+) multifamily housing development to be located at the southwest corner of Maroney Drive and Kenbrook Drive, Nacogdoches, Nacogdoches County, Texas. A final analysis would be provided in a full market study.

For this analysis, we utilized a "primary market area" encompassing the seven census tracts surrounding the City of Nacogdoches.

Census Tracts	Census Tracts	Census Tracts	Census Tracts
483479505.01	483479505.02	483479506.00	483479507.00
483479508.00	483479509.00	483479510.00	

20475 Hwy. 46 West Suite 180 - PMB 416 Spring Branch, Texas 77080
(210) 530-0040 Fax (210) 340-5830 www.aptmktdata.com



CAPTURE RATE

ELIGIBLE HOUSEHOLDS BY INCOME

HH Size	30% of AMI		50% of AMI		60% of AMI	
	min	max	min	max	min	max
1	$8,952	$13,950	$14,952	$23,250	$17,928	$27,900
2	$8,952	$15,960	$14,952	$26,600	$17,928	$31,920
3	$10,752	$17,940	$17,928	$29,900	$21,528	$35,880
4	$10,752	$19,920	$17,928	$33,200	$21,528	$39,840

CALCULATION OF REQUIRED INCOME

Unit Type	Income Type	Subject Rent	Utility Allowance	Total Rent	Max. Rent	Annual Income Req.	Annual Income Cap*
1-1	30%	$ 314	$ 59	$ 373	$ 373	$ 8,952	$ 15,960
1-1	50%	$ 564	$ 59	$ 623	$ 623	$ 14,952	$ 26,600
1-1	60%	$ 688	$ 59	$ 747	$ 747	$ 17,928	$ 31,920
2-2	30%	$ 370	$ 78	$ 448	$ 448	$ 10,752	$ 19,920
2-2	50%	$ 669	$ 78	$ 747	$ 747	$ 17,928	$ 33,200
2-2	60%	$ 819	$ 78	$ 897	$ 897	$ 21,528	$ 39,840

* Based on 2.0 persons per bedroom

INCOME BANDING OF THE PRIMARY QUALIFIED RENTER HOUSEHOLDS (62+) BY HH SIZE

SUBJECT	2022 Households	2027 Households	HH Growth 2022 - 2027
$ 8,952 - $ 9,999	13	13	0
$ 10,000 - $ 19,999	253	236	-17
$ 20,000 - $ 29,999	112	117	5
$ 30,000 - $ 39,840	45	63	18
Primary Qualified Households	423	429	6

HISTA Data

INCOME BANDING OF THE PRIMARY QUALIFIED OWNER HOUSEHOLDS (62+) BY HH SIZE

SUBJECT	2022 Households	2027 Households	HH Growth 2022 - 2027
$ 8,952 - $ 9,999	17	17	-1
$ 10,000 - $ 19,999	247	217	-30
$ 20,000 - $ 29,999	166	164	-2
$ 30,000 - $ 39,840	123	155	32
Primary Qualified Households	553	553	0

HISTA Data

To perform the capture rate calculation, we use the data that we have compiled from our previous analysis to determine the total number of income qualified households that the subject is designed to accommodate. The following table is used to calculate the total demand for the subject's units.

ANNUAL INCOME-ELIGIBLE SUBMARKET DEMAND SUMMARY		
Income Qual. Demand / Forecast Demand*	**Units of Demand**	**% of Total Demand**
Renter – 2022	**423**	**39.3%**
Renter - 2023 & 2024	**2**	**0.2%**
Owner – 2022	**553**	**51.4%**
Owner - 2023 & 2024	**0**	**0.0%**
External Demand (10%)	**98**	**9.1%**
TOTAL DEMAND	**1,076**	**100.0%**

* Income eligible without rental assistance

Based on the information taken table above, we calculate the inclusive capture rate for the subject to be as follows:

$$\frac{\textbf{Subject's L/I Units + Other Unstable L/I Units}}{\textbf{Total Units of Income Qualified Demand}} = \textbf{Capture Rate}$$

$$\frac{\text{50 Total L/I Units}}{\text{1,076 Units of Demand}} = \text{4.6\% Capture Rate}$$

CAPTURE RATE SUMMARY

The following table summarizes the overall capture rate, capture rate by AMGI band, as well as the individual capture rate by unit type. As shown, the calculations of the capture rates are below the maximum allowable under the TDHCA underwriting guidelines.

Unit Size	2022 Demand	2023-2024 Growth Demand	External Demand (10%)	Total Demand	Subject Units	Comparable Unstable Units	Inclusive Capture Rate
Overall	**976**	**2**	**98**	**1,076**	**50**	**0**	**4.6%**
30% Band	**426**	**-15**	**41**	**452**	**5**	**0**	**1.1%**
50% Band	**227**	**-3**	**22**	**246**	**10**	**0**	**4.1%**
60% Band	**323**	**21**	**34**	**378**	**35**	**0**	**9.3%**
1 BR/30%	**147**	**-4**	**14**	**156**	**3**	**0**	**1.9%**
1 BR/50%	**92**	**-3**	**9**	**98**	**6**	**0**	**6.1%**
1 BR/60%	**197**	**-3**	**19**	**213**	**7**	**0**	**3.3%**
2 BR/30%	**101**	**-5**	**10**	**106**	**2**	**0**	**1.9%**
2 BR/50%	**45**	**-2**	**4**	**48**	**4**	**0**	**8.3%**
2 BR/60%	**161**	**0**	**16**	**178**	**28**	**0**	**15.8%**

INVENTORY OF EXISTING SENIOR LIHTC PROPERTIES

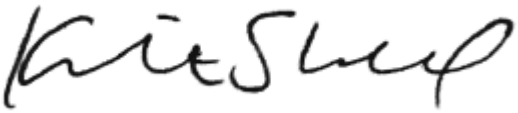
The current supply of affordable housing in this market is less than demand. The current stock of affordable housing in the primary market area consists of seven family projects and three senior projects. The following table gives more information on the senior projects.

