

**ORDINANCE NO. O-2021-51**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, PROVIDING FOR THE VOLUNTARY ANNEXATION OF APPROXIMATELY 5.16 ACRES OF LAND AND ADJACENT RIGHT-OF-WAY LYING ADJACENT TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF TYLER LOCATED AT THE SOUTHEAST INTERSECTION OF HIGHWAY 64 EAST AND COUNTY ROAD 219, AMENDING THE TYLER CITY LIMITS MAP; ADJUSTING THE BOUNDARY OF THE CITY COUNCIL DISTRICT #4; AUTHORIZING THE CITY MANAGER TO SIGN A WRITTEN AGREEMENT FOR PROVISION OF CITY SERVICES PER TEXAS LOCAL GOVERNMENT CODE SECTION 43.0672; ESTABLISHING THE INITIAL LAND USE DESIGNATION; ESTABLISHING ORIGINAL ZONING; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, a public hearing was held before the City Council of the City of Tyler, Texas, on the 28th day of April, 2021, via teleconference and regular meeting, wherein all interested persons were provided an opportunity to be heard on the proposed voluntary annexation of the territory hereinafter described. A copy of the Texas Local Government Code Section 43.0671 petition is attached and made a part hereof as Exhibit "C"; and

**WHEREAS**, the area to be annexed is contiguous to the City of Tyler; and

**WHEREAS**, the hereinafter described territory lies within the extraterritorial jurisdiction of the City of Tyler, Texas; and

**WHEREAS**, the hereinafter described territory contains approximately 5.16 acres of land; and

**WHEREAS**, Texas Local Government Code Section 43.0671 states that a municipality may annex an area if each owner of the land in the area requests the annexation; and

**WHEREAS**, Texas Local Government Code Section 43.0672(a) states that the governing body of a municipality that elects to annex an area under Texas Local Government Code Chapter 43, Subchapter C-3, must first negotiate and enter into an agreement with the owners of the land in the area for the provision of services in the area; and

**WHEREAS**, the notice requirements of Texas Local Government Code Section 43.0673 have been met;

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

**PART 1:** That pursuant to Tyler City Code Sections 10-800 through 10-802, the Texas Local Government Code Section 43.0671 petition is hereby granted and the following described land and territories lying adjacent to and adjoining the City of Tyler, Texas, are hereby added to and annexed to the City of Tyler, Texas, and as shown on the map attached as Exhibit "A" and excluding the 0.221 Acre Tract described therein shall be included within the boundary limits of said City, and the present boundary limits of such City, at the various points contiguous to the areas being annexed, are altered and amended so as to include said areas within the corporate limits of the City of Tyler, Texas. Accordingly, the official Tyler City limits map is hereby

adjusted as described in Tyler City Code Section 10-802 and that section and map are amended to reflect this annexation.

**PART 2:** That Tyler City Code Chapter 10, "Tyler Unified Development Code", Article IV., "Subdivision Design and Improvements", Division E., "Participation and Escrow Policies", is hereby amended by amending the list of annexations in Section 10-143 to add this Ordinance Number, with no other changes.

**PART 3:** That the area so annexed shall be part of the City of Tyler, Texas, and the property so added hereby shall bear its pro rata part of the taxes levied by the City of Tyler, Texas, and the inhabitants thereof shall be entitled to all of the rights and privileges of all the citizens and shall be bound by the acts, ordinances, resolutions and regulations of the City of Tyler, Texas.

**PART 4:** That upon final passage, the annexed area shall be zoned for "C-2", General Commercial District.

**PART 5:** That the initial Land Use Designation for the annexed area is hereby established as General Commercial, and it is directed that the Land Use Guide be amended to reflect said uses.

**PART 6:** That the annexed area shall be added to the Council District #4, City Council single member district and the official Voting District Map amended accordingly.

**PART 7:** That the City Manager be authorized to sign an agreement of municipal services per Texas Local Government Code Section 43.0672.

**PART 8:** That the City Clerk shall send to the Texas Secretary of State a copy of the ordinance and statement that the annexation is not involved in any litigation.

**PART 9:** That the City Clerk shall send to the State Comptroller by certified mail a map showing new boundaries for sales tax and a certified copy of the ordinance showing the effective date of the boundary changes.

