

Agenda item # 4

PROCLAMATION
IN RECOGNITION OF MUNICIPAL COURT WEEK

November 1-5, 2021

WHEREAS, municipal courts play a significant role in preserving public safety and promoting quality of life in Texas; and

WHEREAS, more people come in contact with municipal courts than all other Texas courts combined and public impression of the Texas judicial system is largely dependent upon the public's experience in municipal court; and

WHEREAS, state law authorizes a municipality to either appoint or elect a municipal judge for a term of office, the Smithville Municipal Court is a state court and its judges are members of the state judiciary; and

WHEREAS, the procedures for the Smithville Municipal Court operations are set forth in the Texas Code of Criminal Procedure and other laws of the State of Texas; and

WHEREAS, the City of Smithville is committed to the notion that our legal system is based on the principle that an independent, fair, and competent judiciary will interpret and apply the laws that govern us and that judges and court personnel should comply with the law and act in a manner that promotes public confidence in the integrity and impartiality of the judiciary; and

WHEREAS, Smithville Municipal Judges are not policymakers for the City of Smithville but are bound by the law and the Canons of Judicial Conduct and are required to make decisions independent of the governing body of the City Council, city officials, and employees; and

WHEREAS, the City Council recognizes that the Constitution and laws of the State of Texas contain procedural safeguards in criminal cases for all defendants, including indigent defendants, and supports the Smithville Municipal Court in complying with such legal requirements.

NOW, THEREFORE be it resolved by the City Council of the City of Smithville, Texas that the week of November 1-5, 2021 is hereby recognized as municipal court week in recognition of the fair and impartial justice offered to our citizens by the Municipal Court of Smithville.

MUNICIPAL COURT WEEK

November 1-5, 2021

Passed and approved on this the 18th day of October 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Smithville to be affixed this 18th day of October 2021.

Joanna Morgan, Mayor

ATTEST:

Jennifer Lynch, City Secretary

PROCLAMATION
IN RECOGNITION OF NATIONAL BREAST CANCER
AWARENESS MONTH

WHEREAS, breast cancer is the second most commonly diagnosed form of cancer for women in the United States and remains the second leading cause of cancer death among American women; and

WHEREAS, mammography, an “x-ray of the breast,” is recognized as the single most effective method of detecting breast changes long before physical symptoms can be seen or felt. Early detection and improved treatment are believed to have significantly reduced the number of deaths caused by breast cancer; and

WHEREAS, researchers, scientists, and numerous nonprofit organizations are dedicated to discovering the cure for breast cancer. During the month of October, we acknowledge the extraordinary commitment and effort invested in this cause; and

WHEREAS, we recognize that over two and a half million Americans are breast cancer survivors that give us hope of a better future.

NOW, THEREFORE with support for those who continue to cope with breast cancer, I, Joanna Morgan, Mayor of Smithville, Texas, on behalf of the City Council, extend our deepest respect for survivors and those advocating for prevention and a cure and in so doing hereby proclaim OCTOBER 2021 as

“BREAST CANCER AWARENESS MONTH”

Passed and approved on this the 18th day of October 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Smithville to be affixed this 18th day of October 2021.

Joanna Morgan, Mayor

ATTEST:

Jennifer Lynch, City Secretary

Agenda item # 5

CITY OF SMITHVILLE
SEPTEMBER 13, 2021
COUNCIL MEETING

Present: Mayor Joanna Morgan, Councilmembers, Janice Bruno, Bill Gordon, Tom Etheredge, Sharon Foerster, Stan Gerdes, and City Manager Robert Tamble.

Open Meeting: Call to order: Mayor Morgan called the meeting to order at 6:00 p.m.
Invocation and Pledge of Allegiance: Councilman Gordon gave the invocation and pledge.

Recognition/Awards/Proclamations/Announcements/Presentations:

- a) Norm gave a presentation on Lost Pines BBQ Showdown happening 2022.
- b) Proclamation for "Constitution Week". Mayor Morgan read the proclamation
- c) Proclamation for "National Preparedness Month". Mayor Morgan read the proclamation.

Citizen Comments: None

Approval of the minutes from August 9, 2021, City Council Meeting, August 25, 2021 City Council Workshop, and the September 8, 2021 Special Called City Council Meeting, Public Hearing, and Workshop. Councilman Gerdes made a motion to approve all of the minutes. Councilman Gordon seconded and the motion passed unanimously.

Citizen Comments: Mitch Jameson spoke on the budget and praised all and applauded Robert and was in favor of approving the budget. He also liked that the Council ask "what do you need?" to the department heads.

Discussion and Action on an Ordinance adopting the 2021/2022 Fiscal Year Budget.: Our FY21/22 revenues and expenditures are currently BALANCED at \$13,742,531. This is \$1,342,092 greater than our FY20/21 budget of \$12,400,439 and represents a 10.8% INCREASE in projected Y-O-Y spending. The budget will require an \$1.3M transfer from the Utility Fund to the General Fund. Solid waste management fees, equity adjustment(s) for all hourly employees, and the purchase of capital equipment are what is driving the increase. Councilwoman Bruno made a motion to approve the budget. Councilman Gordon seconded and the motion passed unanimously.

Citizen Comments on: None

Consideration and approval of an Ordinance authorizing the issuance of "City of Smithville, Texas Tax Notes, Series 2021": This item was moved up on the agenda because Andrew with SAMCO said "Truth-In-Taxation" law requires it to be adopted before the tax rate. Approving this ordinance will allow the issuance of a \$750k tax note to be used to purchase capital equipment (e.g., patrol cars, wood chipper, asphalt zipper) funded by the I&S portion of the total property tax rate. Andrew Friedman (Managing Director - SAMCO) made a presentation regarding the issuance of the City of Smithville, Texas Tax Notes, Series 2021. Councilman Gordon made a motion to approve an Ordinance authorizing the issuance of "City of Smithville, Texas Tax Note, Series 2021". Councilman Etheredge seconded and the motion passed unanimously.

Citizen Comments on: None

Discussion and Action on an Ordinance adopting the 2021/2022 Fiscal Year Tax Rate: Recommend setting 2021/2022 AD VALOREM TAX RATE of \$0.54901 cents per \$100 valuation --- no change from the current tax rate. This rate includes a \$750k tax note that will be used to purchase capital equipment (e.g., patrol cars, wood chipper, asphalt zipper) funded by the I&S portion of the total rate. The assessed property values in Smithville increased by 12.25% this year which will bring in an additional \$62k of revenue to the General Fund to help pay for drainage improvements and street repairs. The average impact to homeowners in Smithville is an additional \$83 per year based on an average home value of \$185k. Councilman Etheredge made a motion to approve the Ordinance adopting the 2021/2022 tax rate. Councilwoman Bruno seconded and the motion passed unanimously.

Citizen Comments on: None

Discussion and Action on an appointment to the General Assembly CAPCOG (Capital Area Council of Governments) Board: Councilmember Janice Bruno is currently serving on the CAPCOG Board and would like to continue as Smithville's representative. Councilman Gerdes made a motion to appoint Janice Bruno to the CAPCOG board. Councilwoman Foerster seconded and the motion passed with a vote of:

For: Gerdes, Foerster, Gordon, Etheredge

Abstain: Bruno

Citizen Comments on: None

Discussion and Action on a Resolution to set new rates and adopt a fee schedule for FY21/22.: The proposed rate and fee increases were benchmarked against (and are consistent with) what other municipalities are charging. The new rates and fee schedules will go into effect on Friday, October 1, 2021. Councilwoman Bruno made a motion to approve the Resolution. Councilwoman Foerster seconded and the motion passed unanimously.

Citizen Comments on: None

Discussion and Action on a Resolution for the Nomination of a position on the Board of Directors of the Bastrop Central Appraisal District (BCAD): Councilman Gordon made a motion to approve a resolution nominating Bill Hector. Councilman Etheredge seconded and the motion passed unanimously.

Citizen Comments on: None

Discussion and Action on authorizing the City Manager to grant COVID sick time hours to City employees: Robert is requesting authorization to grant 80-hours of COVID-19 sick time to regular full-time employees and 40-hours of COVID-19 sick time to part-time employees. The additional sick time will be used for COVID-related purposes only and is reimbursable via the American Recovery Plan Act (ARPA). Note: Employees who retire will not be paid for any unused COVID-19 sick hours. Councilman Etheredge made a motion to approve the sick time described by City Manager as COVID related only in conjunction with ARPA funds. Councilwoman Bruno seconded and the motion passed unanimously.

Citizen Comments: None

Discussion and Action on Entering into an Interlocal Agreement with Bastrop County for an Emergency Animal Shelter at Riverbend Park: This Interlocal Agreement with Bastrop County will allow the temporary relocation and harboring of domestic animals and livestock to the Pavilion and Rodeo Arena at Riverbend Park in the event of a natural disaster or emergency condition (other than flooding). The agreement will remain in effect in perpetuity but can be terminated by either party with 30-days written notice. Councilwoman Bruno made a motion to approve the ILA with Bastrop County. Councilman Gordon seconded and the motion passed unanimously.

Citizen Comments: None

Discussion and Action on the approval of the Financial Report. Cynthia White. Councilman Gordon made the motion to approve the Financial Report. Councilwoman Foerster seconded and the motion passed unanimously.

Adjourn 6:45 p.m.

Joanna Morgan, Mayor

Attest:

Jennifer Lynch, City Secretary

Agenda item # 7

CITY OF SMITHVILLE

PLANNING & ZONING APPLICATION

APPLICATION TYPE

Zoning Change
Request:

- ☐ Change in Zoning Class
☐ Change in Ordinance
☐ Variance
☒ Special Exception Use
☐ Minor Plat/Subdivision
☐ Other _____

Number of
Requests:

- ☐ Single
☐ Multiple

PROPERTY IDENTIFICATION

Street Address 502 Burlison Street

*** Applicant must submit an accurate location map and site plan for application to be considered ***

Legal description

- ☐ Platted Land (please provide subdivision, block and lot information below)
☐ Unplatted Land (please submit the metes and bounds description from deed)

Subdivision Name: Burlison

Property Tax Code: R 16429 Block Number: 17A Lot Number: 3

Property Owner
(as listed on Deed):

Thomas Gardella, Michelle Gardella

Property Owner
Mailing Address:

502 Burlison St. Smithville TX 78957

Owner's Phone No:

512-992-9478 Owner's Email: thomasgardella@gmail.com

Agent's Name
(if applicable):

n/a

Agent's Mailing
Address:

n/a

Agent's Phone No:

n/a Agent's Email: n/a

DESCRIPTION OF VARIANCE / EXCEPTION REQUEST

Current Zone Class:	SF-1 <input type="checkbox"/>	SF-2 <input type="checkbox"/>	Proposed Zone Class:	SF-1 <input type="checkbox"/>	SF-2 <input type="checkbox"/>
	MR <input type="checkbox"/>	C-1 <input type="checkbox"/>		MR <input type="checkbox"/>	C-1 <input type="checkbox"/>
	C-2 <input type="checkbox"/>	C-3 <input type="checkbox"/>		C-2 <input type="checkbox"/>	C-3 <input type="checkbox"/>
	MHS <input type="checkbox"/>	MF <input type="checkbox"/>		MHS <input type="checkbox"/>	MF <input type="checkbox"/>
	CF <input type="checkbox"/>	PD <input type="checkbox"/>		CF <input type="checkbox"/>	PD <input type="checkbox"/>
	PD-Z <input type="checkbox"/>	I <input type="checkbox"/>		PD-Z <input type="checkbox"/>	I <input type="checkbox"/>
	CBD <input type="checkbox"/>	PD-Z <input type="checkbox"/>		CBD <input type="checkbox"/>	PD-Z <input type="checkbox"/>

Describe variance requested:

Describe special use requested:

guest house in backyard

Reason for Request:
(explain why special exception is sought or why a variance has been requested)

We would love to have a space for family to stay when they come to visit.

The structure is already there, we will just be going upwards.

It will be within the guest house/studio regulations stated in Section 4.3 of the Smithville zoning code.

PETITION

As Owner/Agent, I hereby petition the City of Smithville for approval of the above described request as provided by the laws of the State of Texas and Ordinances of the City. I understand and agree that the Petition fee is non-refundable and that I must attend the Planning & Zoning meeting and subsequent City Council meeting in order for my application to be considered for approval.