TDHCA	Name of Project	Population	Total	Distance	Occupancy
60014	**Nacogdoches Senior Village**	**Elderly**	**36**	**3.7 mi**	**97%**
60132	**Vista Pines Apartment Homes**	**Elderly**	**76**	**2.4 mi**	**97%**
13232	**Pine Lake Estates**	**Elderly**	**100**	**3.8 mi**	**100%**

SUMMARY

Based on our preliminary analysis, the subject will be readily accepted by the market.

Sincerely,



Kirt Shell
Analyst

www.interfaithgroup.org

INTER-FAITH**GROUP**

Communities & Purpose

3701 Kirby Drive, Suite 860
Houston, Texas 70798

The Inter-Faith Group (IFG) develops high quality housing and provides life-changing resident services to the families, individuals and elders in its communities. Our 501(c)3 non-profit mission is to create purposeful affordable housing for the seniors, veterans, workforce and children of the world.

Community

Development

Resident Services

Management

Relationship

INTER-FAITHGROUP

Our Mission

"Home is more than a floor plan ... it's an environment that's shaped by people regardless of economics; and by promoting the idea of 'community', we initiate transformation on a broad scale."

- JOT Couch / Former Executive Director of PRS

Purpose

Commitment

Responsibility

Integrity

Respect

Kindness

Eleanor Fanning / Executive Director
Portfolio Resident Services, Inc.
Resident Services / Development

Russ Michaels / Executive Director
Texas Inter-Faith Housing Corporation
Community Outreach / Development

Marie Compton / Executive Director
Texas Inter-Faith Management
Management / Acquisitions

Jervon Harris / Development Consultant
SuperUrban Realty Ventures, LLC
Housing Development / Engineering

Matt Higgins / Compliance Consultant
MSH IC, LLC
Construction / Financing

INTER-FAITHGROUP

Our Team

50,000+

served with resident services

2,300+ units

owned & operated

2,800+ units

under management

20+

developments

INTER-FAITHGROUP

Our Experience

$millions +

spent on furthering IFG mission

Our Resident Services

Health

Family

Youth

Neighborhood

Job

Career

Recreation

Social Services

At IFG, our people come first. Portfolio Resident Services, Inc. is a 501(c)3 non-profit organization whose mission is to provide quality living assistance to residents through select coaching and mentoring programs.

INTER-FAITHGROUP

INTER-FAITHGROUP

Our Relationships

Providing quality multifamily housing and resident services requires a vast network of third-party experts and professionals who deliver the highest standards in architecture, law, construction, finance and charity. That is why the Inter-Faith Group prides itself on teamwork and engaging companies and organizations that are committed to positively impacting people, neighborhoods, and communities.

INTER-FAITH**GROUP**

Contact

Texas Inter-Faith Housing Corporation
Russ Michaels, Executive Director
3701 Kirby Drive, Suite 860
Houston, Texas 70798
212-960-3913
rmichaels@interfaithgroup.org

www.interfaithgroup.org

SuperUrban Realty Ventures, LLC
Jervon Harris, Manager
Houston, Texas
713-503-4477
jervonharris@yahoo.com

CITY OF NACOGDOCHES, TEXAS
RESOLUTION NO. 1294-02-22

A RESOLUTION OF THE CITY OF NACOGDOCHES HAVING NO OBJECTION TO THE PROPOSED 9% HOUSING TAX CREDIT FOR A DEVELOPMENT KNOWN AS MARONEY PARK CROSSING TO BE DEVELOPED BY CSH MARONEY PARK CROSSING, LTD.

WHEREAS, CSH Maroney Park Crossing, Ltd. has proposed a development for affordable rental housing at approximately the southwest corner of Maroney Drive and Kenbrook Drive named Maroney Park Crossing in the City of Nacogdoches, Nacogdoches County; and

WHEREAS, CSH Maroney Park Crossing, Ltd. has communicated that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2022 Competitive 9% Housing Tax Credits for Maroney Park Crossing.

NOW, THEREFORE, be it resolved by the City Council of the City of Nacogdoches, Texas that:

1. The City of Nacogdoches, acting through its governing body, hereby has no objection to the proposed CSH Maroney Park Crossing, Ltd. located at approximately the southwest corner of Maroney Drive and Kenbrook Drive and that this formal action has been taken to put on record the opinion expressed by the City of Nacogdoches on February 22, 2022, and
2. As provided for in 10 TAC §11.3(c) of the Qualified Allocation Plan, it is expressly acknowledged and confirmed that the City of Nacogdoches has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds; and
3. For and on behalf of the Governing Body, Jan Vinson, City Secretary is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

PASSED AND APPROVED, this the 22nd day of February, 2022, by a vote of ____ (ayes) to _____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

APRROVED AS TO FORM:

_____ _____

Jan Vinson, City Secretary Steven Kirkland, City Attorney

CITY OF NACOGDOCHES, TEXAS
RESOLUTION NO. 1294-02-22

A RESOLUTION OF THE CITY OF NACOGDOCHES IN SUPPORT OF THE PROPOSED 9% HOUSING TAX CREDIT FOR A DEVELOPMENT KNOWN AS MARONEY PARK CROSSING TO BE DEVELOPED BY CSH MARONEY PARK CROSSING, LTD.

WHEREAS, CSH Maroney Park Crossing, Ltd. has proposed a development for affordable rental housing at approximately the southwest corner of Maroney Drive and Kenbrook Drive named Maroney Park Crossing in the City of Nacogdoches, Nacogdoches County; and

WHEREAS, CSH Maroney Park Crossing, Ltd. has communicated that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2022 Competitive 9% Housing Tax Credits for Maroney Park Crossing.

