

Item # 12

ORDINANCE NO. ____

AN ORDINANCE ANNEXING HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF SMITHVILLE, TEXAS, BASTROP COUNTY ON THE REQUEST OF SMITHVILLE INVESTMENT LLC./ SADIQUE MAREDA AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY LIMITS, AND GRANTING TO ALL THE INHABITANTS OF SAID PROPERTY ALL THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID INHABITANTS BY ALL OF THE ACTS, ORDINANCES, RESOLUTIONS, AND REGULATIONS OF SAID CITY.

This ordinance was introduced and submitted to the City Council for adoption. After the presentation and discussion of the Ordinance, a motion was made by _____ that the Ordinance be finally passed and adopted in accordance with the City's General Law Type A Government. The motion was seconded by _____ and carried by the following voted:

Mayor Pro-tem William Gordon
Councilmember Joanna Morgan
Councilmember Cassie Barrientos
Councilmember Tom Etheredge
Councilmember Janice Bruno

___	For	___	Against	___	Abstained
___	For	___	Against	___	Abstained
___	For	___	Against	___	Abstained
___	For	___	Against	___	Abstained
___	For	___	Against	___	Abstained

WHEREAS, Chapter 43, Subchapter C-3 of the Texas Local Government Code, allows the City of Smithville to annex territory upon the request of each owner of land in the area that requests annexation;

WHEREAS, by submittal of the Annexation Petition, attached hereto as Exhibit A (the "*Petition*"), each owner (the "*Owner*" whether one or more) of the real property described in the attached Exhibit B (the "*Property*"), has voluntarily requested the annexation of the Property into the City pursuant to Texas Local Government Code § 43.0671;

WHEREAS, pursuant to Texas Local Government Code § 43.0672, the City and the Owner have negotiated and entered into a written agreement to provide services in the Property prior to the adoption of this Ordinance;

WHEREAS, the City Council finds and determines that the adoption of this Ordinance promotes the health, safety, and welfare of the public; and

WHEREAS, the City Council finds and determines that the procedures prescribed by the Texas Local Government Code and City of Smithville, Texas, and the laws of this state have been duly

followed with respect to the annexation of the Property, including but not limited to the procedures set forth in Chapter 43, Subchapter C-3 of the Texas Local Government Code (the ownership of the Property being determined based on the representations of the Owner in the Petition), and that the meeting at which this Ordinance was passed was open to the public, that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code;

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

SECTION 1. The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. The Property is hereby annexed to the City of Smithville, Bastrop County, Texas, and that the boundary limits of the City of Smithville be and the same are hereby extended to include the above described territory within the city limits of the City of Smithville, and the same shall hereafter be included within the territorial limits of said city, and the inhabitants thereof shall hereafter be entitled to all the right and privileges of other citizens of the City of Smithville and they shall be bound by the acts, ordinances, resolutions, and regulations of said city.

SECTION 3. That the City Secretary is hereby directed to file with the County Clerk and other appropriate officials and agencies, as required by state and federal law and city annexation procedures, certified copies of this Ordinance.

SECTION 4. This Ordinance shall become effective upon passage and publication of the caption of this ordinance as required by State law.

APPROVED and PASSED on the second and final reading on this 12th day of December 2022.

Sharon Foerster, Mayor
City of Smithville

ATTEST:

Jennifer Lynch, City Secretary

Exhibit "A"

ANNEXATION PETITION

TO THE MAYOR AND GOVERNING BODY
OF THE CITY OF SMITHVILLE, TEXAS:

The undersigned owner(s) of the hereinafter described tract of land, which is vacant and without residents, or on which less than three(3) qualified voters reside, hereby petition your honorable body to extend the present city limits so as to include as a part of the City of Smithville, Texas, the following described territory, to wit:

The legal description along with survey is attached hereto as Exhibit "A".

I/We certify that the above described tract of land is contiguous to the City of Smithville, Texas, is not more than one-half (1/2) mile in width and that this petition is signed and duly acknowledged by each and every person or corporation having an interest in said land.



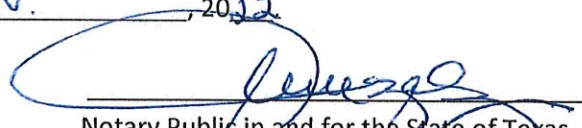
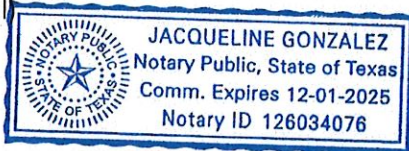
Sadique Maredia – Managing Member
Smithville Investment LLC
11842 Wilcrest Drive, Houston, TX, 77031

THE STATE OF TEXAS
COUNTY OF BASTROP

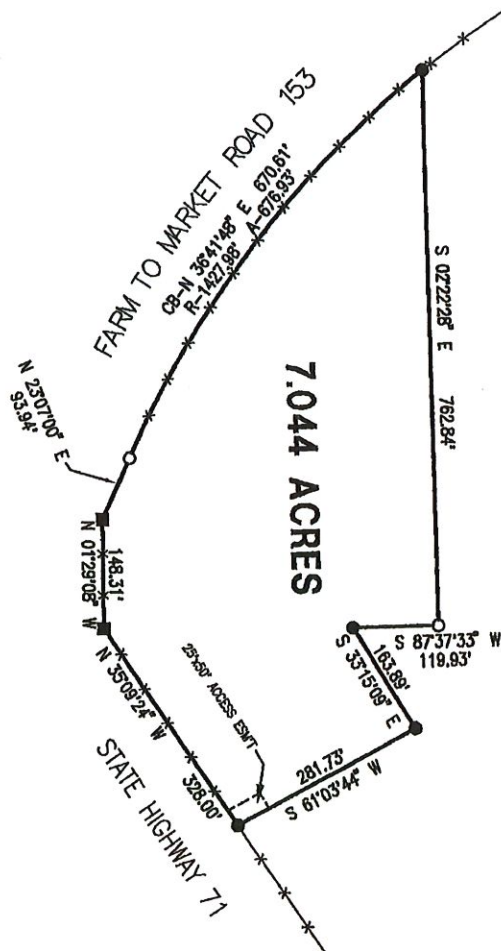
Before me, the undersigned authority, on this day personally appeared Sadique Maredia
known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for purposes and consideration therein expressed.

Given under my hand and seal of office, this 2nd day of Nov., 2022.

(Seal)



Notary Public in and for the State of Texas
My commission expires: 12/1/2022



- CONCRETE MONUMENT
- IRON ROD FOUND
- IRON PIPE FOUND
- 5/8 IRON ROD SET
- ▲ FENCE POST
- ⊗ TREE
- ⊙ UTILITY POLE
- ⊙ WATER METER
- ⊕ WATER WELL
- X- FENCE LINE
- E- ELECTRIC LINE
- P- PIPE LINE

Ernest O. Brown

FENCES DO NOT REFLECT PROPERTY LINES

The undersigned does hereby certify to the Title Agency, Underwriter, Lender, Mortgage Co. and/or Purchaser, that this survey was, this day, made on the ground, on the property legally described herein, and is correct, and there are no discrepancies, conflicts, 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 frontage on a dedicated road way, except as shown hereon.

REGISTERED PROFESSIONAL LAND SURVEYOR
711 WATER STREET (512) 321-5476 BASTROP, TEXAS

of a 7.044 ACRE TRACT in the
THOMAS DECROW SURVEY, A-27
BASTROP COUNTY, TEXAS.

DALE L. OLSON MICHAEL D. OLSON
REG. NO. 1753 REG. NO. 5396
DALE L. OLSON SURVEYING COMPANY
DATE: 01/29/08

SCALE:	1" = 200.00'
DRAFTSMAN:	D. BROOKS
DATE:	29 JAN 08

BROOK HURTA or Assigns

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DALE L. OLSON
Registered Professional Land Surveyor
711 Water Street
Bastrop, TX 78602
Phone (512) 321-5476 * Fax (512) 303-5476

FIELD NOTES FOR A 7.044 ACRE TRACT IN THE THOMAS DECROW SURVEY, BASTROP COUNTY, TEXAS.