Signature: _____

Date: 7/15/2021

OFFICE USE ONLY:

Fee Amount:

475⁰⁰

Fee Payment:

475⁰⁰

P&Z Date:

Sept 7, 2021

Council Date:

Oct. 18, 2021

Accepted By:

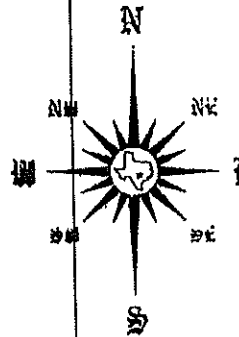
Benowski

Date Submitted:

7-15-2021

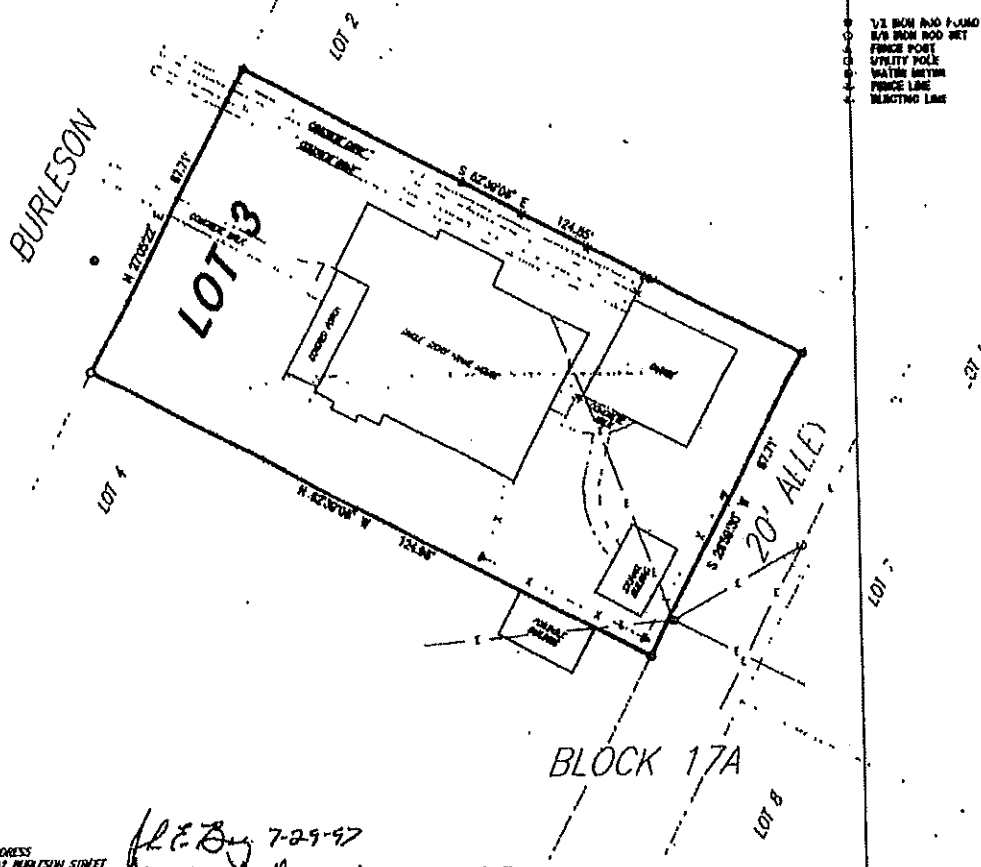
☐ Notice sent to property owners within 200 feet of proposed property

M. BURLESON ADDITION



SCALE: 1" = 20'

• 1/2" BOW AND POUND
• 1/2" BOW AND POUND
• FENCE POST
• UTILITY POLE
• WATER METER
• PRICE LINE
• BENCHMARK



ADDRESS
502 BURLESON STREET
SMITHVILLE, TEXAS

Handwritten: 7-29-97
Handwritten: Carrin L. Banning 7-29-97

NO portion of this tract has either a SPECIAL
FLOOD HAZARD AREA designated on such by the
Department of Housing and Urban Development,
Federal Insurance Administration, as shown on
FIRM Number: 48031C 0075C
for BASTROP COUNTY, TEXAS.
Effective Date: 06/11/91
This Tract lies in Zone(s) X
Base Flood Elevation: None

The undersigned does hereby certify to the State Agency,
Surveyor, Engineer, Architect, or other Person, that the
survey was, the day, under the ground, on the property
surveyed, and is correct, and that the survey was
conducted, and the boundaries, and the location of the
structures, and the location of the improvements,
and the utility lines, or other things, shown on the
survey, and that the survey was conducted in and from
a dedicated road way, except as shown herein.

DALE L. OLSON

REGISTERED PROFESSIONAL LAND SURVEYOR
711 WATER STREET (512) 821-6476 BASTROP, TEXAS

SURVEY PLAT

of LOT 3, BLOCK 17A, M. BURLESON ADDITION
in the CITY of SMITHVILLE as Recorded in PLAT
CABINET 1, PAGE 24A, BASTROP COUNTY PLAT
RECORDS, BASTROP COUNTY, TEXAS.

WARNING:
The Flood Statement, as determined by a HUD-FEMA
FLOOD HAZARD ZONING MAP, DOES NOT APPLY to the
property of the Improvement because of the
Great Flood of 1913. The very presence of
Greater Floods and the City of Smithville, and Flood Heights
may increase by many inches or feet.

THIS SURVEYOR SHALL NOT CHARGE
FEE FOR THE FLOOD STATEMENT



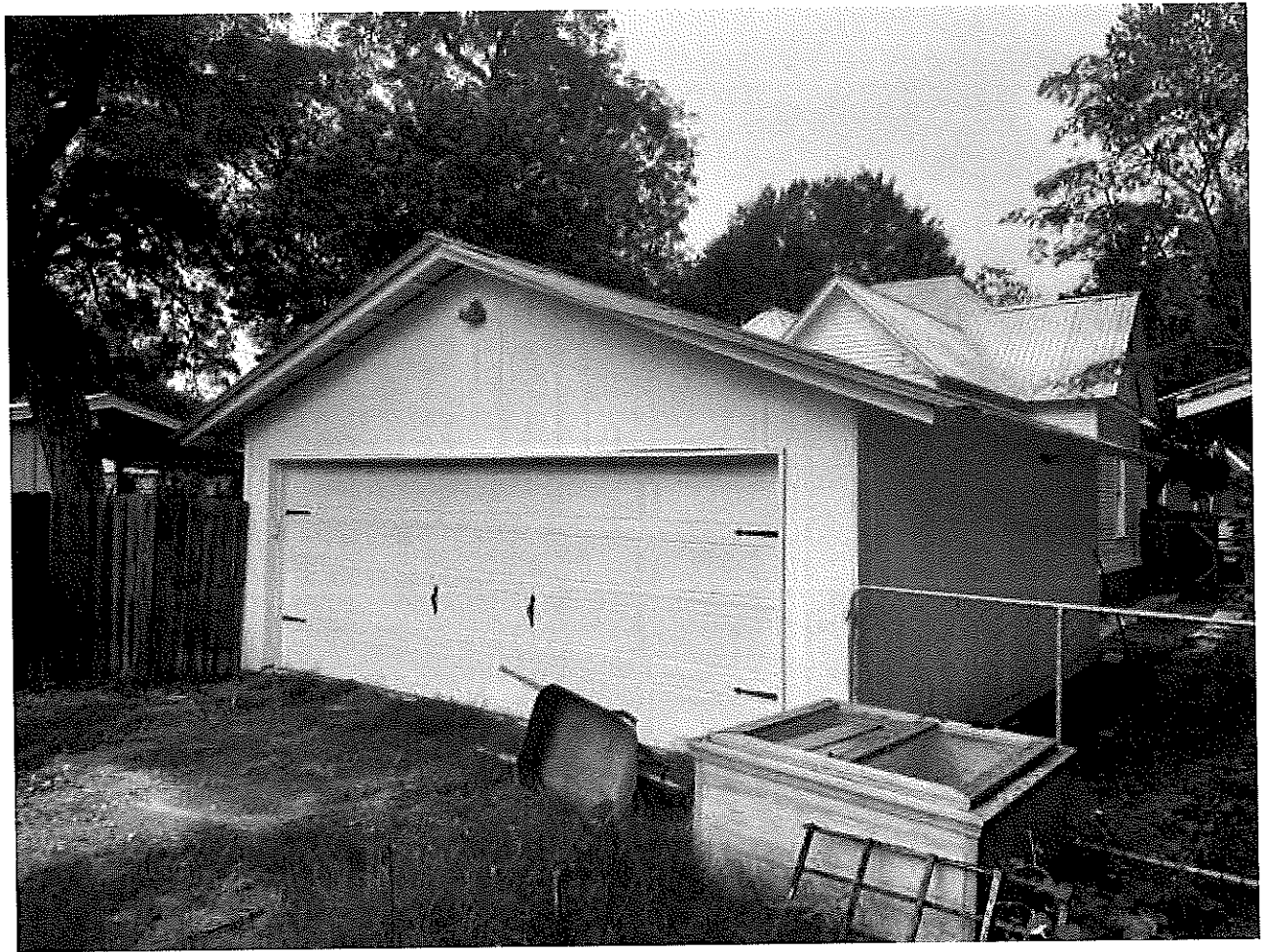
DALE L. OLSON
REGISTERED PROFESSIONAL
LAND SURVEYOR
NO. 1783
DATE 07/22/97

JOHN E. & CARRIN L. BANNING

002-51 0-17-C 0000 11107 1 PLAT FILE 352.1

Handwritten: Richard B. Bann

Handwritten signatures and initials at the bottom left of the page.



This was an email from a concerned citizen these pictures are not from the applicant.

Jennifer Lynch

From: sandra@callaghaninc.com
Sent: Monday, September 6, 2021 3:06 PM
To: Tracie Wallace; Jennifer Lynch
Subject: Sept. 7 2021 PZ application
Attachments: 502_Burleson_Zillow.docx

Hi Tracie / Jennifer:

I would like to ask you to send my questions / concerns to the P&Z committee in advance of the meeting September 7th at 6:00 p.m. I would like an opportunity to address the P&Z Committee members during the meeting on September 7, 2021. Thank you, kindly!!!

Ladies and Gentlemen of the Planning and Zoning Committee:

This email will address the 8/16/2021 letter sent to property owners / current residents within 200 feet of 502 Burleson Street. Michelle and Thomas Gardella have submitted an Application for a Special Use Permit for a guest house at 502 Burleson Street where construction has been ongoing for the last 4 weeks.

In the application, the reason for the request is to allow "family to stay when they come to visit. The structure is already there, we will just be going upwards. It will be within the guest house / studio regulations stated in Section 4.3 of the Smithville Zoning Code."

I have a few questions for clarification purposes:

- 1) According to Section 2.2 Zoning Categories, 2.2.1 In the SF-1 residential district, a SUP is required to use a Guest House / Studio as a Guest house / studio. Correct? So even though a Guest House / Studio exists on the property currently, she still requires a SUP to use the Guest House / Studio as a guest house / studio for family to stay in when visiting (in accordance with Section 4.3 Guest House / Studio)?

Uses.

USE	BY RIGHT	SUP
Single family dwelling	X	
Accessory buildings	X	
Private garage	X	
Home-based business		X
Religious Facility		X
Public Safety Facility	X	
Public Recreation Facility	X	
Child care center		X
Educational facility		X
Bed and breakfast		X

Boarding house		X
Country inn		X
Guest house/studio		X

- 2) A SUP is limited to what is specified on the application. (Reference Section 5.4 Special Use Permits (SUPs) – specifically 5.4.2)

5.4. Special Use Permits (SUPs)

5.4.1. Special use permits are intended to allow for certain uses that are not permitted in a particular zoning district by right, but which may be permitted under certain circumstances and application of certain conditions. Such special uses shall be permitted through the issuance of a Special Use Permit (SUP).

5.4.2. The special use is granted only to the applicant and is limited to that which is specifically described in the special use permit application, as amended and approved by the Planning and Zoning Commission and the City Council.

Therefore, in accordance with Section 4.3 Guest House / Studio:

4.3.1 A guest house shall be located within a detached accessory building of the residential lot – true a detached accessory building does exist.

4.3.2 Rental, lease or receipt of any compensation for the use of a guest house is prohibited – I would not think The Gardella's would not ask for rental compensation from family - as stated in the application.

4.3.3 Use of a guest house as a permanent resident is prohibited. - The application states for family to stay when they come to visit – so it will be not used as a permanent residence or a rental unit.

4.3.4 Installation of a separate gas or electric meter is prohibited. – The application did not request a separate gas or electric meter be installed, so there should not be one. However, I noted on See Click Fix on 09/02/2021 a request was made to perform an electric disconnect to the City to turn off the electricity at the meter at 502 Burleson. Has a construction permit been issued and is the end result of the construction permit to allow for the special use permit? That is backwards. Should not the special use permit be approved prior to any construction being started? City power disconnect is also not required, because any work being done on the property that required electrical power turn off could be performed after the meter at the main breaker panel.

4.3.5 A guest house may include one bathroom and a kitchen. – Unknown if the guest house includes this.

4.3.6 One additional off-street parking space shall be required when a property is a guest house - To be determined. Presume parking will be provided in garage and / or driveway off street for family visiting.

4.3.7 All property development regulations applicable to the principal residence shall be applicable to guest house, including, setbacks, yards and height limitations. Anticipate this has been addressed in a building permit for the building to "go upwards". This was not included in the P&Z packet.

I request the Planning and Zoning committee address this application as written and not amend it.

For the last 3 years the alley behind 502 Burleson has been blocked by city workers, digging underground and performing electrical maintenance on the transformers. Additionally, neighbors that connect to the electrical grid in the alleyway within the 500 block of Burleson/Hudgins have reported ongoing electrical problems as well as miswiring resulting in damaged appliances. Will this Guest House / studio add additional burden to the apparently already overburdened city services?

Are my conclusions correct that a SUP is required for them to use the Guest House/Studio as a guest house/studio for family to stay in when visiting, and it cannot be used for any other commercial or compensation – generating purposes?