NOW, THEREFORE, be it resolved by the City Council of the City of Nacogdoches, Texas that:

1. The City of Nacogdoches, acting through its governing body, hereby confirms that it supports the proposed CSH Maroney Park Crossing, Ltd. located at approximately the southwest corner of Maroney Drive and Kenbrook Drive and that this formal action has been taken to put on record the opinion expressed by the City of Nacogdoches on February 22, 2022, and
2. The City of Nacogdoches, acting through its governing body, hereby confirms that, upon successful award of 2022 Competitive 9% Housing Tax Credits, the city commits to providing reduced fees or a contribution of other value that equals a minimum of $250 for the benefit of CSH Maroney Park Crossing, Ltd.; and
3. As provided for in 10 TAC §11.3(c) of the Qualified Allocation Plan, it is expressly acknowledged and confirmed that the City of Nacogdoches has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds; and
4. The City of Nacogdoches hereby confirms that its governing body has voted specifically to approve the construction of the Development and to authorize an allocation of Housing Tax Credits for the Development pursuant to Tex. Gov't Code §2306.6703(a)(4); and
5. For and on behalf of the Governing Body, Jan Vinson, City Secretary is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

PASSED AND APPROVED, this the 22nd day of February, 2022, by a vote of ____ (ayes) to _____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

_____

Jan Vinson, City Secretary

APRROVED AS TO FORM:

_____

Steven Kirkland, City Attorney

City Council Meeting

Date: February 22, 2022

Agenda Item: 6.G.

PRESENTER: Larissa Philpot, Economic Development Director

ITEM/SUBJECT: Discuss and consider resolutions of support, no-opposition, or denial for developers applying for Texas Department of Housing and Community Affairs 2022 Competitive 9% Low-Income Housing Housing Tax Credit Program (LIHTC). (Economic Development Director) Project Name: Pioneer Crossing for Seniors, Project Location: Maroney Drive, TDHCA LIHTC 9% Pre-Application Number: 22188

SUMMARY/BACKGROUND: The Low Income Housing Tax Credit (LIHTC) program (or HTC program) is a federal program created in 1986 designed to finance the construction of affordable rental housing.The LIHTC program is the primary way new affordable housing is constructed in the United States. More than $83 million in tax credits has been provided to Texas for the 2022 allocation. In Texas, this program is administered by the Texas Department of Housing and Community Affairs (TDHCA).

Nacogdoches contains several housing tax credit developments that were constructed using LIHTC financing in previous years. The developments below represent a total of 784 units, or approximately 16% of the total multi-family units inside the City.

Development	**Address**	**Year Awarded**
Cordova Rental Units	Various	1993
Commonwealth Apartments	5319 Northway Drive	1996
Commonwealth, Phase II	5319 Northway Drive	1999
Cypress Ridge	2701 Logan Circle	2000
Cardinal Village	1630 Cardinal Street	2002
Spring Hill Apartments	3413 East Main	2002
Nacogdoches Senior Village	605 Harris Street	2006
Vista Pines Apartment Homes	1602 Park Street	2006
Park Estates	1600-2026 Pruitt Hill	2007
Pine Lake Estates	2012 Durst Street	2013
Tower Village	Tower Rd & Park St	2013

This year, the City of Nacogdoches received requests for resolutions of support from four developers representing five different multi-family developments (one development team submitted two adjacent projects). All five proposed developments are located in the Northeast Ward. Introductory meetings were held with each developer, Larissa Philpot, City Manager

Canizares, Mayor Mize or Mayor Pro Tem Boldon, and Northeast Ward Council Member Belanger.

All the developers were invited to make presentations and answer community member questions at a community meeting to be held on February 2nd at the C.L. Simon Recreation Center. A recording of the meeting can be found here: HTC Community Meeting - 2-2-22 (https://youtu.be/chk8H_7CXYw?t=1420).

In the days following the community meeting, two of the proposed developments withdrew their requests for support. The two remaining developments are:

	Development Name	Maroney Park Crossing	Pioneer Crossing for Seniors
	Location	SWC of Maroney Dr and Kenbrook Dr	NEC of N University Dr and Maroney Dr
	Non-Profit?	Yes	No
Units	Low Income	60	72
	Market	0	8
	Total	60	80
	Target Population	Eldery (62+)	Eldery (55+)
	Estimated Capital Expenditure	$13,000,000	$11,000,000
	Current Zoning	PD	B-2
	Proposed Density (Units/Acre)	5 units/acre	8 units/acre

The two remaining developments have requested the following:
- A resolution of support
- A waiver of fees equivalent to $250. This is a point category from the state's qualified allocation plan. The development's application receives one point if they are provided a "loan, grant, reduced fees or contribution of other value that equals...$250 or more for Applications in Rural subregions". Each development has requested this $250 fee waiver.

Timeline:

Council Workshop	February 1, 2022
Community meeting	February 2, 2022, 5:30 PM at the C.L. Simon Recreation Center
Consideration of resolutions of support	February 22, 2022 City Council meeting
Full application from developer due to TDHCA	March 1, 2022
TDCHA issuance of credit allocations	July 2022
Construction complete	End of 2024

The Texas Department of Housing and Community Affairs recommends residents of a community that is considering a resolution for a LIHTC ask the following questions. Staff encourages Council to review and consider these questions. The answers to most of these questions are provided in the attached information provided by the applicants.

- What other developments has the developer built and where are they located?
- What are the developer's long-term goals for the property?
- How will the development fit in with the existing neighborhood?
- What types of supportive services will be provided to residents?
- Who are the proposed tenants and how will they be screened?

Council has several options regarding each request:
- Adopt a resolution of support, including a $250 fee waiver
- Adopt a resolution of support, excluding the requested $250 fee waiver
- Adopt a resolution of no objection
- Adopt a resolution of opposition
- Take no action

FINANCIAL:
No financial impact associated with this item

COUNCIL PRIORITIES: THIS AGENDA ITEM IS CONSISTENT WITH THE FOLLOWING CITY COUNCIL PRIORITIES
Neighborhood Revitalization and Attainable Housing

CITY CONTACT: Larissa Philpot-Brown, Economic Development Director
lphilpot@nedco.org
936-559-1255

ATTACHMENTS:
1. HTC Presentation 2.22.2022
2. Pioneer Crossing for Seniors Development Summary
3. Resolution 1295-02-22 Pioneer Crossing for Seniors LIHTC No objection
4. Resolution 1295-02-22 Pioneer Crossing for Seniors LIHTC Support

2022 Housing Tax Credit Applications

What is a Housing Tax Credit?