**PART 10:** That within thirty (30) days of notice of U. S. Justice Department approval of this annexation, the Planning Department, on behalf of the Mayor, shall file a certified copy of this ordinance and a copy or duplicate of the petition with the County Clerk. The Planning Department shall also file annexation information with the Smith County Appraisal District and anyone else who has requested such information.

**PART 11:** That certified notice of the Annexation shall be sent by the Legal Department to any Emergency Services District that is located within the annexed area.

**PART 12:** That this ordinance shall be in full force and effect from and after the date of its passage and approval by the City Council.

PASSED AND APPROVED THIS the 9<sup>th</sup> day of June A. D., 2021.



DONALD P. WARREN, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:



CASSANDRA BRAGER, CITY CLERK

Exhibit A = location map  
Exhibit B = property survey  
Exhibit C = owner petition  
Exhibit D = zoning map

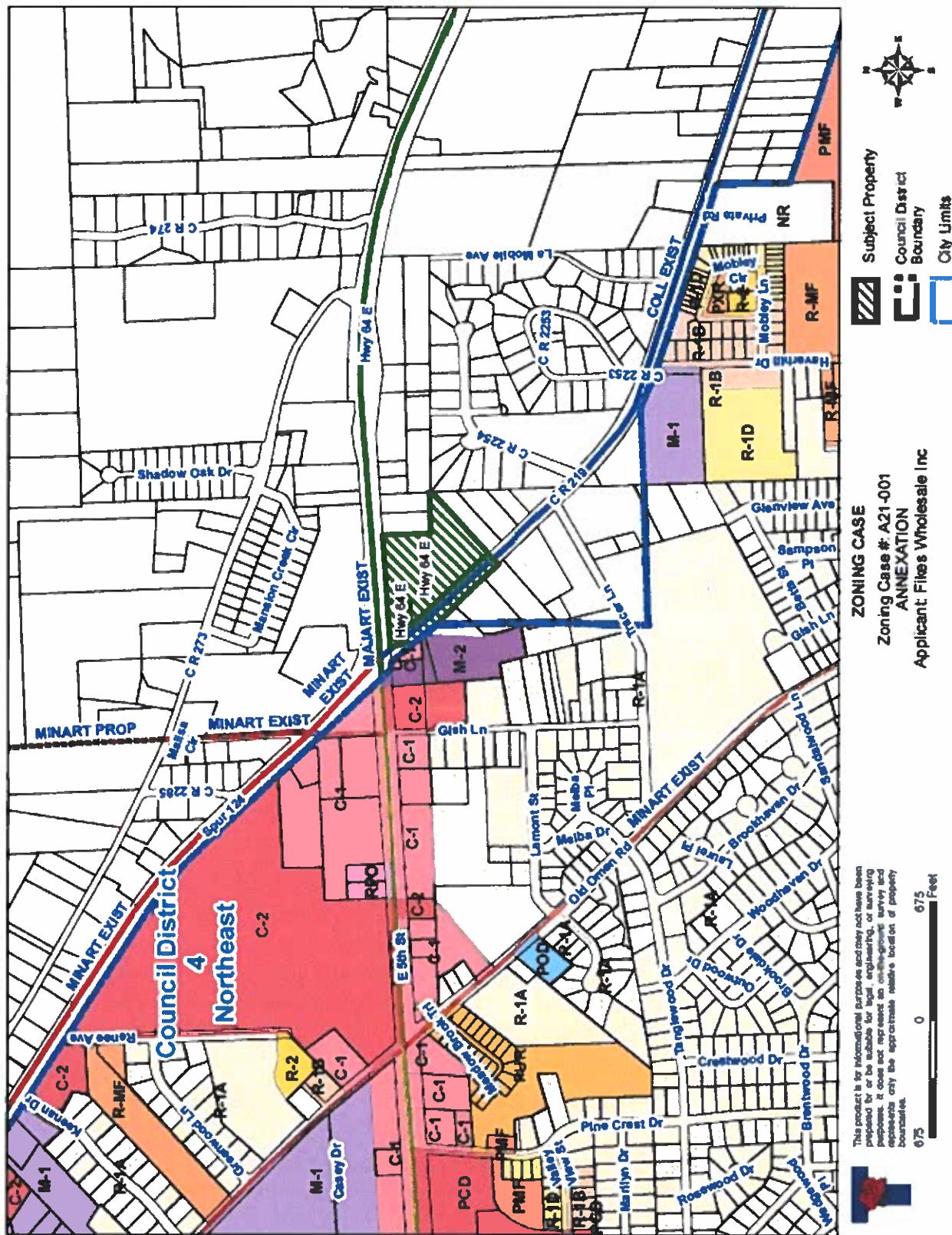
APPROVED:



DEBORAH G. PULLUM,  
CITY ATTORNEY



**ORDINANCE NO. O-2021-51  
EXHIBIT "A"  
LOCATION MAP**





**ORDINANCE NO. O-2021-51**

**EXHIBIT "B"**

**DESCRIPTION FOR 20 FEET WIDE STRIP EXCLUDED FROM ANNEXATION**

**EXHIBIT 'A'**

**Metes and Bounds Description  
0.221 Acre Tract**

All that certain tract or parcel of land situated in the J.L. Dickey Survey, Abstract 289, Smith County, Texas, and being out of and a part of that certain called 5.030 acre tract, described in a Special Warranty Deed, from Michael W. Simpson to Fikes Wholesale, Inc., dated September 23, 2019, recorded in C.F.N. 20190100032360, of the Official Public Records of Smith County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found for the southerly corner of said 5.030 acre tract, same being in the northeast right-of-way line of County Road 219;

THENCE, North 43°40'44" West, with the southwest line of said 5.030 acre tract and along said northeast right-of-way line of County Road 219, a distance of 20.00 feet to a 1/2" iron rod with a plastic cap marked BMS Surveyors set for the westerly corner of the herein described tract;

THENCE, North 46°03'16" East, across said 5.030 acre tract, a distance of 475.57 feet to a 1/2" iron rod with a plastic cap marked BMS Surveyors set for the northwest corner of the herein described tract, same being in the easterly north line of said 5.030 acre tract;

THENCE, North 85°59'57" East, a distance of 15.50 feet to a 1/2" iron rod with a plastic cap marked BMS Surveyors set for the easterly northeast corner of said 5.030 acre tract;

THENCE, South 02°27'06" East, a distance of 13.41 feet to a 1/2" iron rod found for the southeast corner of said 5.030 acre tract;

THENCE, South 46°03'16" West, a distance of 478.66 feet to the POINT OF BEGINNING and containing 0.221 acre of land.

I hereby certify that the above description was prepared from an actual survey made on the ground under my direction and supervision during the Month of October 2019. GIVEN UNDER MY HAND AND SEAL this date, 7 May 2021.

(Reference is hereby made to the plat of survey, Job No. 19-181. Bearings are based on the Texas Coordinate System, North Central Zone, NAD83 Map Datum.)

Joseph K. Pollard  
Registered Professional Land Surveyor  
Texas Registration No. 6499



ORDINANCE NO. O-2021-51  
EXHIBIT "C"  
OWNER PETITION



FORM A

REQUEST FOR ANNEXATION OF SPARSELY POPULATED AREAS  
BY THE OWNER(S) OF AREA

TO THE HONORABLE MAYOR AND GOVERNING BODY  
OF THE CITY OF TYLER, TEXAS

The undersigned owners of the hereinafter described tract of land hereby request your Honorable Body to extend the present City limits so as to include as a part of the City of Tyler, Texas, the following described territory (complete and accurate field notes must be attached), to-wit:

Being the above described area is one-half (1/2) mile or less in width and is sparsely populated, the owner(s) request that the City of Tyler, Texas, annex this area on petition of the area landowner(s), pursuant to Texas Local Government Code Section 43.028, which provides for the annexation of sparsely populated areas without the hearings and rigid time schedule required for general annexations or those annexations undertaken unilaterally by the City.

That I (we), the undersigned, hereby certify that the tract described on FORM A and attached field notes, which is the subject of this annexation petition, is located adjacent to and adjoins the existing corporate limits of the City of Tyler, Texas, that this area is one-half (1/2) mile or less in width, that this area is sparsely populated as evidenced by the list on FORM D of the qualified voters residing in the area to be annexed, and that this petition is signed and duly acknowledged by each and every individual or corporation having a proprietary interest in said land.

IN WITNESS WHEREOF, I (We), as owner(s) of real property in the area to be annexed, request annexation of this area, pursuant to Texas Local Government Code Section 43.028, by signing this annexation on the date shown below.

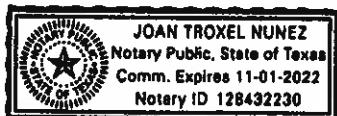
RW Smith  
SIGNATURE  
2/11/2021  
DATE

Raymond W. Smith, President  
PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF TEXAS  
COUNTY OF BELL

2021 This petition was acknowledged before me on the 11<sup>TH</sup> day of FEBRUARY,  
by RAYMOND W. SMITH.



Joan Troxel Nunez  
Notary Public  
State of TEXAS

**FORM A****REQUEST FOR ANNEXATION OF SPARSELY POPULATED AREAS**  
**BY THE OWNER(S) OF AREA**

**TO THE HONORABLE MAYOR AND GOVERNING BODY  
OF THE CITY OF TYLER, TEXAS**

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That I (we), the undersigned, hereby certify that the tract described on FORM A and attached field notes, which is the subject of this annexation petition, is located adjacent to and adjoins the existing corporate limits of the City of Tyler, Texas, that this area is one-half (1/2) mile or less in width, that this area is sparsely populated as evidenced by the list on FORM D of the qualified voters residing in the area to be annexed, and that this petition is signed and duly acknowledged by each and every individual or corporation having a proprietary interest in said land.

**IN WITNESS WHEREOF, I (We), as owner(s) of real property in the area to be annexed, request annexation of this area, pursuant to Texas Local Government Code Section 43.028, by signing this annexation on the date shown below.**

---

**SIGNATURE**

---

**PRINT NAME**

---

**DATE****NATIONAL RETAIL PROPERTIES, LP****a Delaware Limited Partnership****By: NNN GP Corp, a Delaware Corporation****an general partner****By: Stephen A. Horn Jr.****Name: Stephen A. Horn Jr.****Title: Executive Vice President****THE STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_****(ACKNOWLEDGMENT)**

This petition was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_,  
by \_\_\_\_\_.

*See attached***Notary Public  
State of \_\_\_\_\_**

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 9<sup>th</sup> day of February, 2021 by Stephen A. Horn, Jr. as Executive Vice President of NNN GP Corp., a Delaware corporation, as general partner of NATIONAL RETAIL PROPERTIES, LP, a Delaware limited partnership, on behalf of the partnership. He is personally known to me.

  
\_\_\_\_\_  
Notary Public - State of Florida

Print Name: Ivette Cordero  
Commission Number: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

(NOTARY SEAL)





FORM A1

That I (we), the undersigned, hereby certify that the tract described on FORM A, which is the subject of this annexation petition, is located adjacent to and adjoins the existing corporate limits of the City of Tyler, Texas, that this area is one-half (1/2) mile or less in width, that this area is sparsely populated as evidenced by the list on FORM D of the qualified voters residing in the area to be annexed, and that this petition is signed and duly acknowledged by each and every individual or corporation having a proprietary interest in said land.

IN WITNESS WHEREOF, I (We), as owner(s) of real property in the area to be annexed, request annexation of this area, pursuant to Texas Local Government Code Section 43.028, by signing this annexation on the date shown below.

RW Smith  
SIGNATURE  
2/11/2021  
DATE

Raymond W. Smith, President  
PRINT NAME

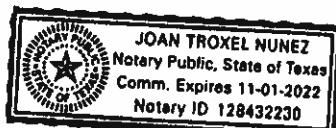
SIGNATURE  
DATE

PRINT NAME

(ACKNOWLEDGMENT)

THE STATE OF TEXAS  
COUNTY OF BELL

2021 This petition was acknowledged before me on the 11TH day of FEBRUARY,  
by RAYMOND W. SMITH



(ACKNOWLEDGMENT)

THE STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

This petition was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_,  
by \_\_\_\_\_.

Notary Public  
State of \_\_\_\_\_



FORM A1

That I (we), the undersigned, hereby certify that the tract described on FORM A, which is the subject of this annexation petition, is located adjacent to and adjoins the existing corporate limits of the City of Tyler, Texas, that this area is one-half (1/2) mile or less in width, that this area is sparsely populated as evidenced by the list on FORM D of the qualified voters residing in the area to be annexed, and that this petition is signed and duly acknowledged by each and every individual or corporation having a proprietary interest in said land.

IN WITNESS WHEREOF, I (We), as owner(s) of real property in the area to be annexed, request annexation of this area, pursuant to Texas Local Government Code Section 43.028, by signing this annexation on the date shown below.