If that is the case, I have no other questions. However, if the SUP is granted – I want to make sure it does not open the door for the Gardella's to use the guest house / studio for other unreported / unaddressed / undocumented uses.

Please see attached Zillow listing description of 502 Burleson and selected photos that marketed the home as a "Lovely B&B".

Thank you,

Sandra Callaghan
406 Burleson Street
Smithville, TX 78957
(661) 433-0308

Overview

Note: This property is not currently for sale or for rent on Zillow. The description and property data below may've been provided by a third party, the homeowner or public records.

1890's Vintage FarmHouse with Industrial accents. 3 bed/2 bath + GARDEN COTTAGE. ShipLap + Beadboard + Metal = DREAMY NEST! Magic Fairy Garden with Tree Swing climbing roses, herbs, plums, citrus trees. In the HEART of the HISTORIC DISTRICT. Walk to Downtown shops, bars, restaurants, gym... Front Porch Swing is the perfect spot for a lazy afternoon read. Morning sun streams in to the Tea Room. HUGE 500 sqft Garage with Work Shop space. Most Furnishings available for purchase. Would be a LOVELY B & B! Featured in Prairie Style Magazine







CITY OF SMITHVILLE

PLANNING & ZONING APPLICATION

APPLICATION TYPE

Zoning Change Request:

- ☒ Change in Zoning Class
- ☐ Change in Ordinance
- ☐ Variance
- ☐ Special Exception Use
- ☐ Minor Plat/Subdivision
- ☐ Other _____

Number of Requests: ☐ Single ☐ Multiple

PROPERTY IDENTIFICATION

Street Address Please see Exhibit A

*** Applicant must submit an accurate location map and site plan for application to be considered ***

Legal description ☐ Platted Land (please provide subdivision, block and lot information below)
☒ Unplatted Land (please submit the metes and bounds description from deed)

Subdivision Name: Lomas (A46 - Abstract Subdivision Code)

Property Tax Code: 16839 Block Number: _____ Lot Number: _____

Property Owner (as listed on Deed): 3T5 LLC -SERIES D

Property Owner Mailing Address: 159 FLOWER HILL RD SMITHVILLE, TX 78957

Owner's Phone No: 5126639637 Owner's Email: sammileehill@gmail.com

Agent's Name (if applicable): Conley A. Covert

Agent's Mailing Address: 1100 W Annie Street, Austin, TX 78704

Agent's Phone No: 512.963.9833 Agent's Email: conley.covert@helmcre.com

DESCRIPTION OF VARIANCE / EXCEPTION REQUEST

Current Zone Class:	SF-1 <input checked="" type="checkbox"/>	SF-2 <input type="checkbox"/>	Proposed Zone Class:	SF-1 <input type="checkbox"/>	SF-2 <input type="checkbox"/>
	MR <input type="checkbox"/>	C-1 <input type="checkbox"/>		MR <input type="checkbox"/>	C-1 <input type="checkbox"/>
	C-2 <input type="checkbox"/>	C-3 <input type="checkbox"/>		C-2 <input type="checkbox"/>	C-3 <input checked="" type="checkbox"/>
	MHS <input type="checkbox"/>	MF <input type="checkbox"/>		MHS <input type="checkbox"/>	MF <input type="checkbox"/>
	CF <input type="checkbox"/>	PD <input type="checkbox"/>		CF <input type="checkbox"/>	PD <input type="checkbox"/>
	PD-Z <input type="checkbox"/>	I <input type="checkbox"/>		PD-Z <input type="checkbox"/>	I <input type="checkbox"/>
	CBD <input type="checkbox"/>	PD-Z <input type="checkbox"/>		CBD <input type="checkbox"/>	PD-Z <input type="checkbox"/>

Describe variance requested:

Describe special use requested:

Reason for Request:
(explain why special exception is sought or why a variance has been requested)

Please see Exhibit A

PETITION

As Owner/Agent, I hereby petition the City of Smithville for approval of the above described request as provided by the laws of the State of Texas and Ordinances of the City. I understand and agree that the Petition fee is non-refundable and that I must attend the Planning & Zoning meeting and subsequent City Council meeting in order for my application to be considered for approval.

Signature: Bonnie Hill

Date: 7.15.2021

OFFICE USE ONLY:

Fee Amount: _____

Fee Payment: _____

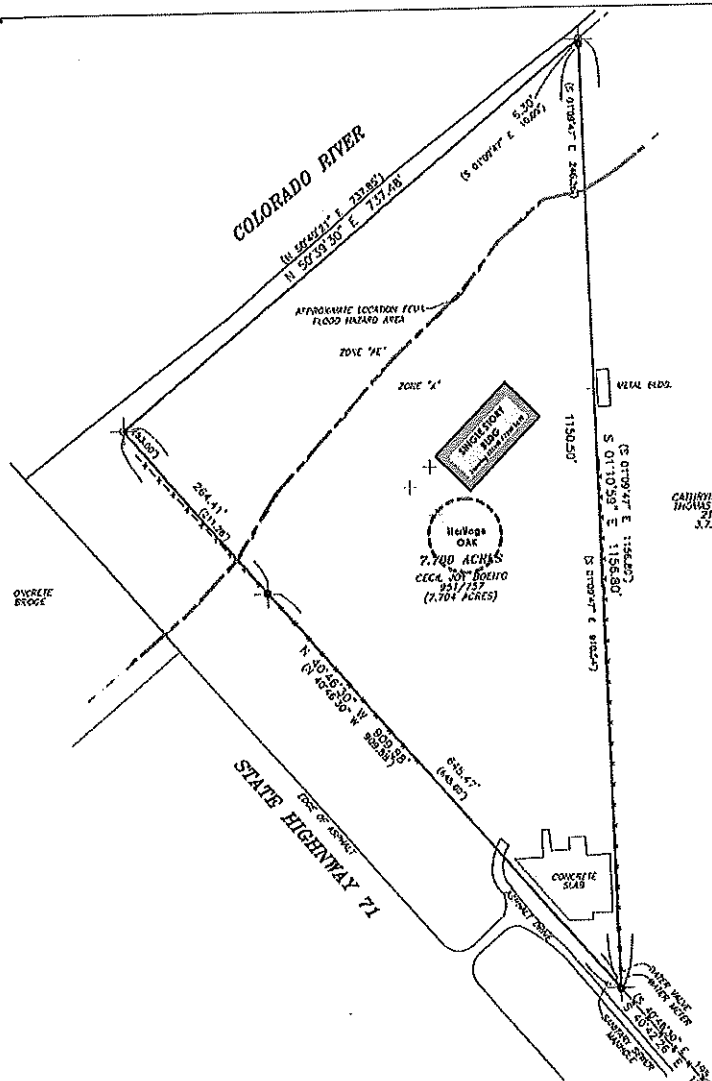
P&Z Date: _____

Council Date: _____

Accepted By: _____

Date Submitted: _____

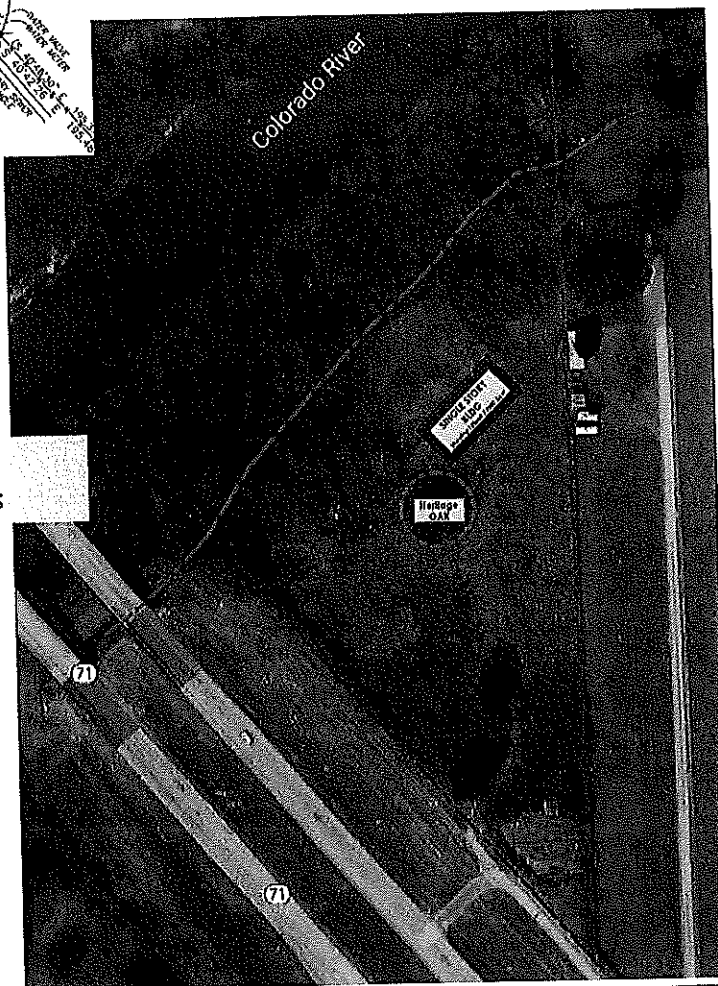
☐ Notice sent to property owners within 200 feet of proposed property



Taken from JAMES E. GARON &
ASSO. Survey
Field Book # B-444/58-60
G.F. # 25201 / Travis J. Hill & Sammi
G. Hill
128 Highway 71 East

CATHYNN GARRETT &
THOMAS L. GARRETT
2189/881
3.723 ACRES

ARIEL VIEW
Taken from Google Maps



Legal Desc: 7.100 Acres Out of The Lewis Lomas Survey
Abstract # 46, Bastrop County, TX

Proposed Single Story Bldg
Site Map

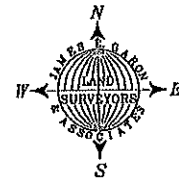
PROJECT:

PRINT SCALE

PRINT
SCALE
1" = 100'
on 18x24

SHEET

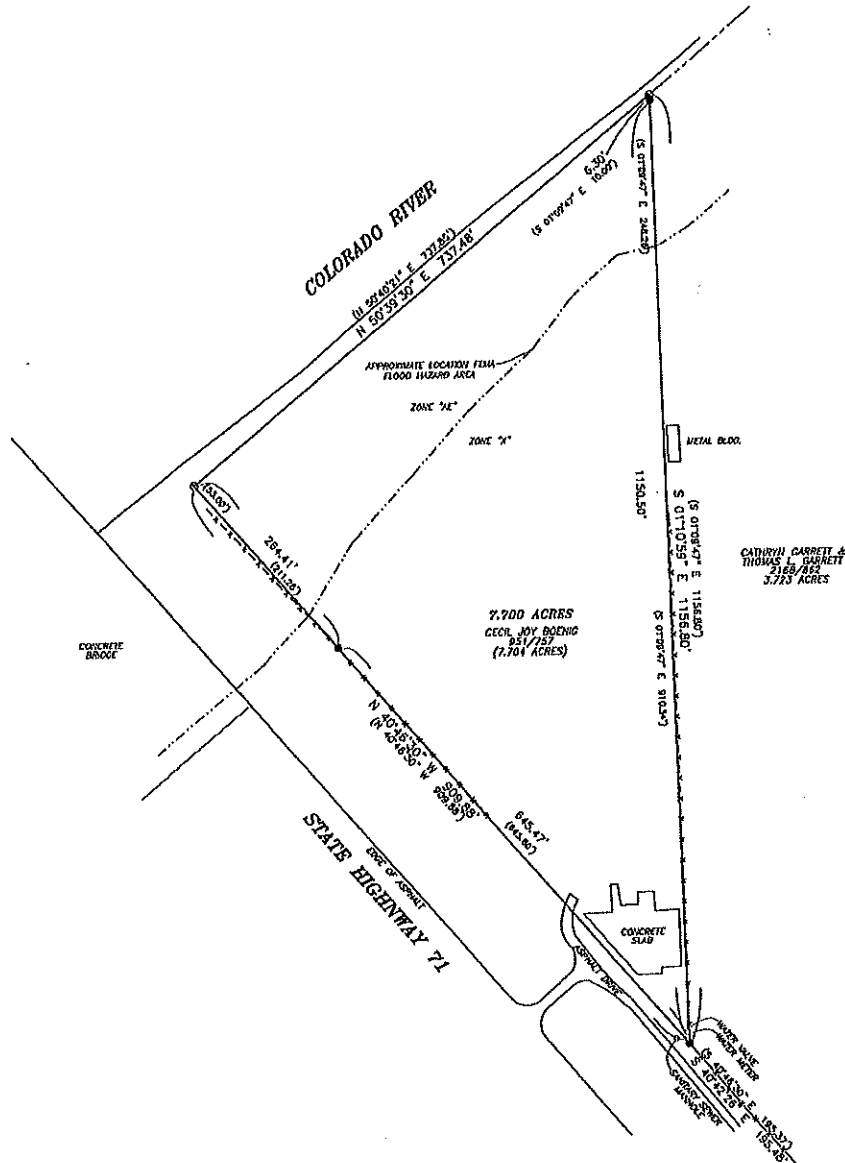
A - 1



SCALE: 1" = 100'

LEGEND

- ⊙ CALCULATED POINT
- 1/2" REBAR FLOOR (ANNEAL NOTED)
- 1/2" REBAR SET W/CIP
- X— STATIONED E. GARON PLS 4343
- X— WIRE FENCE
- X— RECORD CALL



NOTE:
THIS PROPERTY IS NOT SUBJECT TO:
1) EASEMENT TO TEXAS POWER & LIGHT COMPANY IN VOL. 83, PG. 451, D.R.B.C.T.