- Created in 1986
- Federal incentive for investors to provide affordable housing
- Dollar for dollar credit on federal income tax
- Claimed over 10 years
- Gives state housing agencies $8 billion annually to allocate
- Administered by the Texas Department of Housing and Community Affairs – TDHCA.
- Not Section 8

Housing Tax Credits Explained

- Qualified allocation plan
- Regions defined
- Competitive scoring
  - Amenities
  - Income and rent levels
  - Proximity to jobs
  - Location in a recent disaster area
  - Resolution of support from city

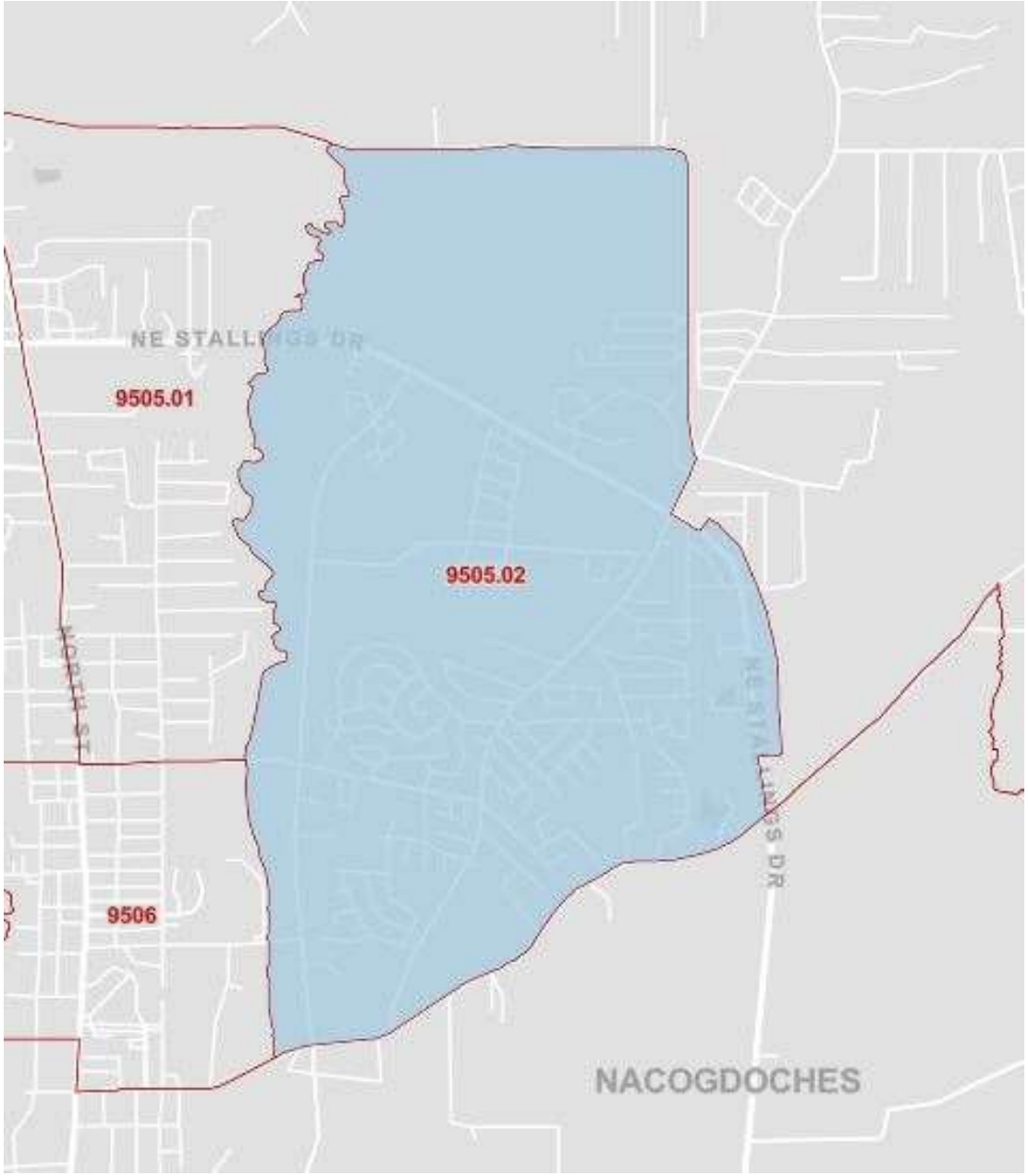
Point System

- Opportunity index
  - Within a census tract with a poverty rate of less than 20%. This tract is at 14%.
  - Within 5 miles of a grocery store, pharmacy, hospital, Head Start, library, park, university or community college, recreation facility
  - Low crime rate
  - With a high percentage of educated adults
  - Meals on Wheels service area
  - School with A or B rating
  - Economically distressed area, no HTC development within 15 years
  - Near jobs
  - Federal disaster area