SIGNATURE

PRINT NAME

DATE

SIGNATURE

PRINT NAME

DATE

(ACKNOWLEDGMENT)

jc  
BS  
NATIONAL RETAIL PROPERTIES, LP  
a Delaware Limited Partnership  
By: NNN GP Corp., a Delaware Corporation  
as general partner  
By: Stephen A. Horn, Jr.  
Name: Stephen A. Horn, Jr.  
Title: Executive Vice President

THE STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

This petition was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_,  
by \_\_\_\_\_

*See attached.*

Notary Public  
State of \_\_\_\_\_

(ACKNOWLEDGMENT)

THE STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

This petition was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_,  
by \_\_\_\_\_

Notary Public  
State of \_\_\_\_\_

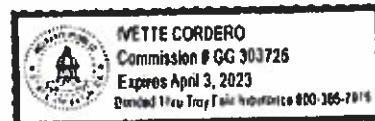
STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 9<sup>th</sup> day of February, 2021 by Stephen A. Horn, Jr. as Executive Vice President of NNN GP Corp., a Delaware corporation, as general partner of NATIONAL RETAIL PROPERTIES, LP, a Delaware limited partnership, on behalf of the partnership. He is personally known to me.

  
\_\_\_\_\_  
Notary Public - State of Florida

Print Name: Ivette Cordero  
Commission Number: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

(NOTARY SEAL)





**FORM B**

**APPLICANT'S SUPPORT INFORMATION FOR ANNEXATION REQUEST**

Applicants should submit the following information in support of their petition for annexation. This information will be utilized by the staff in preparing comments for the Planning and Zoning Commission and City Council, and in responding to citizens' inquiries.

1. I (We) propose to utilize this property for the following purpose(s):

Convenience Store

2. I (We) am/are requesting this annexation for the following reason(s):

The ability to sell beer and wine for off premise consumption

3. State present use and condition of property and/or structures:

Convenience Store

4. What is the location of the nearest water and sewer lines? Please indicate location on area map.  
(This information is available at the City Water Utilities Department, 511 West Locust Street)

N/A

5. Any additional information that you desire to provide concerning your annexation request:

**SIGNED:**

Owner's Telephone Number

OWNER (of property to be annexed)

OR

512-295-9817



John R. Hefner

Agent's Telephone Number

ATTENT (When applicable - See Form E)



FORM C

**LIST OWNER(S) OF ALL PROPERTY TO BE ANNEXED**

List the names and addresses of all owners of property included within the area requested by the petition to be annexed. (Please print)

NAME

MAILING ADDRESS

1. NATIONAL RETAIL PROPERTIES, LP	450 S. ORLANDO AVE., SUITE 900, ORLANDO, FL 32801
2. FIRES WHOLESALE, INC.	PO BOX 1287, TEMPLE, TX 76503
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
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20.	



FORM D

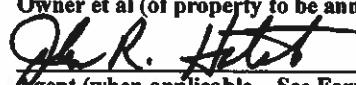
**LIST OF NAMES OF ALL QUALIFIED VOTERS RESIDING IN THE AREA**

In order for an area to qualify for annexation under Texas Local Government Code Section 43.028, the area must be vacant or without residents, or on which fewer than three (3) qualified voters reside.

List the names, age and address of all qualified voters residing within the area requested to be annexed by this petition. For purposes of this annexation request, a qualified voter is an individual of legal age in the State of Texas, 18 years or older, which meets the residency requirements and is therefor qualified to register to vote.

<u>NAME AND AGE</u>	<u>MAILING ADDRESS</u>
1. <u>None</u>	<u>N/A</u>
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

SIGNED:

Owner et al (of property to be annexed)  
  
Agent (when applicable – See Form E)



FORM E

AUTHORIZATION OF AGENT

I (We), the undersigned, being owners of real property to be annexed according to this Application, do hereby authorize (print name and address of agent) John Hatch  
1766 FM 867, Suite C, Buda, TX 78610 to act as our Agent in the matter of this annexation. The term "agent" shall mean any lessee, developer, option holder, or other authorized individual who is authorized to act in behalf of the owner(s) of said property to be annexed.

(Form to be signed below by all owners of property to be annexed.)

1. SIGNATURE	MAILING ADDRESS
<u>R. Womouth</u>	<u>P.O. Box 1297, Temple, TX 76503</u>
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____
11. _____	_____
12. _____	_____
13. _____	_____
14. _____	_____
15. _____	_____

(This form is necessary only when the person representing this request does not own any of the property to be annexed. Person must also sign Forms B & G as "Agent".)