BEING an 7.044 acre tract or parcel of land out of and being a part of the Thomas DeCrow Survey, A-27, in Bastrop County, Texas, and being a part of that certain 92.166 acre tract, described in a deed from Henry Buescher Parish, et ux, to Brook K. Hurta, Leslie Hurta, and Reid Sharp, dated January 28, 1998, recorded in Volume 890, Page 670, Bastrop County Deed Records. Herein described tract or parcel of land being more particularly described by metes and bounds as follows:

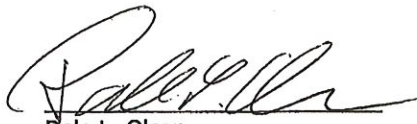
BEGINNING at a concrete right-of-way marker found at the intersection of the northeast line of State Highway No. 71 with the east line of Farm to Market Road No. 153, the west or northwest corner of the said 92.166 acre tract, for an angle corner of this tract.

THENCE with the east line of Farm to Market Road No. 153 and west line of the said 92.166 acre tract, N 01 deg. 29 min. 08 sec. W, 148.31 feet to a concrete right of way marker found; N 23 deg. 07 min. 00 sec. E, 93.94 feet to a 5/8 inch iron rod set at the beginning of a curve to the right for the most northerly northwest corner of the said 92.166 acre tract and this tract.

THENCE with the southeast line of the Farm to Market Road No. 153 and northwest line of the said 92.166 acre tract along a curve to the right whose radius is 1427.98 feet; whose long chord bears N 36 deg. 41 min. 48 sec. E, 670.61 feet; 676.93 feet along the arc to a 5/8 inch iron rod found at the northwest corner of that certain 12.495 acre tract described in a deed from Brook K. Hurta, et al, to Jack M. Alexander and Sandra L. Alexander recorded in Vol. 1031, Page 147, Bastrop County Deed Records for the northeast corner of this tract.

THENCE crossing said 92.166 acre tract with the west line of the Alexander 12.495 acre tract, S 02 deg. 22 min. 28 sec. E, 762.84 feet to a 5/8 inch iron rod found; S 87 deg. 37 min. 33 sec. W, 119.93 feet to a 5/8 inch iron rod found; S 33 deg. 15 min. 09 sec. E, 163.89 feet to a 5/8 inch iron rod found; S 61 deg. 03 min. 44 sec. W, 281.73 feet to a 5/8 inch iron rod found in the northeast line of State Highway No. 71 and southwest line of the 92.166 acre tract, the most southerly northwest corner of the Alexander tract for the southwest corner of this tract.

THENCE with the northeast line of State Highway No. 71 and southwest line of the 92.166 acre tract N 35 deg. 09 min. 24 sec. W, 328.00 feet to the POINT OF BEGINNING containing 7.044 acres of land.



Dale L. Olson
Reg. Pro. Land Surveyor 1753

OR Michael D. Olson
Reg. Pro. Land Surveyor 5386

©2008 Dale L. Olson Surveying Co.

Order #: 101608

Date Created: 01/30/08

Item # 13

RESOLUTION

#2022-12-496

A RESOLUTION OF THE CITY OF SMITHVILLE, TEXAS TO ENTER INTO AN ECONOMIC DEVELOPMENT PROGRAM AGREEMENT WITH SMITHVILLE INVESTMENT, LLC

WHEREAS, Smithville Investment, LLC has express to the City of Smithville (“City”) it’s desire to develop certain property which will provide additional tax base to the City, and

WHEREAS, §380.001 Local Government Code provides that a municipality may establish an economic development program (“Program”) to promote local economic development and to stimulate business and commercial activity in the municipality, and

WHEREAS, at the Council Meeting the City Council determined that the terms and conditions as stated in Exhibit “A” will meet the goals set forth in said §380.001 and will be of mutual benefit to both parties.

NOW, THEREFORE BE IT RESOLVED that the City offers to Smithville Investment, LLC a §380.001 Program in exchange for Smithville Investment, LLC to be annexed into the city limits of the City of Smithville.

PASSED AND APPROVED this 12th Day of December 2022.

Sharon Foerster, Mayor

Attest:

Jennifer Lynch, City Secretary

EXHIBIT "A"

ANNEXATION AND ECONOMIC DEVELOPMENT
PROGRAM AGREEMENT

This Annexation and Economic Development Program Agreement ("Agreement") is entered into this **12th** day of **December, 2022**, by and between the **City of Smithville, Texas**, a General Law, Type A Municipality ("**City**"), and **Smithville Investment, LLC** ("**Developer**"). The foregoing are referred to collectively as the "**Parties**."

WHEREAS, the City has adopted Resolution No. 2022-12-496, ("City Resolution"), establishing an economic development program and authorizing the City Manager to enter into this Agreement with Developer in recognition of the positive economic benefits to the City through the construction by Developer of a commercial development (the "Development") on the 7.044 acres described in Exhibit A, attached hereto and made a part hereof (the "Developer Property"); and

WHEREAS the Parties acknowledge that the Agreement is binding upon the Parties, and their respective successors and assigns for the term of the Agreement;

WHEREAS the Agreement is to be recorded in the Official Records of Bastrop County, Texas;

WHEREAS, Developer will expend at least **\$2,000,000** in the construction of the Development, including water, electricity, and wastewater, improvements (the "Improvements") as per the approved Construction Plans; and

NOW, THEREFORE, in consideration of the mutual benefits and promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer agree as follows:

1. **Authority.** The City's execution of this Agreement is authorized by Sections 212.172(b)(7) and 380.001 of the Texas Local Government Code and constitutes a valid and binding obligation of the City in the event Developer proceeds with construction of the Development. The City acknowledges that Developer is acting in reliance upon the City's performance of its obligations under this Agreement in making its decision to commit substantial resources and money to construct the Development.

2. **Definitions.**

2.1 **"Development"** means the improvements to be constructed by Developer or its successors or assigns on the Developer Property, to-wit: a convenience store/gas station.

2.2 **"Economic Incentive Payment" ("EIP")** means payments of the amount required to be paid by the City to Developer under the Program and Section 5.1 of this Agreement.

2.3 **"Effective Date"** is the date this Agreement is executed to be effective by the Parties.

2.4 **"Developer Property"** means the 7.044-acre tract of land owned by Developer and described in Exhibit A.

- 2.5 **“Living Unit Equivalent” (LUE)** means the typical flow of water or wastewater that would be produced by a single-family residence located in a typical subdivision.
- 2.6 **“Program”** means the economic development program established by the City pursuant to Chapter 380 of the Texas Local Government Code and under the City Resolution to promote local economic development and stimulate business and commercial activity within the City.
- 2.7 **“Recapture Liability”** means the total amount of all EIP’s that are paid as a result of this Agreement that are subject to recapture by the City from Developer in the event of a Developer default.
3. **Term.** This Agreement shall become enforceable upon its Effective Date and shall terminate on 12/31/2025.
4. **Rights and Obligations of Developer.**
- 4.1 Annexation. Developer will petition for voluntary annexation of the Developer Property, within **90-days** of the Effective Date. Failure to meet this requirement constitutes a default regarding incentives tied to Development.
- 4.2 Capital Investment. Developer agrees to spend at least **\$2,000,000** to design, construct and complete the Improvements on the Development Property on or before 12/31/2024. Developer agrees to provide the City with documentation that shows proof that this obligation has been satisfied, and the City shall have the right to audit Developer’s records to verify same.
- 4.3 Compliance with Regulations. Developer agrees that it will comply with the City’s development approval processes and shall construct the Development consistent with City ordinances, development regulations, and requirements.
- 4.4 Developer Accounting. Developer shall maintain complete books and records showing that it has complied with its obligations herein, which books and records shall be deemed complete if kept in accordance with generally acceptable accounting principles. Such books and records shall be available for examination by the duly authorized officers or agents of the City during normal business hours upon request made not less than ten (10) business days prior to the date of such examination.
- 4.5 Submission of Data. Within thirty (30) days following the end of each calendar year following the year in which any portion of the Developer Property is annexed into the City’s corporate limits, Developer shall submit to the City an invoice detailing the Ad Valorem Property Tax revenue paid by Developer on the Developer Property for such calendar year. As backup for the schedule, Developer shall submit the following:

(a) A copy of all property tax receipts for any ad valorem property taxes paid by Developer for that calendar year showing the Ad Valorem Property Tax paid; and

(b) Such other data as the parties mutually determine reasonably appropriate to evidence the Ad Valorem Property Tax paid.

4.6 Utility Construction. Water and electric service will be provided by Aqua Water Corporation and Bluebonnet Electric Cooperation respectively. All water and electric utilities required to be constructed within the Developer Property shall be at the sole cost of Developer and accepted upon substantial completion of construction, as determined by the City. All wastewater utilities and roadway construction contracts shall contain a one-year performance warranty bond, which shall name the City as an additional insured and be assigned to the City after City acceptance. **Developer agrees to share 50% of the construction costs to bring wastewater services to the Development Property.**

4.7 Utility Easement. The Developer agrees to convey (at no cost to the City) any utility easements needed by the City within the Development Property.

4.8 Construction Plan Submittal, Review, and Approval. The Developer is responsible for submitting Construction Plans to the City for 3rd Party review to ensure all zoning and building code requirements are met. In addition, the Developer must submit a drainage analysis to verify that post development stormwater flow (runoff) is equal to or better than pre-development flow and that measures have been taken to ensure that there is no adverse impact to adjacent property owners. The construction permit fee for commercial development shall be 1/2 percent of the construction cost + the plan review fee.

4.9 Post Annexation Zoning Re-classification – The Developer shall request zoning re-classification from SF-1 (Single Family Residence) to C3 (Highway Commercial).

5. **Rights and Obligations of the City.** In consideration of Developer's compliance with this Agreement, the City agrees as follows:

5.1 Economic Incentive Payments. Pursuant to Chapter 380 of the Texas Local Government Code, City and Developer agree that receipt of Economic Incentive Payments (EIP) with respect to the Development Property are contingent upon the following terms and conditions:

5.1.1 EIP's Based on Ad Valorem Property Tax. City shall, subject to the conditions set out herein, make annual EIPs to Developer within thirty (30) days after Developer submits to the City the Submission of Data for such calendar year as required in Section 4.5 above. The EIPs are to be calculated as follows:

(a) Calculations will be based upon the Ad Valorem Property Tax actually paid on the Development Property by Developer for each calendar year as set forth below.

(b) The reimbursements shall be in effect beginning with tax year as of 10/1/2022. The Developer will be reimbursed for all City of Smithville property taxes paid within 30-days of submitting tax receipts contingent upon meeting performance-based milestones identified in the EIP Summary Table (f) below.

(c) The Project shall meet a construction start date of 12/31/2023. Construction start is defined as a minimum of 5% (\$100,000) of the estimated \$2,000,000 project costs must be incurred.

(d) In addition to the other terms and conditions in this Agreement, if Developer has not finished the Development by 12/31/2024 then no EIP's shall be due and owing.

(e) The Developer shall create a minimum of six (6) new jobs to support operation and maintenance of the gas station / convenience store / QSR. The EIP's shall be paid until 12/31/25. After this date, no further EIP's will be owing.

(f) EIP Summary Table:

Calendar Year	EIP Performance Criteria	Percent (%) Rollback Tax Reimbursement	Percent (%) Property Tax Reimbursement
2022	Voluntary Annexation	N/A	100%
2023	Begin Constuction	N/A	100%
2024	End Constuction	N/A	100%
2025	Create 6 New Jobs	N/A	100%

5.2 Payments Subject to Future Appropriations. Although certain payments under this Agreement are calculated based on a formula applied to ad valorem tax revenues, this Agreement shall not be construed as a commitment, issue or obligation of any specific taxes or tax revenues for payment to Developer. All payments by the City under this Agreement are subject to the City's appropriation of funds for such payments in the budget year for which they are made. The payments to be made to Developer shall be made from (i) annual appropriations from the general funds of the City, or (ii) from such other funds of the City as may be legally set aside for the implementation of Article III, Section 52a of the Texas Constitution or Chapter 380 of the Local Government Code or any other economic development or financing program authorized by statute or home rule powers of the City under applicable Texas law, or (iii) from a combination of (i) and (ii) above,

subject to any applicable limitations or procedural requirements. Failure of the City to appropriate funds annually for the payments to be made to Developer hereunder shall be considered a default and breach of contract by the City.

5.3 Impact Fees. City shall not charge Developer or its successors or assigns sewer or water impact fees for the water supply or wastewater treatment capacity to be provided to the Development Property.

5.4 Annexation Fees. The City will be responsible for all public notice and notification fees related to the annexation of the Developer Property into the City's corporate limits.

5.5 Utility Service. Bluebonnet Electric shall supply electric service to the Development Property. Aqua Water shall supply water to the Development Property. Wastewater service to the Development Property will be provided by the City, as such property is annexed into the City, with a reservation capacity of no less than **20 LUE's** for wastewater service. City agrees to share 50% of the construction costs to bring wastewater services to the Development Property.

5.6 Service Plan. Pursuant to Texas Local Government Code § 43.0672(b), the City shall provide the Development Property with municipal services (fire, police, ambulance, etc.) within sixty (60) days of the annexation per a mutually accepted service agreement.

6. **Zoning.** Immediately upon annexation, Owner will apply for Highway Commercial (C3) zoning and the Planning & Zoning Commission and City Council shall promptly approve such application for zoning.

7. **Rollback Taxes Reimbursement.** City acknowledges that the determination of property tax valuation, equalization, exemption, special open space valuation, and tax rollback are within the exclusive province of the appraisal district and as a result, City takes no position on these matters. Per the Bastrop County Appraisal District (BCAD) the Developer Property is not Ag Exempt and as such not eligible for Rollback Tax Reimbursement.

8. **EIP Recapture.** In the event the City terminates this Agreement as a result of Developer's default, the City may recapture and collect from Developer the Recapture Liability. Developer shall pay to the City the Recapture Liability within thirty (30) days after the City makes demand for same, subject to any and all lawful offsets, settlements, deduction, or credits to which Developer may be entitled. Notwithstanding anything herein to the contrary, such Recapture Liability shall not exceed, in the aggregate, an amount equal to all EIPs that were paid pursuant to this Agreement from the Effective Date to the date of termination.

9. **Miscellaneous.**

9.1 Mutual Assistance. The Parties will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement.

9.2 Representations and Warranties. The City represents and warrants to Developer that the Program and this Agreement are within its authority, and that it is duly authorized and empowered to establish the Program and enter into this Agreement,

unless otherwise ordered by a court of competent jurisdiction. Developer represents and warrants to the City that it has the requisite authority to enter into this Agreement.

- 9.3 Default. If either the City or Developer should default in the performance of any obligations of this Agreement, the other party shall provide such defaulting party written notice of the default, and a minimum period of thirty (30) days to cure such default, prior to instituting an action for breach or pursuing any other remedy for default. Subject to Section 5.1, above, if the City remains in default after notice and opportunity to cure, Developer shall have the right to terminate this Agreement by giving written notice thereof to City and to pursue any remedy at law or in equity for the City's breach. If Developer remains in default after notice and opportunity to cure, City shall have the right to terminate this Agreement by giving written notice thereof to Developer and to pursue any remedy at law or in equity for Developer's breach, in addition to the right of EIP recapture set forth above.
- 9.4 Attorney's Fees. In the event any legal action or proceeding is commenced in a court of competent jurisdiction between the City and Developer to enforce provisions of this Agreement and recover damages for breach, the prevailing party in such legal action shall be entitled to recover its reasonable attorney's fees and expenses incurred by reason of such action, to the extent allowed by law.
- 9.5 Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the construction of the Development. This Agreement may only be amended, altered or revoked by written instrument signed by the Parties.
- 9.6 Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties, their respective successors and assigns.
- 9.7 Assignment. Except as noted hereinbelow, Developer may not assign all or any part of its rights and obligations to a third party without the express written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the immediately preceding sentence, Developer shall be authorized to assign this Agreement and all rights hereunder to a related entity created by Developer for the purpose of developing the Developer Property, without the prior written consent of the City.
- 9.8 Amendment. This Agreement may be amended by the mutual written agreement of the Parties.
- 9.9 Termination. In the event Developer elects not to construct the Development as contemplated by this Agreement, Developer shall notify the City in writing, and this Agreement and the obligations on the part of all Parties shall be deemed terminated and of no further force or effect.
- 9.10 Notice. Any notice and or statement required and permitted to be delivered shall be deemed delivered by actual delivery, facsimile with receipt of confirmation, or by depositing the same in the United States mail, certified with return receipt

requested, postage prepaid, addressed to the appropriate party at the following addresses:

If to City: **City of Smithville**
317 Main
Smithville, TX 78757
Attn: City Manager

If to Developer:

Smithville Investment, LLC
11842 Wilcrest Drive
Houston, TX / 77031
Attn: Sadique Maredia

Either party may designate a different address at any time upon written notice to the other Parties.