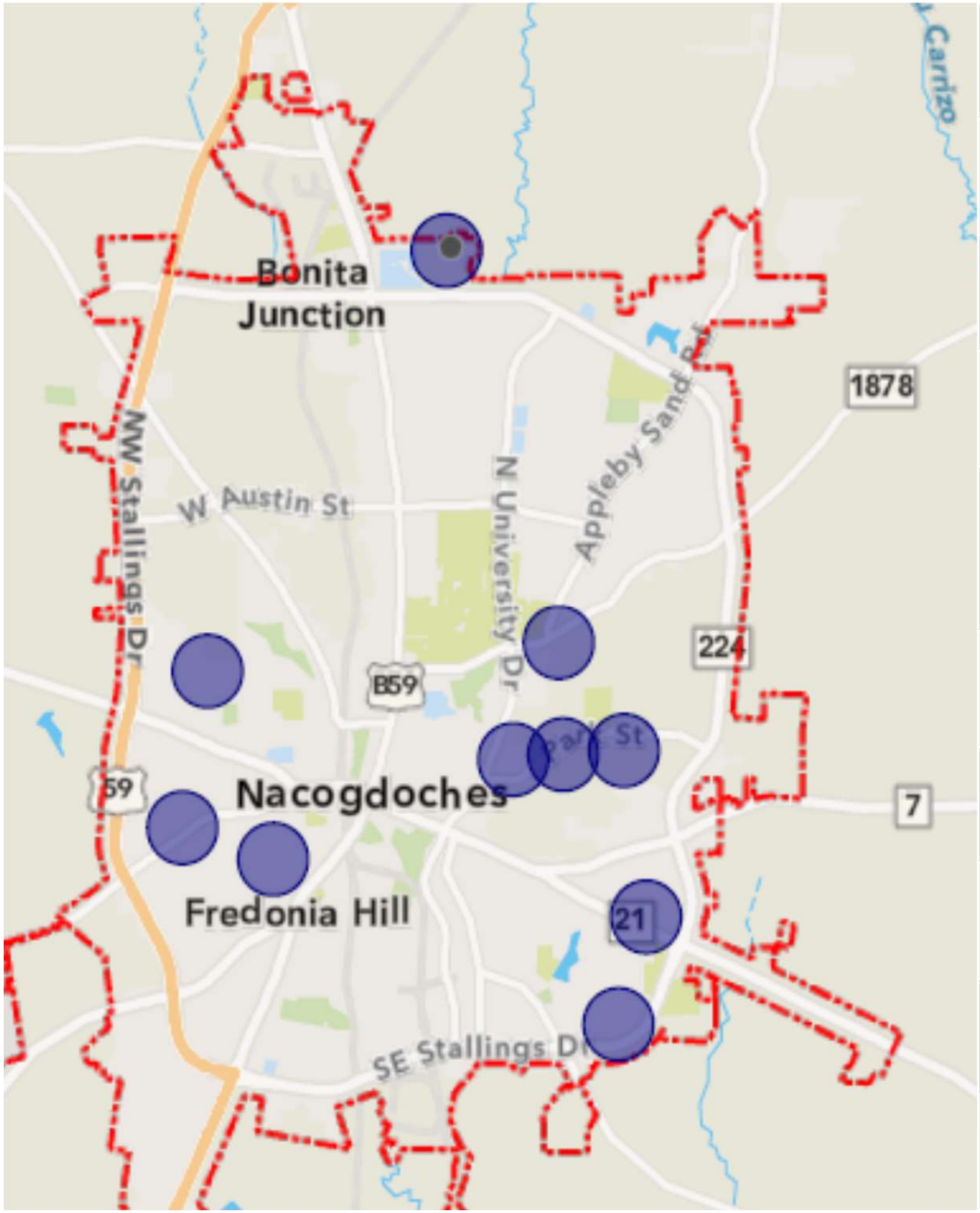
Point System

- Local government support
- Development funding (<$250)
- State representative support
- Community service organization support
- Property owner association support
- Financial feasibility
- Cost of development
- Pre application participation

Census Tract 9505.02



Existing Tax Credit Properties



Cordova Rental Units	Various	1993
Commonwealth I & II	Northway Drive	1996 & 1999
Cypress Ridge	Logan Circle	2000
Cardinal Village	Cardinal Street	2002
Spring Hill	East Main Street	2002
Senior Village	Harris Street	2006
Vista Pines	Park Street	2006
Park Estates	Pruitt Hill	2007
Pine Lake Estates	Durst Street	2013
Tower Village	Tower & Park	2013

2022 Applications

Name	Maroney Park Crossing	Pioneer Crossing for Seniors
Address	SWC Maroney & Kenbrook	NEC N. University & Maroney
Non-Profit	Yes	No
Low income units	60	72
Total units	60	80
Target	62+	55+
Est. Capital Expenditure	$13 million	$11 million
Current zoning	PD	B-2

SWC of Maroney Dr and Kenbrook Dr

Nacogdoches, Texas

Maroney Park Crossing

Location

PIONEER CROSSING FOR SENIORS
- LOCATION -

Timeline

- February 1, 2022 Workshop
- February 2, 2022 Public meeting
- February 22, 2022 Resolutions
- March 1, 2022 Final application due
- July 2022 Issuance of allocations
- December 31, 2024 Construction complete

Comprehensive Plan Goals

- **A variety of safe, high-quality residential areas that meet the needs of Nacogdoches residents.**
- **High-quality development that respects community character and the natural environment and does not overburden public services and infrastructure**
- **A variety of quality housing options that are appropriately available to new and current residents of Nacogdoches and affordable at all income levels.**
- **Housing and neighborhood design that successfully addresses the needs of an aging population while taking advantage of amenities attractive to retirees.**
- **Neighborhoods that are protected through diligent enforcement of appropriate ordinances, regulations and incentives.**
- **Sensible growth in Nacogdoches that takes advantage of proximity to services and amenities and minimizes the strain on tax revenue.**

Questions to Consider

- What other developments has the developer built and where are they located?
- What are the developer's long-term goals for the property?
- How will the development fit in with the existing neighborhood?
- What types of supportive services will be provided to residents?
- Who are the proposed tenants and how will they be screened?

Options?