FORM E

AUTHORIZATION OF AGENT

I (We), the undersigned, being owners of real property to be annexed according to this Application, do hereby authorize (print name and address of agent) John Hatch  
1788 FM 987, Suite C, Suda, TX 75810 to act as our Agent in the matter of this annexation. The term "agent" shall mean any lessee, developer, option holder, or other authorized individual who is authorized to act in behalf of the owner(s) of said property to be annexed.

(Form to be signed below by all owners of property to be annexed.)

SIGNATURE

MAILING ADDRESS

1.	_____	
2.	<u>NATIONAL RETAIL PROPERTIES, LP</u> <i>je</i> a Delaware Limited Partnership By: MNN GP Corp, a Delaware Corporation as general partner	<u>450 S. Orange Avenue, Suite 900</u> <u>Orlando, FL 32801</u>
3.	_____	_____
4.	<u>By: Stephen A. Horn, Jr.</u> Name: <u>Stephen A. Horn, Jr.</u> Title: <u>Executive Vice President</u>	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
12.	_____	_____
13.	_____	_____
14.	_____	_____
15.	_____	_____

(This form is necessary only when the person representing this request does not own any of the property to be annexed. Person must also sign Forms B & G as "Agent".)



FORM G

**PETITION FOR ORIGINAL ZONING OF THE AREA TO BE ANNEXED**

Before the City Planning and Zoning Commission and the City Council  
of the City of Tyler, Texas

The undersigned, as owner(s) or agent for the owner(s) of the area to be annexed, hereby makes application for the original zoning of the area to be annexed (insert zoning classification desired) C2. If more than one zoning classification is requested for the area, please indicate on the area map what zoning classification is requested for each portion. Complete and accurate field notes are required delineating the different zones requested.

For the property owner which does not request original zoning, the Planning and Zoning Commission as part of its recommendation for approval of this annexation will recommend a zoning classification(s) for the area to be annexed.

Wherefore, the owner(s) request that the Planning and Zoning Commission consider the original zoning requested, and that the Planning and Zoning Commission recommend this zoning to the City Council of the City of Tyler, Texas for adoption.\*

PROPERTY OWNERS' SIGNATURES

R. Smith, President  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

John L. Hester  
Agent (When Applicable – See Form E)

\* The Planning and Zoning Commission in recommending this annexation, and the City Council in approving the annexation, are not obligated to also approve the original zoning requested by the property owner(s). All land contained within the corporate limits of the City of Tyler must be zoned, and the Planning and Zoning Commission and the City Council will endeavor to approve original zoning for the area to be annexed as requested by the property owner(s) if such zoning is appropriate for the existing or likely use of the property to be annexed, and is compatible with current zoning and existing development in that section of the City for which the annexed area will become a part.



**FORM G**

**PETITION FOR ORIGINAL ZONING OF THE AREA TO BE ANNEXED**

**Before the City Planning and Zoning Commission and the City Council  
of the City of Tyler, Texas**

The undersigned, as owner(s) or agent for the owner(s) of the area to be annexed, hereby makes application for the original zoning of the area to be annexed (insert zoning classification desired) C2. If more than one zoning classification is requested for the area, please indicate on the area map what zoning classification is requested for each portion. Complete and accurate field notes are required delineating the different zones requested.

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Wherefore, the owner(s) request that the Planning and Zoning Commission consider the original zoning requested, and that the Planning and Zoning Commission recommend this zoning to the City Council of the City of Tyler, Texas for adoption.\*

**PROPERTY OWNERS' SIGNATURES**

NATIONAL RETAIL PROPERTIES, L.P.

By: MWH GP Corp., a Delaware Corporation

THE GREEK POET

Name Stephen A. Horn, Jr.  
Title Executive Vice President

John Helas  
Agent (When Applicable - See B)

**Agent (When Applicable – See Form E)**

\* The Planning and Zoning Commission in recommending this annexation, and the City Council in approving the annexation, are not obligated to also approve the original zoning requested by the property owner(s). All land contained within the corporate limits of the City of Tyler must be zoned, and the Planning and Zoning Commission and the City Council will endeavor to approve original zoning for the area to be annexed as requested by the property owner(s) if such zoning is appropriate for the existing or likely use of the property to be annexed, and is compatible with current zoning and existing development in that section of the City for which the annexed area will become a part.

**ORDINANCE NO. O-2021-51  
EXHIBIT "D"  
ZONING MAP**