- 9.11 Interpretation. Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, however its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any party.
- 9.12 Applicable Law. This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall lie in Bastrop County, Texas.
- 9.13 Severability. In the event any provisions of this Agreement are illegal, invalid or unenforceable under present or future laws, and in that event, it is the intention of the Parties that the remainder of this Agreement shall not be affected. It is also the intention of the Parties of this Agreement that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.
- 9.14 Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.
- 9.15 No Third Party Beneficiaries. This Agreement is not intended to confer any rights, privileges or causes of action upon any third party.
- 9.16 Force Majeure. Except as otherwise provided herein, an equitable adjustment shall be made for delay or failure in performing if such delay or failure is caused, prevented, or restricted by conditions beyond that Party's reasonable control (a "force majeure event"). A *force majeure* event for the purposes of this Agreement shall include, but not be limited to, acts of God; fire; explosion; vandalism; storm or similar occurrences; orders or acts of military or civil authority; litigation; changes in law, rules, or regulations outside the control of the affected Party;

national emergencies or insurrections; riots; acts of terrorism; or supplier failures, shortages or breach or delay. Except as otherwise expressly provided, herein, there shall be an equitable adjustment allowed for performance under this Agreement as the result of any event of *force majeure*.

- 9.17 No Joint Venture. It is acknowledged and agreed by the Parties that the terms hereof are not intended to and shall not be deemed to create any partnership or joint venture among the Parties. The City, its past, present and future officers, elected officials, employees and agents of the City, do not assume any responsibilities or liabilities to any third party in connection with the development of the Development or the design, construction or operation of any portion of the Development.

EXECUTED to be effective as of the ____ day of _____, 2022 (the "Effective Date").

CITY OF SMITHVILLE, TEXAS,

By: _____
City Manager

Date: _____, 2022

**THE STATE OF TEXAS }
COUNTY OF BASTROP }**

This instrument was acknowledged before me on the _____ of _____, 2022, by Robert Tamble, City Manager, City of Smithville, Texas.

Notary Public, State of Texas

SMITHVILLE INVESTMENTS, LLC

By: _____
Manager

Date: _____, 2022

**THE STATE OF TEXAS }
COUNTY OF BASTROP }**

This instrument was acknowledged before me on the _____ day of _____ 2022, by Sadique Maredia, Manager of Smithville Investments, LLC, as general partner of Smithville Investments, LLC

Notary Public, State of Texas

EXHIBIT "A"


ANNEXATION PETITION

TO THE MAYOR AND GOVERNING BODY
OF THE CITY OF SMITHVILLE, TEXAS:

The undersigned owner(s) of the hereinafter described tract of land, which is vacant and without residents, or on which less than three(3) qualified voters reside, hereby petition your honorable body to extend the present city limits so as to include as a part of the City of Smithville, Texas, the following described territory, to wit:

The legal description along with survey is attached hereto as Exhibit "A".

I/We certify that the above described tract of land is contiguous to the City of Smithville, Texas, is not more than one-half (1/2) mile in width and that this petition is signed and duly acknowledged by each and every person or corporation having an interest in said land.



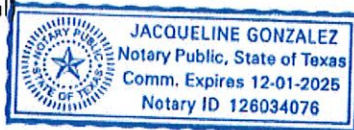
Sadique Maredia – Managing Member
Smithville Investment LLC
11842 Wilcrest Drive, Houston, TX, 77031

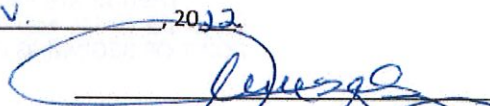
THE STATE OF TEXAS
COUNTY OF BASTROP

Before me, the undersigned authority, on this day personally appeared Sadique Maredia
known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for purposes and consideration therein expressed.

Given under my hand and seal of office, this 2nd day of Nov., 2022

(Seal)




Notary Public in and for the State of Texas
My commission expires: 12-1-2022

DALE L. OLSON
Registered Professional Land Surveyor
711 Water Street
Bastrop, TX 78602
Phone (512) 321-5476 * Fax (512) 303-5476

FIELD NOTES FOR A 7.044 ACRE TRACT IN THE THOMAS DECROW SURVEY, BASTROP COUNTY, TEXAS.

BEING an 7.044 acre tract or parcel of land out of and being a part of the Thomas DeCrow Survey, A-27, in Bastrop County, Texas, and being a part of that certain 92.166 acre tract, described in a deed from Henry Buescher Parish, et ux, to Brook K. Hurta, Leslie Hurta, and Reid Sharp, dated January 28, 1998, recorded in Volume 890, Page 670, Bastrop County Deed Records. Herein described tract or parcel of land being more particularly described by metes and bounds as follows:

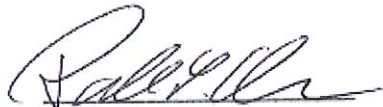
BEGINNING at a concrete right-of-way marker found at the intersection of the northeast line of State Highway No. 71 with the east line of Farm to Market Road No. 153, the west or northwest corner of the said 92.166 acre tract, for an angle corner of this tract.

THENCE with the east line of Farm to Market Road No. 153 and west line of the said 92.166 acre tract, N 01 deg. 29 min. 08 sec. W, 148.31 feet to a concrete right of way marker found; N 23 deg. 07 min. 00 sec. E, 93.94 feet to a 5/8 inch iron rod set at the beginning of a curve to the right for the most northerly northwest corner of the said 92.166 acre tract and this tract.

THENCE with the southeast line of the Farm to Market Road No. 153 and northwest line of the said 92.166 acre tract along a curve to the right whose radius is 1427.98 feet; whose long chord bears N 36 deg. 41 min. 48 sec. E, 670.61 feet; 676.93 feet along the arc to a 5/8 inch iron rod found at the northwest corner of that certain 12.495 acre tract described in a deed from Brook K. Hurta, et al, to Jack M. Alexander and Sandra L. Alexander recorded in Vol. 1031, Page 147, Bastrop County Deed Records for the northeast corner of this tract.

THENCE crossing said 92.166 acre tract with the west line of the Alexander 12.495 acre tract, S 02 deg. 22 min. 28 sec. E, 762.84 feet to a 5/8 inch iron rod found; S 87 deg. 37 min. 33 sec. W, 119.93 feet to a 5/8 inch iron rod found; S 33 deg. 15 min. 09 sec. E, 163.89 feet to a 5/8 inch iron rod found; S 61 deg. 03 min. 44 sec. W, 281.73 feet to a 5/8 inch iron rod found in the northeast line of State Highway No. 71 and southwest line of the 92.166 acre tract, the most southerly northwest corner of the Alexander tract for the southwest corner of this tract.

THENCE with the northeast line of State Highway No. 71 and southwest line of the 92.166 acre tract N 35 deg. 09 min. 24 sec. W, 328.00 feet to the POINT OF BEGINNING containing 7.044 acres of land.

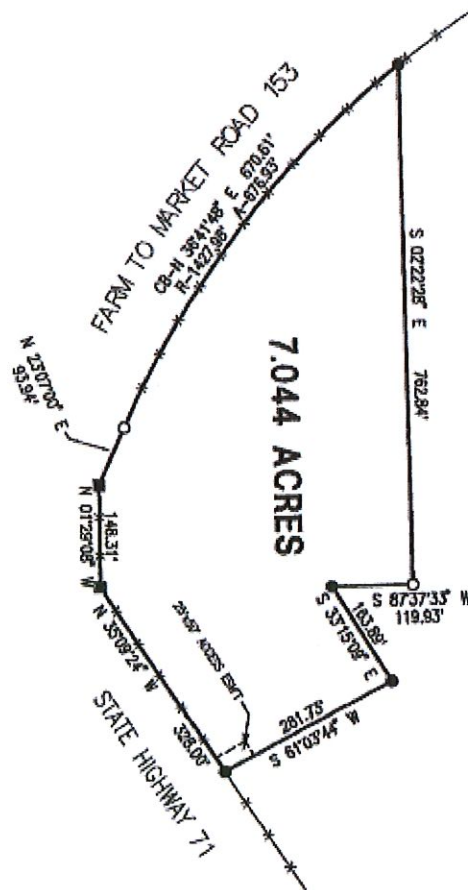


Dale L. Olson
Reg. Pro. Land Surveyor 1753

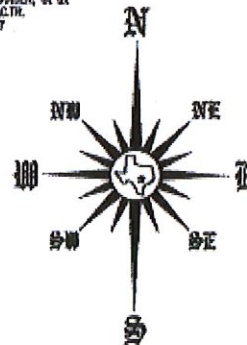
Order #: 101608

OR Michael D. Olson
Reg. Pro. Land Surveyor 5386
©2008 Dale L. Olson Surveying Co.
Date Created: 01/30/08

THOMAS DECROW SURVEY, A-27



JOSE ALDAMER, et al
12.465 ACRES
1031/147



SCALE: 1" = 200'

- CONCRETE MONUMENT
- IRON ROD FOUND
- IRON PIPE FOUND
- 5/8 IRON ROD SET
- ▲ FENCE POST
- ⊙ TREE
- ⊙ UTILITY POLE
- ⊙ WATER METER
- ⊙ WATER WELL
- X- FENCE LINE
- E- ELECTRIC LINE
- P- PIPE LINE

Dale L. Olson

FENCES DO NOT REFLECT PROPERTY LINES

The undersigned does hereby certify to the File Agency, Underwriter, Lender, Assignee Co., or to the Purchaser, that this survey was, this day, made on the ground, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, visible utility lines, or marks in place, except as shown hereon, and that said property lines hereon are as dedicated road way, except as shown hereon.

Dale L. Olson

DALE L. OLSON
JULY 1978

MICHAEL D. OLSON
JULY 1978

DALE L. OLSON

REGISTERED PROFESSIONAL LAND SURVEYOR
701 WATER STREET (512) 321-5476 BASTROP, TEXAS

SURVEY PLAT

of a 7.044 ACRE TRACT in the
THOMAS DECROW SURVEY, A-27
BASTROP COUNTY, TEXAS.

EIP Calculation For C-Store / Gas Station 380 Agreement

Calendar Year	Estimated Value of Property	Value per \$100	Tax Rate	EIP Performance Criteria	Est. Tax Liability	EIP Target Rebate %	Est. Tax Value with Gas Station Built	Est. Rollback Tax Refund	Est. Property Tax Refund (City Only)	50% Cost Share for Installation of Sewer	Est. Property Tax Revenue	Revenue From Sewer and Garbage	Misc. Revenue (Const. Permits)	Misc. Expenses (Plan Review, Garbage)	Estimated Revenue From Sales Tax	Net Loss / Gain to City
2022	\$327,376	\$3,274	\$0.5489	Voluntary Annex	\$1,797	100%	\$0	N/A	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2023	\$360,000	\$3,600	\$0.5489	Start Construction	\$1,976	100%	\$360,000	\$0	\$1,976	\$25,000	\$1,976	\$750	\$16,500	\$6,500	\$0	-\$14,250
2024	\$2,396,000	\$23,960	\$0.5489	End Construction	\$13,152	100%	\$2,400,000	\$0	\$13,152	\$0	\$13,152	\$804	\$0	\$399	\$0	\$405
2025	\$2,640,000	\$26,400	\$0.5489	Create 6 New Jobs	\$14,491	100%	\$2,640,000	\$0	\$14,491	\$0	\$14,491	\$804	\$0	\$399	\$0	\$405
2026	\$2,904,000	\$29,040	\$0.5489	N/A	\$15,940	N/A	\$2,904,000	\$0	N/A	\$0	\$15,940	\$804	\$0	\$399	\$14,000	\$30,345

Assumptions:

- Tax Rate = \$0.5489 / \$100 Valuation
- Developer must petition for voluntarily annexation
- Property must be rezoned from SF1 (Single Family Residential) to C3 (Highway Commercial)
- Developer and City must enter into Service Agreement within 60-days of voluntary annexation
- Developer must submit Preliminary and Final Plat for review / approval. Plat must be recorded w/ Bastrop County
- Developer must submit construction plans for 3rd Party review and approval
- Developer must obtain building / construction permit prior to beginning construction.
- Construction permit Fee = 1/2 percent of construction cost + plan review fee = \$16,500
- City to provide fire, police, garbage, and wastewater services per Service Agreement.
- Developer to spend \$2,000,000 (minimum) for gas station / convenience store
- Estimated value of developed property with improvements = \$2,400,000
- Assume 10% increase in BCAD assessed value per year (post development)
- Assumes estimated \$3,500 / quarter in sales tax revenue once gas station / store are operational.
- Developer and City agree to split cost (50/50) for installation of wastewater service. Total cost is approximately \$50k
- Typical Commercial Garbage rate is \$417.81 / month with the city paying \$398.82 (6-yard 2x week) = \$18 / month revenue or \$216 per year.
- City does not have CCN for water and electric. Developer must utilize Aqua Water and Bluebonnet Electric for these services
- 380 Economic Development agreement pending. Developer must meet performance-based milestones to qualify for Economic Incentive Plan (EIP)

Other:

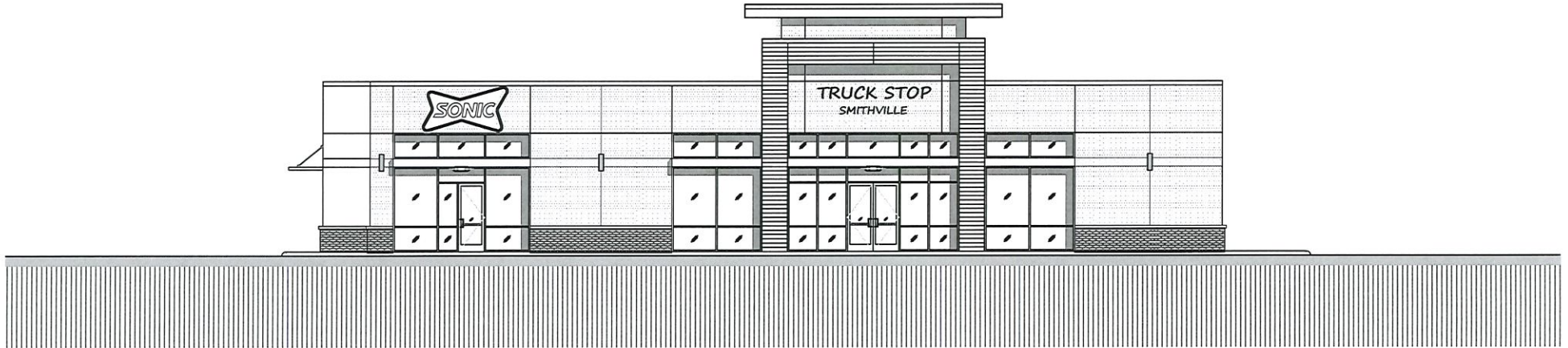
- Developer to pay City property taxes to BCAD. City will refund property taxes (City portion only) if EIP target met.
- Completion of construction and/or creation of 10 or more jobs in advance of target date will be credited to the next year's EIP target
- Developer to grant / donate utility easement(s) to City per 380 Agreement (if required)

TOTALS

\$0	\$29,619	\$25,000	\$45,559	\$3,162	\$16,500	\$7,697	\$14,000	\$16,905
\$54,619			\$65,221					
DEVELOPER CREDITS			PROJECTED CITY REVENUE					
			\$16,905					
			NET LOSS / GAIN TO CITY					

TRUCK STOP AT FM 153

SH 71 & FM 153,
SMITHVILLE, TX



CONSULTANTS:

ARCHITECTURAL DESIGN SERVICES: PENH STUDIO, LLC

MECHANICAL & PLUMBING DESIGN: EVAN RASHID

ELECTRICAL DESIGN: BRYAN NAGAISHI

IMPORTANT NOTES FOR CONTRACTOR: WORK DONE ON THE PREMISES OR IN CONNECTION WITH PROSECUTION OF THIS CONTRACT SHALL BE AT THE CONTRACTORS RISK AND CONTRACTOR SHALL ASSUME ANY AND ALL LIABILITY AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, THE ARCHITECT OR THE DESIGNER, ENGINEERS AND ANY OTHER PERSON, FIRM, CORPORATION, THEIR AGENTS, SERVANTS, OR EMPLOYEES, OF AND FROM CLAIMS OR DEMANDS, COSTS, EXPENSES, LOSS OR DAMAGE ON ACCOUNT OF BODILY INJURY, SICKNESS OR DISEASE, INCLUDING DEATH, TO EMPLOYEES OF CONTRACTOR OR ANY OTHER PERSON, OR DAMAGE TO PROPERTY, INCLUDING LOSS OF USE THEREOF SUFFERED BY EMPLOYEES OF CONTRACTOR OR OF ANY PERSON, OR OF LIABILITY IMPOSED UPON SAID OWNER BY LAW, ARISING OUT OF THE OPERATION OF THIS CONTRACT.

Item # 14

SERVICE AGREEMENT

This Service Agreement (the “*Agreement*”) is entered into by and between the City of Smithville, Texas, a Texas General Law (Type A) municipality (the “*City*”), and Developer, defined below, to be effective as of the last date of due execution by the parties (the “*Effective Date*”).

RECITALS

1. Pursuant to Texas Local Government Code § 43.0671, Smithville Investment, LLC., a Texas limited liability company, (“*Developer*”) submitted an Annexation Petition dated November 2, 2022 (the “*Petition*”), attached as **Exhibit A**, to the City of Smithville requesting that the City annex 7.044-acres for construction of a service station and convenience store (C-store) as more particularly described in the Petition (the “*Property*”).
2. Developer is the sole owner of the Property and the Property is adjacent to the City’s municipal boundaries.
3. The City desires to annex the Property and Developer and the City desire to enter into this Agreement pursuant to Texas Local Government Code § 43.0672.
4. The projected use of the Property is for commercial development.

In consideration of the obligations of the parties under this Agreement, the parties agree as follows:

ARTICLE ONE

RECITALS AND REPRESENTATIONS

- 1.1 **Recitals.** The above recitals are incorporated herein as facts, the truth of which is acknowledged by the parties.
- 1.2 **Representations.** Developer warrants and represents that all statements in the recitals and in the Petition were true at the time that Developer submitted the Petition to the City and remain true as of the Effective Date.

ARTICLE TWO

SERVICES

- 2.1 **Municipal Services Upon Annexation.** Pursuant to Texas Local Government Code § 43.0672(b), if the City annexes the Property, the City shall not provide any municipal services to the Property on the effective date of the annexation. The City shall provide or make available on behalf of the City the municipal services at the levels specified in the below schedule within sixty (60) days of annexation.

2.2 Municipal Services Schedule. Pursuant to Texas Local Government Code § 43.0672(b)(2), the City shall provide the Property with the following municipal services (the “*Municipal Services*”) within sixty (60) days of the annexation of the Property:

- (A) Police protection, patrolling, response to calls, and other police services.
- (B) Fire protection and fire prevention.
- (C) Solid waste collection and disposal services.
- (D) Maintenance of wastewater facilities serving the Property that are not within the service area of another wastewater utility.
- (E) Maintenance of existing roads, streets, and drainage; provided that all roads, streets, and drainage roadways required to be constructed within the Property shall be constructed to City standards at the sole cost of Developer, or its successors and assigns, and in conformance with all applicable ordinances, City policies, laws, rules, and other regulations.
- (F) Planning, code enforcement, animal control, library, parks and recreation, municipal court, and general municipal administration.

2.3 Excluded Services. Pursuant to Texas Local Government Code § 43.0672(c), the City has no obligation to provide any service to the Property not specifically included in this Agreement. **Electric Service shall be provided by Bluebonnet Electric Cooperative. Water Service shall be provided by Aqua Water Corporation.**

2.4 Level of Services. The City shall provide the Municipal Services at a level of service that is comparable to the level of services available in other parts of the City with topography, land use, and population density similar to those reasonably contemplated or projected in the Property. Nothing in this Agreement obligates the City to provide the Municipal Services at a level equivalent to any other area of the City if different characteristics of topography, land use, and population density constitute a sufficient basis for providing different levels of service.

ARTICLE 3 **ANNEXATION**

3.1 Conditioned on Annexation. This Agreement is conditioned on annexation of the Property. This Agreement shall have no effect unless and until the City annexes the Property. If the City fails to annex the Property within 60 days of the Effective Date, then this Agreement shall terminate and be of no further effect.

- 3.2 **Effect of Expiration.** If the City annexes the Property within 60 days of the Effective Date, then the expiration of this Agreement has no effect on such annexation and the inclusion of the Property within the municipal boundaries of the City.

ARTICLE 4

ADMINISTRATIVE PROVISIONS

- 4.1 **No Waiver.** No waiver of any terms of this Agreement shall be valid unless in writing and signed by all parties. No waiver of default of any term of this Agreement shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
- 4.2 **Governing Law.** This Agreement has been made under Chapter 43, Subchapter C-3, Texas Local Government Code and other laws of the State of Texas in effect on the Effective Date. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas without regard to choice of law rules. Jurisdiction and venue for any dispute arising under this Agreement shall lie exclusively in the courts of Bastrop County, Texas.
- 4.3 **Severability.** If a provision hereof shall be finally declared void or illegal by any court or administrative agency having jurisdiction, the entire Agreement shall not be void; but the remaining provisions shall continue in effect as nearly as possible in accordance with the original intent of the parties.
- 4.4 **Complete Agreement.** The Agreement represents a complete agreement of the parties and supersedes all prior written and oral matters related to the Agreement.
- 4.5 **Amendments.** Any amendment to the Agreement must be in writing and signed by all parties.
- 4.6 **Term.** This Agreement expires on the 25th anniversary of the Effective Date, unless amended by the parties in writing.
- 4.7 **Force Majeure.** The obligations of each party shall be subject to force majeure events such as natural calamity, fire, strike, pandemic, including but not limited to the pandemic related to the virus commonly referred to as "COVID-19," or inclement weather.
- 4.8 **Conveyance of Property.** Prior to the sale or conveyance of any portion of the Property, the seller shall give written notice of the Agreement to the prospective purchaser or grantee, which notice can be provided through the Agreement being shown on a title commitment on the Property being provided to the prospective purchaser. The seller of any portion of the Property shall give written notice of the sale or conveyance to the City after closing.
- 4.9 **Continuity.** The Agreement shall run with the Property and be binding on all successors and assigns of Developer.

- 4.10 Survival after Expiration.** All obligations under this Agreement shall survive the expiration of this Agreement to the extent required for their full observance and performance.
- 4.11 Signature Warranty Clause.** The signatories to the Agreement represent and warrant that they have the authority to execute the Agreement on behalf of the City and Developer, respectively.
- 4.12 Governmental Immunity.** Nothing in this Agreement waives, modifies, or amends any legal defense available to the City or its employees, officers, or agents at law or in equity, including but not limited to the defense of governmental immunity. Nothing in this Agreement creates any legal rights or claims on behalf of any third party.
- 4.13 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which taken together shall constitute one instrument. It shall not be necessary that all parties be signatory to the same counterpart. Signatures exchanged by facsimile or electronically in pdf or other electronic format shall be deemed to constitute original, manually executed signatures and shall be fully binding. Signature pages from two or more counterparts may be combined to form one document.
- 4.14 Effective Date.** The Agreement shall be effective on the Effective Date, regardless of recordation in the Official Records of Bastrop County, Texas.

EXECUTED to be effective as of the Effective Date.

CITY:

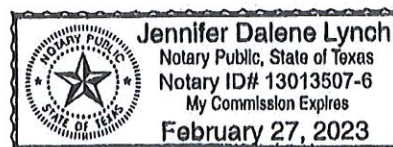
City of Smithville, a Texas General Law (Type A) municipality

By: Robert Tamble
Robert Tamble, City Manager

THE STATE OF TEXAS §
COUNTY OF BASTROP §

This instrument was acknowledged before me on the 8th day of December, 2022 by Robert Tamble, City Manager, City of Smithville, Texas.

Jennifer Dalene Lynch
Notary Public, State of Texas



DEVELOPER:

Smithville Investment, LLC, a Texas limited liability company

By: Intiaz

Name: Intiaz Maknoja

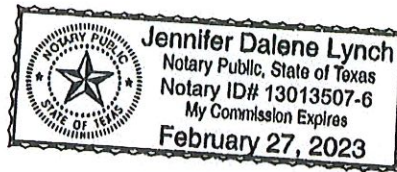
Title: None

THE STATE OF TEXAS §

COUNTY OF BASTROP §

This instrument was acknowledged before me on the 8th day of December 2022, by Sadique Maredia as Manager of Smithville Investment, LLC, a Texas limited liability company, on behalf of said entity.

Jennifer Lynch
Notary Public, State of Texas



After recording, please return to:

Sheets & Crossfield
309 E. Main Street
Round Rock, TX 78664
Attn: Charles Crossfield
Phone: (512) 255-8877
Office: 512-443-1724
Fax: 512-389-0943

Email: charlie@scrrlaw.com

Exhibit A

ANNEXATION PETITION

TO THE MAYOR AND GOVERNING BODY
OF THE CITY OF SMITHVILLE, TEXAS:

The undersigned owner(s) of the hereinafter described tract of land, which is vacant and without residents, or on which less than three(3) qualified voters reside, hereby petition your honorable body to extend the present city limits so as to include as a part of the City of Smithville, Texas, the following described territory, to wit:

The legal description along with survey is attached hereto as Exhibit "A".

I/We certify that the above described tract of land is contiguous to the City of Smithville, Texas, is not more than one-half (1/2) mile in width and that this petition is signed and duly acknowledged by each and every person or corporation having an interest in said land.




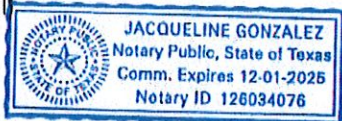
Sadique Maredia – Managing Member
Smithville Investment LLC
11842 Wilcrest Drive, Houston, TX, 77031

THE STATE OF TEXAS
COUNTY OF BASTROP

Before me, the undersigned authority, on this day personally appeared Sadique Maredia
known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for purposes and consideration therein expressed.

Given under my hand and seal of office, this 2nd day of Nov., 2022

(Seal)



Notary Public in and for the State of Texas
My commission expires: 12/1/2022

DALE L. OLSON
Registered Professional Land Surveyor
711 Water Street
Bastrop, TX 78602
Phone (512) 321-5476 * Fax (512) 303-5476

FIELD NOTES FOR A 7.044 ACRE TRACT IN THE THOMAS DECROW
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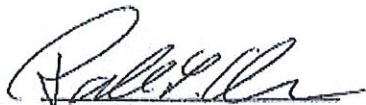
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THENCE with the northeast line of State Highway No. 71 and southwest line of the 92.166 acre tract N 35 deg. 09 min. 24 sec. W, 328.00 feet to the POINT OF BEGINNING containing 7.044 acres of land.



Dale L. Olson
Reg. Pro. Land Surveyor 1753

OR Michael D. Olson
Reg. Pro. Land Surveyor 5386

©2008 Dale L. Olson Surveying Co.

Order #: 101608

Date Created: 01/30/08

Item # 15

AMENDMENT TO SMITHVILLE LAND PARTNERS, LLC 380 ECONOMIC DEVELOPMENT AGREEMENT

This AMENDMENT to the Economic Development Program Agreement ("Agreement"), dated June 13, 2022, is entered into this **12th** day of **December, 2022**, by and between the **City of Smithville, Texas**, a General Law, Type A municipality ("**City**"), and **Smithville Land Partners, LLC.**, a Texas limited liability company ("**Developer**"). The foregoing are referred to collectively as the "**Parties**."

RECITALS

- A. **WHEREAS** the City adopted Resolution No. 2022-06-492, ("City Resolution"), establishing an economic development program and authorizing the Mayor to enter into this Agreement with Developer; and
- B. **WHEREAS** the Parties desire to amend the 380 Economic Development Agreement to modify the terms regarding Discounted Tap Fees and the timeline for performance-based Economic Incentive Payments (EIP's).

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency and adequacy of which is hereby acknowledged, the Parties agree to the following:

AGREEMENT

1. The preamble to the 380 ECONOMIC DEVELOPMENT AGREEMENT is hereby amended by inserting the date **December 12, 2022** after the words "entered into this day".
2. Section 3 – "Term" is hereby amended to reflect a termination date of **December 31, 2028**.
3. Section 5(b) – "Rights and Obligations of the City" is hereby amended to reflect a construction start date of **December 31, 2023**. Construction start is defined as a minimum of 5% (\$225,000) of the estimated \$4,500,000 project costs must be incurred.
4. Section 5(c) – "Rights and Obligations of the City" is hereby amended to reflect infrastructure construction (e.g., roads, curbs, street lights, gutters, water, wastewater, electric, etc.) shall be completed no later than **December 31, 2024** with acceptance by the City upon expiration of the 2-year performance warranty.
5. Section 5(d) – "Rights and Obligations of the City" is hereby amended to reflect a 1-year extension to the performance-based Economic Incentive Payment (EIP) eligibility criteria. Now **2023 to 2028**.

Calendar Year	EIP Performance Criteria	Percent (%) Rollback Tax Reimbursement	Percent (%) Property Tax Reimbursement
2023	Start Project	100%	50%
2024	Infrastrure Complete	N/A	100%
2025	30 Lots Sold (30 Total)	N/A	100%
2026	30 Lots Sold (60 Total)	N/A	100%
2027	30 Lots Sold (90 Total)	N/A	100%
2028	22 Lots Sold (112 Total)	N/A	100%

6. Section 5(e) – “Rights and Obligations of the City” is hereby amended to reflect a 1-year extension to the performance-based Economic Incentive Payments (EIPs) term as follows: “If Developer has not sold or otherwise conveyed at least thirty (30) lots within the Developer’s Property by **December 31, 2025** to an unrelated 3rd party, then no EIP’s shall be due and owing after this date.
7. Section 5.4 – “Discounted Tap Fees” is hereby amended to remove the 50% discount for water tap fees. **Water tap fees shall be due and owing at 100% per the schedule below:**

3/4" - \$3,000	1-1/2" - \$5,000	Over 2" - Cost + 25%
1" - \$3,500	2" - \$5,500	

This section is further amended to **provide a 100% discount for sewer tap fees** if the Developer installs sewer taps as part of the infrastructure construction and/or he becomes the builder of record. If anyone other than Smithville Land Partners, LLC becomes the builder of record (and sewer taps were not previously installed as part of the subdivision's infrastructure construction), sewer tap fees will not be discounted and will be due and owing at 100% of the cost.

8. No Other Amendment. Except as changed hereby, all other terms and conditions in the 380 ECONOMIC DEVELOPMENT AGREEMENT remain in full force and effect.

EXECUTED to be effective as of the _____ day of _____, 2022 (the “Effective Date”).

CITY OF SMITHVILLE, TEXAS,
a General Law, Type A Municipality

By: _____
Sharon Foerster, Mayor

Date: _____, 2022

SMITHVILLE LAND PARTNERS, LLC.
a Texas limited liability company

By: _____
S. Todd McCullough, Manager

Date: _____, 2022

Item # 16

ORDINANCE NO. 2022-630

AN ORDINANCE OF THE CITY OF SMITHVILLE, TEXAS CLOSING, VACATING, AND ABANDONING AN ALLEY OR STREET IN THE CITY DESCRIBED GENERALLY AS A PORTION OF PINE STREET BETWEEN MOUNT PLEASANT ADDITION BLOCK 36 AND BLOCK 37 AND THE ALLEY OF MOUNT PLEASANT ADDITION BLOCK 36 BETWEEN LOTS 3-4 AND 5-6 AND PARTIAL ALLEY OF MOUNT PLEASANT ADDITION BLOCK 37 BEING THE PORTION BETWEEN LOTS 8 AND 5; AUTHORIZING THE CITY MANAGER TO EXECUTE A QUITCLAIM DEED PERTAINING TO SUCH ALLEYS AND STREETS; REPEALING CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Smithville, Texas (the “*City*”) is a Texas general law municipality;

WHEREAS, Texas Transportation Code § 311.008 authorizes a general law municipality to vacate, abandon, or close a street or alley of the municipality if a petition signed by all the owners of real property abutting the street or alley is submitted to the governing body;

WHEREAS, the Smithville City Council has received a petition, attached as Exhibit A, which the petitioners have represented is signed by all the owners of real property abutting the following described portion of a street in the City (the “*Road*”):

A Portion of Pine Street between Mount Pleasant Addition Block 36 and Block 37, the alley of Mount Pleasant Addition Block 36 between Lots 3-4 and 5-6, and a partial alley of Mount Pleasant Addition Block 37 is the portion between Lots 8 and 5, as more particularly shown in Exhibit A;

WHEREAS, the City Council finds as follows:

1. The Road is no longer essential to the safe and efficient flow of traffic in the area in which the Road is located.
2. Closing, vacating, and abandoning the Road serves the public purpose of relieving the public of any maintenance obligations of the Road.

WHEREAS, the City Council finds and determines that adoption of this Ordinance promotes the health, safety, and welfare of the public; and

WHEREAS, the City Council finds and determines that the meeting at which this Ordinance was passed was open to the public, that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code;

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

1. **Findings of Fact.** The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.
2. **Enactment.** By this Ordinance:

(A) The City vacates, abandons, and closes the Road subject to the following:

- (1) All utility lines and facilities, including but not limited to water and wastewater lines, electric transmission and distribution lines, gas lines, and telecommunication lines, within the Road on the effective date of this Ordinance may remain in place and may continue to be used, repaired, enlarged, and maintained in the ordinary course of business.
- (2) Any person wanting removal of an existing utility facility must negotiate such removal with the relevant utility.
- (3) After the effective date of this Ordinance, no utility may add additional lines or facilities within the Road based on a claim that the Road is a public street right of way.
- (4) All existing drainage rights in the Road are retained by the City.

(B) The City Council authorizes and directs the City Manager to execute a Street Closure Quitclaim Deed and to execute and deliver all documents and to do all other things conducive to reflect the vacation, abandonment, and closure of the Road.

3. **Repealer.** All ordinances, resolutions, or parts thereof, that are in conflict or are inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict or inconsistency, and the provisions of this Ordinance shall be and remain controlling as to the matter regulated herein.
4. **Severability.** Should any section, subsection, sentence, provision, clause, or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance and same are deemed severable for this purpose.
5. **Effective Date.** This Ordinance shall be effective as of the date of adoption.

PASSED, APPROVED, AND ADOPTED THIS 12th DAY OF DECEMBER, 2022.

APPROVED:

Sharon Foerster, Mayor

ATTEST:

Jennifer Lynch, City Secretary

EXHIBIT "A"

Date: December 6, 2022

To: Smithville City of Council

RE: Mt Pleasant Addition subdivision various plat Vacate Request

As the owner of the surrounding properties, I am requesting the city vacate certain undeveloped alleys, streets and lots of the Mt. Pleasant Addition, as follows:

- (A) The alley between Lot 3 & 4 and Lot 5&6 of Block 36
- (B) The alley between Lot 1 and Lot 8 of Block 37
- (C) The Pine Street located between Block 37 Lot 8 and Block 36 Lot 5

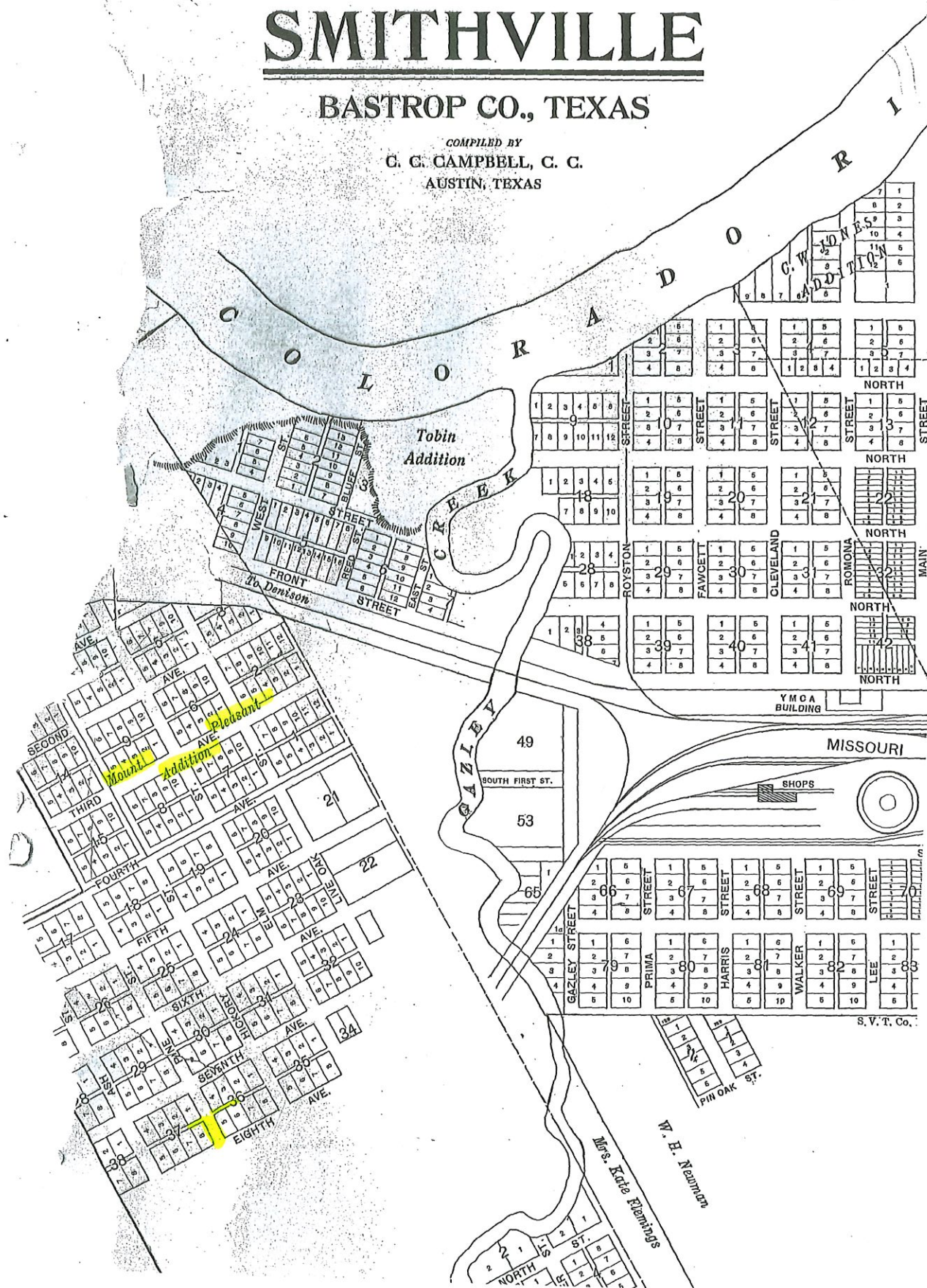
Thanks for your consideration.

Elizabeth Koch
Elizabeth Koch, Property Owner

December 7, 2022
Date

BASTROP CO., TEXAS

COMPILED BY
C. C. CAMPBELL, C. C.
AUSTIN, TEXAS





Item # 17

CUTRIGHT



PRIHODA
ARCHITECTS

December 2, 2022

Mr. Robert Tamble, City Manager
City of Smithville
317 Main Street
Smithville, Texas 78957

Via email: citymanager@ci.smithville.tx.us

**Re: Smithville City Hall Infill and Renovation
Smithville, Texas**

Dear Mr. Tamble:

Cutright & Prihoda, Inc., Architects have reviewed the bids and credentials of the apparent low bidder for the city hall renovation project.

Noble General Contractors based in El Paso with an office in Wimberly provided the lowest bid of \$277,000 for the work.

Based on our review of the required submittals, where we cannot endorse any firm, we believe that Noble is qualified to perform the work.

As a note, Noble is currently constructing a community center for Bastrop County in Bastrop.

If you have any questions, please let us know.

Regards,
CUTRIGHT & PRIHODA, INC.

Brad Cutright, Vice President

Attachment: Summary of Bid

CITY OF SMITHVILLE CITY HALL INFILL RENOVATION
INVITATION FOR BIDS
December 01, 2022 - 4:00 pm

12/2/2022
4:52 PM

Proposer's Name	Pre-RFP Meeting	Addenda No. 1	Contractor's Qualifications Sheet, A305-2020	Bid Bond	Conflict of Interest Questionnaire	Cert. of Interested Parties (FORM 1295)	Liability Insurance Cert.	Indemnity Affidavit of Contractor	BASE BID	Contract Time
Doug Gaeke Gaeke Construction	✓	✓	✓	✓	✓	✓	✓	✓	\$297,700	150
Jordan Estrada Noble General Contractors	✓	✓	✓	✓	✓	✓		✓	\$277,000	84