- Adopt a resolution of support including $250 fee waiver
- Adopt a resolution of support excluding $250 fee waiver
- Adopt a resolution of no objection
- Adopt a resolution of opposition
- Take no action

PIONEER CROSSING FOR SENIORS

PROPOSAL FOR A HIGH QUALITY SENIOR APARTMENT COMMUNITY IN NACOGDOCHES, TEXAS

OVERVIEW

- Development Team & Experience
- Pioneer Crossing for Seniors
  - Location Map
  - Details
  - Target Market and Rents
  - Proposed Design
  - Tenant Amenities and Services
- Contacts

DEVELOPER EXPERIENCE - PORTFOLIO

Mineral Wells Pioneer Crossing: In 2007 applied for the 2008 tax credit application round and was awarded the 9% tax credit along with HOME funds thru a very competitive process for the maximum of 80 unit Family project in the city of Mineral wells. In these financial uncertainty and meltdown, the tax credits were successfully syndicated and a construction loan secured, thereby enabling construction to start. The construction has been completed and the project achieved a faster than anticipated stabilization and is almost 100% occupied. **www.pioneercrossingmwapts.com**

Lufkin Pioneer Crossing for Seniors: In 2008 applied for the 2009 tax credit application round and was awarded the 9% tax credit along with HOME funds thru a very competitive process for the maximum of 80 unit Seniors project in the city of Lufkin. The construction has been completed and the project achieved a faster than anticipated stabilization and is almost 100% occupied. **www.pioneercrossinglufkinseniors.com**

Lufkin Pioneer Crossing for Family: In 2009 applied for the 2010 tax credit application round and was awarded the 9% tax credit along with HOME funds thru a very competitive process for the maximum of 80 unit Family project in the city of Lufkin. The construction has been completed and the project achieved a faster than anticipated stabilization and is almost 100% occupied. **www.pioneercrossinglufkinapts.com**

Sulphur Springs Pioneer Crossing for Seniors: In 2009 applied for the 2010 tax credit application round and was awarded the 9% tax credit along with HOME funds thru a very competitive process for the maximum of 80 unit Seniors project in the city of Sulphur Springs. The construction has been completed and the project achieved a faster than anticipated stabilization and is almost 100% occupied. **www.pioneercrossingssseniors.com**

Burkburnett Pioneer Crossing: In 2010 applied for the 2011 tax credit application round and was awarded the 9% tax credit along with HOME funds thru a very competitive process for the maximum of 80 unit Seniors project in the city of Burkburnett. The construction has been completed and the project achieved a faster than anticipated stabilization and is almost 100% occupied. **www.pioneercrossingbb.com**

DEVELOPER EXPERIENCE – PORTFOLIO, CONT.

Mineral Wells Royal Gardens for Seniors: In 2011 applied for the 2012 tax credit application round and was awarded the 9% tax credit along with HOME funds thru a very competitive process for the maximum of 75 unit Seniors project in the city of Mineral Wells. The construction has been completed and the project achieved a faster than anticipated stabilization and is almost 100% occupied. www.royalgardensapts.net

Henrietta Pioneer Crossing for Seniors: In 2016 applied for the 2017 tax credit application round and was awarded the 9% tax credit thru a very competitive process for a 49 unit Seniors project in the city of Henrietta. The construction has been completed and the project is almost 100% occupied. www.pioneercrossinghenrietta.com

Diboll Pioneer Crossing: In 2017 applied for the 2018 tax credit application round and was awarded the 9% tax credit thru a very competitive process for the maximum of 80 unit Family project in the city of Diboll. The construction has been completed and the project achieved 100% occupancy and is now stabilized. www.pioneercrossingdiboll.com

Reserves at San Marcos: In 2019 applied for the 2020 tax credit application round and was awarded the 4% tax credit thru a very competitive process for a 376 unit Family project in the city of San Marcos. The transaction closed on financing in June 2020, and construction is still underway on the development and the first buildings have placed-in-service. www.reserveatsanmarcos.com

Vernon Pioneer Crossing for Seniors: In 2020 applied for the 2020 tax credit application round and was awarded the 9% tax credit thru a very competitive process for a 64 unit Seniors project in the city of Vernon. The construction is expected to start early 2022.

Livingston Pioneer Crossing for Seniors: In 2020 applied for the 2020 tax credit application round and was awarded the 9% tax credit thru a very competitive process for the maximum of 80 unit Senior project in the city of Livingston. The construction is currently underway and is expected to finish by December, 2022.

DEVELOPER EXPERIENCE – PORTFOLIO, CONT.

Royal Gardens Lufkin: In 2021 applied for the 2021 tax credit application round and was awarded the 9% tax credit thru a very competitive process for the maximum of 80 unit Family project in the city of Lufkin. The construction is expected to start early 2022.

Beaumont Pioneer Crossing: In 2021 applied for the 2021 tax credit application round and was awarded the 9% tax credit thru a very competitive process for a 82 unit Family project in the city of Beaumont. The construction is expected to start early 2022.

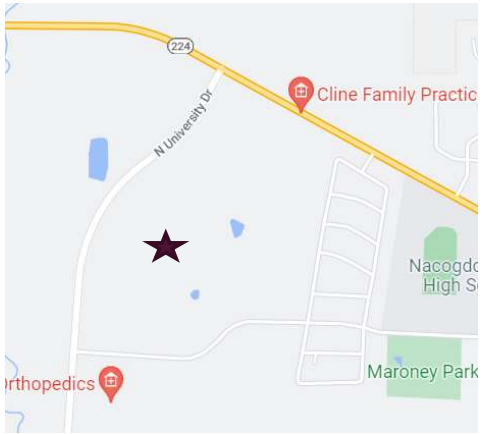
DEVELOPMENT TEAM & EXPERIENCE

HOUSING LAB by BETCO is a full service housing development consulting firm, established in 2011. The firm specializes in the securing of funds for the development of affordable housing via programs including: Housing Tax Credits (9% and 4%); HOME; and other public funds. We also provide financial analysis and compliance services.