TO THE OWNERS, VENHOLDERS AND TRINITY TIRE COMPANY

THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY DESCRIBED HEREON AND IS CORRECT, AND THAT THERE ARE NO DISCREPANCIES, SHORTAGES IN AREA, BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, VISIBLE UTILITY LINES OR ROADS IN PLACE, EXCEPT AS SHOWN HEREON, AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY, EXCEPT AS SHOWN HEREON.

THE UNDERSIGNED DOES FURTHER CERTIFY THAT THE PROPERTY DESCRIBED HEREON IS LOCATED IN ZONE "A" & "C" AND IS WITHIN A 100-YEAR FLOOD HAZARD AREA AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP, PANEL NO. 48021E0395E, EFFECTIVE JANUARY 19, 2006.



JUNE 21, 2013

REFERENCE: TRAVIS J. HILL & SAUNDERS, JR., C.F. NO. 25201
ADDRESS: 128 HIGHWAY 71 EAST
LEGAL DESCRIPTION: 7,700 ACRES OUT OF THE LEWIS LOMAS SURVEY, ABSTRACT NO. 46, BASTROP COUNTY, TEXAS.
FIELD BOOK: B-111/28-40
FILE: Survey\Co\Bastrop\Survey\Leads\Leads\JSE13.dwg



JAMES E. GARON & ASSOC.
PROFESSIONAL LAND SURVEYORS
P.O. Box 1917
Bastrop, Texas 78602
(512) 303-4185
jgaron@austin.rr.com
www.jamesegarons.com

Exhibit A

Property Information

Property ID: 16839

Legal Acreage: 7.70

GEO ID: R16839

Legal Description: A46 Lomas, L., ACRES 7.700

Tract or Lot:

Abstract Subdivision Code: A46

Block:

Neighborhood Code: NBHD1905

School District: S03

City Limits: C03

Property Location

Situs Number:

Situs Street Prefix:

Situs Street Name:

Situs Street Suffix:

Situs City:

Situs State:

Situs Zip:

Owner Information

Owner Name: 3T5 LLC -SERIES D

Mailing Address: 159 FLOWER HILL RD

Mailing Address City: SMITHVILLE

Mailing Address State: TX

Mailing Address Zip: 78957

Deed Information

Deed Sequence: 0

Deed Date: 04/15/2014

Deed Volume: 2310

Deed Page: 610

Deed Number: 0

ZONINGSF-1

Abstract

Survey Name

46

A46 LEWIS LOMAS

Exhibit A

GPS Coordinates:

30°00'57.0"N 97°08'38.8"W

30.015831, -97.144115

Google Maps Link:

<https://www.google.com/maps/place/30%C2%B000'57.0%22N+97%C2%B008'38.8%22W/@30.0158333>

2

[97.1463052,1014m/data=!3m1!1e3!4m14!1m7!3m6!1s0x86448108bf064fab:0xddb52ae429b1b928!2sSmithville,+TX+78957!3b1!8m2!3d30.0085542!4d-](https://www.google.com/maps/place/30%C2%B000'57.0%22N+97%C2%B008'38.8%22W/@30.0158333,97.1463052,1014m/data=!3m1!1e3!4m14!1m7!3m6!1s0x86448108bf064fab:0xddb52ae429b1b928!2sSmithville,+TX+78957!3b1!8m2!3d30.0085542!4d-97.1594321!3m5!1s0x0:0x0!7e2!8m2!3d30.0158308!4d-97.1441152)

[97.1594321!3m5!1s0x0:0x0!7e2!8m2!3d30.0158308!4d-97.1441152](https://www.google.com/maps/place/30%C2%B000'57.0%22N+97%C2%B008'38.8%22W/@30.0158333,97.1463052,1014m/data=!3m1!1e3!4m14!1m7!3m6!1s0x86448108bf064fab:0xddb52ae429b1b928!2sSmithville,+TX+78957!3b1!8m2!3d30.0085542!4d-97.1594321!3m5!1s0x0:0x0!7e2!8m2!3d30.0158308!4d-97.1441152)

Bastrop CAD link:

https://propaccess.trueautomation.com/clientdb/Property.aspx?cid=46&prop_id=16839&year=2021

Zoning Change Request Reasoning:

This subject site is located on HWY 71 and was recently annexed. By default, the zoning was changed to SF-1. The subject site is currently under contract by an end-user (high-tech), who would construct an office building (shown on site plan) to house up to 50 employees', with plans to hire locally. This contract and business expansion is contingent upon a zoning change that would allow for their planned use.

[See Survey & Site Plan Attached]

Newspaper notice #1 for September 7, 2021:

The City of Smithville Planning and Zoning Commission will hold a Public Hearing on September 7, 2021, at 6:00 p.m. in the Council Chambers of City Hall located at 317 Main St. Smithville, TX for discussion and action on a Special Use Permit for a guest house at 502 Burleson Street, Burleson Block 17A Lot 3, R16429, Property owner and Agent Thomas and Michelle Gardella. A recommendation will be given at the City Council meeting by the Planning and Zoning Commission. The City Council will hold a public hearing and Council meeting to discuss and seek action on October 18, 2021, at 6:00 p.m. Please check the City's website for any updates about this meeting.

Please run the following dates and provide a sworn affidavit August 12th and August 19th 2021 in the Smithville Times.

Newspaper notice #2 for September 7, 2021:

The City of Smithville Planning and Zoning Commission will hold a Public Hearing on September 7, 2021, at 6:00 p.m. in the Council Chambers of City Hall located at 317 Main St. Smithville TX for Discussion and Action on a zone change from SF-1 (Single Family District) to C-3 (Highway Commercial District) for property ID 16839, A46 Lomas, L., ACRES 7.700, property owner 3T5 LLC – Series D, acting agent Conley A. Covert. A recommendation will be given at the City Council meeting by the Planning and Zoning Commission. The City Council will hold a public hearing and Council meeting to discuss and seek action on October 18, 2021, at 6:00 p.m. Please check the City's website for any updates about this meeting.

Please run the following dates and provide a sworn affidavit August 19, 2021 in the Smithville Times.

MAYOR
JOANNA MORGAN

MAYOR PRO-TEM
WILLIAM GORDON
COUNCIL MEMBERS
JANICE BRUNO
STAN GERDES
SHARON FOERSTER
TOM ETHEREDGE

CITY MANAGER
ROBERT TAMBLE



317 MAIN STREET
P.O. BOX 449
SMITHVILLE, TEXAS
78957
(512) 237-3282
FAX (512) 237-4549

08/16/2021

Dear Property Owner/Current Resident,

Your address is within 200' of one or more of the following proposed agenda items. This notice is to inform you that The City of Smithville Planning and Zoning Commission will hold a Public Hearing on September 7, 2021, at 6:00 p.m. in the Council Chambers located in Smithville City Hall at 317 Main St. Smithville, TX for:

Discussion and Action on a Special Use Permit for a guest house at 502 Burleson Street, Burleson Block 17A Lot 3, R16429, Property owner and Agent Thomas and Michelle Gardella

Discussion and Action on a zone change from SF-1 (Single Family District) to C-3 (Highway Commercial District) for property ID 16839, A46 Lomas, L., ACRES 7.700, property owner 3T5 LLC – Series D, acting agent Conley A. Covert.

The Commission will hear all citizens' concerns for or against the Special Use Permit & Zone Change. The Planning and Zoning Commission will give the City Council a recommendation to approve or deny the request(s) that will go before City Council on October 18, 2021, at 6:00 p.m.

Please follow us on our YouTube Page:

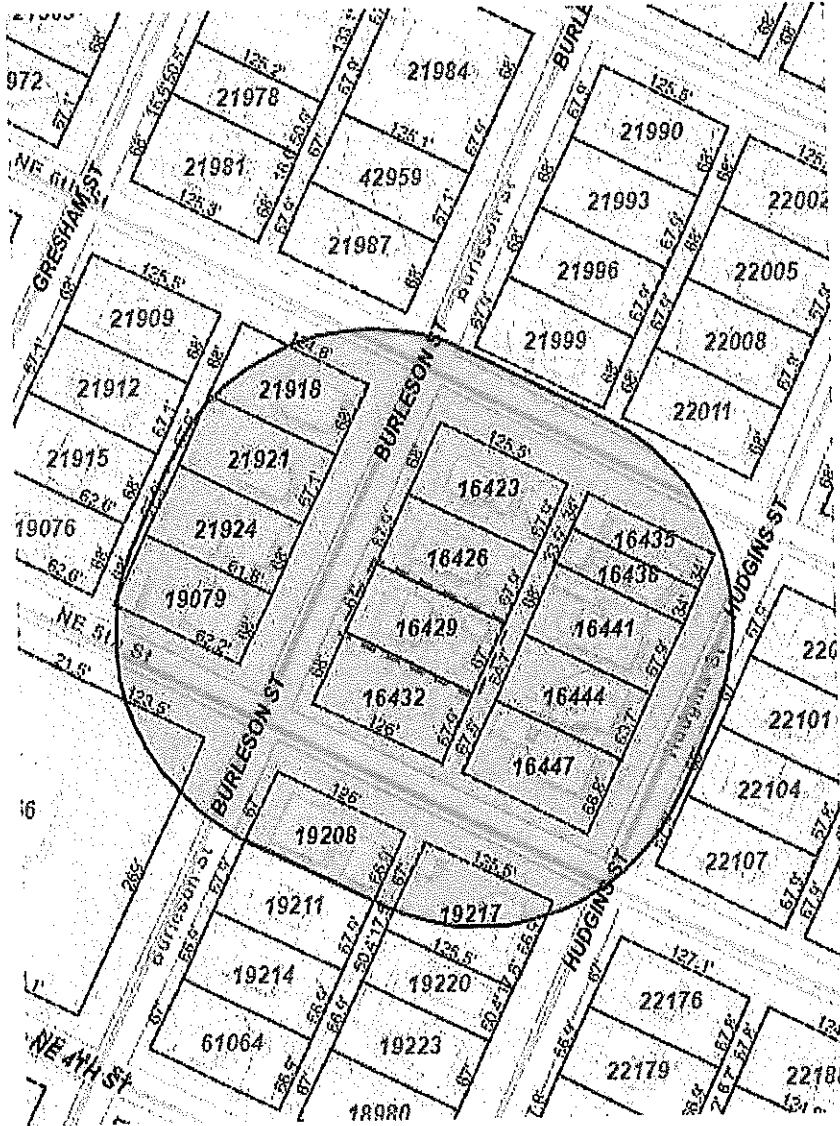
www.youtube.com/channel/UCN7rJz0wVks4zWV9EvKcH5w). You can also go to the City's website and click the link on the Planning & Zoning page to access our YouTube page. We will go live at 6:00 p.m. so that you can view the live meeting. **If you have any questions or concerns, please reach out to Tracie Dzenowski at 512-237-3282 ext. 2101 and check the City's website for any updates about this meeting.**

Thank You,

Tracie Dzenowski
City of Smithville
512-237-3282 ext 2101

Planning and Zoning Commission: Brian Riewe, Nancy Catherman, Edward Lick, Dianna Ewen, and Caroline Noya

Property owners/addresses 200' of 16249 502 Burleson



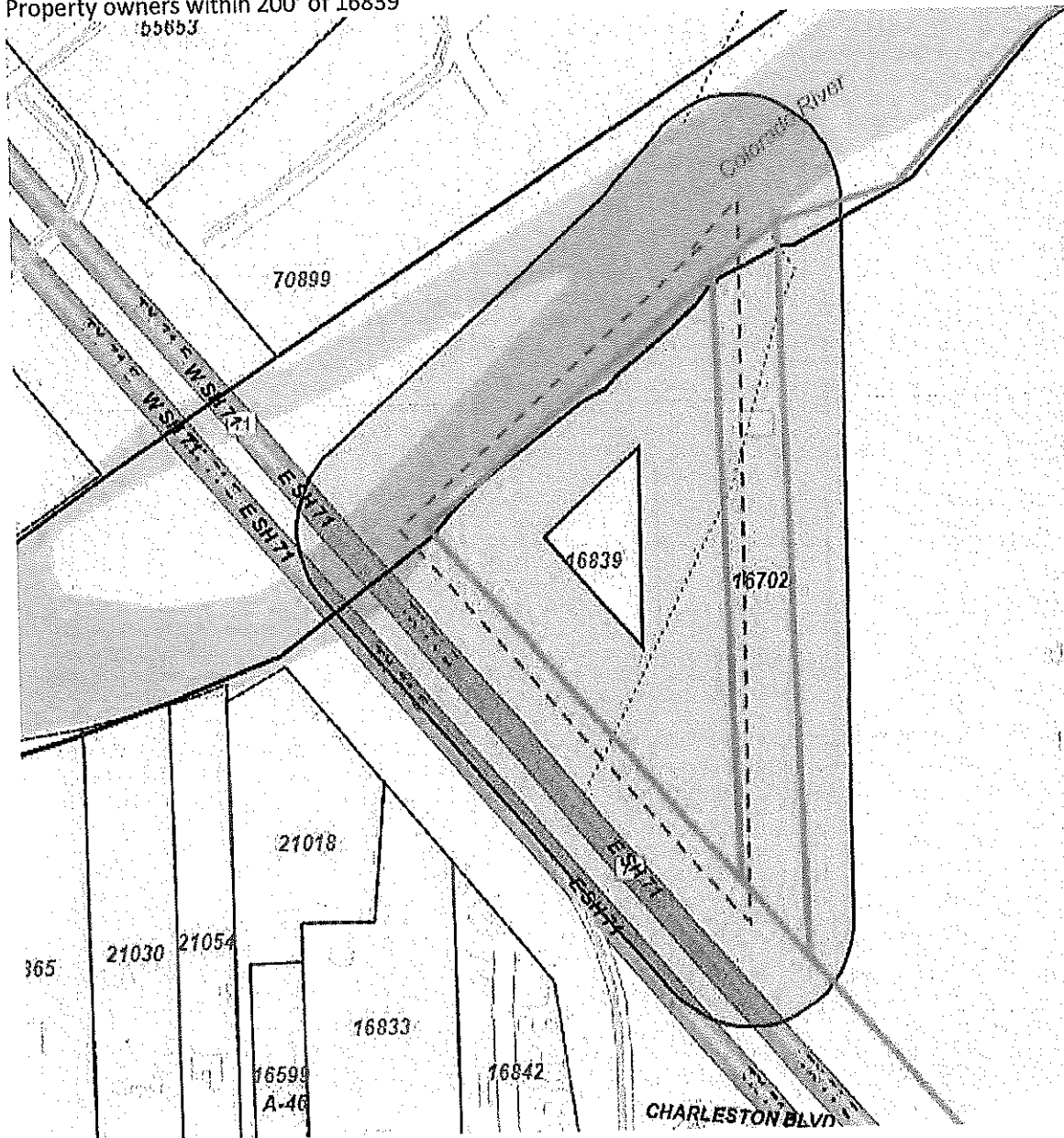
prop_id, property owner or resident at:
 16423 Property Owner or Resident at:
 16426 Property Owner or Resident at:
 16429 Property Owner or Resident at:
 16432 Property Owner or Resident at:
 16435 Property Owner or Resident at:
 16438 Property Owner or Resident at:
 16441 Property Owner or Resident at:
 16444 Property Owner or Resident at:
 16447 Property Owner or Resident at:
 18956 Property Owner or Resident at:
 19079 Property Owner or Resident at:
 19208 Property Owner or Resident at:
 19211 Property Owner or Resident at:
 19217 Property Owner or Resident at:
 21918 Property Owner or Resident at:
 21921 Property Owner or Resident at:
 21924 Property Owner or Resident at:

Physical Address	physical c	Physical S	Physical Zip
506 BURLESON ST	SMITHVILL TX		78957
504 BURLESON ST	SMITHVILL TX		78957
502 BURLESON ST	SMITHVILL TX		78957
500 BURLESON ST	SMITHVILL TX		78957
507 HUDGINS	SMITHVILL TX		78957
507 HUDGINS ST	SMITHVILL TX		78957
505 HUDGINS ST	SMITHVILL TX		78957
503 HUDGINS ST	SMITHVILL TX		78957
501 HUDGINS ST	SMITHVILL TX		78957
400 GRESHAM ST	SMITHVILL TX		78957
501 BURLESON ST	SMITHVILL TX		78957
406 BURLESON ST	SMITHVILL TX		78957
404 BURLESON ST	SMITHVILL TX		78957
407 HUDGINS ST	SMITHVILL TX		78957
507 BURLESON ST	SMITHVILL TX		78957
505 BURLESON ST	SMITHVILL TX		78957
503 BURLESON ST	SMITHVILL TX		78957

property owner
 ATKINSON, ELLIS A & KATHRYN M
 B182 RIVER LLC
 CREEVY, TORQUIL M
 IVAN COOK, THOMAS V & SHELBY
 HOFFMAN, PATRICIA A
 HOFFMAN, PATRICIA A
 GRUNDY, BOB H & JUDY K
 GARCIA DICKSON, TAYLOR & ALAN MICHAEL DICKSON
 CLARK, CANDACE B
 GRIKSON, JOHN ALFORD
 SLEPERIS, JEROME PAUL
 CALLAGHAN, JERRY & SANDRA
 SMAIDEK, JAMES A & SUSAN V
 ALLEN, VICTORIA MAXWELL & EDWARD M
 RALPH, JEANNIE M
 LEVIEUX, EDWARD G
 PRIESTER, WALTER W & EARLENE

Mailing address	Mailing c	Mailing S	Mailing Zip
506 BURLESON ST	SMITHVILL TX		78957
205 PANSY PATH	LAKE JACK TX		77566
502 BURLESON ST	SMITHVILL TX		78957
500 BURLESON STREET	SMITHVILL TX		78957
507 HUDGINS ST	SMITHVILL TX		78957
507 HUDGINS ST	SMITHVILL TX		78957
505 HUDGINS	SMITHVILL TX		78957
503 HUDGINS ST	SMITHVILL TX		78957
1804 TRAVIS HEIGHTS BLVD	AUSTIN TX		78704
P O BOX 401	SMITHVILL TX		78957
501 BURLESON	SMITHVILL TX		78957
406 BURLESON ST	SMITHVILL TX		78957
404 BURLESON ST	SMITHVILL TX		78957
407 HUDGINS	SMITHVILL TX		78957
PO BOX 516	SMITHVILL TX		78957
505 BURLESON ST	SMITHVILL TX		78957
503 BURLESON	SMITHVILL TX		78957

Property owners within 200' of 16839
 55653



Resident Property Owner	Physical Address	Physical City	Physical S	Physical Zip	Property Owner on file	Mailing address	Mailing City	Mailing St	Mailing Zip
16702 Resident/Property Owner:	148 E. SH 71	SMITHVILLE TX		78957	ALDERETE & ROCHA INVESTMENTS LLC	51ST STREET	AUSTIN TX		78751
16809 Resident/Property Owner:	1499 COLORADO DR	SMITHVILLE TX		78957	MILDRED VEENSTRA FAMILY TRUST	124 KINGSLAND RANCH RD	KINGSLAND TX		78639
16839 Resident/Property Owner:					315 LLC - SERIES D	159 FLOWER HILL RD	SMITHVILLE TX		78957

CITY OF SMITHVILLE PLANNING & ZONING APPLICATION

APPLICATION TYPE

Zoning Change
Request:

- ☐ Change in Zoning Class
☐ Change in Ordinance
☐ Variance
☐ Special Exception Use
☒ Minor Plat/Subdivision
☐ Other _____

Number of
Requests:

- ☒ Single
☐ Multiple

PROPERTY IDENTIFICATION

Street Address 400, 402 & 404 Fawcett Street

*** Applicant must submit an accurate location map and site plan for application to be considered ***

Legal description ☒ Platted Land (please provide subdivision, block and lot information below)
☐ Unplatted Land (please submit the metes and bounds description from deed)

Subdivision Name: Smithville Townsite

Property Tax Code: 19142, 19139 & 19136 Block Number: 11 Lot Number: 2, 3 & 4

Property Owner
(as listed on Deed): City of Smithville

Property Owner
Mailing Address: PO Box 449, Smithville, TX 78957

Owner's Phone No: 512-237-3282 Owner's Email: _____

Agent's Name
(if applicable): City Manager Robert Tamble

Agent's Mailing
Address: PO Box 449 Smithville, TX 78957

Agent's Phone No: 512-237-3282 Agent's Email: citymanager@ci.smithville.tx.us

DESCRIPTION OF VARIANCE / EXCEPTION REQUEST

Current Zone Class:	SF-1 <input checked="" type="checkbox"/>	SF-2 <input type="checkbox"/>	Proposed Zone Class:	SF-1 <input type="checkbox"/>	SF-2 <input type="checkbox"/>
	MR <input type="checkbox"/>	C-1 <input type="checkbox"/>		MR <input type="checkbox"/>	C-1 <input type="checkbox"/>
	C-2 <input checked="" type="checkbox"/>	C-3 <input type="checkbox"/>		C-2 <input type="checkbox"/>	C-3 <input type="checkbox"/>
	MHS <input type="checkbox"/>	MF <input type="checkbox"/>		MHS <input type="checkbox"/>	MF <input type="checkbox"/>
	CF <input type="checkbox"/>	PD <input type="checkbox"/>		CF <input checked="" type="checkbox"/>	PD <input type="checkbox"/>
	PD-Z <input type="checkbox"/>	I <input type="checkbox"/>		PD-Z <input type="checkbox"/>	I <input type="checkbox"/>
	CBD <input type="checkbox"/>	PD-Z <input type="checkbox"/>		CBD <input type="checkbox"/>	PD-Z <input type="checkbox"/>

Describe variance requested:

N/A

Describe special use requested:

N/A

Reason for Request:
(explain why special exception is sought or why a variance has been requested)

Requesting to replat all three lots in to one lot and rezone to CF- Community Facilities.

19136 is currently zoned C-2 General Commercial District and requesting to change to CF - Community Facilities.
19139 & 19142 are currently zoned SF-1 Single Family District and requesting to change to CF - Community Facilities.

PETITION

As Owner/Agent, I hereby petition the City of Smithville for approval of the above described request as provided by the laws of the State of Texas and Ordinances of the City. I understand and agree that the Petition fee is non-refundable and that I must attend the Planning & Zoning meeting and subsequent City Council meeting in order for my application to be considered for approval.

Signature: Robert Tamble

Date: 9/7/2021

OFFICE USE ONLY:

Fee Amount: _____
P&Z Date: October 5, 2021
Accepted By: Tracie Dzenowski

Fee Payment: _____
Council Date: 10-18-2021
Date Submitted: 9/7/2021

☐ Notice sent to property owners within 200 feet of proposed property

STATE OF TEXAS
COUNTY OF BASTROP

CITY OF SMITHVILLE
LOTS 2, 3 & 4, BLOCK 11
0.581 ACRE

All that certain tract or parcel of land containing 0.581 acre situated in the Thomas Gazley Survey, A-33, Bastrop County, Texas, being all of Lots 2, 3 and 4, Block 11, of the City of Smithville, according to the plat recorded in Plat Cabinet 1, Slide 24A of the Plat Records of Bastrop County, and being those same tracts described in a deed from Bastrop County, Texas, to the City of Smithville, Texas dated July 10, 2017 and recorded in Clerk's File #201712868 of the Bastrop County Real Property Records, said 0.581 acre tract being more particularly described by metes and bounds as follows:

Beginning at a point at the intersection of the Northeast right-of-way line of North 4th Street (70 foot wide right-of-way) with the Southeast right-of-way line of Fawcett Street (70 foot wide right-of-way) for the West corner of Lot 4, Block 11, the West corner of the tract herein described and the **PLACE OF BEGINNING**, said point having a coordinate value of N = 9,981,905.12 feet and E = 3,300,312.43 feet according to the Texas State Plane Coordinate System - Central Zone - NAD 83(2011), from which a 5/8" iron rod found bears South 86 degrees 59 minutes 07 seconds East, 0.48 feet;

Thence North 24 degrees 41 minutes 12 seconds East, 202.50 feet along said Southeast right-of-way line of Fawcett Street to a point for the West corner of Lot 1, Block 11, the North corner of Lot 2, Block 11 and the North corner of the tract herein described, from which a 1/2" iron rod found bears North 33 degrees 46 minutes 27 seconds West, 0.63 feet and a 5/8" iron rod found bears North 11 degrees 25 minutes 00 seconds West, 1.78 feet;

Thence South 65 degrees 30 minutes 50 seconds East, departing said Fawcett Street, 125.00 feet to a 1/2" iron rod set in the Northwest line of a 20 foot wide alley for the South corner of said Lot 1, the East corner of said Lot 2 and the East corner of the tract herein described;

Thence South 24 degrees 41 minutes 12 seconds West, 202.50 feet along said alley line to a point in the Northeast line of North 4th Street for the South corner of Lot 4 and the South corner of the tract herein described, from which a 5/8" iron rod found bears South 86 degrees 59 minutes 07 seconds East, 0.71 feet;

Thence North 65 degrees 30 minutes 50 seconds West, 125.00 feet along said North 4th Street to the **PLACE OF BEGINNING** and containing 0.581 acre.

CITY OF SMITHVILLE
LOTS 2, 3 & 4, BLOCK 11 - 0.581 ACRE
PAGE 2 OF 3

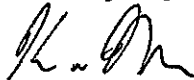
Bearings, distances and coordinates used herein are "GRID" based
on the Texas State Plane Coordinate System - Central Zone - NAD
83 (2011). Convergence = +01 degree 38 minutes 01 seconds.
Combined factor = 1.0000145

STATE OF TEXAS

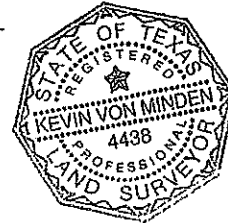
COUNTY OF BASTROP

I, Kevin Von Minden, a Registered Professional Land Surveyor, do
hereby certify the foregoing field notes to be true and correct
to the best of my knowledge and belief.

BEFCO ENGINEERING, INC.
Surveying Firm No. 10001700
Consulting Engineering & Land Surveying

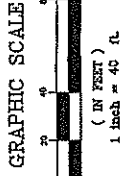


Kevin Von Minden, R.P.L.S.
Registration No. 4438
September 1, 2021
BEFCO Job No. 21-8158



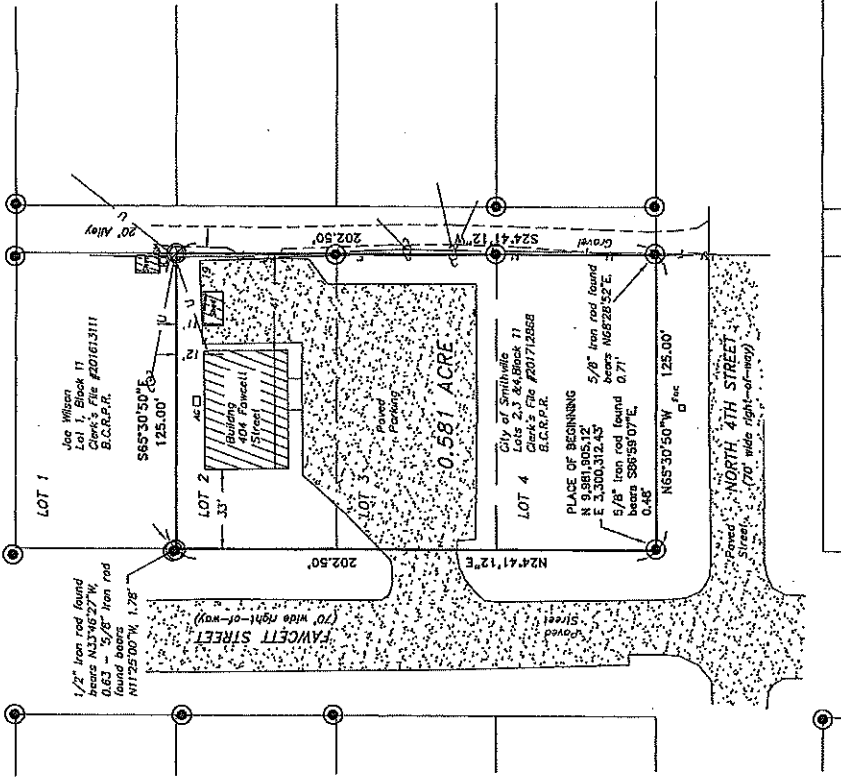
Bearings, distances and coordinates shown herein are based on the Texas State Plane Coordinate System - Central Zone - NAD 83 (2011).
Convergence = +0139.01"
Combined Factor = 1.0000145

NOTE: Subject tract is located within the "X" zone according to F.E.M.A. Flood Insurance Rate Map No. 48027C0395E dated January 19, 2006.



LEGEND

- - 5/8" iron rod found (or as noted)
- - 1/2" iron rod set
- — — Overhead telephone cable
- — — Overhead utility line
- ⊞ - Gas meter
- ⊞ - Utility Pole
- ⊞ - Telephone pedestal
- ⊞ - Fiber-optic box



PLAT SHOWING THE SURVEY OF A 0.581 ACRE TRACT SITUATED IN THE THOMAS GAZLEY SURVEY, A-36, IN BASTROP COUNTY, TEXAS, BEING ALL OF LOTS 2, 3 AND 4, BLOCK 11 OF THE CITY OF SMITHVILLE, ACCORDING TO THE PLAT RECORDED IN PLAT CABINET 1, PAGE 24A, ALSO BEING THOSE SAME TRACTS DESCRIBED IN A DEED FROM BASTROP COUNTY, TEXAS TO THE CITY OF SMITHVILLE, TEXAS DATED JULY 10, 2017 AND RECORDED IN CLERK'S FILE #201712558 OF THE BASTROP COUNTY REAL PROPERTY RECORDS

STATE OF TEXAS

COUNTY OF BASTROP

I, Keith Van Widen, a Registered Professional Land Surveyor, do hereby certify that this survey was made on the ground, that this plat correctly represents the facts found at the time of the survey, and that this survey substantially complies with the current Texas Society of Professional Surveyors Manual of Practice requirements for a Category 1B, Condition II TSPS Standard Land Survey.



Keith Van Widen, P.L.S.
Surveyor
BECO ENGINEERING, INC.
Firm No. 10007700
La Grange, Texas
879-468-0474
September 1, 2021

BEFO Job No. 21-8158a

MAYOR
JOANNA MORGAN

MAYOR PRO-TEM
WILLIAM GORDON
COUNCIL MEMBERS
JANICE BRUNO
STAN GERDES
SHARON FOERSTER
TOM ETHEREDGE

CITY MANAGER
ROBERT TAMBLE



317 MAIN STREET
P.O. BOX 449
SMITHVILLE, TEXAS
78957
(512) 237-3282
FAX (512) 237-4549

09/13/2021

Dear Property Owner/Current Resident,

Your address is within 200' of one or more of the following proposed agenda items. This notice is to inform you that The City of Smithville Planning and Zoning Commission will hold a Public Hearing on October 5, 2021, at 6:00 p.m. in the Council Chambers located in Smithville City Hall at 317 Main St. Smithville, TX for:

Discussion and Action on a replat to combine three lots into one and zone change all to CF – Community Facilities for 400, 402 & 404 Fawcett Street, Smithville, TX 78957, Smithville Townsite Block 11 Lots 2, 3 & 4, 19142, 19139 & 19136 Property Owner City of Smithville, Agent City Manager Robert Tamble.

The Commission will hear all citizens' concerns for or against the Zone Change and Replat. The Planning and Zoning Commission will give the City Council a recommendation to approve or deny the request(s) that will go before City Council on October 18, 2021, at 6:00 p.m.

Please follow us on our YouTube Page:

(www.youtube.com/channel/UCN7rJz0wVKS4zWV9EvKcH5w). You can also go to the City's website and click the link on the Planning & Zoning page to access our YouTube page. We will go live at 6:00 p.m. so that you can view the live meeting. **If you have any questions or concerns, please reach out to Tracie Dzenowski at 512-237-3282 ext. 2101 and check the City's website for any updates about this meeting.**

Thank You,

A handwritten signature in black ink that reads "Tracie Dzenowski".

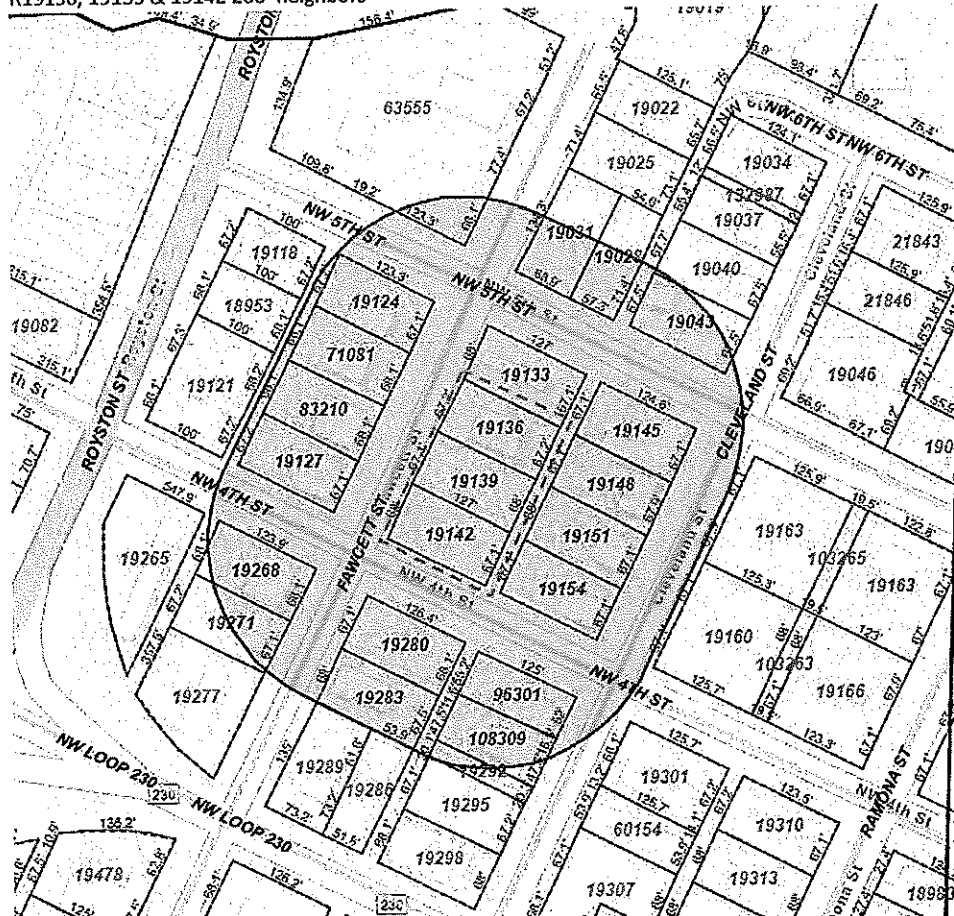
Tracie Dzenowski

City of Smithville

512-237-3282 ext 2101

Planning and Zoning Commission: Brian Riewe, Nancy Catherman, Edward Lick, Dianna Ewen, and Caroline Noya

R19136, 19139 & 19142 200' neighbors



108309 MIDDLEBROOK RENTALS LLC	305 CLEVELAND ST	SMITHVILLE TX	78957	1724 BRAZOS BEND DR	SMITHVILLE TX	78957
19028 REGALADO, TINA	304 NW 5TH ST	SMITHVILLE TX	78957	304 NW 5TH ST	SMITHVILLE TX	78957
19031 GAMMAGE, PHYLLIS LYNNIE	306 NW 5TH ST	SMITHVILLE TX	78957	306 NW 5TH ST	SMITHVILLE TX	78957
19040 MOHR, DAVID C & SANDRA G	303 CLEVELAND ST	SMITHVILLE TX	78957	303 CLEVELAND	SMITHVILLE TX	78957
19043 LYNCH, KATHY NELL RECTOR	301 CLEVELAND ST	SMITHVILLE TX	78957	501 CLEVELAND ST	SMITHVILLE TX	78957
19124 HILL REALTY COMPANY	407 FAWCETT ST	SMITHVILLE TX	78957	P O BOX 239	SMITHVILLE TX	78957
19127 ESPINOZA, LARRY & MARY	401 FAWCETT ST	SMITHVILLE TX	78957	401 FAWCETT	SMITHVILLE TX	78957
19133 WILSON, JOE & FRANCES	307 NW 5TH ST	SMITHVILLE TX	78957	307 NW 5TH ST	SMITHVILLE TX	78957
19136 CITY OF SMITHVILLE	404 NW 5TH ST	SMITHVILLE TX	78957	PO BOX 449	SMITHVILLE TX	78957
19139 CITY OF SMITHVILLE	402 FAWCETT	SMITHVILLE TX	78957	PO BOX 449	SMITHVILLE TX	78957
19142 CITY OF SMITHVILLE	400 FAWCETT	SMITHVILLE TX	78957	PO BOX 449	SMITHVILLE TX	78957
19145 SAMEK-BLASCHEK, SANDRA JO	407 CLEVELAND ST	SMITHVILLE TX	78957	P O BOX 344	SMITHVILLE TX	78957
19148 PROKOP, JOHN M & BONNIE K	405 CLEVELAND ST	SMITHVILLE TX	78957	405 CLEVELAND ST	SMITHVILLE TX	78957
19151 GRAY, ELIZABETH L	403 CLEVELAND ST	SMITHVILLE TX	78957	403 CLEVELAND	SMITHVILLE TX	78957
19154 KING, GARY L & DEBORAH L	401 CLEVELAND ST	SMITHVILLE TX	78957	1315 FM 2304	SMITHVILLE TX	78957
19168 ESPINOZA, PAUL & JERRY M	307 FAWCETT ST	SMITHVILLE TX	78957	P O BOX 715	SMITHVILLE TX	78957
19271 DYAL, JANE CATHRYN VOGEL	305 FAWCETT ST	SMITHVILLE TX	78957	307 HWY 304	BASTROP TX	78602
19280 MESHACK, CHARLES EST	307 N 4TH	SMITHVILLE TX	78957	3972 S BRONSON AVE	LOS ANGELES CA	90008
19283 MORRIS, CLIFFORD J & LINDA F	304 FAWCETT ST	SMITHVILLE TX	78957	26095 H H WILLIAMS	ANGIE LA	70426
19286 CUNNINGHAM, RANDALL H & LAURA	318 NW LOOP 230	SMITHVILLE TX	78957	134 HILLS PRAIRIE RD	BASTROP TX	78602
19289 DAVIS STATION LLC	320 NW LOOP 230	SMITHVILLE TX	78957	P O BOX 80	SMITHVILLE TX	78957
19292 MUTSCHINK, DON & PATRICIA	303 CLEVELAND ST	SMITHVILLE TX	78957	P O BOX 601	SMITHVILLE TX	78957
19295 MUTSCHINK, MILTON ET	303 CLEVELAND ST	SMITHVILLE TX	78957	205 NW LOOP 230	SMITHVILLE TX	78957
63555 CITY OF SMITHVILLE	405 FAWCETT ST	SMITHVILLE TX	78957	PO BOX 449	SMITHVILLE TX	78957
71081 HILL REALTY COMPANY	403 FAWCETT ST	SMITHVILLE TX	78957	1812 HARTFORD RD	AUSTIN TX	78703
83210 BROWN, JO CHRISTY	307 CLEVELAND ST	SMITHVILLE TX	78957	307 CLEVELAND ST	SMITHVILLE TX	78957
86301 AMOS, SUSAN M						

Agenda item # 12

RESOLUTION
2021-10-477

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SMITHVILLE, TEXAS, AUTHORIZING APPROVAL FOR THE MANAGEMENT CONTRACT AWARD FOR THE HOME PROGRAM THROUGH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR THE RSP HOME (HRA) AGREEMENT.

WHEREAS, the City of Smithville advertised for Request for Proposals in accordance with all state and federal procurement laws; and

WHEREAS, the proposal deadline was 10 A.M. October 1, 2021. There was (1) one proposal received from Langford Community Management services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SMITHVILLE, TEXAS, that the City of Smithville awards the management contract for the RSP Home Agreement to Langford Community Management Services.

Passed and approved this 18th day of October, 2021.

Joanna Morgan, Mayor

ATTEST:

Jennifer Lynch, City Secretary

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
HOME Program Contract System Access Request Form

Contract Organization Name: CITY OF SMITHVILLE	Organization Phone Number: 512-237-3282
Physical Address (street, city, zip): 317 MAIN STREET, SMITHVILLE, TX 78957	
Mailing Address: P.O. BOX 449, SMITHVILLE, TX 78957-0449	Email: citymanager@ci.smithville.tx.us
HOME Contract <u>OR</u> RSP Agreement Number: 2021-0020	

Contract Execution

Individual authorized to execute a contract on behalf of Contract Administrator.
 Also has authority to enter and approve project set-ups and draw requests.

Name: ROBERT TAMBLE	Title: CITY MANAGER
Phone: 512-237-3282	Fax: Email: citymanager@ci.smithville.tx.us

I certify that all individuals identified in this document are authorized to perform the functions as specified.

Signature of Authorized Administrator Representative	<u>10/19/21</u> Date
--	-------------------------

Data Entry and Approval Authorizations

Individuals authorized to enter and approve project set-ups or draw requests.
Note: An individual who enters an activity set-up or draw request cannot be the same individual who approves that transaction.

Name 1: ROBERT TAMBLE	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove	Title: CITY MANAGER
Phone: 512-237-3282		Email: citymanager@ci.smithville.tx.us
Name 2: CYNTHIA WHITE	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove	Title: FINANCE DIRECTOR
Phone: 512-237-3282		Email: cwhite@ci.smithville.tx.us

Consultant Information and Authorization

Note: Consultants may enter data into TDHCA Contract System, and approve set-ups and/or draw requests.

Organization Name and Address: LANGFORD COMMUNITY MANAGEMENT SERVICES , 2901 CR 175 , LENADER, TX 78641		
Phone: 512-452-0432	Fax: 512-452-5380	Email: karen@lcmsinc
Person Authorized to Perform Data Entry: KAREN WALKER	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove	Title: HOME CONSULTANT E-mail: karen@lcmsinc.com
Contract Administrator Authorizes: (check box(s) that apply)	<input checked="" type="checkbox"/> set-up activity <input checked="" type="checkbox"/> enter draw request	<input checked="" type="checkbox"/> approve set-up activity <input checked="" type="checkbox"/> approve draw request
Individual Authorized to Perform Data Entry: LACIE KOSKA	<input checked="" type="checkbox"/> Add <input type="checkbox"/> Remove	Title: HOME CONSULTANT E-Mail: lacie@lcmsinc.com
Contract Administrator Authorizes: (check box(s) that apply)	<input checked="" type="checkbox"/> set-up activity <input checked="" type="checkbox"/> enter draw request	<input checked="" type="checkbox"/> approve set-up activity <input checked="" type="checkbox"/> approve draw request

WARNING: TITLE 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government.



PROFESSIONAL MANAGEMENT CONTRACT

PART 1 – AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2021, by and between the City of Smithville, hereinafter called the "Administrator", acting herein by Robert Tamble, City Manager, hereunto duly authorized, and Langford Community Management Services hereinafter called the "Firm", acting herein by Judy Langford.

WITNESSETH THAT:

WHEREAS the Administrator desires to implement a HOME Homeowner Rehabilitation Assistance (HRA/PWD) Program Reservation System Participant (RSP) Agreement under the general direction of the Texas Department of Housing and Community Affairs HOME Program and:

WHEREAS the Administrator desires to engage the Firm to render certain services in connection with its HRA/PWD RSP Agreement:

NOW THEREFORE, the parties do mutually agree as follows:

1. Scope of Services - Part II, Scope of Services, is hereby incorporated by reference into this Agreement.
2. Time of Performance – The services of the Firm shall commence on the date of execution of this contract and continue for a Three (3) year period. Houses that may be under construction at the end of this contract shall be completed by the Firm. This contract may be extended with consent in writing between the City of Smithville and Langford Community Management Services for up to Two (2) one-year extensions.
- 3.
4. Access to Information – It is agreed that all information, data, reports, records and maps as are existing, available and necessary for the carrying out of the work outlined above shall be furnished to the Firm by the Administrator and its agencies. No charge will be made to the Firm for such information and the Administrator and its agencies will cooperate with the Firm in every way possible to facilitate the performance of the work described in the contract.
5. Compensation and Method of Payment – The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed 4 percent (4%) of Hard Cost Construction per home of the amount drawn on the RSP Agreement for the administration and shall not exceed \$12,000.00 per home in an additional soft cost management fee. In addition, there will be reimbursable costs as described in the next paragraph. Payment to the Firm shall be based on satisfactory completion of work.

Costs that shall be reimbursable to Firm by Administrator over and above the soft cost management fee on each home are as follows: cost of land survey if applicable, appraisals if applicable, title search, title commitment policy if applicable, and formal loan closing. These costs, if paid by the Firm, shall be reimbursed to the Firm by Administrator over and above the soft cost management fee per home.

6. Indemnification – The Firm shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the Administrator and its agency members from and against them, and shall assume full responsibility for payments of federal, state and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.
7. Miscellaneous Provisions –
 - a. The Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Williamson County, Texas.
 - b. 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.
 - c. In any case where 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 hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had contained herein.
 - d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.
 - e. This Agreement may be amended by mutual agreement of the parties hereto and in writing to be attached to and incorporated into this Agreement.
8. Terms and Conditions – This Agreement is subject to the provision titled, "Part IV – Terms and Conditions" and attached hereto and incorporated by reference herein.

IN WITNESSETH HEROF, the parties have hereunto set their hands

Name of Contract Administrator: City of Smithville

Robert Tamble

Date: _____

Name of Firm: Langford Community Management Services

Judy Langford

Date: _____

PART II – PROFESSIONAL MANAGEMENT SCOPE OF SERVICES

The Management Firm shall provide the following Scope of Services:

A. Project Management

1. Develop a recordkeeping system consistent with program guidelines, including the establishment of a filing system.
2. Maintenance of filing system.
3. Provide general advice and technical assistance to Administrator's personnel on implementation of project and regulatory matters
4. If requested, assist in the procurement of construction services through a sealed bid process, if applicable, and as required by the HOME Program regulations.
5. Furnish the Administrator with necessary forms and procedures as required to implement projects under the HOME contract.
6. Assist the Administrator in meeting all special condition requirements that may be stipulated in the contract between the Administrator and TDHCA.
7. Prepare and submit to TDHCA all documentation necessary for amending the HOME contract, as applicable
8. Conduct environmental clearance procedures as required.
9. Prepare and submit Project Set-up, Project Completion, HUB, EPLS and other required reports.
10. Establish procedures to document expenditures associated with local administration of the project
11. Serve as liaison for the Administrator during any review or monitoring visit by staff representatives from either TDHCA or HUD.

B. Financial Management

1. Assist the Administrator in proving its ability to manage the grant funds to the state's audit division
2. Assist the Administrator in establishing and maintaining a Direct Deposit bank account and/or separate local bank account, journals and ledgers
3. Assist the Administrator in submitting the required Direct Deposit Authorization form, the Texas Application of Payee Identification Number, the Identification of Contract Administrator form and any other forms as required by TDHCA.
4. Prepare all fund drawdown on behalf of the administrator in order to ensure orderly, timely payments to all contracting parties within the allotted time period.
5. Review invoices received for payment and file back-up documentation
6. Provide general advice and technical assistance to Administrator's personnel regarding implementation of project and regulatory matters.
7. Assist the Administrator in establishing procedures to handle the use of any HOME program income.

C. Environmental Review

1. Perform environmental assessment procedures and prepare documentation as necessary
2. Coordinate environmental clearance procedures with other federal or state agencies and interested parties responsible for implementing applicable laws.
3. Document consideration of any public comments.
4. Prepare any required re-assessment of environmental assessment and/or documentation as necessary.

D. Housing Rehabilitation Assistance Program – HRA/PWD

1. Prepare and submit local rehabilitation guidelines, policies and procedures and work write-ups for all projects to TDHCA for approval.
2. Develop affirmative marketing plan, outreach and necessary application processing/verification forms.
3. Screen applicants for program qualification
4. Screen homes for feasibility
5. Conduct lead-based paint assessment
6. Inform all applicants as to eligibility and prepare HOME contract for qualified applicants
7. Prepare work write-ups and cost estimates
8. If requested, assist homeowners in the procurement of contracted construction services
9. Conduct homeowner pre-construction conference and prepare documentation
10. Issue Notice to Proceed to construction contractor(s).
11. Ensure that all construction activities meet or exceed Texas Minimum Construction Standards.
12. Conduct interim/final inspections, process final contract documents, and maintain a record of beneficiaries.
13. Maintain client files following TDHCA requirements
14. Manage dispute resolution process as required.

E. Fair Housing / Equal Opportunity

1. Assist the Administrator in developing, implementing and documenting new activities to affirmatively further fair housing activities during the contract period.
2. Maintain documentation of all project beneficiaries by ethnicity and gender.
3. Prepare Section 3 and Affirmative Marketing Plan
4. Perform all Section 504 requirements and prepare documentation as necessary
5. Provide all applicable equal opportunity provisions and certifications for inclusion in bid packet.

F. Audit / Close-Out Procedures

1. Prepare the final Project Completion Report, including Historically Underutilized Businesses (HUB) Report and Certificate of Contract Completion
2. Assist Administrator in resolving any review, monitoring and/or audit findings.
3. Assist Administrator in resolving any third party claims
4. Provide auditor with Home audit guidelines.

**PART III – PAYMENT FOR PROFESSIONAL ADMINISTRATIVE AND
MANAGEMENT SERVICES**

Administrator shall reimburse the FIRM for administrative and soft cost management services as provided for in its RSP Agreement with the Texas Department of Housing and Community Affairs.

PART IV – TERMS AND CONDITIONS

1. Termination of Contract for Cause. If, through any cause, the Firm shall fail to fulfill in a timely and proper manner his/her obligations under this Contract, or if the Firm shall violate any of the covenants, agreements, or stipulations of this Contract, the Administrator shall thereupon have the right to terminate this Contract by giving written notice to the Firm of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Firm under this Contract shall, at the option of the Administrator, become its property and the Firm shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.
 - a. Notwithstanding the above, the Firm shall not be relieved of liability to the Administrator for damages sustained by the Administrator by virtue of any breach of the Contract by the Firm, and the Administrator may withhold any payments to the Firm for the purpose of set-off until such time as the exact amount of damages due the Administrator from the Firm is determined.
2. Termination for Convenience of the Administrator. The Administrator may terminate this Contract at any time giving at least (10) days notice in writing to the Firm. If the Contract is terminated by the Administrator as provided herein, the Firm will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Firm, Paragraph 1 hereof relative to termination shall apply.
3. Changes. The Administrator may, from time to time, request changes in the scope of the services of the Firm to be performed hereunder. Such changes, including any increase or decrease in the amount of the Firm's compensation, which are mutually agreed upon by and between the Administrator and the Firm, must be incorporated in written amendments to this Contract.

4. Personnel.

- a. The Firm represents that he/she has, or will secure at his/her own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Administrator.
- b. All of the services required hereunder will be performed by the Firm or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.
- c. None of the work or services covered by this Contract shall be subcontracted without prior written approval of the Administrator. Work/services subcontracted hereunder shall be specified by written contract/agreement and shall be subject to each provision of this Contract.

5. Assignability. The Firm shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the Administrator thereto: Provided, however, that claims for money by the Firm from the Administrator under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Administrator.

6. Reports and Information. The Firm, at such times and in such forms as the Administrator may require, shall furnish the Administrator such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

7. Records and Audits. The Firm shall ensure that the Administrator maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner which conforms to OMB Circular A-87, Section 570.490 of the Regulations, and this Contract. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Contract. Administrator shall retain such records, and any supporting documentation, for the greater of three (3) years from closeout of the Contract or the period required by other applicable laws and regulations, if greater.

8. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Firm under this contract are confidential and the Firm agrees that they shall not be made available to any individual or organization without the prior written approval of the Administrator.

9. Copyright. No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Firm.

10. Compliance with Local Laws. The Firm shall comply with all applicable laws, ordinances and codes of the state and local governments, and the Firm shall make the Administrator harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.

11. Equal Employment Opportunity. During the performance of this Contract, the Firm agrees as follows:

- a. The Firm will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex disability or familial status. The Firm will take affirmative marketing to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, disability or familial status. Such action shall include, but not be limited to, the following: Employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Firm will, in all solicitation or advertisements for employees placed by or on behalf of the Firm, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, sex, disability or familial status.
- c. The Firm will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this contract so that such provision will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- d. The Firm will include the provisions a. through c. in every subcontract or purchase order unless exempted.

12. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

13. Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

14. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities

- a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 C.F.R 235, and all applicable rules and orders to TDHCA issued hereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c. The Firm will send to each labor organization or representative of workers with which she has a collective bargaining or other contract or understanding, if any, a notice

advising the said labor organization or worker's representatives of his/her commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

- d. The Firm will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 C.F.R. Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e. Compliance with the provisions of Section 3, the regulations set forth in 24 C.F.R. Part 135, and all applicable rules and orders of TDHCA issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 C.F.R. Part 135.

15. Section 503 Handicapped Affirmative Marketing for Handicapped Workers

- a. The Firm will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative marketing to employ, advance n employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. The Firm agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- c. In the event of the Firm's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
- e. The Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Firm's obligation under the law to take affirmative marketing to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- f. The Firm will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of Rehabilitation Act of 1973, and is committed to take affirmative marketing to employ and advance in employment physically and mentally handicapped individuals.

- g. The contract will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

- 16. Interest of Members of an Administrator. No member of the governing body of the administrator and no other officer, employee, or agent of the Administrator who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Firm shall take appropriate steps to assure compliance.
- 17. Interest of Other Local Public Officials. No member of the governing body of the Administrator and no other public official of Such Administrator, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Firm shall take appropriate steps to assure compliance.
- 18. Interest of Firm and Employees. The Firm covenants that she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of her services hereunder. The Firm further covenants that in the performance of this Contract, no person having any such interest shall be employed.

Agenda item # 13

ADMINISTRATION/PROFESSIONAL SERVICES

PART I AGREEMENT

THIS AGREEMENT entered into this 18th day of October, 2021, by and between the City of Smithville, hereinafter called the "City", acting herein by Robert Tamble, City Manager hereunto duly authorized, and Langford Community Management Services, hereinafter called "the Contractor," acting herein by Judy Langford, President.

WITNESSETH THAT:

WHEREAS, the City desires to seek grant funding under the general direction of American Rescue Plan Act of 2021 funded through the United States Department of Treasury;

WHEREAS, the City has an interest in available American Rescue Plan Act 2021 funding; and,

WHEREAS, the City desires to engage Langford Community Management Services to render certain professional /administration services in connection with an American Rescue Plan Act 2021 Contract:

NOW THEREFORE, the parties do mutually agree as follows:

1. Scope of Services - The Contractor will perform the services set out in Part II, Scope of Services.
2. Time of Performance - The services of the Contractor shall commence on the day following the execution of this contract. In any event, all of the services required and performed hereunder shall be completed no later than the time stipulated in the written contract between the City and the United States Department of Treasury and/or other agencies.
3. Local Program Liaison - For purposes of this Contract, the City Manager or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for the Contractor. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.
4. Access to Records - Records of non-Federal entities. United States Department of Treasury's Inspector General, the Comptroller General of the United States, the Texas Division of Emergency Management (TDEM), and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.
5. Retention of Records - Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:
 - a. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

- b. When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
 - c. Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
 - d. When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.
 - e. Records for program income transactions after the period of performance. In some cases, recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.
 - f. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).
 - 1. If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
 - 2. If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.
6. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed \$60,000 based on a funding allocation of \$1,118,753.56. Payment to the Contractor shall be based on satisfactory completion of identified milestones in *Part III – Payment Schedule* of this Agreement.
7. Indemnification – The Contractor shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the City and its agency members from and against any and all claims, costs, suits, and damages, including attorneys' fees, arising out of the Contractor's performance or nonperformance of the activities, services or subject matter called for in this agreement or in connection with the management and administration of the CRF contract, and shall assume full responsibility for payments of Federal, State and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.
8. Miscellaneous Provisions
- a. This Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Smithville, Texas.
 - b. 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.
 - c. In any case 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.

- d. This Agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to and incorporated into this Agreement.

9. Extent of Agreement

This Agreement, which includes Parts I-IV and any attachments hereto, including those incorporated by reference, represents the entire and integrated agreement between the City and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by authorized representatives of both City and Contractor.

IN WITNESSETH WHEREOF, the parties have executed this Agreement by causing the same to be signed on the day and year first above written.

BY: _____
(Local City Official)
Robert Tamble
(Printed Name)
City Manager
(Title)

BY: _____
(Contractor's Authorized Representative)
Judy Langford
(Printed Name)
President
(Title)

PART II

SCOPE OF SERVICES

The Contractor shall provide the following scope of services:

A. Scope of Work

- 1) Comprehensive administration and compliance of the United States of Treasury/TDEM programs and projects contemplated by allowable projects through the United States of Treasury/TDEM program;
- 2) Research, develop and prepare grant applications and/or other public assistance documents;
- 3) Research, monitor, report, document, manage, analyze, assess and design work related to disaster recovery, disaster planning, disaster mitigation and public assistance;
- 4) Attend meetings with TDEM and or state agency in conjunction with and on behalf of the City;
- 5) Collaborate with the City on project formulation; information gathering, project development (define both small and large project's scope, size and damages, including cost estimating that will be the basis of each project); project submittals (draft and submit small and large projects to TDEM and or other state agency);
- 6) Develop program guidelines, policies, procedures, implementation plans or other pertinent documents;
- 7) Assist with and or present public hearings in conjunction with City Council meetings;
- 8) Ensure that fraud prevention and abuse practices are in place and being implemented.
- 9) Provide ongoing guidance to maximize funding;
- 10) Coordinate and manage deliverables with the United States Department of Treasury and/or other state agency;
- 11) Assist with TDEM, United States Department of Treasury and/or other federal grants reporting requirements'
- 12) Generate time extension requests to the United States Department of Treasury and/or other federal grants and TDEM and/or state agency when necessary so that eligibility is not forfeited;
- 13) Review data and records for compliance with federal requirements including assist in document retention strategy and schedules;
- 14) Assist in retrieving any necessary legal documents necessary for proper filing;
- 15) Assist in responding to Requests for Information from the United States Department of Treasury and/or other federal grants and TDEM and/or state agency;
- 16) Track and report the status of the United States Department of Treasury/TDEM and/or other state agencies reimbursement and serve as a co-liaison between the United States Department of Treasury/TDEM and/or other state agencies and the City;
- 17) Assist with the submission of appeals for United States Department of Treasury/TDEM and/or other state agencies;
- 18) Provide cash management reports showing the projected schedule for reimbursement requests and the actual status of the reimbursements received;
- 19) Review, advise and assist on the management of the closeout process;
- 20) Enter expenses and request reimbursement in the grant portal; and monitor the comptroller website for the release of funds;
- 21) Provide and prepare public procurement documentation and any additional procurement assistance, including but not limited to preparing and writing requests for qualification, request for proposals, or other applicable procurement processes for identified projects that align with the grant, all in compliance with Federal and State Law;
- 22) Assist with the procurement of services, materials, rental/lease equipment, professional design services, or other items needed to implement grant projects—may include multiple bids for contracted work for various projects; (in conjunction with the City);

- 23) Assist with any and all applicable procurement processes as required by Federal Grant and the State of Texas;
- 24) Labor and procurement duties including but not limited to ensure compliance with all relevant labor standards regulations and procurement regulations and policies.
- 25) If necessary, assist with preparation of construction and/or material contracts;
- 26) Research, assist, coordinate and report any HUB program requirements;
- 27) Provide labor standards compliance for all contracted work in conformance with Federal and the State of Texas Government Code Title 10, Chapter 2258, including on-site employee interviews, review of all contractor payrolls, wage determination, calculation of wage restitution, etc;
- 28) Assist with documentation of any project related force account (City crew and equipment) hours and costs—requires on-site meetings with City Council and their staff;
- 29) Assist in compilation of data for City owned equipment used for each project if applicable;
- 30) Review of all contractor or materials invoices for compliance with financial reporting requirements;
- 31) Assist in preparing Certifications and back-up documents related to individual projects for signature by local officials;
- 32) Assist with and provide guidance regarding quality assurance documentation for conformance with the City's Design Criteria and Specification;
- 33) Provide and present periodic reports for City Council regarding each project's status
- 34) Coordinate with the City's financial officers and staff on project-specific cost accounting and tracking;
- 35) Prepare summary of allowable costs and amounts reimbursed from the fund in compliance with Federal and State Uniform Grant Management Standards for each project;
- 36) Assist in preparation of amendments to Agreements and revisions to other Program Management Services as may be required by Grant or City;
- 37) Assist with any and all audit services and requirements;

**PART III
PAYMENT SCHEDULE**

PROFESSIONAL MANAGEMENT SERVICES

City shall reimburse Langford Community Management Services for management/administrative services provided, for completion of the following in amounts based upon satisfactory completion of identified milestones:

PROGRAM MANAGEMENT/PROJECT DELIVERY	
Milestone / Task	% of Contract Fee
• Establishment of Recordkeeping System	10%
• 25 % of project funds expended	20%
• 50 % of project funds expended	20%
• 75 % of project funds expended	20%
• 100 % of project funds expended	20%
• Filing of all Required Program Close-out Information	10%
Total	100%

PART IV

TERMS AND CONDITIONS

1. Termination for Cause. If the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor violates any of the covenants, conditions, agreements, or stipulations of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor pursuant to this Agreement shall, at the option of the City, be turned over to the City and become the property of the City. In the event of termination for cause, the Contractor shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of contract by the Contractor, and the City may set-off the damages it incurred as a result of the Contractor's breach of contract from any amounts it might otherwise owe the Contractor.

2. Termination for Convenience of the City. City may at any time and for any reason terminate Contractor's services and work at City's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by City; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any claim or claim of lien against City for any additional compensation or damages in the event of such termination and payment.

3. Changes. The City may, from time to time, request changes in the services the Contractor will perform under this Agreement. Such changes, including any increase or decrease in the amount of the Contractor's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Agreement.
4. Resolution of Program Non-Compliance and Disallowed Costs. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or TDEM program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Agreement and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

5. Personnel.
 - a. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.
 - b. All of the services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
 - c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.
6. Assignability. The Contractor shall not assign any interest on this Agreement and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto; Provided, however, that claims for money by the Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.
7. Reports and Information. The Contractor, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.
8. Records and Audits. The Contractor shall insure that the City maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to 2 CFR 200.300-.309, 24 CFR 570.490, and this Agreement. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Agreement. City shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Agreement or the period required by other applicable laws and regulations.
9. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Contractor under this contract are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City.
10. Copyright. No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
11. Compliance with Local Laws. The Contractor shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Contractor shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
12. Conflicts of interest.
 - a. Governing Body. No member of the governing body of the City and no other officer, employee, or agent of the City, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of the award between the United States Department of Treasury and/or other agencies and the City shall have any personal financial interest, direct or indirect, in the Contractor or this Agreement; and the Contractor shall take appropriate steps to assure compliance.
 - b. Other Local Public Officials. No other public official who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the award between the United States Department of Treasury and/or other agencies and the City shall have any personal financial interest, direct or indirect, in the Contractor or this Agreement; and the Contractor shall take appropriate steps to assure compliance.

- c. Contractor and Employees. The Contractor warrants and represents that it has no conflict of interest associated with the award between the United States Department of Treasury and/or other agencies and the City or this Agreement. The Contractor further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the award between the United States Department of Treasury and/or other agencies and the City or in any business, entity, organization or person that may benefit from the award. The Contractor further agrees that it will not employ an individual with a conflict of interest as described herein.
13. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
14. Debarment and Suspension (Executive Orders 12549 and 12689). The Contractor certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term “principal” for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor. The Contractor understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension.”

Federal Civil Rights Compliance.

15. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

41 CFR 60-1.4 Equal opportunity clause.

(b) Federally assisted construction contracts. (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity," and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as

the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) Inclusion of the equal opportunity clause by reference. The equal opportunity clause may be included by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director of OFCCP may designate.

(e) Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

[80 FR 54975, Sept. 11, 2015]

16. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

17. Age Discrimination Act of 1975. The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
18. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
 - a. The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
 - b. Affirmative steps must include:
 1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.
19. Firm shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
20. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
21. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
22. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a

manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

23. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.