HOUSING LAB
BY BETCO

www.betcohousinglab.com

PIONEER CROSSING FOR SENIORS
- LOCATION -



- Kroger - < .6 mi
- Pharmacy – < .6 mi
- Hospital - < 3 mi
- SFA University – < 1.5 mi
- Nacogdoches HS - < 1 mi
- Maroney Park < 1 mi

PIONEER CROSSING - DEVELOPMENT OVERVIEW

- Single Story Multi-Family
- Stone (or Brick) and Siding
- Clubhouse
- Mix of 1 and 2 bedroom units
- Approximately 72 - 80 units
- Serving seniors (ages 55+)

Pioneer Crossing, Diboll

PIONEER CROSSING FOR SENIORS
- TARGET RENT AND INCOME LEVELS -

Pioneer Crossing Burkburnett Seniors

Pioneer Crossing Burkburnett Seniors

INCOME LIMITS **2021 Area Median Income:** $68,400

AMFI %	Number of Household Members 1	2	3	4	5	6	7	8
20	$ 9,300	$ 10,640	$ 11,960	$ 13,280	$ 14,360	$ 15,420	$ 16,480	$ 17,540
30	$ 13,950	$ 15,960	$ 17,940	$ 19,920	$ 21,540	$ 23,130	$ 24,720	$ 26,310
40	$ 18,600	$ 21,280	$ 23,920	$ 26,560	$ 28,720	$ 30,840	$ 32,960	$ 35,080
50	$ 23,250	$ 26,600	$ 29,900	$ 33,200	$ 35,900	$ 38,550	$ 41,200	$ 43,850
60	$ 27,900	$ 31,920	$ 35,880	$ 39,840	$ 43,080	$ 46,260	$ 49,440	$ 52,620
70	$ 32,550	$ 37,240	$ 41,860	$ 46,480	$ 50,260	$ 53,970	$ 57,680	$ 61,390
80	$ 37,200	$ 42,560	$ 47,840	$ 53,120	$ 57,440	$ 61,680	$ 65,920	$ 70,160
120	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -

RENT LIMITS

AMFI %	Number of Bedrooms 0	1	2	3	4	5
20	$232	$249	$299	$345	$385	$425
30	$348	$373	$448	$518	$578	$637
40	$465	$498	$598	$691	$771	$850
50	$581	$623	$747	$863	$963	$1,063
60	$697	$747	$897	$1,036	$1,156	$1,275
65						
70	$813	$872	$1,046	$1,209	$1,349	$1,488
80	$930	$997	$1,196	$1,382	$1,542	$1,701

**Income and Rental limits above will not apply to the market rate units*

PIONEER CROSSING FOR SENIORS – Examples of Previous Design Results for Tax Credit Development in Henrietta, Texas

Building Elevations

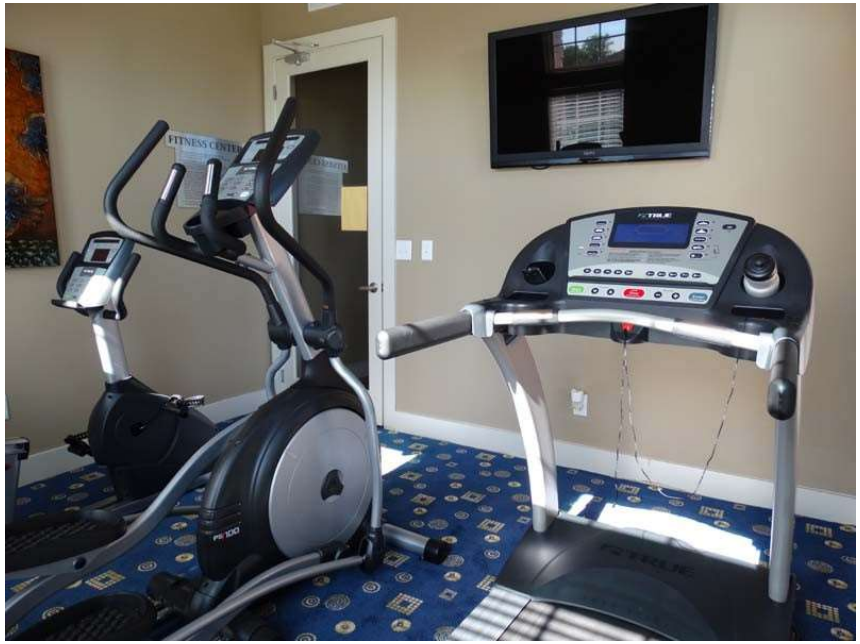
Community Area

PIONEER CROSSING FOR SENIORS – Examples of Previous Design Results for Tax Credit Development in Sulphur Springs, Texas

Information Center

Community Courtyard

PIONEER CROSSING FOR SENIORS – Examples of Previous Design Results for Tax Credit Development in Sulphur Springs, Texas CONT.



Fitness Center

Community Clubhouse

PIONEER CROSSING FOR SENIORS – Examples of Previous Design Results for Tax Credit Development in Sulphur Springs, Texas CONT.

Interior/Kitchen

Internet Computer Lab

PIONEER CROSSING FOR SENIORS – Examples of Previous Design Results for Tax Credit Development in Lufkin, Texas

Clubhouse Exterior/Community Entrance

Community Courtyard

PIONEER CROSSING FOR SENIORS – Examples of Previous Design Results for Tax Credit Development in Mineral Wells, Texas

Clubhouse Community Room

Community Courtyard

UNIT AMENITIES – Lufkin, Texas

Kitchen

Covered Patios

INTERIOR AMENITIES – Burkburnett, Texas

Kitchen

Bathroom

INTERIOR AMENITIES – Henrietta, Texas

Kitchen/Living Room

Walk-in Closet

PIONEER CROSSING FOR SENIORS – Examples of Previous Design Results for Tax Credit Development in San Marcos, Texas

Horseshoe Pits/ Building Elevations

Entrance

PIONEER CROSSING FOR SENIORS – Examples of Previous Design Results for Tax Credit Development in San Marcos, Texas

Community Pool

Community Room

BENEFITS TO THE TENANTS

Potential Tenant Amenities

- Exercise and Fitness Rooms
- Community Business Rooms
- BBQ Grills with Picnic Tables
- Pet Park
- Garden Areas
- Internet Computer Lab and Library
- Lockers for Amazon and other deliveries
- Secured Bicycle parking
- Covered community porch/patio
- Clubhouse with food-warming station

Community business center, Mineral Wells Pioneer Crossing

Community fitness center, Lufkin Pioneer Crossing

BENEFITS TO THE TENANTS

Potential Tenant Services

- Contracted On-Site Occupational or Physical Therapy Services
- Twice Monthly Arts, Crafts, and other recreational activities
- Twice Monthly On-Site Social Events (potlucks, game night, sing-a-longs, movie nights, etc.)
- Annual Health Screenings

Community center, Mineral Wells Royal Gardens

BENEFITS TO NACOGDOCHES AND NACOGDOCHES COUNTY

Economic Benefits

- Estimated new $13-$16 mill. construction investment
  - Use of local contractors/suppliers if competitive
- Creation of approximately 100-150 jobs during construction
- Creation of at least 2 permanent jobs after construction
- Generation of fees for the City
- New property taxes paid annually to the City, County, School
- New utilities revenues generated for the City
- New sales taxes generated for the City

CONTACT INFORMATION

Lora Myrick, Principal
lora@betcohousinglab.com
512-785-3710
Housing Lab by BETCO

Michael Beard, CPA
michael@betcohousinglab.com
512-993-7665
Housing Lab by BETCO

Office:
812 San Antonio Street, Suite L-20
Austin, Texas 78701

CITY OF NACOGDOCHES, TEXAS
RESOLUTION NO. 1295-02-22

A RESOLUTION OF THE CITY OF NACOGDOCHES HAVING NO OBJECTION TO THE PROPOSED 9% HOUSING TAX CREDIT FOR A DEVELOPMENT KNOWN AS PIONEER CROSSING FOR SENIORS TO BE DEVELOPED BY NACOGDOCHES PC FOR SENIORS, LLC.

WHEREAS, Nacogdoches PC for Seniors LLC has proposed a development for affordable rental housing at approximately the northeast corner of North University Drive and Maroney Drive named Pioneer Crossing for Seniors in the City of Nacogdoches, Nacogdoches County; and

WHEREAS, Nacogdoches PC for Seniors LLC has communicated that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2022 Competitive 9% Housing Tax Credits for Pioneer Crossing for Seniors.

NOW, THEREFORE, be it resolved by the City Council of the City of Nacogdoches, Texas that:

1. The City of Nacogdoches, acting through its governing body, hereby has no objection to the proposed Pioneer Crossing for Seniors located at approximately the northeast corner of North University Drive and Maroney Drive and that this formal action has been taken to put on record the opinion expressed by the City of Nacogdoches on February 22, 2022, and
2. As provided for in 10 TAC §11.3(c) of the Qualified Allocation Plan, it is expressly acknowledged and confirmed that the City of Nacogdoches has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds; and
3. For and on behalf of the Governing Body, Jan Vinson, City Secretary is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

PASSED AND APPROVED, this the 22nd day of February, 2022, by a vote of ____ (ayes) to _____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

APRROVED AS TO FORM:

_____ _____

Jan Vinson, City Secretary Steven Kirkland, City Attorney

CITY OF NACOGDOCHES, TEXAS
RESOLUTION NO. 1295-02-22

A RESOLUTION OF THE CITY OF NACOGDOCHES IN SUPPORT OF THE PROPOSED 9% HOUSING TAX CREDIT FOR A DEVELOPMENT KNOWN AS PIONEER CROSSING FOR SENIORS TO BE DEVELOPED BY NACOGDOCHES PC FOR SENIORS, LLC.

WHEREAS, Nacogdoches PC for Seniors LLC has proposed a development for affordable rental housing at approximately the northeast corner of North University Drive and Maroney Drive named Pioneer Crossing for Seniors in the City of Nacogdoches, Nacogdoches County; and

WHEREAS, Nacogdoches PC for Seniors LLC has communicated that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2022 Competitive 9% Housing Tax Credits for Pioneer Crossing for Seniors.

NOW, THEREFORE, be it resolved by the City Council of the City of Nacogdoches, Texas that:

1. The City of Nacogdoches, acting through its governing body, hereby confirms that it supports the proposed Pioneer Crossing for Seniors located at approximately the northeast corner of North University Drive and Maroney Drive and that this formal action has been taken to put on record the opinion expressed by the City of Nacogdoches on February 22, 2022, and
2. The City of Nacogdoches, acting through its governing body, hereby confirms that, upon successful award of 2022 Competitive 9% Housing Tax Credits, the city commits to providing reduced fees or a contribution of other value that equals a minimum of $250 for the benefit of Nacogdoches PC for Seniors LLC; and
3. As provided for in 10 TAC §11.3(c) of the Qualified Allocation Plan, it is expressly acknowledged and confirmed that the City of Nacogdoches has more than twice the state average of units per capita supported by Housing Tax Credits or Private Activity Bonds; and
4. The City of Nacogdoches hereby confirms that its governing body has voted specifically to approve the construction of the Development and to authorize an allocation of Housing Tax Credits for the Development pursuant to Tex. Gov't Code §2306.6703(a)(4); and
5. For and on behalf of the Governing Body, Jan Vinson, City Secretary is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

PASSED AND APPROVED, this the 22nd day of February, 2022, by a vote of ____ (ayes) to _____ (nays) of the City Council of the City of Nacogdoches, Texas.

CITY OF NACOGDOCHES

By: _____
JIMMY MIZE, Mayor

ATTEST:

_____

Jan Vinson, City Secretary

APRROVED AS TO FORM:

_____

Steven Kirkland, City Attorney

City Council Meeting

Date: February 22, 2022

Agenda Item: 7.A.

PRESENTER: Larissa Philpot, Economic Development Director

ITEM/SUBJECT: A. Deliberation regarding Economic Development negotiations under Government Code Section 551.087 as follows:
1. Discuss or deliberate regarding commercial or financial information the City has received from business projects the City body seeks to have locate in the City of Nacogdoches and with which the City is conducting economic development negotiations; and
2. Deliberate offer of financial or other incentive to business prospects described by Subdivision 1 above.

SUMMARY/BACKGROUND:

FINANCIAL:

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

CITY CONTACT:

ATTACHMENTS: