

**CITY COMMISSION  
AGENDA  
REGULAR MEETING  
OCTOBER 21, 2024  
@ 5:30 PM  
HARLINGEN CONVENTION CENTER  
701 HARLINGEN HEIGHTS DR  
HARLINGEN, TX**

Notice is hereby given that the City Commission of the City of Harlingen, Texas will hold a Regular Meeting on **MONDAY, OCTOBER 21, 2024 at 5:30 P.M.** at Harlingen Convention Center, 701 Harlingen Heights Dr., Harlingen, Texas and provide the public the ability to view the meeting via internet live-streaming at [www.harlingentx.gov](http://www.harlingentx.gov) and the City of Harlingen YouTube Page.

The public will be permitted to offer citizen communication or participate in items listed as public hearings as provided by the agenda and as permitted by the presiding officer during the meeting.

**To offer citizen communication or participate in scheduled public hearings, go to [www.harlingentx.gov](http://www.harlingentx.gov) and click on "PUBLIC HEARING AND CITIZEN COMMUNICATION FORM." Fill out the form and indicate the item you wish to address, and submit the form.**

Please indicate (1) the agenda item on which you wish to speak, (2) whether you prefer to speak on the item during citizen communication or at the time the agenda item is brought for consideration before the City Commission.

**To submit written comments requesting an item for City Secretary, go to [www.harlingentx.gov](http://www.harlingentx.gov) and click on "PUBLIC HEARING AND CITIZEN COMMUNICATION FORM" write your comments (limited to 400 words or less) and submit the form.**

**PLEASE SUBMIT WRITTEN COMMENTS BEFORE 3:00 P.M. THE DAY OF THE MEETING.**

A recording of the meeting will be made and will be available to the public in accordance with the Texas Open Meetings Act.

**City of Harlingen meetings are available to all persons regardless of disability. If you require special assistance, please contact the City Secretary's Office at (956) 216-5001 or write Post Office Box 2207, Harlingen, Texas 78550 at least 48 hours in advance of the meeting.**

**The Harlingen City Commission reserves the right, pursuant to the Texas Government Code Chapter 551, Subchapter D, to enter into closed executive session on any item posted on the agenda if a matter is raised that is appropriate for closed discussion.**

- 1) **Call Meeting to Order**
  - a) Invocation- Mayor Norma Sepulveda
  - b) Pledge of Allegiance
  - c) Welcome Citizens
- 2) **Conflict of Interest**

"Under State Law, a conflict of interest exists if a commission member, or certain members of that person's family, has a qualifying financial interest in an agenda item. Members with a conflict of interest cannot participate in the discussion nor vote on the agenda item. Are there any known conflicts of interest to disclose at the time?" **(City Attorney)**
- 3) **Announcements:** *With respect to items not listed elsewhere on this agenda, the City Commission may report on items of community interest, including announcing community events, announcing employee or community recognitions.*
  - a) Mayor's Announcements
  - b) City Manager's Announcements
  - c) City Commission Member Announcements
- 4) **Proclamation/Presentation of Awards:**
  - a) Harlingen Animal Shelter- "Pet Of The Week"
- 5) **Citizen Communication:** *At this time, the public is invited to address the City Commission and speak on any matter not specifically listed for public hearing elsewhere in this agenda. Please note that the City Commission members may not respond to comments or deliberate on topics addressed.*
- 6) **Approval of Minutes:**
  - a) Regular Meeting of August 7, 2024
  - b) Regular Meeting of September 4, 2024
- 7) **Consent Agenda:** *No discussion is anticipated on any of the items in this section because they are routine business, were included in the budget adoption process, or have been previously discussed as a staff report or discussion item. These items will be considered collectively by a single vote, unless a commission member requests an item be removed from the consent agenda.*
  - a) Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a Neighborhood Services ("NS") District, for the Arroyo Mart Food Store, located at 1222 S. 1st Street, bearing a legal description of Lots 10, 11, and 12, Block 2, Lillian Bush Addition. Applicant: Edna Martinez. Attachment **(Planning & Development)**
  - b) Consideration and possible action to adopt an ordinance on second and final reading amending the City of Harlingen Code of Ordinances, Chapter 111, Zoning, Article VII, Section 111-173, Non-residential height restrictions, by requiring a Special Use Permit for buildings greater than five stories in height. Applicant: City of Harlingen. Attachment **(Planning & Development)**
  - c) Consideration and possible action to adopt an ordinance on second and final reading for a rezoning request from Non-Designated ("N") District to Residential, Single-Family ("R-1") District for a 55.90-acre tract of land out of Survey 295 Stuart Place Subdivision, located along the south side of Garrett Road, approximately 650 feet east of Altas Palmas Road. Applicant: Javier Hinojosa Engineering c/o Zarate Homes and Design, LLC. Attachment **(Planning &**



***Development)***

- d) Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District for a Stripes Convenience Store, located at 202 N. Ed Carey Drive, bearing a legal description of Lot 1, Block 1, Camino Real Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (***Planning & Development***)
- e) Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, for a Stripes Convenience Store, located at 1250 N. 77 Sunshine Strip, bearing a legal description of Lot 11 and the West ½ of Lot 12, Block 1, North Crown Heights Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (***Planning & Development***)
- f) Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, for a Stripes Convenience Store located at 1313 Haverford Boulevard, bearing a legal description of Lot 1, Haverford Place Section 1 Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (***Planning & Development***)
- g) Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption, in a General Retail ("GR") District located at the Stripes Convenience Store located at 1725 S. F Street, bearing a legal description of Lots 1 and 2, Harlingen Service Center Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (***Planning & Development***)
- h) Consideration and possible action to approve the installation of speed humps in the following locations: (***This item was requested by Commissioner Frank Morales and Mayor Pro-Tem Rene Perez***)
  - 1. 1400 Block of White Oak Dr.
  - 2. 3500 Block of W. Lamb
  - 3. North and South Hummingbird Lane
- i) Consideration and possible action to approve a resolution to accept FY-25, STEP COMP Grant Funding for \$50,000.00 from the Texas Department of Transportation (TxDOT) Comprehensive Program, with matching funds of \$12,549.09, total funds for 2024-2025 grant: \$62,549.09 and authorize the Mayor to execute the resolution. Attachment (***Police***)
- j) Consideration and possible action to approve a resolution to accept FY- 25 STEP CMV Grant Funding for \$12,000 from the Texas Department of Transportation (TxDOT) CMV Program, with matching of \$3,002.77, total funds for 2024-2025 grant: \$15,002.77 and authorize the Mayor to execute the resolution. Attachment (***Police***)
- k) Consideration and possible action to approve a resolution to accept a grant funding award of \$648,000.00 from the U.S. Department of Justice – COPS Office, FY-24 COPS Technology and Equipment Program Invitational Solicitation funds to purchase new Motorola handheld portable radios and accessories to replace the Tait Brand Radios, used by the Harlingen Police Department and authorize the Mayor to sign the resolution. Attachment. (***Police***)
- l) Consideration and possible action to approve a resolution authorizing the City Manager to accept a grant award of \$225,577 from the Texas Comptroller of Public Accounts State Energy Conservation Office for park lighting retrofits and enter into an interlocal agreement for said grant. Attachment (***Special Projects Department***)

- m) Consideration and possible action to approve a resolution authorizing the City Manager or designee to accept a grant award of \$192,732 from the U.S. Consumer Product Safety Commission for swimming classes and pool owner/operator training and enter into a cooperative agreement for said grant. Attachment (**Special Projects Department**)
  - n) Consideration and possible action to approve a resolution adopting a Grants Management Policy. Attachment (**Special Projects Department**)
  - o) Consideration and possible action to approve a resolution authorizing the City Manager to accept a grant award of \$1,383,069 from the Texas Division of Emergency Management for the 5th and 7th Streets Storm Sewer Drainage Improvements Project and enter into an agreement for said grant. Attachment (**Special Projects Department**)
  - p) Consideration and possible action to approve the Fire Service Agreements with Cameron County Emergency Services District No. 1, and Cities of Combes, Primera, and Palm Valley for Fiscal Year 2024-2025. Attachment (**Fire Dept.**)
- 8) **Staff Reports and Other Discussion Items:** *Items in this section are not expected to require action by the City Commission and are generally for information only. However, any item listed in this section may become an action item with the request of the Mayor, or after the request of any two Commission members, or the City Manager.*
- a) City Manager's Report
  - b) Staff Reports
- 9) **Public Hearings:** *At this time, the Mayor will invite members of the public who have filled out the Public Hearing and the Citizen Communication Form to address each item listed in this section. Please limit your comments to the topic of that public hearing. If more than one public hearing is being held, you will be allowed to speak during each topic, provided you have filled out the Public Hearing and Citizen Communication Form for the appropriate topic. If you are signed up for two (2) or more Public Hearings, you will be limited to 5 minutes for all topics.*
- a) Public hearing for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, located at 1826 W. Tyler Avenue, bearing a legal description of Lot 1, Block 1, Storm Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (**Planning & Development**)
  - b) Public hearing for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, located at 1837 Stuart Place Road, bearing a legal description of Lots 1 and 2, Block 1 North Star Business Center Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (**Planning & Development**)
  - c) Public hearing amending the City of Harlingen Code of Ordinances, Chapter 109, Subdivisions, Article VII, Cost Participation, Section 109-193(5), Park Land Dedication, Exemption, to add a provision which exempts non-profits that focus on affordable housing from paying park fees. Applicant: City of Harlingen. Attachment (**Planning & Development**)
- 10) **Action Items:** *City Commission will discuss, consider, and take any action deemed necessary on items listed in this section, including the adoption of a resolution or an ordinance.*
- Ordinances:**
- a) Consideration and possible action to adopt an ordinance on first reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, located at 1826 W. Tyler Avenue, bearing a legal description of Lot 1, Block 1, Storm Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (**Planning & Development**)



- b) Consideration and possible action to adopt an ordinance on first reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, located at 1837 Stuart Place Road, bearing a legal description of Lots 1 and 2, Block 1 North Star Business Center Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (**Planning & Development**)
- c) Consideration and possible action to adopt an ordinance on first reading amending the City of Harlingen Code of Ordinances, Chapter 109, Subdivisions, Article VII, Cost Participation, Section 109-193(5), Park Land Dedication, Exemption, to add a provision which exempts non-profits that focus on affordable housing from paying park fees. Applicant: City of Harlingen. Attachment (**Planning & Development**)
- d) Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit ("SUP") to allow a battery storage energy facility in a General Retail ("GR") District located along the north side of East Harrison Avenue, approximately 485 feet east of Loop 499, bearing a legal description of 2.00 acres out of the west 6.88 acres, Block 49, Palmetal Company Subdivision. Applicant: Christopher Rose on behalf of Aggreko Energy Transition Solutions. Attachment (**Planning & Development**)
- e) Consideration and possible action to adopt an ordinance on first reading for the adoption of the 2024 International Codes and the 2023 National Electrical Codes. Applicant: City of Harlingen. Attachment (**Planning & Development**)
- f) Consideration and possible action to approve the surveys for the Comprehensive Parks and Downtown Master Plans. Attachment (**Planning & Development**)
- g) Consideration and possible action to approve the Harlingen Animal Shelter to close on Sundays to the public. Attachment (**Health Dept**)
- h) Presentation by Maricela Alvarado and Adrian Galvan and consideration to purchase challenge coin to present to City Veteran Employees. (**Veterans Advisory Board**)
- i) Consideration of a discussion regarding the possible future adoption of a zoning ordinance amendment that would establish a minimum 2-mile distance requirement for proposed new car washes from existing car washes due to drought conditions. Applicant: City of Harlingen. Attachment (**Mayor**)
- j) Consideration and possible action to allocate \$1,000,000 from the HOT Fund Balance for the Casa Del Sol Renovation Project. Attachment (**This item was tabled at the Regular City Commission Meeting of September 18, 2024**)(**City Manager**)

11) **Board Appointments:**

*Specifically, appointment or discussion and possible action to include appointment and/or removal of any position subject to appointment or removal by statute, ordinance, or bylaws.*

Airport

Animal Shelter Advisory Committee (1)

Audit Committee (Terms expire in June)

Charter Review Committee (Ad Hoc)

Civil Service Commission

Community Development Advisory Board (2)

Construction Board of Adjustments (4)

Convention & Visitors Bureau (1)

Development Corporation of Harlingen, Inc.

Downtown Improvement Board

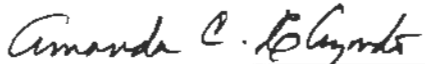
Golf Course Advisory Board

Harlingen Community Improvement Board  
Harlingen Housing Authority Board  
Harlingen Finance Corporation (6)  
Harlingen Teen and Young Adult Advisory Board (2)  
Healthy Harlingen Advisory Board  
Keep Harlingen Beautiful Board  
Library Advisory Board  
Mayor Wellness Council  
Museum Advisory Board (2)  
Parks Advisory Board  
Planning & Zoning Advisory Board  
Senior Citizens Advisory Board (1)  
Small Business Committee  
Tax Increment Finance Board  
Utility Board of Trustees  
Veterans Advisory Board  
Zoning Board of Adjustment (2)

- 12) **Executive Session:** *All items listed in this section will be deliberated in a closed session. Members of the public are not generally permitted to attend a closed session. Executive Session items may be considered as an action item at the discretion of the Mayor. However, City Commission will not take any action in closed session.*
- 13) **Action on Executive Session Items:** *The City Commission will reconvene in open session and may take action on any item listed in the Executive Session Section of this agenda.*
- 14) **Adjournment:**

I, the undersigned authority, do hereby certify that the above Notice of the Regular Meeting of the Harlingen City Commission is a true and correct copy of said notice posted on the bulletin board at City Hall of said City of Harlingen, Texas in a place convenient and readily accessible to the general public at all times and on the City's Internet Website and said Notice was posted on **FRIDAY, OCTOBER 18, 2024** at or before 11:45 a.m. and remained so posted for at least 72 hours preceding the time of said meeting.

Dated this 18th day of October, 2024

  
Amanda C. Elizondo, City Secretary

REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

A Regular Meeting of the Harlingen City Commission was held August 7, 2024, at 5:30 p.m., at City Hall, Town Hall Meeting Room, 118 E. Tyler, Harlingen, Texas, and providing the public the ability to view the meeting via the Internet, live streaming and permitting the public to offer citizen communication or participate in items listed on the agenda via videoconferencing or telephonically via [www.myharlingen.us](http://www.myharlingen.us) Those in attendance were:

Mayor and Commissioners

Mayor Norma Sepulveda

Mayor Pro-Tem Rene Perez

Ford Kinsley Commissioner District 1

Daniel N. Lopez, Commissioner District 2

Michael Mezmar, Commissioner District 3

Frank Morales, Commissioner District 4

City Staff

Gabriel Gonzalez, City Manager

Amanda C. Elizondo, City Secretary

Mark Sossi, City Attorney

Mayor Sepulveda called the meeting to order, announced that a quorum had been established, and stated that the meeting had been duly posted according to state law. The following proceedings were held:

1) **Call Meeting to Order**

a) Invocation – Mayor Sepulveda

b) Pledge of Allegiance –

c) Welcome Citizens – Mayor Sepulveda welcomed the citizens to the meeting.

2) **Conflict of Interest**

"Under State Law, a conflict of interest exists if a council member, or certain members of that person's family, has a qualifying financial interest in an agenda item. Members with a conflict of interest cannot participate in the discussion nor vote on the agenda item. Are there any known conflicts of interest to disclose at this time?"

Mark Sossi, City Attorney, read the conflict of interest and asked the Mayor and City Commissioners if they had a conflict on any item on the agenda.

Commissioner Lopez abstained from voting on a portion of Item 10 (f) regarding the Election services contract with the Cameron County Elections Department.

3) **Announcements:**

a) **Mayor's Announcements** – None

b) **City Manager's Announcements**

Mr. Gabriel Gonzalez noted that the Margarita Festival was canceled and rescheduled for Saturday, August 10, 2024, from 5:00 p.m. to 10:00 p.m. at Lon C. Hill Park. The renovations for the Downtown Improvement District Building were completed, and a ribbon-cutting ceremony is scheduled for Thursday, August 15, 2024, from 2:00 p.m. to 2:30 p.m. The public is invited to attend.



c) City Commission Member Announcements – None.

4) **Proclamation/Presentation of Awards:**

a) Presentation of Award - T.A.A.F. Texas Athletic Amateur Federation program Summer "Games of Texas" July 25 – 27, 2024, in Brownsville, Texas, at the Brownsville Veterans Memorial High School.

Javier Mendez, Parks and Recreation Director, introduced Ramon Ortega, Head Coach, and Lupe Gonzalez, Athletic Supervisor. The participants were students from various elementary and high schools in Cameron County.

- Miranda De La Rosa (Girls 10 and under) won the 1500-meter run; and placed 2<sup>nd</sup> in the (800-meter run).
- Hanna Rendon (Girls 18 and under) - won 2<sup>nd</sup> place in the pole vault.
- Josiah Galvan (Boys 14 and under) - won 1<sup>st</sup> place in the pole vault.
- Jonathan Wendorf (Boys 16 and under) - won 3<sup>rd</sup> place in the 100-meter dash.

Mr. Mendez also noted that there were a few students unable to attend:

- Mia Cerda (Girls 18 and under) – placed 2<sup>nd</sup> in the 3200-meter run.
- Delilah Martinez (Girls 16 and under) - placed 2<sup>nd</sup> in the 800-meter run.
- Noah Silvestro (Boys 16 and under) – placed 3<sup>rd</sup> in the pole vault. We want to congratulate all those who participated and those who won medals.

b) Presentation of Award-Harlingen High School South "Hawks" Speech & Debate Team Tournament Champions held in De Moines, Iowa, June 2024.

Eddie Cavazos, Director of Theater and Speech at Harlingen High School South, was recognized as one of the top 20 programs in the country and the largest interscholastic tournament of its kind. All the students placed in the top 8 and above.

- C.J. Heiskell placed 8<sup>th</sup> place in Poetry
- Adriana Rodriguez placed 3<sup>rd</sup> in Dramatic Interpretation
- (both C.J. and Adriana) - named National Champions in Duo Interpretation - two years ago
- Sadie Jensen (recent graduate) was named National Champion in Prose Reading/Storytelling
- Carla Rivera - National Champion in Dramatic Interpretation
- George Matthew Gutierrez - National Champion in Humorous Interpretation.

Mr. Cavazos noted that their program garnered four unprecedented National Championships, which had never been done at the National Speech and Debate Association. We are proud of the students representing our school, program, and the Rio Grande Valley.

c) Presentation of Proclamation recognizing the South Texas Emergency Care Foundation, d/b/a Harlingen Emergency Medical Service.

Rene Perez, Director of Patient Transport Services, stated that this recognition is for their service to the citizens of Texas during Hurricane Beryl. The initial time frame for assisting in Houston was three to five days, which turned out to be ten. These deployments are typical, but they were hectic once they arrived, as 50 EMS calls were pending. We appreciate the City of Harlingen and the Commission for recognizing Christopher Mendoza and Josue Horna, who volunteered their services to those in need.

5. **Citizen Communication:**

- Raymond Reyes – 706 Nantucket Dr. Harlingen, TX – Overview of City Progress
- Robert Leftwich – 909 E. Parkwood Dr. Harlingen, TX – City of Harlingen

6. **Approval of Minutes:**



a) Regular Meeting of June 5, 2024

Motion was made by Commissioner Kinsley and seconded by Mayor Pro-Tem Perez to approve the Minutes of the June 5, 2024, Regular Meeting. Motion carried unanimously.

7. Consent Agenda:

a) Consideration and possible action to approve a request from St. Anthony Catholic Church to close the following streets, Friday, November 1, and Sunday, November 3, 2024, from 5:00 p.m. to 11:59 p.m. for their Annual Fall Festival.

- . South and Eastside Intersections of 10<sup>th</sup> Street and Van Buren Avenue
- . Alleyway at 200 Block of South 10<sup>th</sup> Street
- . Northside Intersection of 10<sup>th</sup> Street and Harrison Avenue
- . Westside Intersection of 11<sup>th</sup> Street and Van Buren Avenue

b) Consideration and possible action to approve a request from Robert L. Davies, Harlingen Consolidated Independent School District Athletic Director, to close the following streets for their Annual 2024 Football Games.

- . North 13<sup>th</sup> Street between East Jefferson and Harrison Avenue
- . Intersection of 12<sup>th</sup> Street and East Monroe and Van Buren Avenue
- . All alleyways leading to North 13<sup>th</sup> Street.

c) Consideration and possible action to approve a request from the Downtown Director to close Jackson Avenue between Commerce Avenue and 4<sup>th</sup> Street (alleyway to alleyway) for the Annual Jackson Street Classic Car Show, Saturday, October 12, 2024, from 7:00 a.m. to 3:00 p.m.

d) Consideration and possible action to adopt an ordinance on the second and final reading amending the City of Harlingen One Vision One Harlingen Comprehensive Plan by changing the designation of the Future Land Use Plan from Industrial to Low-Density Residential for a 73.69-acre tract of land, more or less, out of and forming a part of Blocks 28, 36 and 37, Palmetal Subdivision, located along the south side of Grimes Avenue approximately 6,500 feet East of Loop 499. Applicant: Francisco Arriaga.

ORDINANCE NO. 24-35

AN ORDINANCE AMENDING THE CITY OF HARLINGEN ONE VISION ONE HARLINGEN COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION OF THE FUTURE LAND USE PLAN FROM INDUSTRIAL TO LOW-DENSITY RESIDENTIAL FOR A 73.69-ACRE TRACT OF LAND, MORE OR LESS OUT OF AND FORMING A PART OF BLOCKS 28, 36, AND 37, PALMETAL SUBDIVISION, LOCATED ALONG THE SOUTH SIDE OF GRIMES AVENUE APPROXIMATELY 6,500 FEET EAST OF LOOP 499; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading this the 17<sup>th</sup> day of July 2024

PASSED AND APPROVED on the second and final reading this the 7<sup>th</sup> day of August 2024.

ATTEST:

/s/ Amanda C. Elizondo, City Secretary

CITY OF HARLINGEN

/s/Norma Sepulveda, Mayor

e) Consideration and possible action to adopt an ordinance on the second and final reading for a rezoning request from Residential, Multi-Family ("M-2") District and General Retail ("GR") District to Planned Development ("PD") District for townhome lots with a zero-foot side setback for all the lots in the Reserve Subdivision, located along the north side of North Business 77 Sunshine Strip, approximately 293 feet west of G Street. Applicant: Moore Land Surveying c/o MooVan, LLC.

ORDINANCE NO. 24-36

AN ORDINANCE AMENDING THE CODE OF ORDINANCES (ORDINANCE NO. 16-8) OF THE CITY OF HARLINGEN TO:



REZONE FROM RESIDENTIAL, MULTI-FAMILY ("M-2") DISTRICT  
DISTRICT AND GENERAL RETAIL ("GR") DISTRICT TO PLANNED  
PLANNED DEVELOPMENT ("PD") DISTRICT FOR TOWNHOME  
LOTS WITH A ZERO-FOOT SIDE SETBACK FOR ALL THE LOTS IN  
LOTS IN THE RESERVE SUBDIVISION, LOCATED ALONG THE  
NORTH SIDE OF NORTH BUSINESS 77 SUNSHINE STRIP,  
APPROXIMATELY 293 FEET WEST OF G STREET PROVIDING  
FOR PUBLICATION AND ORDAINING OTHER MATTERS  
RELATED TO THE FOREGOING

PASSED AND APPROVED on first reading this the 17<sup>th</sup> day of July 2024  
PASSED AND APPROVED on the second and final reading this the 7<sup>th</sup> day of August 2024.

ATTEST: CITY OF HARLINGEN  
/s/ Amanda C. Elizondo, City Secretary /s/ Norma Sepulveda, Mayor

- f) Consideration and Possible action to approve a resolution authorizing the sale of real property located within blocks 72, 73, 92, and a 60-foot road, Airfield Addition, Cameron County Texas to TSTC for One Million, Nine Hundred Fourteen Thousand, Five Hundred Fifty Dollars and no 100s (\$1,914,550.00).

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Perez to approve Consent Agenda Items 7 (a though f). Motion carried unanimously.

8) Staff Reports and Other Discussion Items:

- a) City Manager's Report - None  
b) Staff Reports – Robert Rodriguez (Finance Director) – Review of City of Harlingen's Investment Report Quarter ending June 30, 2024.

Robert Rodriguez, Finance Director, highlighted the Investment Report for April 1 through June 30, 2024, which reflects a book value of \$81,485,244.00 and Interest Earnings of \$957,112.67. Net Amortization/Accretion was \$122,170.87. Net Income for this quarter was \$1,079,283.54. Fiscal Year-to-Date: \$3,236,571.76. The portfolio rate is 5.266%; Asset Allocation: Bank Deposits 3.65%, Local Government Investment Pool 78.19% and US Treasury 18.16%. The Rating Distribution: Local Government Investment Pools and Money Market Funds - \$63,712,078.02, Demand Deposits: \$2,971,826.81, Long Term Rating Distribution \$14,801,339.59. Benchmark Comparison for July 2022 was 1.37%, ending June 30, 2024 at 5.27%.

- c) Presentation by John Percy regarding Harlingen Architectural History.

John Percy, Principal Architect with Megamorphosis, Inc., stated that most people who grew up in Harlingen need help understanding this heritage or have little appreciation for it. The cutting-edge architectural designs of the 50s and 60s, including the Casa Del Sol by the famous architect Alan Yamato Taniguchi, continue to draw design fans from all over. Sixty (60) people visited Harlingen's mid-century landmarks from Houston. In September, another group of 50 to 60 architects from all over Texas will visit Harlingen.

- d) Presentation by Linebarger Goggan Blair & Sampson, LLP

Monica Solis, with Linebarger Googan Blair & Sampson, LLP, stated that the Delinquent Tax Collection Report is from October 1, 2022, to June 30, 2024. We reach property owners and taxpayers through a mailing process and outbound calls and try leaving the litigation process of filing a suit on behalf of the delinquent tax collection owed to the City of Harlingen as a last resort. Pre-litigation activities include mailings of (14,684), business visits and warrants (83), research and title (311), and payment agreements (172). Litigation Activities include lawsuits filed (298), Dismissals/releases (204), judgments (99), and pending lawsuits (199).

Jeffrey Garcia, Managing Partner, highlighted the Fees and Fines Collection Report for the Municipal Court. We have dedicated Offices in Brownsville (3) attorneys and (27) full-time employees), San Antonio Call Center (over 100 bilingual/multilingual collectors), and San Antonio IT Headquarters (over 175 Information and Technology Staff). Collections Process – The client approves all communications;



all letters are in English and Spanish, and customers are provided with information on due process rights. Since April 2008, on behalf of the City of Harlingen, 264,462 letters were mailed, 637,132 outbound calls, 24,577 inbound calls, and 59,466 address/phone updates. Collection Disposition Summary: 134,141 citations were assigned, 83,312 citations were adjusted, 42,643 citations were collected, and 107,706 citations were resolved. In 2024, delinquent fees and fines were collected for the City of Harlingen, a total of \$12,710,637, and \$34 million dollars resolved (76% resolution rate).

9) **Public Hearings:**

Mayor Sepulveda announced that Item 9 (a through c) were public hearings, and anyone wishing to speak for or against them could do so.

- a) Public hearing for a rezoning request from Light Industry ("LI") District and Office ("O") District to General Retail ("GR") District for a property located along the south side of E. Grimes Avenue, approximately 80 ft. east of N. 28<sup>th</sup> Street, bearing a legal description of Lot 1, Skyline Phase-II RGVCU Subdivision. Applicant: Andy Vigstol c/o Jose Sanchez.

. None for Item 9 (a), Mayor Sepulveda closed the public hearing.

- b) Public hearing for a rezoning request from Light Industry ("LI") District to General Retail ("GR") District for 10.13 acres of land out of Block 19, Cunninghams Subdivision, located at the southeast corner of Primera Road and I69 (E) (Expressway 77) Frontage Road Applicant: Moore Land Surveying, LLC c/o CJE Construction.

. None for Item 9 (b), Mayor Sepulveda closed the public hearing.

- c) Public hearing for a rezoning request from Residential, Single Family ("R-1") District to Neighborhood Services ("NS") District for 8.77 acres of land out of Blocks 43 & 44, Dixieland Heights No. 1 Subdivision, located at the southwest corner of Dixieland and Garrett Roads. Applicant: Moore Land Surveying, LLC c/o CJE Construction.

. Herman Montemayor, 2501 Garrett Rd, Harlingen, TX, expressed concern that the proposed subdivision was for apartments rather than single-family homes.

There being no further comments from the public, Mayor Sepulveda closed the public hearing.

10) **Action Items: Ordinances**

- a) Consideration and possible action to adopt an ordinance on first reading for a rezoning request from Light Industry ("LI") District and Office ("O") District to General Retail ("GR") District for a property located along the south side of E. Grimes Avenue, approximately 80 ft. East of N. 28<sup>th</sup> Street, bearing a legal description of Lot 1, Skyline Phase II RGVCU Subdivision. Applicant: Andy Vigstol c/o Jose Sanchez.

Xavier Cervantez, Planning and Zoning Director stated that this request was changed from industrial rezoning to a proposed apartment complex. There was no opposition to this item, and the Planning and Zoning Commission approved it unanimously.

Motion was made by Commissioner Mezmar and seconded by Commissioner Kinsley to adopt the ordinance on first reading for a rezoning request from Light Industry ("LI") District and Office ("O") District to General Retail ("GR") District for a property located along the south side of E. Grimes Avenue, approximately 80 ft. East of N. 28<sup>th</sup> Street, bearing a legal description of Lot 1, Skyline Phase II RGVCU Subdivision. Motion carried unanimously.

- b) Consideration and possible action to adopt an ordinance on first reading for a rezoning request from Light Industry ("LI") District to General Retail ("GR") District for 10.13 acres of land out of Block 19, Cunninghams Subdivision, located at the southeast corner of Primera Road and I-69 (E) (Expressway 77) Frontage Road. Applicant: Moore Land Surveying, LLC c/o CJE Construction.

Mr. Cervantes stated this request was changed from Industrial to General Retail District, located at the corner of Expressway 83 and Primera Rd. The property is vacant, and there is a proposed



commercial development survey; the comprehensive plan calls for an industrial development, and this intersection is prime for commercial development.

Motion was made by Commissioner Lopez and seconded by Commissioner Kinsley to adopt the ordinance on first reading for a rezoning request from Light Industry ("LI") District to General Retail ("GR") District for 10.13 acres of land out of Block 19, Cunninghams Subdivision, located at the southeast corner of Primera Road and I-69 (E) (Expressway 77) Frontage Road. Motion carried unanimously.

- c) Consideration and possible action to adopt an ordinance on first reading for a rezoning request from Residential, Single Family ("R-1") District to Neighborhood Services ("NS") District for 8.77 acres of land out of Blocks 43 & 44, Dixieland Heights No. 1 Subdivision, located at the southwest corner of Dixieland and Garrett Roads. Applicant: Moore Land Surveying, LLC c/o CJE Construction.

Mr. Cervantes stated that this property is located at the southwest corner of Garrett and Dixieland Road; while Neighborhood Services District is rare, it is intended to be commercial for a bakery, barber shop, or any business that caters to the neighborhood. Dixieland Road is a four-lane roadway, and staff believes the property is conducive to commercial development. We received a petition consisting of 22 signatures against the development, but staff received the petition a day after the Planning & Zoning Commission Meeting, and staff still needs to review it. No one showed up to speak for or against this item. The Planning & Zoning Commission unanimously approved this item. Some people who signed the petition were within the 200 ft., and some were outside the 200 ft. Staff received 39% response from the notification area. Therefore, this rezoning will require a super-majority vote of the City Commission.

Motion was made by Commissioner Mezmar and seconded by Commissioner Morales to adopt the ordinance on first reading for a rezoning request from Residential, Single Family ("R-1") District to Neighborhood Services ("NS") District for 8.77 acres of land out of Blocks 43 & 44, Dixieland Heights No. 1 Subdivision, located at the southwest corner of Dixieland and Garrett Roads. Motion carried unanimously.

- d) Consideration and possible action to adopt an ordinance on first reading to abandon and vacate the West five (5) feet of landscape easement being 483.74 square feet of land out of Lot 42, Block 1, Villas at Palm Valley Subdivision, located at 6301 El Camino Real Street. Applicant: Carter Biel.

Mr. Cervantes stated that this is a landscape easement affecting the construction of a house; it is not needed, and the Engineering Department approved this item.

Motion was made by Commissioner Kinsley and seconded by Commissioner Lopez to adopt the ordinance on first reading to abandon and vacate the West five (5) feet of landscape easement being 483.74 square feet of land out of Lot 42, Block 1, Villas at Palm Valley Subdivision, located at 6301 El Camino Real Street. Motion carried unanimously.

- e) Consideration and possible action to adopt an ordinance on the second and final reading for a Special Use Permit ("SUP") to allow a bar/lounge in a General Retail ("GR") District located at 1105 S. Tamm Lane, bearing a legal description of 3.4740 acres out of Block 33, Stuart Place Subdivision 139/297/298. Applicant: Karlos Esquivel.

ORDINANCE NO. 24-37

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: A SPECIAL USE PERMIT (SUP) ISSUED TO KARLOS ESQUIVEL TO ALLOW A BAR/LOUNGE IN A GENERAL RETAIL ("GR") DISTRICT LOCATED AT 1105 SOUTH TAMM LANE, BEARING A LEGAL DESCRIPTION OF 3.4740 ACRES OUT OF BLOCK 33, STUART PLACE SUBDIVISION 139/297/298, PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING

PASSED AND APPROVED on first reading this 17<sup>th</sup> day of July 2024  
PASSED AND APPROVED on the second and final reading on this 7<sup>th</sup> day of August 2024.



ATTEST:  
/s/Amanda C. Elizondo, City Secretary

City of Harlingen  
/s/Mayor Norma Sepulveda

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Perez to adopt an ordinance on second and final reading for a Special Use Permit ("SUP") to allow a bar/lounge in a General Retail ("GR") District located at 1105 S. Tamm Lane, bearing a legal description of 3.4740 acres out of Block 33, Stuart Place Subdivision 139/297/298. Motion carried unanimously.

- f) Consideration and possible action to approve an ordinance of the City of Harlingen, Texas, ordering a Special Election on proposed amendments to the Home Rule City Charter of the City of Harlingen to be held on November 5, 2024, providing for the publication and posting of notice; proposing amendments to the Home Rule City Charter of the City of Harlingen; authorizing the City Manager to execute an Election Services Contract with Cameron County Elections Department; providing for dates for early voting by personal appearance; providing for deadline for application for absentee ballot; and providing an effective date.

Remi Garza, Cameron County Elections Administrator, stated that a few things were different from how things were done in the past. They are entering into a joint election agreement with the Cameron County Commissioners Court versus contracting with me as the election's administrator to administer your election and be part of the November Presidential Election. The early voting locations will all be determined through conversations and agreements with the Commissioners Court and the City Commission. The Commissioners Court applied to participate in the Secretary of State's Countywide Polling Place Program, which consists of approximately 70 locations. Harlingen registered voters can vote during Early Voting and Election Day in any voting location within Cameron County. This change would remove the voting precinct boundaries and require the Commissioner's Court to have at least 65% of the overall voting precincts. This process changes how they allocate the cost for a polling place within the City of Harlingen. The City of Harlingen would be paying a percentage of the overall cost based on the number of precincts that the City of Harlingen has, and the cost would be lower than 50%. The Commissioner's Court adopted the locations for the November 5 Elections. Early voting will run from October 21, 2024, through November 1, 2024. The last day to apply for a ballot by mail is October 25, 2024, and the last day to register to vote is October 7, 2024.

Mark Sossi, City Attorney, stated that since the ordinance is divided into two separate sections, one is for the propositions to be submitted to the voters in the Special Election. The other ordinance is relating to the contract with the county. He suggested that the City Commission vote on the propositions separately, decide which propositions will be submitted to the voters, and vote on the ordinance.

Commissioner Lopez stated he is concerned about the unintended consequences if we approve Proposition VI (as is), which would create confusion and issues on other parts of the Charter, such as Article IV, Section V, Article V, Section II, Article V, Section V, and Article V, Section I.

Motion was made by Commissioner Morales and seconded by Commissioner Kinsley to approve the ordinance of the City of Harlingen, Texas, ordering a Special Election on the proposed amendments to the Harlingen Home Rule Charter, providing for the publication and posting of the notice. Motion carried as follows: FOR Mayor Pro-Tem Perez, Commissioners: Morales, Kinsley, Mezmar; AGAINST: Commissioner Lopez (regarding approval of the ordinance on proposed amendments) ABSTAINED: None (Vote 4-1-0)

Motion was made by Commissioner Morales and seconded by Commissioner Kinsley to authorize the City Manager to execute an Election Services Contract with Cameron County Elections Department; providing dates for early voting by personal appearance; providing deadlines for application for the absentee ballot; and providing an effective date. Motion carried as follows: FOR: Mayor Pro-Tem Perez, Commissioners: Morales, Kinsley, Mezmar; AGAINST: None; ABSTAINED: Commissioner Lopez; regarding the portion of the ordinance that relates to the contract with Cameron County Elections Department. (Vote: 4-0-1)

- g) Consideration and possible action to approve a resolution calling and ordering the November 5, 2024, City of Harlingen General Election to elect three (3) members for the position of City Commissioners for Districts 3, 4, and 5 to the Harlingen Governing Body and any other matters related to the election and authorize the City Manager to execute an election services contract with Cameron County.



Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Kinsley to approve a resolution calling and ordering November 5, 2024, City of Harlingen General Election to elect three (3) members for the position of City Commissioners for District 3, 4, and 5 to the Harlingen Governing Body and any other matters related to the election and authorize the City Manager to execute an Election Services Contract with Cameron County. Motion carried as follows: FOR: Mayor Pro-Tem Perez, Commissioners: Kinsley, Mezmar, Morales; AGAINST: None; ABSTAINED: Commissioner Lopez. (Vote: 4-0-1)

- h) Consideration and Possible action to approve a resolution to adopt the One Year Action Plan (Budget) for Fiscal Year 2024-2025 (Year 50) of the Community Development Block Grant (CDBG) Program and Fiscal Year 2024-2025 (Year 30) of the Home Investment Partnership Program (HOME).

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Morales to approve a resolution to adopt the One Year Action Plan (Budget) for Fiscal Year 2024-2025 (Year 50) of the Community Development Block Grant (CDBG) Program and Fiscal Year 2024-2025 (Year 30) of the Home Investment Partnership Program (HOME). Motion carried unanimously.

- i) Presentation by Scott Gibbs on Employee Group Life Insurance.

Mr. Gibbs made a presentation on the claims, self-funded analysis, and the renewal with United Health Care, Dental and Vision, and Life Products with Unum. The claim for this year is about 3% per employee per month. The loss ratio consists of the claims divided by the premium, which is approximately 85% loss ratio. Most carriers have about 87% loss ratio. Most of the claims are under \$10,000, and we are concerned about those above \$100,000. Currently, nine claimants are above this amount. We will continue to monitor these claims. Our recommendations are as follows:

- Renew with United Healthcare at a 5% increase for 10/01/24
  - Track claims monthly for comparison with Self-funding,
  - In March, Market the Health Plan on a Self-Funded Basis for 2025.
- Accept the Aetna Dental Renewal - +5%
- Accept the Davis Vision Renewal - 0%
- Accept the Unum Renewal - 0%

- j) Consideration and possible action to approve a renewal agreement between the City of Harlingen and United Health Care to provide Employee Group Health Insurance.

Motion was made by Commissioner Lopez and seconded by Commissioner Kinsley to approve the renewal agreement between the City of Harlingen and United Health Care to provide employee group health insurance. Motion carried unanimously.

- k) Consideration and possible action to approve a renewal agreement between the City of Harlingen and Aetna to provide Employee Group Dental Insurance.

Motion was made by Commissioner Lopez and seconded by Commissioner Mezmar to approve the renewal agreement between the City of Harlingen and Aetna to provide Employee Group Dental Insurance. Motion carried unanimously.

- l) Consideration and possible action to approve a renewal agreement between the City of Harlingen and Davis Vision to provide Employee Group Vision Insurance.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Morales to approve the renewal agreement between the City of Harlingen and Aetna to provide Employee Group Dental Insurance. Motion carried unanimously.

- m) Consideration and possible action to approve a renewal agreement between the City of Harlingen and Unum to provide Employee Group Life Insurance.



Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Lopez to approve a renewal agreement between the City of Harlingen and Unum to provide Employee Group Life Insurance. Motion carried unanimously.

- n) Motion to rescind or amend proposed Charter amendments to Article IV, Section 3 of the Harlingen City Charter to be submitted to the City of Harlingen voters on Special Election to be called on November 5, 2024. (This item was requested by Mayor Pro-Tem Rene Perez and Commissioner Daniel N. Lopez)

Commissioner Lopez stated that it was his understanding that the amendment would move the elections from May to November, and the public believed that subsequent elections would be during the governor's or presidential election. He asked the City Commission to reconsider adding an amendment/proposition to the proposal for the voters to decide if they intended to keep us at 3-year terms and every other election to be held in November or if they intend us to always be on the Presidential or Governor's Election Cycle.

Mayor Pro-Tem Perez stated that the county is providing more early voting locations so that people can vote wherever they want. If the City of Harlingen wants to ensure high voter turnout, more voters mean a better representation of what the people want. We don't want an election with 2,000 or 3,000 people making decisions for 80,000 people in Harlingen.

Remi Garza stated that word economy would be greatly appreciated when considering the propositions, as having English/Spanish on the ballots does take up space. We want to stay with whatever the City Commission approves.

Motion was made by Commissioner Lopez and seconded by Mayor Pro-Tem Perez to direct the City Attorney's guidance to draft proposed language and get factual background information on the terms. Motion carried out as follows: FOR: Mayor Pro-Tem Perez, Commissioners: Lopez, Kinsley, Mezmar; AGAINST: Commissioner Morales; ABSTAINED: None (Vote 4-1-0) and agreed to meet on Wednesday, August 12, 2024 at 7:00 p.m.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioners Lopez to reconsider Item 10 (n). Motion carried as follows: FOR: Mayor Pro-Tem Perez; Commissioners: Lopez, Kinsley, and Morales; AGAINST: Commissioner Mezmar; ABSTAINED: None (Vote: 4-1-0).

Motion was made by Mayor Pro-Tem Perez to extend the term length to four years to ensure that all city elections be held in a Presidential or Governor election to improve higher voter turnout and to keep term limits the same as they are. Motion carried as follows: FOR: Mayor Pro-Tem Perez, Commissioner Lopez; AGAINST: Commissioners Kinsley, Mezmar, and Morales; ABSTAINED: None (Vote: 2-3-0) Motion dies.

- n) Consideration and possible action to approve the City of Harlingen Investment Policy.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Lopez to approve the City of Harlingen Investment Policy. Motion carried unanimously.

- o) Consideration and possible action to approve a resolution authorizing the City Manager to sign an Advanced Funding Agreement with the Texas Department of Transportation and represent the City of Harlingen in all matters related to the Arroyo Colorado Trail Improvement Project.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Morales to approve a resolution authorizing the City Manager to sign an Advanced Funding Agreement with the Texas Department of Transportation and represent the City of Harlingen in all matters related to the Arroyo Colorado Trail Improvement Project. Motion carried unanimously.

- p) Consideration and possible action on approving a Memorandum of Understanding (MOU) with the Junior Service League of Harlingen and the City of Harlingen for Improvements at the Harlingen Public Library.

Mr. Gonzalez changed the language on the second page, in the second paragraph; the city will provide additional funds to complete the project beyond the initial gift offered by the Junior League. If the city chooses not to complete the project, all donated funds will be returned to the League. I would



like to strike out the last sentence. We will provide \$32,000 to complete the project, which will be removed from the fund balance. The Junior League will give the city \$120,000 and will offer the total price of \$152,000 combined. If the project is not completed, we will not refund the money to the Junior League; all funds will be committed to the library.

Motion was made by Commissioner Lopez and seconded by Mayor Pro-Tem Perez to approve the Memorandum of Understanding; subject to City Manager and Legal preparing language agreeable to Junior League. Motion carried unanimously.

11) **Board Appointments:**

Commissioner Mezmar appointed Michael Muniz to the Community Development Advisory Board to replace Lupita Muniz, who had resigned and removed Lorenzo Hernandez from the Convention, and Visitors Advisory Board.

Motion was made by Commissioner Morales and seconded by Commissioner Lopez to approve the Appointments of Michael Muniz to the Community Development Advisory Board to replace Lupita Muniz, who had resigned and removed Lorenzo Hernandez from the Convention and Visitors Advisory Board. Motion carried unanimously.

12) **Executive Session Items**

- a) Consultation with legal counsel pursuant to Texas Government Code 551.071 to receive a briefing from the City Attorney regarding a matter where the legal opinion is protected by the attorney-client communication privilege.

At 9:09 p.m., Mayor Sepulveda announced that the City Commission would convene into an executive session.

Motion was made by Commissioner Lopez and seconded by Commissioner Kinsley to convene into executive session. Motion carried unanimously.

13) **Action on Executive Session Items:**

At 9:18 p.m., Mayor Sepulveda announced that the city commission was out of Executive Session.

- b) Consideration and possible action on Item 12 (a) as discussed in the executive session.

No action was taken.

14) **Adjournment:**

There being no other business to discuss, Mayor Sepulveda adjourned the meeting.

City of Harlingen

ATTEST:

Norma Sepulveda, Mayor

Amanda C. Elizondo, City Secretary



REGULAR MEETING

CITY COMMISSION

HARLINGEN, TEXAS

A Regular Meeting of the Harlingen City Commission was held September 4, 2024, at 5:30 p.m., at City Hall, Town Hall Meeting Room, 118 E. Tyler, Harlingen, Texas, and providing the public the ability to view the meeting via the Internet, live streaming and permitting the public to offer citizen communication or participate in items listed on the agenda via videoconferencing or telephonically via [www.myharlingen.us](http://www.myharlingen.us) Those in attendance were:

Mayor and Commissioners

Mayor Norma Sepulveda

Mayor Pro-Tem Rene Perez

Ford Kinsley Commissioner District 1

Daniel N. Lopez, Commissioner District 2

Michael Mezmar, Commissioner District 3

Frank Morales, Commissioner District 4

City Staff

Gabriel Gonzalez, City Manager

Amanda C. Elizondo, City Secretary

Mark Sossi, City Attorney

1. Call Meeting to Order:

Mayor Sepulveda called the meeting to order, announced that a quorum had been established, and stated that the meeting had been duly posted according to state law. The following proceedings were held:

- a) Invocation – Mayor Pro-Tem Rene Perez
- b) Pledge of Allegiance – Mayor Norma Sepulveda
- c) Welcome Citizens – Mayor Norma Sepulveda

2. Conflict of Interest

"Under State Law, a conflict of interest exists if a council member, or certain members of that person's family, has a qualifying financial interest in an agenda item. Members with a conflict of interest cannot participate in the discussion nor vote on the agenda item. Are there any known conflicts of interest to disclose at this time?"

Mark Sossi, City Attorney, read the conflict of Interest and asked the Mayor and City Commissioners if they had a conflict on any item on the agenda.

Commissioner Lopez stated that he would abstain from Item 10 (m).

3. Announcements:

a) Mayor's Announcements – None:

b) City Manager's Announcements:

- Fiesta de Piñatas, scheduled for Saturday, September 14, 2024, from 5:00 p.m. to 9:00 p.m. at Gutierrez Park
- Lucha Libre, Friday, September 13, 2024, from 7:30 p.m. to 9:30 p.m., Gutierrez Park.
- He wished Commissioner Ford Kinsley a Happy Birthday.

c) City Commission Member Announcements:

- Commissioner Kinsley asked that everyone take a moment to keep the families and community of those in Georgia in our prayers - who suffered a school shooting today

Commissioner Morales agreed with Commissioner Kinsley's remarks on prayers.

**4. Proclamation/Presentation of Awards:**

a) Harlingen Animal Shelter – "Pet of the Week"

Shannon Harvill, Health Director, introduced Monty, a male Shih-Tzu/Maltese mix about 2.5 years old. He is neutered, has all his vaccines, is housebroken, and is looking for a home.

**5. Citizen Communication:**

Raymond Reyes – 706 Nantucket Dr., Harlingen, TX – Continued progress for citizens.

Robert Leftwich – 909 E. Parkwood, Harlingen, TX – Tax increase

Ruben R. Pena – 222 W. Harrison, Harlingen, TX – Wanted to thank the city commission for repairing Palm Court Blvd. and replacing the Lt. George Gutierrez sign, which had been missing for a while. He also asked for homage to Juan and Connie Salas, longtime residents of Harlingen and contributed to emphasizing the Hispanic Heritage of our community.

**6. Approval of Minutes:**

a) Regular Meeting of June 19, 2024

b) Regular Meeting of July 3, 2024

Motion was made by Commissioner Lopez and seconded by Commissioner Kinsley to approve the Regular Minutes of June 19, 2024, and July 3, 2024. Motion carried unanimously.

**7. Consent Agenda:**

- a) Consideration and possible action to approve an ordinance on second and final reading amending the City of Harlingen Code of Ordinances Chapter 109, Subdivisions, Article I, Section 109-1, Definitions, by amending the definition of a major subdivision, and removing the definition of a minor plat; Article II, Section 109-27, Variances, by adding a provision which restricts variances to subdivisions that are subject to the model subdivision rules; and Article IV, Section 109-87, General Process for a Major Plat, by removing a reference to a minor plat, and Section 109-88, Minor Plat Approval Delegation, by removing this section in its entirety from the Subdivision Chapter of the Code of Ordinances. Applicant: City of Harlingen.

**ORDINANCE NO. 24-44**

AN ORDINANCE AMENDING THE CITY OF HARLINGEN CODE OF ORDINANCES CHAPTER 109, SUBDIVISIONS, ARTICLE I, SECTION 109-1, DEFINITIONS, BY AMENDING THE DEFINITION OF A MAJOR SUBDIVISION AND REMOVING THE DEFINITION OF A MINOR PLAT, ARTICLE II, SECTION 109-27, VARIANCES, BY ADDING A PROVISION WHICH RESTRICTS VARIANCES TO SUBDIVISIONS THAT ARE SUBJECT TO THE MODEL SUBDIVISION RULES AND ARTICLE IV, SECTIONS 109-87, GENERAL PROCESS FOR A MAJOR PLAT BY REMOVING ANY REFERENCE TO A MINOR PLAT; AND SECTION 109-88, MINOR PLAT APPROVAL DELEGATION, BY REMOVING THIS SECTION IN ITS ENTIRETY FROM THE SUBDIVISION CHAPTER OF THE CODE OF ORDINANCES; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading this the 21<sup>st</sup> day of August 2024

PASSED AND APPROVED on the second and final reading this the 4<sup>th</sup> day of September 2024.

ATTEST:

/s/ Amanda C. Elizondo, City Secretary

CITY OF HARLINGEN

/s/Norma Sepulveda, Mayor

- b) Consideration and possible action to approve an ordinance on the second and final reading for a rezoning request from Not Designated ("N") District to Residential, Single-Family ("R-1") District for 3.79 acres of land out of the Briggs-Coleman Survey 28, located along the north side of Tovar Road, approximately 3,000 feet west of FM 507. Applicant: Terry-Robert Cortez.



ORDINANCE NO. 24-45

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN REZONING FROM NOT DESIGNATED ("N") DISTRICT TO RESIDENTIAL, SINGLE-FAMILY ("R-1") DISTRICT FOR 3.79 ACRES OF LAND OUT OF THE BRIGGS-COLEMAN SURVEY 28, LOCATED ALONG THE NORTH SIDE OF TOVAR ROAD APPROXIMATELY 3,000 FT. WEST OF FM 507. APPLICANT: TERRY ROBERTS-CORTEZ.

PASSED AND APPROVED on first reading this the 21<sup>st</sup> day of August 2024

PASSED AND APPROVED on the second and final reading this the 4<sup>th</sup> day of September 2024.

ATTEST:

/s/ Amanda C. Elizondo, City Secretary

CITY OF HARLINGEN

/s/Norma Sepulveda, Mayor

- c) Consideration and possible action to approve an ordinance on the second and final reading for a rezoning request from a Residential, Single-Family ("R-1") District to a Residential, Duplex ("R-2") District for a property located at 1112 W. Filmore Avenue, bearing a legal description of Lot B, Block 2, Southwest Harlingen Subdivision. Applicant: Greg Mar.

ORDINANCE NO. 24-46

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: REZONING FROM RESIDENTIAL, SINGLE-FAMILY ("R-1") DISTRICT TO RESIDENTIAL, DUPLEX ("R-2") DISTRICT FOR A PROPERTY LOCATED AT 1112 W. FILMORE AVENUE, BEARING A LEGAL DESCRIPTION OF LOT B, BLOCK 2, SOUTHWEST HARLINGEN SUBDIVISION. APPLICANT: GREG MAR.

PASSED AND APPROVED on first reading this the 21<sup>st</sup> day of August 2024

PASSED AND APPROVED on the second and final reading this the 4<sup>th</sup> day of September 2024.

ATTEST:

/s/ Amanda C. Elizondo, City Secretary

CITY OF HARLINGEN

/s/Norma Sepulveda, Mayor

- d) Consideration and possible action to approve an ordinance on second and final reading to promote Community Engagement and Accessibility through the requirement of Annual Comprehensive Town Hall, District-Specific Town Halls, and the publication of contact information for the Mayor and City Commissioners.

ORDINANCE NO. 24-61

AN ORDINANCE TO PROMOTE COMMUNITY ENGAGEMENT AND ACCESSIBILITY THROUGH THE REQUIREMENT OF ANNUAL COMPREHENSIVE TOWN HALLS, DISTRICT - SPECIFIC TOWN HALLS AND THE PUBLICATION OF CONTACT INFORMATION FOR THE MAYOR AND CITY COMMISSIONERS.

PASSED AND APPROVED on first reading this the 21<sup>st</sup> day of August 2024

PASSED AND APPROVED on the second and final reading this the 4<sup>th</sup> day of September 2024.

ATTEST:

/s/ Amanda C. Elizondo, City Secretary

CITY OF HARLINGEN

/s/Norma Sepulveda, Mayor

- e) Consideration and possible action to approve the installation of speed humps in the following locations: **(This item was requested by Commissioner Frank Morales and Commissioner Ford Kinsley)**

- 4500 Block of s. Hummingbird Ln.
- 500 Block of West Monroe
- 1200 Block of W. Lincoln
- South Palm Court between Garrett Rd. and Olive Wood Drive
- Midland Drive between Haverford Blvd. and Zoy St.

- f) Consideration and possible action to approve an ordinance on the second and final reading amending the City of Harlingen's Budget for Fiscal Year 2024.

ORDINANCE NO. 2024-38

AN ORDINANCE AMENDING THE REVENUE AND EXPENDITURE BUDGET FOR THE CITY OF HARLINGEN, TEXAS, FOR FISCAL YEAR OCTOBER 1, 2023 THROUGH SEPTEMBER 30, 2024. PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS



ORDINANCE, AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading this the 21<sup>st</sup> day of August 2024

PASSED AND APPROVED on the second and final reading this the 4<sup>th</sup> day of September 2024.

ATTEST:

/s/ Amanda C. Elizondo, City Secretary

CITY OF HARLINGEN

/s/Norma Sepulveda, Mayor

- g) Consideration and possible action to approve an ordinance on the second and final reading amending Chapter 18, Master Fee Schedule of the Harlingen Code of Ordinances by establishing fees for certain Licenses, Permits, and other services provided by the City of Harlingen as they relate to Chapter 36, Article V, Division 2 (Tony Butler Golf Course); providing for publication and ordaining other matters pertaining to the foregoing.

ORDINANCE NO. No. 24-47

AN ORDINANCE OF THE CITY OF HARLINGEN, TEXAS, AMENDING CHAPTER 18, MASTER FEE THE HARLINGEN CODE OF ORDINANCES BY ESTABLISHING FEES FOR CERTAIN LICENSES, PERMITS, AND OTHER SERVICES PROVIDED BY THE CITY OF HARLINGEN AS THEY RELATE TO CHAPTER 36, ARTICLE V, DIVISION 2 (TONY BUTLER GOLF COURSE); PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS PERTAINING TO THE FOREGOING.

PASSED AND APPROVED on first reading this the 21<sup>st</sup> day of August 2024

PASSED AND APPROVED on the second and final reading this the 4<sup>th</sup> day of September 2024.

ATTEST:

/s/ Amanda C. Elizondo, City Secretary

CITY OF HARLINGEN

/s/Norma Sepulveda, Mayor

- h) Consideration and possible action to approve an ordinance on the second and final reading amending the Harlingen Code of Ordinances, Chapter 48, Division 4, Sections 48-144 and 48-145, Contingency & Emergency Water Management Plan, establishing an effective date, and providing for publication and ordaining other matters related to the foregoing.

ORDINANCE NO. No. 24-39

AN ORDINANCE OF THE CITY OF HARLINGEN, TEXAS, AMENDING CHAPTER 48 DIVISION 4 SECTIONS 48-144 AND 48-145 OF THE HARLINGEN CITY CODE AS AMENDED TO AMEND DROUGHT CONTINGENCY & EMERGENCY WATER MANAGEMENT PLAN, ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.

PASSED AND APPROVED on first reading this the 21<sup>st</sup> day of August 2024

PASSED AND APPROVED on the second and final reading this the 4<sup>th</sup> day of September 2024.

ATTEST:

/s/ Amanda C. Elizondo, City Secretary

CITY OF HARLINGEN

/s/Norma Sepulveda, Mayor

Mayor Pro-Tem Perez requested to revise Item 7 (e)

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Morales to approve Consent Agenda Item 7 (a through d, f through h). Motion carried unanimously.

Mayor Pro-Tem Perez requested to add the following streets:

- Aragon Dr. between Haverford Dr. and West Arbor St.
- West Arbor St. between Midlane and Ardan St.
- Kingbird between Hackberry and Mulberry St.
- Beckham Road between Frontage Rd. and Business 83

Commissioner Lopez added:

- 1200 Block of Whitewing

Commissioner Kinsley added:

- Rio Hondo Rd. between Pheonix and 25<sup>th</sup> Street
- Matz Street between 7<sup>th</sup> and 13<sup>th</sup> Street.



Mayor Pro-Tem Perez requested that the data on the traffic analysis for the street hump requests be forwarded to the entire city commission for review.

Motion was made by Commissioner Lopez and seconded by Commissioner Kinsley to approve Item 7 (e) with the supplemental roads added. Motion carried unanimously.

8. **Staff Reports and Other Discussion Items:**

- a) City Manager's Report - None
- b) Staff Reports – None

9. **Public Hearings:**

Mayor Sepulveda announced that Item 9 (a through h) are public hearings, and anyone wishing to speak for or against these items can do so.

- a) Public hearing for a Special Use Permit to allow an adult business (smoke shop) in a General Retail ("GR") District located at 1601 S. 77 Sunshine Strip, Suite D, bearing a legal description of Lots 22 & 23, Block 11, Arroyo Estates Subdivision. Applicant: Mohamed Alraishani.

. None for Item 9 (a)

- b) Public hearing for a Special Use Permit to allow an adult business (smoke shop) in a General Retail ("GR") District located at 401 S. 77 Sunshine Strip, Suite E, bearing a legal description of the east 10 feet of Lot 1 and all of Lots 2-6, Windsor Place Subdivision. Applicant: Mohamed Alraishani.

. None for Item 9 (b)

- c) Public hearing for the voluntary annexation request of a 56.45-acre tract of land out of Survey 295, Stuart Place Subdivision, located along the South side of Garrett Road approximately 650 feet east of Altas Palmas Road. Applicant: Javier Hinojosa c/o Carlos Snavelly.

. None for Item 9 (c)

- d) Public hearing for the voluntary annexation request of a 7.7-acre tract of land legally described as Lot 1, Block 2, Georgette Subdivision, located at the southwest corner of Bass Boulevard and Johnston Lane. Applicant: Georgina and Saul Gonzalez.

. None for Item 9 (d)

- e) Public hearing for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a Neighborhood Services ("NS") District at the Arroyo Mart Food Store located at 1222 South 1<sup>st</sup> Street, bearing a legal description of Lots 10, 11, and 12, Block2, Lilian Bush Addition. Applicant: Edna Martinez.

. None for Item 9 (e)

- f) Public hearing amending the City of Harlingen Code of Ordinances Chapter 109, Subdivisions, Article V, Standards and Specifications, Section 109-124 (F), Sidewalks, by amending the time frame for the utilization of the sidewalk escrow funds to fill sidewalk gaps in residential developments. Applicant: City of Harlingen.

. None for Item 9 (f)

- g) Public hearing on the adoption of the City of Harlingen's Annual Budget for Fiscal Year 2025.

. None for Item 9 (g)



h) Public hearing on the proposed tax rate for Fiscal Year 2025.

- R. Frank Lozano – 218 E. Austin, Harlingen, TX – Proposed tax rate for 2025
- Ron Lozano – opposed to tax increase
- Juan Ortega – concerned with property taxes.
- Desi Martinez – city budget; utilize the city auditor to save money.

There being no further comments, Mayor Sepulveda closed the public hearing.

10. Action Items: Ordinances

- a) Consideration and possible action to adopt an ordinance on first reading for a Special Use Permit to allow an adult business (smoke shop) in a General Retail ("GR") District located at 1601 S. 77 Sunshine Strip, Suite D, bearing a legal description of Lots 22 & 23, Block 11, Arroyo Estates Subdivision. Applicant: Mohamed Alraishani.

Mr. Xavier Cervantes, Planning and Zoning Director, stated that the surrounding owners did not oppose this item. The Planning and Zoning Commission approved it unanimously, subject to the conditions in the attachment provided in the agenda packet.

Mayor Sepulveda asked if there were any restrictions on this type of business.

Mr. Cervantes responded that there were no restrictions. It is not a business that sells alcohol. The TABC has regulations for this type of business. Regulations could be added to the ordinance, such as possible zoning amendments for this type of business not to be allowed within a certain distance of a residential area, a church, or a park. They must have the commercial zoning to go through this process. Staff can invite the surrounding property owners to provide feedback. Adult businesses, such as smoke shops or tattoo shops, are not allowed within the downtown district overlay.

Motion was made by Commissioner Mezmar and seconded by Commissioner Lopez to adopt the ordinance on first reading for a Special Use Permit to allow an adult business (smoke shop) in a General Retail ("GR") District located at 1601 S. 77 Sunshine Strip, Suite D, bearing a legal description of Lots 22 & 23, Block 11, Arroyo Estates Subdivision. Motion carried unanimously.

- b) Consideration and possible action to adopt an ordinance on first reading for a Special Use Permit to allow an adult business (smoke shop) in a General Retail ("GR") District located at 401 S. 77 Sunshine Strip, Suite E, bearing a legal description of the east 10 feet of Lot 1 and all of Lots 2-6, Windsor Place Subdivision. Applicant: Mohamed Alraishani.

Motion was made by Commissioner Mezmar and seconded by Commissioner Lopez to adopt the ordinance on first reading for a Special Use Permit to allow an adult business (smoke shop) in a General Retail ("GR") District located at 401 S. 77 Sunshine Strip, Suite E, bearing a legal description of the east 10 feet of Lot 1 and all of Lots 2-6, Windsor Place Subdivision. Motion carried unanimously.

- c) Consideration and possible action to adopt an ordinance on first reading for the voluntary annexation request of a 56.45-acre tract of land out of Survey 295, Stuart Place Subdivision, located along the South side of Garrett Road approximately 650 feet east of Altas Palmas Road. Applicant: Javier Hinojosa c/o Carlos Snaveley.

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Perez to adopt the ordinance on first reading for the voluntary annexation request of a 56.45-acre tract of land out of Survey 295, Stuart Place Subdivision, located along the South side of Garrett Road, approximately 650 feet east of Altas Palmas Road. Motion carried unanimously.

- d) Consideration and possible action to adopt an ordinance on first reading for the voluntary annexation request of a 7.7-acre tract of land legally described as Lot 1, Block 2, Georgette Subdivision, located at the southwest corner of Bass Boulevard and Johnston Lane. Applicant: Georgina and Saul Gonzalez.



Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Kinsley to adopt the ordinance on first reading for the voluntary annexation request of a 7.7-acre tract of land legally described as Lot 1, Block 2, Georgette Subdivision, located at the southwest corner of Bass Boulevard and Johnston Lane. Motion carried unanimously.

- e) Consideration and possible action to adopt an ordinance on first reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a Neighborhood Services ("NS") District at the Arroyo Mart Food Store located at 1222 South 1<sup>st</sup> Street, bearing a legal description of Lots 10, 11, and 12, Block 2, Lilian Bush Addition. Applicant: Edna Martinez.

Commissioner Lopez asked for this item to be tabled for further consideration and for additional notices to be sent to the surrounding property owners in English and Spanish so they can object if needed.

Motion was made by Commissioner Lopez and seconded by Commissioner Morales to table Item 10 (e) for further review and consideration. Motion carried unanimously.

- f) Consideration and possible action to adopt an ordinance on first reading amending the City of Harlingen Code of Ordinances Chapter 109, Subdivisions, Article V, Standards and Specifications, Section 109-124 (F), Sidewalks, by amending the timeframe for the utilization of the sidewalk escrow funds to fill sidewalk gaps in residential developments. Applicant: City of Harlingen.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Kinsley to adopt the ordinance on first reading amending the City of Harlingen Code of Ordinances Chapter 109, Subdivisions, Article V, Standards and Specifications, Section 109-124 (F), Sidewalks, by amending the timeframe for the utilization of the sidewalk escrow funds to fill sidewalk gaps in residential developments. Motion carried unanimously.

- g) Consideration and possible action to approve an ordinance on first reading adopting the City of Harlingen's Budget for Fiscal Year 2025 by record vote.

Mr. Robert Rodriguez, Finance Director, highlighted the proposed Fiscal Year 2025 Budget:

**Total Proposed Revenues - \$114,385,180.00    Total Proposed Expenditures - \$115,585,034.00.**

Discussion was held regarding several one-time capital expenditures, unfilled employee positions, and those to be added to the 2025 Proposed Budget; "rainy day" funds will change from 220 days to 177 at the end of 2025. The budget includes funding for police, fire, staff salaries, staff health insurance, and equipment for various departments, an increase of \$2.1 million.

Property tax rates/increases and taxing entities were also discussed. It was noted that obtaining a homestead exemption on a property is essential, which limits the property to a 10% increase in value every year. For example, a total tax bill is comprised of the following entities:

|   |                     |     |
|---|---------------------|-----|
| • | Cameron County -    | 21% |
| • | City of Harlingen - | 26% |
| • | HCISD -             | 44% |
| • | Port of Harlingen - | 1%  |
| • | Drainage District - | 6%  |
| • | South Texas ISD -   | 2%. |

Most of the tax revenue is not collected from property taxes but sales taxes and visitors who come to Harlingen and spend money in our city, as well as ad valorem taxes and fees we collect from using our parks, building permits, etc.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Kinsley to approve the ordinance on first reading adopting the City of Harlingen's Budget for Fiscal Year 2025 by record vote. Motion carried as follows: FOR: Mayor Pro-Tem Perez, Commissioners: Kinsley, Lopez, Mezmar; AGAINST: Commissioner Morales. ABSTAINED: None (Vote: 4-1-0).



- h) Consideration and possible action to approve an ordinance on first reading adopting the Tax Year 2024 Ad Valorum Tax Rate for Maintenance and Operations (M&O) together with the interest and sinking (I&S) Rate for Fiscal Year 2025 by record vote.

Motion was made by Commissioner Kinsley and seconded by Commissioner Lopez to approve the Tax Year 2024 Ad Valorum Tax Rate: 0.453628% per \$100. Motion carried as follows: FOR: Mayor Pro-Tem Perez, Commissioners: Kinsley, Lopez, and Mezmar; AGAINST: Commissioner Morales ABSTAINED: None (Vote: 4-1-0)

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Mezmar to approve the M&O/I&S Rate for Fiscal Year 2024 rate: 0.073896% per \$100. Motion carried as follows: FOR Mayor Pro-Tem Perez, Commissioners: Kinsley, Lopez, Mezmar and Morales; AGAINST: None. ABSTAINED: None (Vote: 5-0-0)

Mr. Rodriguez stated that the second and final vote on the proposed tax rate will occur on Wednesday, September 18, 2024, at 5:30 p.m. at the regular city commission meeting at City Hall, Town Hall Room, 118 E. Tyler, Harlingen, Texas.

Motion was made by Commissioner Lopez and seconded by Commissioner Kinsley to adopt the proposed Tax Rate of 0.527524% per \$100; an increase of 5.57% increase in the tax rate by a Record Vote. Motion carried as follows: FOR: Mayor Pro-Tem Perez, Commissioners: Kinsley Lopez, Mezmar; AGAINST: Commissioner Morales; ABSTAINED: None (Vote: 4-1-0)

- i) Consideration and possible action to approve the Vehicle Towing Ordinance on the second and final reading amending the Harlingen Code of Ordinances Chapter 18, 46-93 through 46-135 Schedule of Fees and Chapter 46, Article III, Vehicle Towing, pertaining to towing standards and guidelines for tows requested by the Police, Citizens of Private Tows, providing for applications, permits regulations, certifications, and other safety requirements, providing for enforcement and prohibitions, providing for repeal of conflicting ordinances, amending license and towing fees, which may be charged within the city and other particulars.

ORDINANCE NO. 24-48

AN ORDINANCE OF THE CITY OF HARLINGEN AMENDING HARLINGEN CODE CODE OF ORDINANCES CHAPTER 18, 46-93 THROUGH 46-135 SCHEDULE OF FEES, AND CHAPTER 46, ARTICLE III, VEHICLE TOWING, PERTAINING TO TOWING STANDARDS AND GUIDELINES FOR TOWS REQUESTED BY THE POLICE, CITIZENS OR PRIVATE TOWS, PROVIDING FOR APPLICATIONS, PERMITS REGULATIONS, CERTIFICATIONS AND OTHER SAFETY REQUIREMENTS, PROVIDING FOR ENFORCEMENT AND PROHIBITIONS, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, AMENDING LICENSE, AND TOWING FEES WHICH MAY BE CHARGED WITHIN THE CITY AND OTHER PARTICULARS.

PASSED AND APPROVED on first reading this the 21<sup>st</sup> day of August 2024  
PASSED AND APPROVED on the second and final reading this the 4<sup>th</sup> day of September 2024.

ATTEST:  
/s/ Amanda C. Elizondo, City Secretary

CITY OF HARLINGEN  
/s/Norma Sepulveda, Mayor

Michael Kester, Police Chief, stated that the proposed ordinance will raise the basic towing fee for light duty from \$175.00 to \$300.00. The heavy-duty towing fee remains the same at \$700. Any additional fees associated with the tows will be deferred to the Texas Department of License Regulations (TDLR). The rotation list will be limited to eight companies. Companies that are currently on that list will remain on the list. An adjustment was made to the times for the light duty tows, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Rodney Myers stated that they have a TDLR list indicating what equipment is needed. We should go by what TDLR states as what equipment is needed for light duty and what is needed for heavy duty. That is what we, as well as the police, go by. As far as a storage lot, there should only be one owner and one lot to be fair to everyone. Multi-company storage on one lot takes away from everyone else.

Nicole Ortiz stated she was in favor of the equipment list because there have been times when wreckers go out to a scene and do not have the equipment needed to get the job done. This causes delays in having to



1 call another wrecker service. We currently have a list for light duty but do not have one for heavy-duty or  
2 equipment.

3  
4 Motion was made by Commissioner Kinsley and seconded by Commissioner Lopez to approve the Vehicle  
5 Towing Ordinance on the second and final reading amending the Harlingen Code of Ordinances at Chapter 18,  
6 46-93 through 46-135 Schedule of Fees and Chapter 46, Article III, Vehicle Towing, pertaining to towing  
7 standards and guidelines for tows requested by the Police, Citizens of Private Tows, providing for applications,  
8 permits regulations, certifications, and other safety requirements, providing for enforcement and prohibitions,  
9 providing for repeal of conflicting ordinances, amending license and towing fees, which may be charged within  
10 the city and other particulars. Motion carried unanimously.

11  
12 j) Consideration and possible action to adopt an ordinance on first reading amending the City of Harlingen a  
13 Section 38-33, Receptacles to be Accessible to Collectors, by clarifying the accessibility of the placement  
14 of the garbage container; and Section 38-39 Tree Limbs, Brush Trimmings, and the Like; Collection; by  
15 clarifying the date and location for the brush to be placed on city right-of-way for collection services.  
16 Applicant: Harlingen.

17  
18 Mr. Cervantes stated that this amendment is in coordination with the Public Works Dept. We propose that  
19 if customers are not in compliance, Code Compliance officers will give a notice of violation, and if, after 10 days,  
20 the brush is not removed, a citation will be given in municipal court. He noted the following guidelines:

- 21
- 22 • Old brush must be placed on the street right-of-way only during the assigned week. It will be unlawful for any customer to
- 23 place it for collection in any street right-of-way before the published announcement of the brush collection.
- 24 • All household trash must be bagged.
- 25 • All loose leaves must be bagged.
- 26

27 Christopher Torres, Public Works Director, stated that compliance with putting brush out will apply to  
28 roadside and/or alleyways. We will proactively get the customer's address from the drivers and educate them  
29 on the rules for not placing branches in the trash bins. If the drivers see the branches protruding from the trash  
30 bins, they will not service the container and report the address to us.

31  
32 The City Commission suggested giving the public a 30-day notice before implementing the rules, revising  
33 the wording to say Monday before your weekly pick-up, and giving details on bulk items; social media videos,  
34 courtesy notices, letters, and door hangers can also be utilized to educate the public on the requirements of the  
35 new ordinance.

36  
37 Commissioner Lopez asked MIS Director Sergio Mujica about the city app. He added that if citizens sign  
38 up for the notices, they can receive reminders that can inform them about the brush pick-up schedule. He said  
39 the pop-up notices can also be added to the city website.

40  
41 Commissioner Kinsley asked if notices could be sent to the owner of an apartment complex on Morgan  
42 Blvd. He has received complaints from citizens coming from the airport, driving by, and seeing bulk items, such  
43 as sofas, recliners, mattresses, etc., that are left out and unsightly.

44  
45 Motion was made by Commissioner Kinsley and seconded by Commissioner Morales to adopt the  
46 ordinance on first reading amending the City of Harlingen Code of Ordinances, Chapter 38, Solid Waste, Article  
47 II, Collection and Disposal, Section 38-31, Duty to Provide Receptacles; Specifications, by clarifying the size of  
48 the receptacle for single-family residential; Section 38-33, Receptacles to be Accessible to Collectors, by  
49 clarifying the accessibility of the placement of the garbage container; and Section 38-39 Tree Limbs, Brush  
50 Trimmings, and the Like; Collection; by explaining the date and location for brush to be placed on city right-of-  
51 way for collection services; subject to changes suggested by City Commission. Motion carried unanimously.

52  
53 k) Consideration and possible action to approve the preliminary construction plans and final plat of the  
54 proposed Corsif Acres Subdivision, bearing a legal description of 3.73 acres of land out of Block Number  
55 Two (2), F.Z. Bishop Subdivision of Section No. 39, located along the west side of South Palm Court Drive,  
56 approximately 777 feet south of Garrett Road. Applicant: Casa Engineering c/o John Sifford.

57  
58 Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Kinsley to approve the  
59 preliminary construction plans and final plat of the proposed Corsif Acres Subdivision, bearing a legal



description of 3.73 acres of land out of Block Number Two (2), F.Z. Bishop Subdivision of Section No. 39, located along the west side of South Palm Court Drive, approximately 777 feet south of Garrett Road. Motion carried unanimously.

- l) Consideration and possible action to approve the preliminary construction plans and final plat of the proposed Roberto Aguilar Subdivision, bearing a legal description of 3.73 acres of land out of Block Number Two (2), F.Z. Bishop Subdivision of Section No. 29, located along the west side of Rangerville Road approximately 1,200 feet north of Simmons Road. Applicant: Guzman & Muñoz Engineering and Surveying c/o Roberto Aguilar.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Mezmar to approve the preliminary construction plans and final plat of the proposed Roberto Aguilar Subdivision, bearing a legal description of 3.73 acres of land out of Block Number Two (2), F.Z. Bishop Subdivision of Section No. 29, located along the west side of Rangerville Road approximately 1,200 feet north of Simmons Road. Motion carried unanimously.

- m) Consideration and possible action to approve a request from Remi Garza, Cameron County Elections Department to use the Harlingen Cultural Arts Center located at 575 "76" Dr., and Harlingen City Hall Town Hall Meeting Room located at 118 E. Tyler Avenue, Monday, October 21 through Friday, October 25 from 9:00 a.m. to 7:00 p.m., Saturday, October 26 through Sunday, October 27 from 10:00 a.m. to 5:00 p.m., Monday, October 28 through Friday, November 1 from 8:00 a.m. to 8:00 p.m., and tentatively both locations on Tuesday, November 5, 2024, from 7:00 a.m. to 7:00 p.m.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Kinsley to approve a request from Remi Garza, Cameron County Elections Department, to use the Harlingen Cultural Arts Center located at 575 "76" Dr., and Harlingen City Hall Town Hall Meeting Room located at 118 E. Tyler Avenue, Monday, October 21 through Friday, October 25 from 9:00 a.m. to 7:00 p.m., Saturday, October 26 through Sunday, October 27 from 10:00 a.m. to 5:00 p.m., Monday, October 28 through Friday, November 1 from 8:00 a.m. to 8:00 p.m., and tentatively both locations on Tuesday, November 5, 2024, from 7:00 a.m. to 7:00 p.m. Motion carried as follows: FOR: Mayor Pro-Tem Perez, Commissioners: Kinsley, Mezmar, Morales; AGAINST: None; ABSTAINED: Commissioner Lopez (Vote: 4-0-1).

- n) Consideration and possible action to approve the Cyber Interlocal Agreement with the Texas Municipal League (TML), effective October 1, 2024.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Lopez to approve the Cyber Interlocal Agreement with Texas Municipal League (TML), effective October 1, 2024. Motion carried unanimously.

- o) Consideration and possible action to approve a resolution to accept Valley International Airport's proposed Operating and Capital Budget for Fiscal Year 2024-2025.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Mezmar to accept Valley International Airport's proposed Operating and Capital Budget for Fiscal Year 2024-2025. Motion carried unanimously.

- p) Consideration and possible action to approve an ordinance on first reading amending Chapter 18 of the Harlingen Code of Ordinances Master Fee Schedule to allow for the retroactive waiving of adoption fees for National Dog Day (August 28, 2024) and to establish an annual occurrence of waiving adoption fees at the Harlingen Animal Shelter on National Dog Day, National Pet Day, National Cat Day and National Adopt a Pet Day. (This item was requested by Mayor Pro-Tem Rene Perez and Commissioner Daniel N. Lopez)

Motion was made by Commissioner Lopez and seconded by Mayor Pro-Tem Perez to approve an ordinance on first reading amending Chapter 18 of the Harlingen Code of Ordinances Master Fee Schedule to allow for the retroactive waiving of adoption fees for National Dog Day (August 28, 2024), and to establish an annual occurrence of waiving adoption fees at the Harlingen Animal Shelter on National Dog Day, National Pet Day, National Cat Day and National Adopt a Pet Day; subject to language suggested by Mayor Sepulveda –



revise wording to include major holidays (to be specified) and a business day before all city-designated holidays.  
Motion carried unanimously.

- q) Consideration and possible action to authorize the City Manager to execute an Interlocal Cooperative Agreement between the City and The University of Texas Rio Grande Valley for partial use of the Soccer Complex for Student Parking.

Motion was made by Commissioner Lopez and seconded by Commissioner Kinsley to execute an Interlocal Cooperative Agreement between the City and The University of Texas Rio Grande Valley for partial use of the Soccer Complex for Student Parking, subject to the language amendment by City Manager to strike the term "bus stops" from the agreement. Motion carried unanimously.

- r) Consideration and possible action to award a consulting contract to Marbut Consulting to conduct a Comprehensive Integration and Implementation Plan for the City of Harlingen regarding the homeless population.

Gabriel Gonzalez, City Manager, stated that Marbut Consulting conducts surveys on homelessness, and since we have had an uptick in the homeless population, he was asked by residents to meet with the city. Mr. Robert Marbut gave us an overview of what he can do for the city as he had done these surveys before. He would need three months to conduct the survey and would charge \$8,000 per month, as well as expenses incurred to come down to our area. We discussed a cap on travel expenses: \$2,400 and \$800 added to the contract each month, but this will be negotiated. We don't have the money budgeted for this, so we would have a budget amendment.

Mayor Pro-Tem Perez asked what information the survey would provide exactly.

Mayor Sepulveda added that the survey would assess the situation and provide a strategic plan for proceeding. It would indicate if a person without housing is a Harlingen resident or may have family here if it is someone from outside the city, newly arrived, or traveling from one place to another. The assessment will include information on providing different services needed for different circumstances. They will also work and speak with the local shelter. This consulting firm has worked with multiple cities throughout Texas and elsewhere. We want to proceed responsibly to tackle the problem, which will be a good investment in our community. By the beginning of next year, we can have a plan to make a difference.

Gabriel Gonzalez, City Manager, added that reunification assistance for people without housing would be offered except in the case of battered women and/or children if they have to be homeless.

Motion was made by Mayor Pro-Tem Perez and seconded by Commissioner Kinsley to award a consulting contract to Marbut Consulting to conduct a Comprehensive Integration and Implementation Plan for the City of Harlingen regarding the homeless population. Motion carried unanimously.

**11. Board Appointments:**

*Specifically, appointment or discussion and possible action to include appointment and/or removal of any position subject to appointment or removal by statute, ordinance, or bylaws.*

Commissioner Morales appointed Moses Mendoza, Jr. to the Veterans Advisory Board.

Commissioner Lopez replaced Julie E. Perez with Linda Cuellar for the Zoning Board of Adjustments Board.

Motion was made by Commissioner Mezmar and seconded by Mayor Pro-Tem Perez to approve the appointment of Moses Mendoza, Jr. to the Veterans Advisory Board and replace Julie E. Perez with Linda Cuellar to the Zoning Board of Adjustments. Motion carried unanimously.

**12. Executive Session:**

No Executive Session.



13. **Action on Executive Session Items:**

No Action on Executive Session.

14. **Adjournment:**

There being no other business to discuss, Mayor Sepulveda adjourned the meeting.

City of Harlingen

ATTEST:

Norma Sepulveda, Mayor

Amanda C. Elizondo, City Secretary



**AGENDA ITEM  
EXECUTIVE SUMMARY**

7(2)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a Neighborhood Services ("NS") District, for the Arroyo Mart Food Store, located at 1222 S. 1st Street, bearing a legal description of Lots 10, 11, and 12, Block 2, Lillian Bush Addition. Applicant: Edna Martinez. Attachment (**Planning & Development**)

Prepared By: **Xavier Cervantes, AICP, CPM**

Title: **Planning and Development Director**

Signature: *Xavier Cervantes*

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the special use permit subject to complying with the following conditions:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must comply with the requirements administered by the Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments;
4. Must provide video surveillance with a minimum 30-day retention;
5. Hours of operation for the business shall be Monday thru Saturday from 10am to 9pm.

City Manager's approval: *GG* ☒ Yes ☐ No ☐ N/A

City Attorney's approval: *[Signature]* **Comments:** ☒ Yes ☐ No ☐ N/A



## **ORDINANCE NO. 24-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: A SPECIAL USE PERMIT ISSUED TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION IN A NEIGHBORHOOD SERVICES ("NS") DISTRICT, FOR THE ARROYO MART FOOD STORE, LOCATED AT 1222 SOUTH 1<sup>ST</sup> STREET, BEARING A LEGAL DESCRIPTION OF LOTS 10, 11, AND 12, BLOCK 2, LILIAN BUSH ADDITION.**

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a change in the zoning classification for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed rezoning having been fully made and complied with as required by said Zoning Ordinance and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

### **BE IT ORDAINED BY THE CITY OF HARLINGEN**

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated in Exhibit "A":

Special Use Permit (SUP) issued to Edna Martinez to allow the sale of alcoholic beverages for on-site consumption in a Neighborhood Services ("NS") District located at 1222 South 1<sup>st</sup> Street, bearing a legal description of Lots 10, 11, and 12, Block 2, Lilian Bush Addition.

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Chief Building Official and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.



The Special Use Permit is made contingent upon construction being complied in accordance with the site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as Exhibit "A" and shall comply with the conditions as listed below:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must comply with the requirements administered by the Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments;
4. Must provide video surveillance with a minimum 30-day retention;
5. Hours of operation for the business shall be Monday thru Saturday from 10am to 9pm.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this 16th day of October, 2024 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

**CITY OF HARLINGEN**

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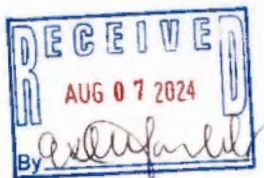
Norma Sepulveda, Mayor

**ATTEST:**

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Amanda C. Elizondo, City Secretary



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# **AGENDA ITEM EXECUTIVE SUMMARY**

**Meeting Date:**            **October 21, 2024**

## **Agenda Item:**

Consideration and possible action to adopt an ordinance on second and final reading amending the City of Harlingen Code of Ordinances, Chapter 111, Zoning, Article VII, Section 111-173, Nonresidential height restrictions, by requiring a Special Use Permit for buildings greater than five stories in height. Applicant: City of Harlingen. Attachment *(Planning & Development)*

**Prepared By:**            Xavier Cervantes, AICP, CPM  
**Title:**                    Planning and Development Director  
**Signature:**            *Xavier Cervantes*

## **Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount for this purpose?      ☐ Yes      ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval:      ☐ Yes      ☐ No      ☐ N/A

## **Staff Recommendation:**

Staff recommends approval.

City Manager's approval:      *GG*      ☒ Yes      ☐ No      ☐ N/A

**Comments:**

City Attorney's approval:      *[Signature]*      ☒ Yes      ☐ No      ☐ N/A



**AN ORDINANCE AMENDING THE CITY OF HARLINGEN  
CODE OF ORDINANCES CHAPTER 111, ZONING,  
ARTICLE VII, SECTION 111-173, NONRESIDENTIAL  
HEIGHT RESTRICTIONS, BY REQUIRING A SPECIAL  
USE PERMIT FOR BUILDINGS GREATER THAN FIVE  
STORIES IN HEIGHT; PROVIDING FOR PUBLICATION  
AND ORDAINING OTHER MATTERS RELATED TO THE  
FOREGOING**

**WHEREAS**, The amendments are consistent with the purpose of the One Vision One Harlingen Comprehensive Plan, which is to provide a growth-friendly economic development environment that also preserves and enhances the character of the area; and

**WHEREAS**, The Planning and Zoning Commission has reviewed the proposed amendment and has recommended approval; and

**WHEREAS**, The City of Harlingen has complied with all notices and public hearings as required by law; and

**WHEREAS**, The City Commission of the City of Harlingen finds that it is in the best interests of the citizens of Harlingen to amend the Zoning Code of Ordinances as set forth below;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF HARLINGEN, TEXAS, THAT:**

**SECTION I:** That the City of Harlingen Code of Ordinances, Chapter 111, Zoning, Article VII, Section 111-173, is hereby amended by adding the language underlined (added) and deleting the language that is stricken through (~~stricken~~) to read in full as follows.

**ARTICLE VII. - HEIGHT REGULATIONS**

**Sec. 111-172. - Residential height restrictions.**

No building or structure shall be located, erected, or altered in any residential zone so as to exceed three stories without prior public hearing and approval by the board of adjustment as provided by this chapter.

**Sec. 111-173. - Nonresidential height restrictions.**

In nonresidential zones, the permissible building heights shall be consistent and compatible with the surrounding buildings and shall not place an undue significant burden on adjacent or nearby properties. Buildings greater than five stories shall ~~be subject to review, with a public hearing, and approval of the board of adjustment~~ require a special use permit and approval of the City Commission. Properties zoned Light Industry ("LI") or Heavy Industry ("HI") are exempt from any height regulations.

**SECTION II:** That the City Secretary of the City of Harlingen, Texas is hereby authorized and directed to cause a true copy of the caption of this ordinance to be published in a newspaper having general circulations in the City of Harlingen, Cameron County, Texas.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this 16th day of October, 2024, at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

**CITY OF HARLINGEN**

\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary



7(c)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on second and final reading for a rezoning request from Non-Designated ("N") District to Residential, Single-Family ("R-1") District for a 55.90-acre tract of land out of Survey 295 Stuart Place Subdivision, located along the south side of Garrett Road, approximately 650 feet east of Altas Palmas Road. Applicant: Javier Hinojosa Engineering c/o Zarate Homes and Design, LLC. Attachment **(Planning & Development)**

Prepared By: Xavier Cervantes, AICP, CPM  
Title: Planning and Development Director  
Signature: *Xavier Cervantes*

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the rezoning request.

City Manager's approval: *GH* ☒ Yes ☐ No ☐ N/A

**Comments:**

City Attorney's approval: *[Signature]* ☒ Yes ☐ No ☐ N/A

## **ORDINANCE NO. 24-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: REZONING FROM NON-DESIGNATED ("N") DISTRICT TO RESIDENTIAL, SINGLE-FAMILY ("R-1") DISTRICT FOR 55.90 ACRES OF LAND OUT OF SURVEY 295, STUART PLACE SUBDIVISION, LOCATED ALONG THE SOUTH SIDE OF GARRETT ROAD, APPROXIMATELY 650 FEET EAST OF ALTAS PALMAS ROAD.**

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a change in the zoning classification for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed rezoning having been fully made and complied with as required by said Zoning Ordinance and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

### **BE IT ORDAINED BY THE CITY OF HARLINGEN**

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated:

Rezoning from Non-designated ("N") District to Residential, Single-Family ("R-1") District for 55.90 acres of land out of Survey 295, Stuart Place Subdivision, located along the south side of Garrett Road, approximately 650 feet east of Altas Palmas Road, as shown in Exhibit "A".

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Building Inspection Inspector and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within by the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.



The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this 16th day of October, 2024 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

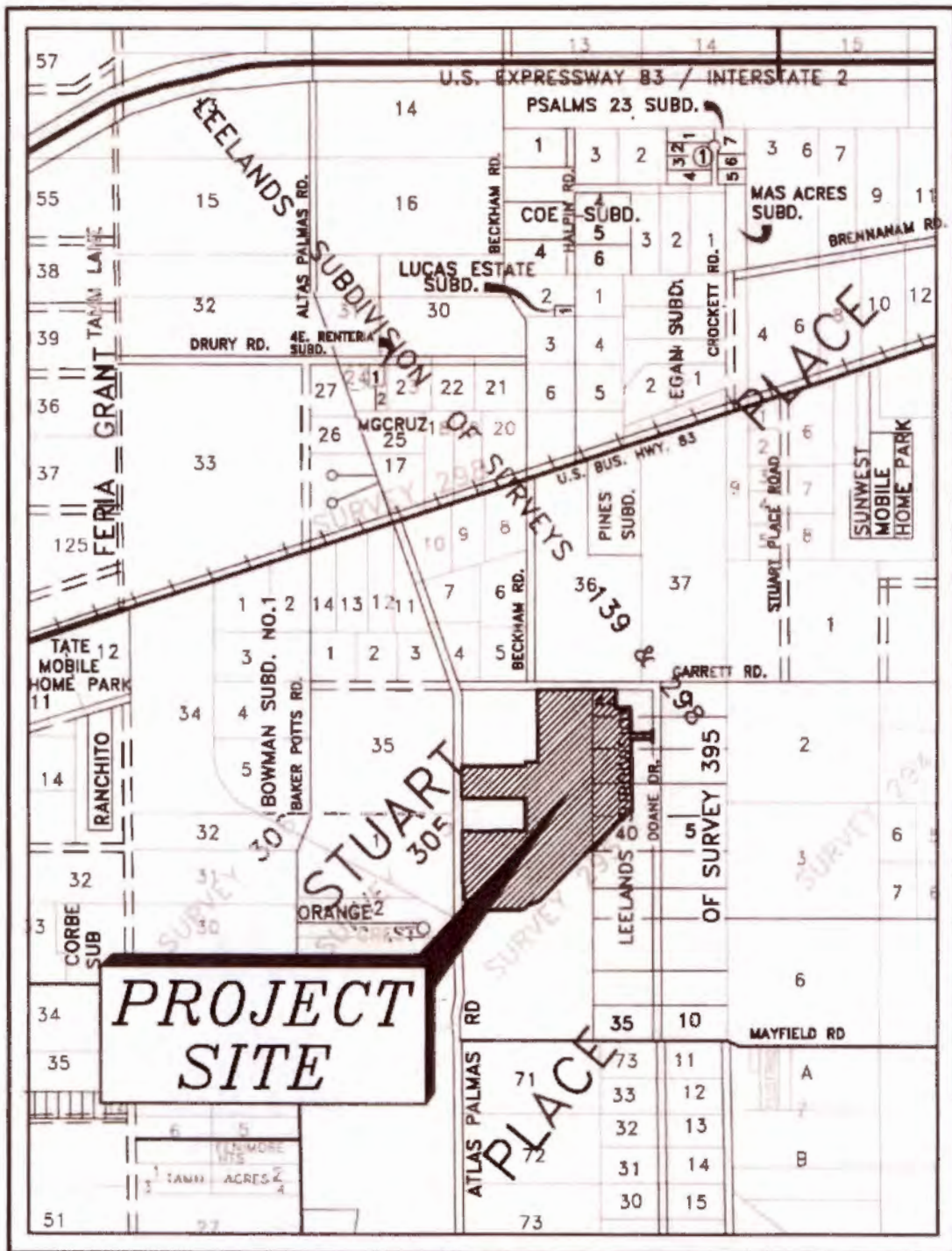
**CITY OF HARLINGEN**

\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary

Exhibit "A"



LOCATION MAP



**EXHIBIT "A"**  
**METES AND BOUNDS DESCRIPTION**

Being 56.45 acres of land out of Survey 295, Stuart Place Subdivision, Cameron County, Texas, recorded in Volume 5, Page 6, Map Records of Cameron County, Texas; and said 56.45 acres of land being more particularly described by metes and bounds as follows:

**COMMENCING** at the southwest corner of Garrett Doan Estates, recorded in Cabinet 1, Page 3290, Map Records of Cameron County, Texas, for the southeast corner and the **POINT OF BEGINNING** of this tract;

Thence S 63°43'21" W, a distance of 7.59 feet to a point, for an interior corner of this tract;

Thence S 56°44'21" W, a distance of 67.89 feet to a point, for an interior corner of this tract;

Thence S 48°43'21" W, a distance of 92.00 feet to a point, for an interior corner of this tract;

Thence S 42°48'21" W, a distance of 398.58 feet to a point, for an exterior corner of this tract;

Thence N 00°39'54" W, a distance of 45.21 feet to a point, for an interior corner of this tract;

Thence S 44°15'34" W, a distance of 760.32 feet to a point, for an exterior corner of this tract;

Thence S 67°42'07" W, a distance of 149.12 feet to a point, for an interior corner of this tract;

Thence S 00°24'26" E, a distance of 16.80 feet to a point, for an exterior corner of this tract;

Thence S 71°02'33" W, a distance of 62.87 feet to a point, for an exterior corner of this tract;

Thence S 89°35'34" W, a distance of 527.67 feet to a iron pin with plastic cap stamped "Moore 6370" set on the east right of way of Altas Palmas Road (variable width right of way), being on a curve to the left, for the southwest corner of this tract;

Thence along the east right of way of said Altas Palmas Road and along said curve to the left, with an interior angle of 11°44'09" and a radius of 785.56 feet, a tangent of 80.74 feet, arc distance of 160.91 feet, and a chord that bears N 11°13'59" W, a distance of 160.63 feet to an iron pin stamped "Moore 6370" set on the point of curvature of a non-tangent curve to the right, for an interior corner of this tract;

Thence continuing along the east right of way of said Altas Palmas Road and along said curve to the right, with an interior angle of  $8^{\circ}46'12''$  and a radius of 735.56 feet, a tangent of 56.40 feet, arc distance of 112.59 feet, and a chord that bears  $N 09^{\circ}41'57'' W$ , a distance of 112.48 feet to an iron pin with a plastic cap stamped "Moore 6370" set, for an exterior corner of this tract;

Thence continuing along the east right of way of said Altas Palmas Road,  $N 00^{\circ}24'26'' W$ , a distance of 518.23 feet to a concrete monument found, for an exterior corner of this tract;

Thence leaving the east right of way line of said Altas Palmas Road,  $N 89^{\circ}35'34'' E$ , a distance of 635.60 feet to a concrete monument found, for an interior corner of this tract;

Thence  $N 00^{\circ}24'26'' W$ , a distance of 327.22 feet to an iron pin found, for an interior corner of this tract;

Thence  $S 89^{\circ}35'34'' W$ , a distance of 635.60 feet to a concrete monument found on the east right of way line of said Altas Palmas Road, for an exterior corner of this tract;

Thence along the east right of way line of said Altas Palmas Road,  $N 00^{\circ}24'26'' W$ , a distance of 325.91 feet to a concrete monument found, for the western most northwest corner of this tract;

Thence leaving the east right of way line said Altas Palmas Road,  $S 89^{\circ}40'53'' E$ , a distance of 279.04 feet, to a point, for an interior corner of this tract;

Thence  $N 89^{\circ}14'45'' E$ , a distance of 356.59 feet to a iron pin with a plastic cap stamped "Moore 6370" set, for an interior corner of this tract;

Thence  $N 00^{\circ}24'26'' W$ , a distance of 38.05 feet to a point, for an exterior corner of this tract;

Thence  $N 89^{\circ}35'34'' E$ , a distance of 125.00 feet to a concrete monument found, for an interior corner of this tract;

Thence  $N 00^{\circ}24'26'' W$ , at 720.00 feet passed a concrete monument found on the south right of way of Garrett Road (60 feet of right of way), and continuing a total distance of 750.00 feet to a point on the centerline of said Garrett Road, for the northern most northwest corner of this tract;

Thence along the centerline of said Garrett Road,  $N 89^{\circ}35'34'' E$ , a distance of 798.93 feet to a point for the northeast corner of this tract;



Thence leaving the centerline of said Garrett Road, S 00°39'54" W. at 30.00 feet passed a concrete monument found on the south right of way line of said Garrett Road, and continuing a total distance of 220.00 feet to a point, for an interior corner of this tract;

Thence N 89°35'34" E, a distance of 150.00 feet to a point on the west line of said Garrett Doan Estates, for an exterior corner of this tract;

Thence along the west boundary line of said Garrett Doan Estates, S 00°39'54" E, at a distance of 244.84 feet to a concrete monument found for the southwest corner of Lot 1, Block 2 of said Garrett Doan Estates, for an exterior corner of this tract;

Thence along the south boundary line of said Lot 1, Block 2, N 89°20'06" E, a distance of 190.00 feet to a concrete monument found, for an interior corner of this tract;

Thence continuing along the south boundary line of said Lot 1, Block 2, N 44°20'06" E, a distance of 42.43 feet to a concrete monument found on the west right of way line of Doan Road (variable width right of way), for an exterior corner of this tract;

Thence leaving the south boundary line of said Lot 1, Block 2, along the west right of way line of said Doan Road, S 00°39'54" E, a distance of 120.00 feet to a concrete monument found for the northeast corner of Lot 5, Block 1 of said Garrett Doan Estates, for an exterior corner of this tract;

Thence leaving the west right of way line of said Doan Road, along the north boundary of said Lot 5, Block 1, N 45°39'54" W, a distance of 42.43 feet to a concrete monument found, for an interior corner of this tract;

Thence continuing along the north boundary line of said Lot 5, Block 1, S 89°20'06" W, a distance of 190.00 feet to a concrete monument found for the northwest corner of said Lot 5, Block 1, being on the west boundary of said Garrett Doan Estates, for an interior corner of this tract;

Thence along the west boundary line of said Garrett Doan Estates, S 00°39'54" E, a distance of 723.19 feet to the **POINT OF BEGINNING**, containing 56.45 acres of land, more or less.

**AGENDA ITEM  
EXECUTIVE SUMMARY**

7(d)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District for a Stripes Convenience Store, located at 202 N. Ed Carey Drive, bearing a legal description of Lot 1, Block 1, Camino Real Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment **(Planning & Development)**

Prepared By: Xavier Cervantes, AICP, CPM  
Title: Planning and Development Director  
Signature: *Xavier Cervantes*

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the special use permit subject to complying with the following conditions:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention;
4. Must comply with the requirements administered by Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments; and
5. Hours of operation shall be from 7:00 am to 12:00 pm, everyday.

City Manager's approval: *SS* ☒ Yes ☐ No ☐ N/A

City Attorney's approval: *OP* **Comments:** ☒ Yes ☐ No ☐ N/A



## **ORDINANCE NO. 24-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: A SPECIAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION IN A GENERAL RETAIL ("GR") DISTRICT FOR A STRIPES CONVENIENCE STORE, LOCATED AT 202 N. ED CAREY DRIVE, BEARING A LEGAL DESCRIPTION OF LOT 1, BLOCK 1, CAMINO REAL SUBDIVISION.**

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a change in the zoning classification for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed rezoning having been fully made and complied with as required by said Zoning Ordinance and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

### **BE IT ORDAINED BY THE CITY OF HARLINGEN**

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated in Exhibits "A" and "B":

Special Use Permit (SUP) issued to 7-Eleven Inc. to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District located at 202 N. Ed Carey Drive, bearing a legal description of Lot 1, Block 1, Camino Real Subdivision.

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Chief Building Official and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.

The Special Use Permit is made contingent upon construction being complied in accordance with the site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as Exhibit "A" and shall comply with the conditions as listed below:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, everyday.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this 16th day of October, 2024 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

**CITY OF HARLINGEN**

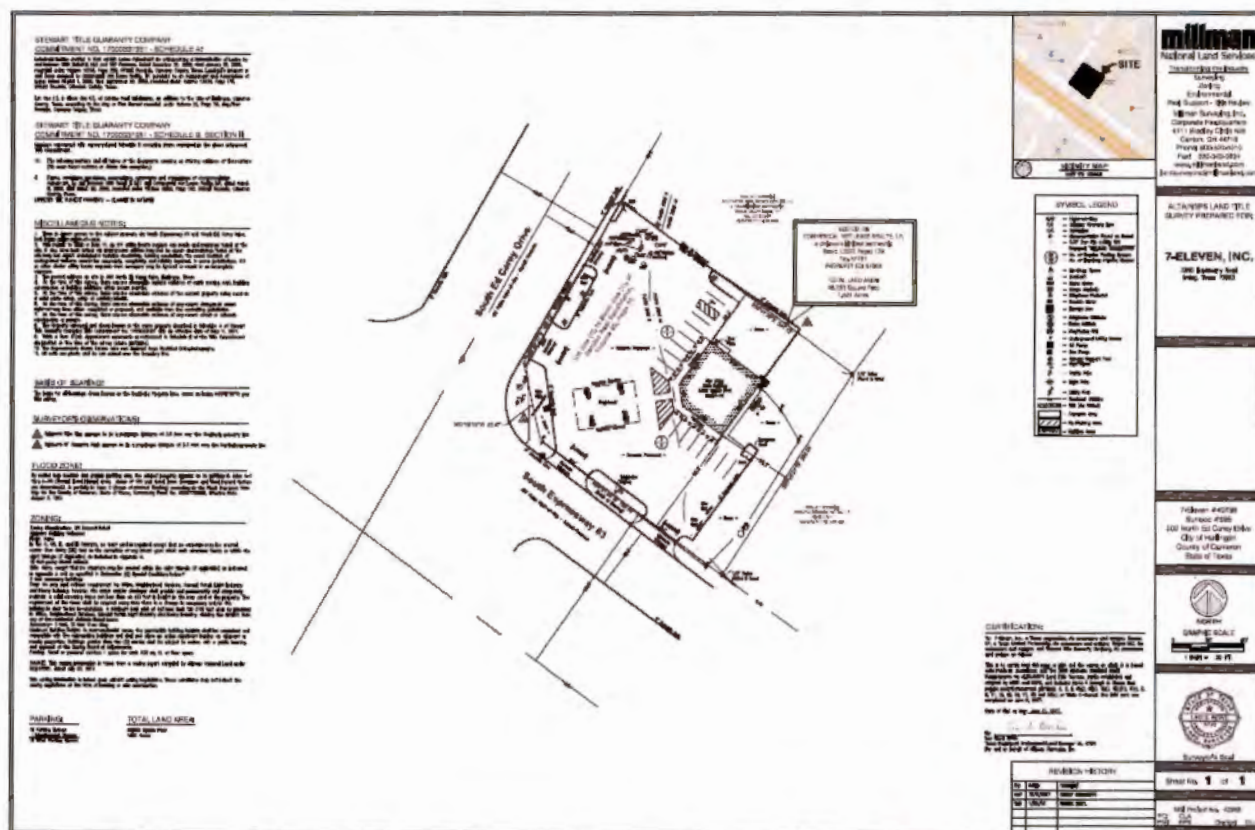
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Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary



### Exhibit "A"



**Exhibit “B”**





**AGENDA ITEM  
EXECUTIVE SUMMARY**

7(e)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, for a Stripes Convenience Store, located at 1250 N. 77 Sunshine Strip, bearing a legal description of Lot 11 and the West ½ of Lot 12, Block 1, North Crown Heights Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (***Planning & Development***)

Prepared By: Xavier Cervantes, AICP, CPM

Title: Planning and Development Director

Signature: *Xavier Cervantes*

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the special use permit subject to complying with the following conditions:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention;
4. Must comply with the requirements administered by Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments; and
5. Hours of operation shall be from 7:00 am to 12:00 pm, everyday.

City Manager's approval: *GG* ☒ Yes ☐ No ☐ N/A

City Attorney's approval: *[Signature]* **Comments:** ☒ Yes ☐ No ☐ N/A

## **ORDINANCE NO. 24-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: A SPECIAL USE PERMIT ISSUED TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION IN A GENERAL RETAIL ("GR") DISTRICT, FOR A STRIPES CONVENIENCE STORE LOCATED AT 1250 N. 77 SUNSHINE STRIP, BEARING A LEGAL DESCRIPTION OF LOT 11 AND THE WEST ½ OF LOT 12, BLOCK 1, NORTH CROWN HEIGHTS SUBDIVISION.**

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a change in the zoning classification for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed rezoning having been fully made and complied with as required by said Zoning Ordinance and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

### **BE IT ORDAINED BY THE CITY OF HARLINGEN**

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated in Exhibits "A" and "B":

Special Use Permit (SUP) issued to 7-Eleven Inc. to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District located at 1250 N. 77 Sunshine Strip, bearing a legal description of Lot 11 and the West ½ of Lot 12, Block 1, North Crown Heights Subdivision.

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Chief Building Official and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.



The Special Use Permit is made contingent upon construction being complied in accordance with the site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as Exhibit "A" and shall comply with the conditions as listed below:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention;
4. Must comply with the requirements administered by Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments; and
5. Hours of operation shall be from 7:00 am to 12:00 pm, everyday.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this 16th day of October, 2024 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

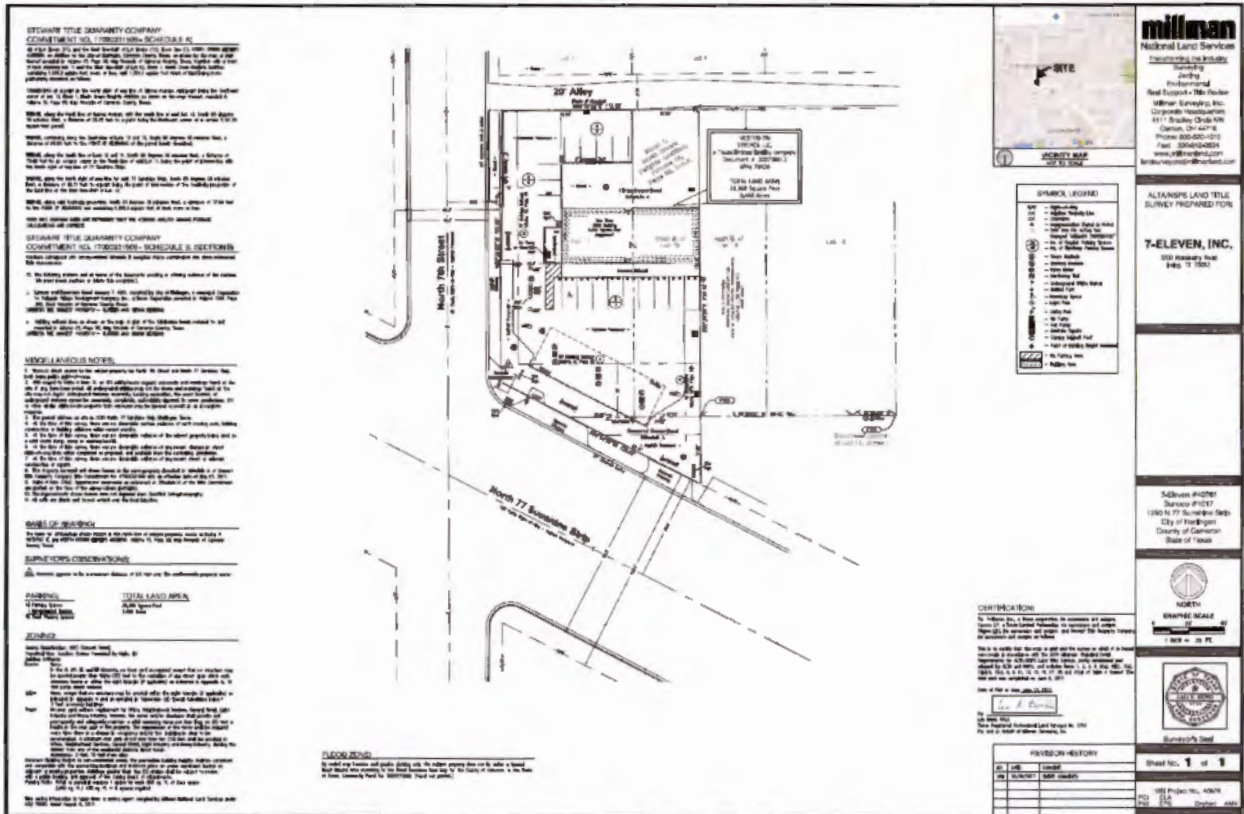
**CITY OF HARLINGEN**

\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

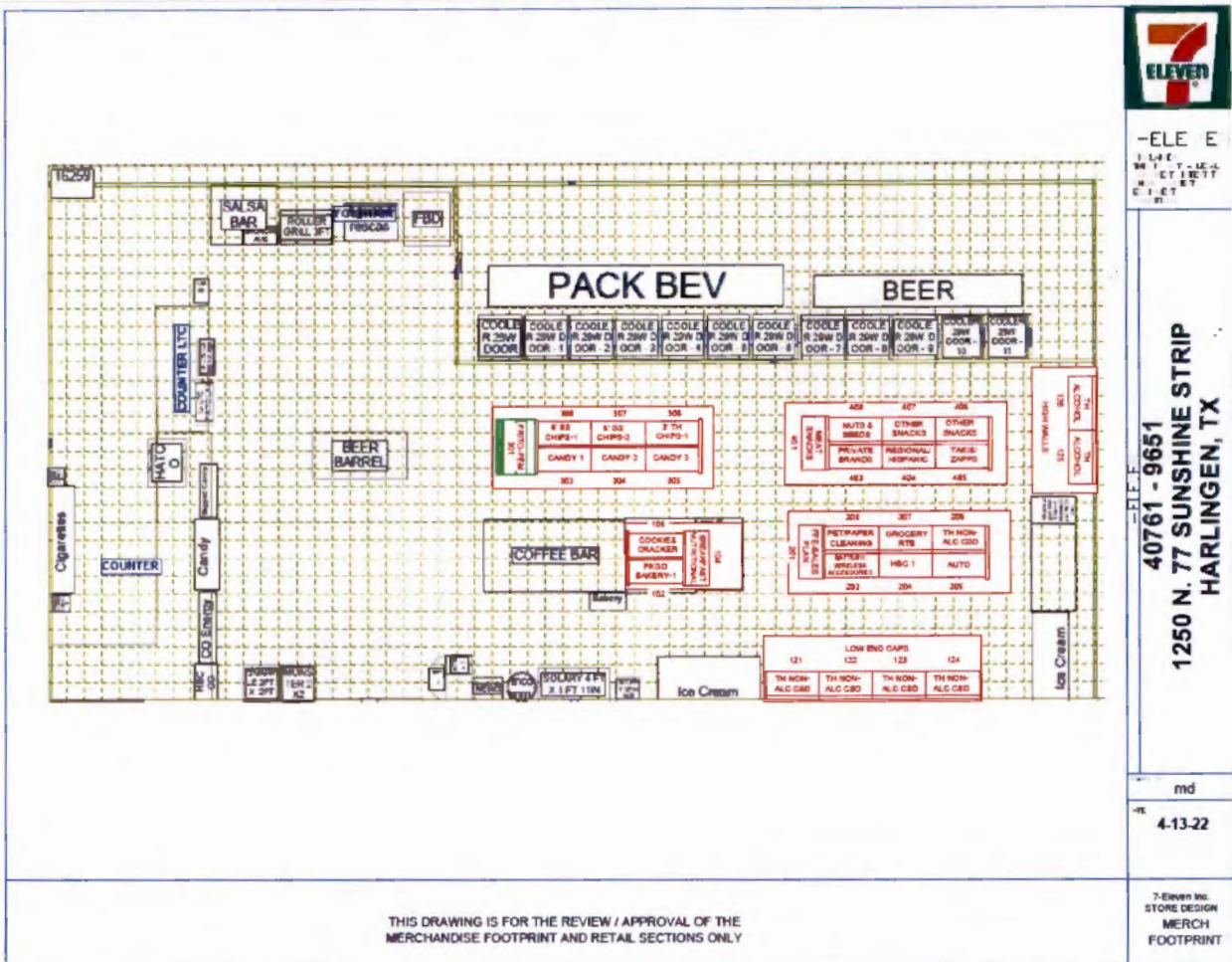
\_\_\_\_\_  
Amanda C. Elizondo, City Secretary

### Exhibit "A"





# Exhibit "B"



**AGENDA ITEM  
EXECUTIVE SUMMARY**

7(f)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, for a Stripes Convenience Store located at 1313 Haverford Boulevard, bearing a legal description of Lot 1, Haverford Place Section 1 Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (**Planning & Development**)

Prepared By: **Xavier Cervantes, AICP, CPM**

Title: **Planning and Development Director**

Signature: *Xavier Cervantes*

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the special use permit subject to complying with the following conditions:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, every day.

City Manager's approval:

*66*

☒ Yes ☐ No ☐ N/A

**Comments:**

City Attorney's approval:

*[Signature]*

☒ Yes ☐ No ☐ N/A



## **ORDINANCE NO. 24-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: A SPECIAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION IN A GENERAL RETAIL ("GR") DISTRICT, FOR A STRIPES CONVENIENCE STORE, LOCATED AT 1313 HAVERFORD BOULEVARD, BEARING A LEGAL DESCRIPTION OF LOT 1, HAVERFORD PLACE SECTION 1 SUBDIVISION.**

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a change in the zoning classification for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed rezoning having been fully made and complied with as required by said Zoning Ordinance and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

### **BE IT ORDAINED BY THE CITY OF HARLINGEN**

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated in Exhibit "A":

Special Use Permit (SUP) issued to Tim Ilaoa to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District located at 1313 Haverford Boulevard, bearing a legal description of Lot 1, Haverford Place Section 1 Subdivision.

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Chief Building Official and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.

The Special Use Permit is made contingent upon construction being complied in accordance with the site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as Exhibit "A" and shall comply with the conditions as listed below:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, every day.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this 16th day of October, 2024 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

**CITY OF HARLINGEN**

---

Norma Sepulveda, Mayor

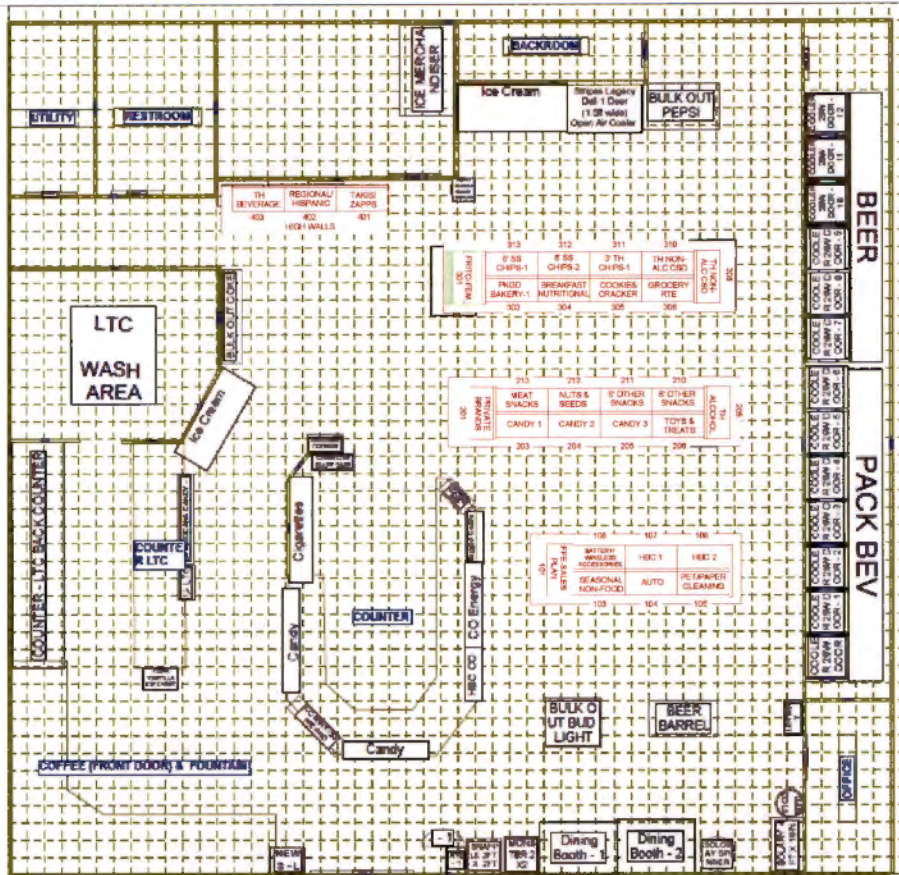
**ATTEST:**

---

Amanda C. Elizondo, City Secretary



# Exhibit "A"



THIS DRAWING IS FOR THE REVIEW / APPROVAL OF THE MERCHANDISE FOOTPRINT AND RETAIL SECTIONS ONLY



7-ELEVEN  
DISCLAIMER:  
THIS IS NOT A LEGAL  
DOCUMENT. IT IS INTENT TO  
SHOW CURRENT  
EQUIPMENT  
CONDITIONS

40709 - 56146  
1313 HAVERFORD BLVD  
HARLINGEN, TX

DATE: 4-12-22

7-Eleven Inc.  
STORE DESIGN  
MERCH  
FOOTPRINT

**AGENDA ITEM  
EXECUTIVE SUMMARY**

79)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption, in a General Retail ("GR") District located at the Stripes Convenience Store located at 1725 S. F Street, bearing a legal description of Lots 1 and 2, Harlingen Service Center Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (**Planning & Development**)

Prepared By: **Xavier Cervantes, AICP, CPM**

Title: **Planning and Development Director**

Signature: *Xavier Cervantes*

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the special use permit subject to complying with the following conditions:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by the Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, every day.

City Manager's approval: *GG* ☒ Yes ☐ No ☐ N/A

City Attorney's approval: *[Signature]* **Comments:** ☒ Yes ☐ No ☐ N/A



## **ORDINANCE NO. 24-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: A SPECIAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON—PREMISE CONSUMPTION IN A GENEAL RETAIL (“GR”) DISRICT FOR A STRIPES CONVENIENCE STORE LOCATED AT 1725 S. F STREET, BEARING A LEGAL DESCRIPTION OF LOTS 1 AND 2, BLOCK 1, HARLINGEN SERVICE CENTER SUBDIVISION.**

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a change in the zoning classification for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed rezoning having been fully made and complied with as required by said Zoning Ordinance and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

### **BE IT ORDAINED BY THE CITY OF HARLINGEN**

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated in Exhibit “A”:

Special Use Permit (SUP) issued to 7-Eleven Inc. to allow the sale of alcoholic beverages for on-premise consumption in a General Retail (“GR”) District located at 1725 S. F Street, bearing a legal description of Lots 1 and 2, Harlingen Service Center Subdivision as shown in Exhibit “A”.

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Chief Building Official and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.

The Special Use Permit is made contingent upon construction being complied in accordance with the site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as Exhibit "A" and shall comply with the conditions as listed below:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by the Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, every day.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this 16th day of October, 2024 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

**CITY OF HARLINGEN**

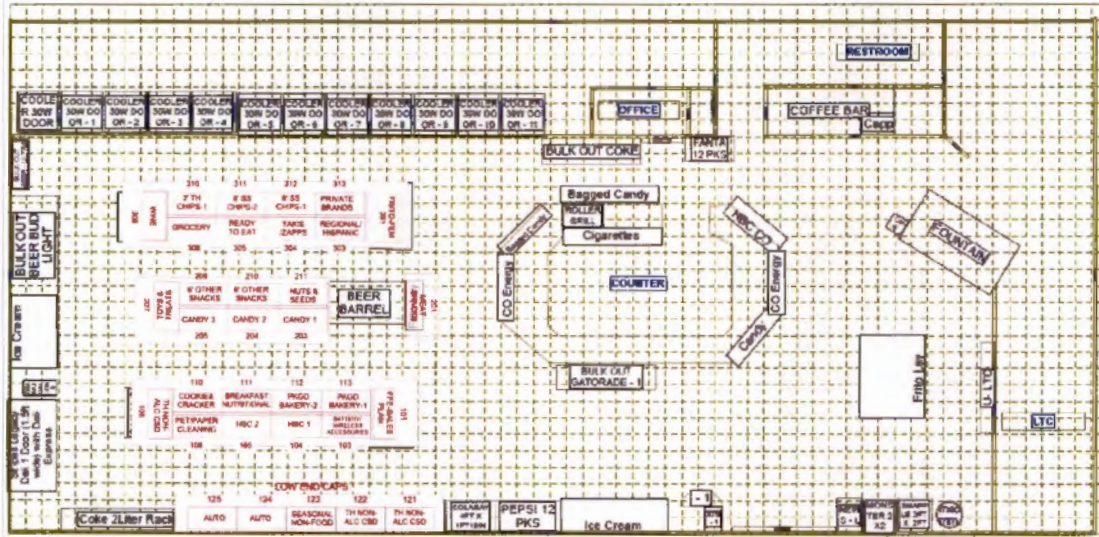
\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary



Exhibit "A"



40710 - 7795  
1725 F STREET  
HARLINGTON, TX

md  
4-13-22

THIS DRAWING IS FOR THE REVIEW / APPROVAL OF THE  
MERCHANDISE FOOTPRINT AND RETAIL SECTIONS ONLY

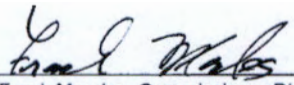
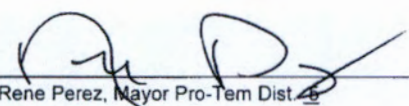
7-Eleven Inc.  
STORE DESIGN  
MERCH  
FOOTPRINT

City of Harlingen  
Agenda Item Request Form

We, hereby request the following item to be added to the October 21, 2024, City Commission Agenda:

Consideration and possible action to approve the installation of speed humps in the following location(s):

1. 1400 Block of White Oak Dr.
2. 3500 Block of West Lamb
3. North and South Hummingbird Lane

  
\_\_\_\_\_  
Frank Morales, Commissioner Dist. 4  
\_\_\_\_\_  
Rene Perez, Mayor Pro-Tem Dist. 4



76)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and take possible action to approve and authorize the City Manager, on behalf of the City of Harlingen, to accept FY25 STEP COMP grant funding in the amount of \$50,000.00 made available through the Texas Department of Transportation (TxDOT) Comprehensive Program. TxDOT Funds \$50,000.00 / Matching funds \$12,549.09. Total Funds for 2024-2025 Grant: \$62,549.09. (Attachment Police)

Prepared By (Print Name): **Michael Kester**

Title: **Chief of Police**

Signature: 

**Brief Summary:**

The Harlingen Police Department will be utilizing the TxDOT Comprehensive Program funding for overtime costs and operating expenses to the City of Harlingen for providing additional manpower in a state-led and unified strategy to increase effective enforcement and adjudication of public safety-related laws to reduce crashes and crash-related injuries and deaths. The City of Harlingen is responsible for a match (\$12,549.09).

**Funding (if applicable):**

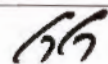
Are funds specifically designated in the current budget for the full amount ☐ Yes ☒ No\*

\*If no, specify source of funding and amount requested: \$50,000.00 will derive from reimbursement requests to the TxDOT.

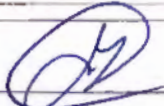
Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends that we accept the FY 25 TxDOT STEP COMP Grant funding awarded to the City of Harlingen Police Department.

City Manager's approval:  ☒ Yes ☐ No ☐ N/A

**Comments:**

City Attorney's approval:  ☒ Yes ☐ No ☐ N/A

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS AUTHORIZING THE HARLINGEN POLICE DEPARTMENT TO ACCEPT A FY 25 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) COMPREHENSIVE (COMP) SAFETY GRANT AWARD FROM THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR FUNDING OVERTIME COSTS AND OPERATING EXPENSES FOR PROVIDING ADDITIONAL MANPOWER TO ENHANCE AND IMPROVE COMMUNITY AND HIGHWAY SAFETY.**

**WHEREAS**, the City of Harlingen finds it in the best interest of its citizens and the region that it utilizes its local law enforcement personnel in a state-led and unified strategy to increase effective enforcement and adjudication of public safety-related laws, reducing crashes and crash-related injuries and deaths while responding to the need for safer streets and highways within the State of Texas and the City of Harlingen.

**WHEREAS**, the City of Harlingen has applied for funding from the Texas Department of Transportation funding via the FY25 TxDOT STEP Comprehensive Program for **\$50,000.00** to be reimbursed from TxDOT, with Harlingen being responsible for matching funds in the amount of \$12,549.09. Total funds for the 2024-2025 Grant: \$62,549.09

**WHEREAS**, the City of Harlingen finds it in the best interest of the citizens of Harlingen, Texas, and the region that it will allow its local police department to accept the funding to increase enforcement and reduce crashes and crash-related injuries and deaths.

**WHEREAS**, the City Commission of the City of Harlingen designates City Manager Gabriel Gonzalez as the authorized official to apply for, accept, reject, alter, or terminate funding of said grant.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS:** that the City Commission approves the acceptance of the grant award from the Texas Department of Transportation - FY 25 STEP Comprehensive Program in the amount of **\$50,000.00**

**CONSIDERED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024, at a regular meeting of the Elective Commission of the City of Harlingen, Texas, at which a quorum was present and which was held in accordance with the **TEXAS GOVERNMENT CODE, CHAPTER 551.**

CITY OF HARLINGEN:

\_\_\_\_\_  
Norma Sepulveda, Mayor

ATTEST:

\_\_\_\_\_  
Amanda Elizondo, City Secretary



70)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

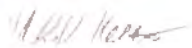
Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and take possible action to approve and authorize the City Manager, on behalf of the City of Harlingen, to accept FY 25 STEP CMV Grant funding in the amount of \$12,000 made available through the Texas Department of Transportation (TXDOT) CMV Program. TXDOT Funds \$12,000 / Matching funds \$3,002.77. Total Funds for 2024-2025 Grant: \$15,002.77. (Attachment Police)

Prepared By (Print Name): **Michael Kester**

Title: **Chief of Police**

Signature: 

**Brief Summary:**

The Harlingen Police Department will be utilizing the FY 25 TXDOT CMV Program funding for overtime costs and operating expenses to the City of Harlingen for providing additional manpower in a state-led and unified strategy to increase effective enforcement and adjudication of public safety-related laws to reduce fatal and serious injury crashes involving commercial motor vehicles (CMV). The City of Harlingen is responsible for a match (\$3,002.77).

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount ☐ Yes ☒ No\*

\*If no, specify source of funding and amount requested: \$12,000 will derive from reimbursement requests to the TXDOT.

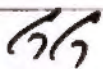
Finance Director's approval:

☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends that we accept the FY 25 TXDOT STEP CMV Grant funding awarded to the City of Harlingen Police Department.

City Manager's approval:



☒ Yes ☐ No ☐ N/A

**Comments:**

City Attorney's approval:



☒ Yes ☐ No ☐ N/A

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS AUTHORIZING THE HARLINGEN POLICE DEPARTMENT TO ACCEPT A FY25 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) COMMERCIAL MOTOR VEHICLE (CMV) SAFETY GRANT AWARD FROM THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR FUNDING OVERTIME COSTS AND OPERATING EXPENSES FOR PROVIDING ADDITIONAL MANPOWER TO ENHANCE AND IMPROVE COMMUNITY AND HIGHWAY SAFETY.**

**WHEREAS**, the City of Harlingen finds it in the best interest of its citizens and the region that it utilizes its local law enforcement personnel in a state-led and unified strategy to reduce commercial motor vehicle (CMV) crashes, injuries, and fatalities and respond to the need for safer streets and highways within the State of Texas and the City of Harlingen.

**WHEREAS**, the City of Harlingen has applied for funding from the Texas Department of Transportation funding under the FY25 TXDOT STEP CMV Program for \$12,000.00 to be reimbursed from TXDOT, Harlingen being responsible for matching funds in the amount of \$3,002.77. Total funds for the 2024-2025 Grant: \$15,002.77

**WHEREAS**, the City of Harlingen finds it in the best interest of the citizens of Harlingen, Texas, and the region that it will allow its local police department to accept the funding to increase enforcement to reduce CMV crashes, injuries, and fatalities.

**WHEREAS**, the City Commission of the City of Harlingen designates City Manager Gabriel Gonzalez as the authorized official to apply for, accept, reject, alter, or terminate funding of said grant.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS:** that the City Commission approves the acceptance of the grant award from the Texas Department of Transportation - FY 25 STEP CMV Program in the amount of \$12,000.00

**CONSIDERED AND ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2024, at a regular meeting of the Elective Commission of the City of Harlingen, Texas, at which a quorum was present and which was held in accordance with the **TEXAS GOVERNMENT CODE, CHAPTER 551.**

CITY OF HARLINGEN:

\_\_\_\_\_  
Norma Sepulveda, Mayor

ATTEST:

\_\_\_\_\_  
Amanda Elizondo, City Secretary



**AGENDA ITEM  
EXECUTIVE SUMMARY**

7(K)

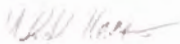
Meeting Date: October 21, 2024

**Agenda Item:**

Consideration and take possible action to approve and authorize the City Manager, on behalf of the City of Harlingen, to accept a grant funding award and ultimately expend said funding of **\$648,000.00** from the U.S. Department of Justice – COPS Office regarding the FY 24 COPS Technology and Equipment Program Invitational Solicitation which will be used to purchase new Motorola handheld portable radios and accessories that will replace the Tait brand radios currently used by the Harlingen Police Department. (Attachment Police)

Prepared By (Print Name): Michael Kester

Title: Chief of Police

Signature: 

**Brief Summary:**

The Harlingen Police Department has received funding to replace the Tait brand radios with modern Motorola radios.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount ☐ Yes ☒ No\* for this purpose?

\*If no, specify the source of funding and amount requested: The funding will derive from reimbursement to the U.S. Department of Justice – COPS Office

Finance Director's approval:

☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends accepting the revised award to upgrade radios.

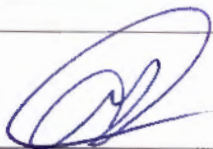
City Manager's approval:



☒ Yes ☐ No ☐ N/A

**Comments:**

City Attorney's approval:



☒ Yes ☐ No ☐ N/A

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, AUTHORIZING THE HARLINGEN POLICE DEPARTMENT TO ACCEPT A GRANT AWARD AND ULTIMATELY EXPEND FUNDING IN REFERENCE TO GRANT APPLICATION #14185431 FROM THE COPS OFFICE REGARDING THE FY 24 COPS TECHNOLOGY AND EQUIPMENT PROGRAM INVITATIONAL SOLICITATION FOR FUNDING NEW MOTOROLA RADIOS FOR THE DEPARTMENT**

**WHEREAS**, the City of Harlingen finds it in the best interest of the citizens of Harlingen, Texas, and the region that it accepts awarded grant funding to purchase new Motorola handheld portable radios and accessories that will replace the Tait brand radios currently used by the Harlingen Police Department; and

**WHEREAS**, the governing body of the City of Harlingen has considered the COPS Office FY 24 COPS Technology and Equipment Program Invitational Solicitation grant funding award of \$648,000.00 from the U.S. Department of Justice – COPS Office and

**WHEREAS**, the governing body of the City of Harlingen, Texas, understanding the financial limitations and obligations related to such funding, including the full return of grant funds in the event of a loss or misuse of the FY 24 COPS Technology and Equipment Program Invitational Solicitation funds, endorses the acceptance of the award for the Harlingen Police Department; and

**WHEREAS**, the City Commission of the City of Harlingen designates the City Manager Gabriel Gonzalez as the authorized official to apply for, accept, reject, alter, or terminate funding of said grant.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS:** that the City Commission approves the acceptance of grant funding awarded by the U.S. Department of Justice – COPS Office for the funding made available via the FY 24 COPS Technology and Equipment Program Invitational Solicitation, in the amount of \$648,000.00

**CONSIDERED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2024, at a regular meeting of the Elective Commission of the City of Harlingen, Texas, at which a quorum was present and which was held in accordance with **TEXAS GOVERNMENT CODE, CHAPTER 551.**

**GRANT #14185431**

**CITY OF HARLINGEN:**

\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda Elizondo, City Secretary



**AGENDA ITEM  
EXECUTIVE SUMMARY**

7(L)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to approve a resolution authorizing the City Manager to accept a grant award of \$225,577 from the Texas Comptroller of Public Accounts State Energy Conservation Office for park lighting retrofits and enter into an interlocal agreement for said grant. Attachment (*Special Projects Department*)

Prepared By: Ana Hernandez, Mobility & Special Projects Director

**Brief Summary:**

The City of Harlingen, Texas has been awarded a \$225,577 grant from the Texas Comptroller of Public Accounts' State Energy Conservation Office (SECO) to upgrade 214 existing high-pressure sodium (HPS) lamps, incandescent lights, and metal halide lamps (HID) with new energy-efficient light-emitting diode (LED) lights at the Wilson Youth Sports Complex and the City Lake/Liberty Gardens. The Parks and Recreation Department will oversee the project, which is expected to be completed within 6-12 months.

This project will help the city reduce electricity usage while staying responsive to the community's request for better-quality lighting at city parks. Specifically, this project will help the city support its Energy Efficiency and Conservation Strategy (EECS)'s goals to "reduce emissions relative to energy use reduction by 5%," and "reduce energy use by 10%."

While this grant does not require a local match, it will require a budget amendment to utilize the grant award, which the Finance Department will present at a later date.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount (Yes/No):

\*If no, specify source of funding and amount requested:

Finance Director's approval (Yes/No/NA):

**Staff Recommendation:**

Staff recommends approval of the proposed resolution.

City Manager approval:



**Comments:**

City Attorney's approval:



**RESOLUTION NO. 2024 - \_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE STATE ENERGY CONSERVATION OFFICE UNDER THE MUNICIPALLY OWNED BUILDING ENERGY EFFICIENCY RETROFITS PROGRAM FOR PARK LIGHTING RETROFITS; AND DEALING WITH RELATED MATTERS.**

**WHEREAS**, the City of Harlingen, Texas has received a Notice of Award of \$225,577 from the Texas Comptroller of Public Account's State Energy Conservation Office for park lighting retrofits at Wilson Youth Sports Complex and the City Lake/Liberty Gardens Park ("Grant"); and,

**WHEREAS**, the City of Harlingen, Texas finds it in the best interest of Harlingen residents to accept this Grant as it will help the city to retrofit 214 existing high-pressure sodium (HPS) lamps, incandescent lights, and metal halide lamps (HID) with new energy-efficient light-emitting diode (LED) lights, delivering better lighting quality at city parks and reducing electricity usage; and,

**WHEREAS**, the City of Harlingen, Texas wishes to authorize the City Manager to execute and deliver all grant-related documents, which are necessary, customary, and proper for the acceptance of the grant.

**NOW, THEREFORE, BE IT RESOLVED** that the City Commission of the City of Harlingen, Texas, hereby authorizes the acceptance of grant funds from the State Energy Conservation Office in the amount of \$225,577 for park lighting retrofits at Wilson Youth Sports Complex and the City Lake/Liberty Gardens Park.

**IT IS FURTHER RESOLVED** that the City Manager or his designee is hereby authorized to execute the Grant agreement and all necessary documents in furtherance of the grant acceptance.

**CONSIDERED AND ADOPTED** this 21st day of October 2024 at a Regular Meeting of the Elective Commission of the City of Harlingen, Texas, at which a quorum was present, and which was held in accordance with Government Code Chapter 551, as amended.

\_\_\_\_\_  
**Norma Sepulveda, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Amanda C. Elizondo, City Secretary**



STATE OF TEXAS

STATE ENERGY CONSERVATION OFFICE

AGREEMENT

COUNTY OF TRAVIS

# CM24100

**INTERLOCAL AGREEMENT  
FOR THE MUNICIPALLY OWNED BUILDING ENERGY EFFICIENCY RETROFITS PROGRAM**

This interlocal agreement ("Agreement") is entered into by and between the Texas Comptroller of Public Accounts ("Comptroller"), State Energy Conservation Office ("SECO") and City of Harlingen ("Contractor") located at 118 E. Tyler Avenue, Harlingen, Texas 78550.

**I. Recitals**

**Whereas**, on June 28, 2024, Comptroller issued a Request for Applications No. EECBG-IIJA1-2024 ("RFA") for the Municipally Owned Building Energy Efficiency Retrofits Program to convert to energy efficiency retrofits;

**Whereas**, City of Harlingen submitted an application on or before August 16, 2024, in response to Comptroller's RFA ("Application");

**Whereas**, City of Harlingen was selected as a Successful Applicant;

**Whereas**, under this Agreement, City of Harlingen shall fully comply with all terms, conditions, requirements and other provisions of this Contract, including those set forth in the Attachments attached hereto and incorporated herein for all purposes; and

**Whereas**, in consideration of City of Harlingen's compliance with all requirements of this Contract, Comptroller awards this Contract to the City of Harlingen.

**Now, therefore**, the parties hereby agree as follows:

**II. Authority**

This Agreement is entered into pursuant to authority granted in Chapter 403, Section 403.11, Texas Government Code; Chapter 447, Texas Government Code; the Oil Overcharge Restitutionary Act, Chapter 2305, Texas Government Code; the Interlocal Cooperation Act, Chapter 791, Texas Government Code; and the State of Texas Oil Overcharge Funds Disbursement Plan. Funding for this program is provided by federal funds approved by the United States Department of Energy ("DOE").

**III. Services**

City of Harlingen shall provide to Comptroller all of the services and deliverables described in and in the manner required by this Agreement all of the following documents ("Services") as attached hereto and incorporated as part of this Agreement for all purposes. All terms and conditions of Comptroller's RFA shall apply.

|                        |                                                                                                                                  |
|------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| <u>Attachment A:</u>   | Deliverables Statement;                                                                                                          |
| <u>Attachment B:</u>   | Budget;                                                                                                                          |
| <u>Attachment C-1:</u> | Assurance of Compliance, Nondiscrimination in State Assisted Programs;                                                           |
| <u>Attachment C-2:</u> | Assurance of Compliance, Nondiscrimination in State Assisted Programs;                                                           |
| <u>Attachment D:</u>   | Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions;           |
| <u>Attachment E:</u>   | Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements; |

|                      |                                                          |
|----------------------|----------------------------------------------------------|
| <u>Attachment F:</u> | Disclosure of Lobbying Activities;                       |
| <u>Attachment G:</u> | Assurances – Non-Construction Programs;                  |
| <u>Attachment H:</u> | Intellectual Property Provisions;                        |
| <u>Attachment I:</u> | Subcontracting Provisions; Mandatory Flowdown Provision; |
| <u>Attachment J:</u> | Execution of Application;                                |
| <u>Attachment K:</u> | Nondisclosure Agreement;                                 |
| <u>Attachment L:</u> | Comptroller's RFA;                                       |
| <u>Attachment M:</u> | City of Harlingen's Application;                         |
| <u>Attachment N:</u> | Build America, Buy America                               |
| <u>Attachment O:</u> | Davis-Bacon Act                                          |
| <u>Attachment P:</u> | LCPTTracker Flow Chart                                   |
| <u>Attachment Q:</u> | LCPTTracker Training Schedule                            |

In the event of a conflict, the documents shall control in the following order of precedence:

1. This Agreement, excluding Attachments;
2. Attachments A and B;
3. Attachments C-1 through H;
4. Attachment I;
5. Attachment O;
6. Attachment P;
7. Attachment N;
8. Attachment J;
9. Attachment K;
10. Attachment L;
11. Attachment M;

City of Harlingen represents and warrants that it completed and provided the following Attachments to Comptroller prior to executing this Agreement: C-1, D, E, F, G, H, I, J, K, N, and O. In addition, City of Harlingen represents and warrants that each of its subcontractors will complete and provide an Attachment C-2 to City of Harlingen and Comptroller prior to City of Harlingen executing this Agreement.

City of Harlingen shall retain full control over the personnel, equipment, supplies, and other items City of Harlingen selects as necessary to provide all of the services described in this Agreement.

City of Harlingen shall submit such records, information, and reports in such form and at such times as may be required by Comptroller; these reports shall include, but are not limited to, the reports specified in Attachment A.

City of Harlingen's performance under this Agreement is limited to the requirements set forth in this Agreement, including services reasonably related to satisfying those requirements.

City of Harlingen represents and warrants that it has the requisite qualifications, experience, personnel and other resources to provide all of the required Services to Comptroller in the manner required by this Agreement. Comptroller shall look solely to City of Harlingen for performance of this Agreement. City of Harlingen shall provide the services under the direction of Comptroller. City of Harlingen shall be the sole point of Contract responsibility. City of Harlingen shall be liable, both individually and severally, for the performance of all obligations under this Contract, and shall not be relieved of the non-performance of any subcontractor.

#### IV. Payments

Total payments to City of Harlingen under this Agreement shall not exceed **TWO HUNDRED TWENTY-FIVE THOUSAND FIVE HUNDRED SEVENTY-SEVEN AND 00/100 DOLLARS (\$225,577.00)**. City of Harlingen's payments under this Agreement are limited to reimbursements of actual authorized costs incurred pursuant to the



budget provided in Attachment B. No other amounts shall be paid. Each month, City of Harlingen shall submit to Comptroller each request for payment by submitting a detailed invoice to Comptroller, listing expenses by budget categories. City of Harlingen shall submit invoices that are fully supported by receipts and such other documentation. Comptroller reserves the right, in its sole discretion, to withhold payment of invoices for which City of Harlingen does not submit documentation acceptable to Comptroller. City of Harlingen shall submit monthly invoices for equipment purchased, services performed and costs incurred in the prior month.

Comptroller reserves the right, in its sole discretion, to authorize revisions to budgeted amounts to provide for flexibility within budget categories. Comptroller must give prior approval of all such revisions through its execution of a written amendment to this Agreement. City of Harlingen may submit a request for reimbursement after contract termination provided the eligible expenses were incurred during the term of the Agreement.

## **V. Term**

The term of this Agreement shall begin on the date executed by Comptroller, after having first been signed by City of Harlingen, and shall be effective until August 31, 2025 ("Termination Date") unless terminated earlier in accordance with other provisions of this Agreement. Notwithstanding the termination or expiration of this Agreement, the provisions of this Agreement regarding confidentiality, indemnification, payments, records, and dispute resolution shall survive the termination or expiration dates of this Contract.

## **VI. Termination**

Comptroller reserves the right, in its sole discretion, to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to City of Harlingen.

Upon receipt of notice of termination from Comptroller, City of Harlingen shall immediately cease to submit monthly statements or requests for reimbursement and shall cancel, withdraw or otherwise terminate any outstanding orders or commitments under this Agreement as of the effective date of such termination and shall otherwise cease to incur any costs. City of Harlingen cannot incur new costs after termination but can seek reimbursement for eligible costs incurred during the Agreement term. Comptroller shall have no liability whatsoever for any costs incurred after such termination date. Upon termination for a breach of this Agreement or failure to comply with the terms of this Agreement, City of Harlingen may be required to return any or all grant funds to Comptroller.

## **VII. Records Retention, Right to Audit, and Monitoring**

A. Retention of Records. City of Harlingen shall maintain and retain fiscal records and supporting documentation for all expenditures related to this Agreement at its principal office adequate to ensure that claims for grant funds are in accordance with applicable Comptroller and State of Texas requirements. City of Harlingen shall maintain all such documents and other records relating to this Agreement for a period of seven (7) years after the date of submission of the final invoice or until a resolution of all billing questions, whichever is later.

B. Access to Records. City of Harlingen shall give DOE, the Inspector General, the General Accounting Office, the Auditor of the State of Texas, Comptroller, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by City of Harlingen pertaining to this Agreement. Such rights to access shall continue as long as the records are retained by City of Harlingen. City of Harlingen shall cooperate with auditors and other authorized representatives of Comptroller and the State of Texas and shall provide them with prompt access to all such property as requested by Comptroller or the State of Texas. By example and not as exclusion to other breaches or failures, the City of Harlingen's failure to comply with this Section shall constitute a material breach of this Agreement and shall authorize Comptroller to immediately terminate this Agreement. City of Harlingen agrees to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act, Chapter 552 of the Texas Government Code.

C. Right to Audit. Comptroller may require, at City of Harlingen's sole cost and expense, independent audits by a qualified certified public accounting firm of City of Harlingen's books and records or the State's property. The independent auditor shall provide Comptroller with a copy of such audit at the same time it is provided to City of Harlingen. Comptroller retains the right to issue a request for applications for the services of an independent certified public accounting firm under this Agreement. In addition to and without limitation on the other audit provisions of this Agreement, pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of City of Harlingen or any other entity or person receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. The acceptance of funds by City of Harlingen or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, City of Harlingen or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. This Agreement may be amended unilaterally by Comptroller to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code. City of Harlingen shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors or sub-contractors through the City of Harlingen and the requirement to cooperate is included in any subcontract it awards. The state auditor shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of the City of Harlingen relating to this Agreement.

D. Monitoring. Comptroller may also carry out monitoring and evaluation activities to ensure City of Harlingen's compliance with the programs that are the subject of this Agreement and to make available copies of all financial audits and related management letters of City of Harlingen and any subcontractors as required under any applicable federal or state law or guidelines.

#### **VIII. Indemnification**

TO THE EXTENT PERMITTED BY THE CONSTITUTION AND THE LAWS OF THE STATE OF TEXAS, CITY OF HARLINGEN SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND COMPTROLLER, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF City of Harlingen OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THIS CONTRACT. THE DEFENSE SHALL BE COORDINATED BY City of Harlingen WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND City of Harlingen MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. City of Harlingen AND COMPTROLLER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

#### **IX. Subcontracting**

City of Harlingen may subcontract or sub-grant for the purposes of this Agreement as specifically authorized by Comptroller pursuant to the terms and subject to compliance with the flow down provisions of Attachment I of this Agreement.

#### **X. Amendments**

This Agreement may only be amended upon the written agreement of the parties by executing an amendment to this Agreement; however, Comptroller may unilaterally amend this Agreement as provided in Section XVIII.



## **XI. Notice**

Any notice relating to this Agreement, which is required or permitted to be given under this Agreement by one party to the other party shall be in writing and shall be addressed to the receiving party at the address specified below. The notice shall be deemed to have been given immediately if delivered in person to the recipient's address specified below. It shall be deemed to have been given on the date of certified receipt if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the receiving party at the address specified below. Registered or certified mail with return receipt is not required for copies.

Comptroller: Texas Comptroller of Public Accounts  
State Energy Conservation Office  
111 E. 17<sup>th</sup> Street  
Austin, Texas 78774

City of Harlingen: City of Harlingen  
118 E. Tyler Avenue  
Harlingen, Texas 78550

## **XII. Funding**

Comptroller's performance of its obligations under this Agreement is contingent upon and subject to availability of and actual receipt by Comptroller of sufficient and adequate funds from the sources contemplated by this Agreement. This Agreement is subject to immediate cancellation or termination, without penalty to Comptroller, subject to the availability and receipt of these funds. In addition, Comptroller's authority and appropriations are subject to the actions of the Texas Legislature. If Comptroller becomes subject to a legislative change, revocation of statutory authority or lack of funds that would render the services to be provided under this Agreement impossible or unnecessary, Comptroller may terminate this Agreement without penalty to Comptroller or the State of Texas. In the event of a termination or cancellation under this Section, Comptroller shall not be required to give notice and not be liable for damages or losses caused or associated with such termination or cancellation.

## **XIII. Insurance**

City of Harlingen has and will maintain in force during the term of this Agreement insurance coverage or an adequate program of self-insurance to cover its indemnification obligations under this Agreement. As a political subdivision of the State of Texas, City of Harlingen will address issues of general liability in accordance with the Texas Civil Practice and Remedies Code, Chapter 101 (the Texas Tort Claims Act) and Chapter 102 (Tort Claims Payments by Local Governments). City of Harlingen will maintain Workers' Compensation insurance in the amounts required by state and federal law.

## **XIV. Assignment**

City of Harlingen shall not transfer or assign any rights or duties under or any interest in this Agreement. City of Harlingen shall not delegate its responsibilities or duties under the terms of this Agreement.

## **XV. Property Rights**

For the purposes of this Agreement, the term "Work" is defined as all reports, work papers, work products, materials, approaches, designs, specification, systems, documentation, methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under this Agreement. City of Harlingen owns and will continue to own all right, title and interest and all proprietary rights in and to the Work and any and all documentation or other products and results of the services rendered by City of Harlingen, including all trade secret, copyright, patent, trademark, and other proprietary rights.

City of Harlingen hereby grants Comptroller a perpetual, royalty-free, nonexclusive, irrevocable, transferable, worldwide license for governmental purposes to use, reproduce, distribute, display, and perform the Work and to prepare derivative works based thereon. Additionally, upon delivery of the Work to Comptroller, and upon full payment to City of Harlingen hereunder by Comptroller for such Work, Comptroller shall be deemed to have paid all non-commercial license, support, maintenance, subscription, and other fees of any kind, and City of Harlingen understands and agrees to this provision.

In the event that either party intends to use, reproduce, display, or perform such Work for commercial purposes, the parties agree in good faith to negotiate the applicable license.

No later than the first calendar day after the termination or expiration of this Agreement or at Comptroller's request, City of Harlingen shall deliver to Comptroller all completed, or partially completed, Work and any and all documentation or other products and results of these services. Failure to timely deliver such Work and any and all documentation or other products and results of services shall be considered a material breach of this Agreement.

In the event of any conflicting provisions between this Section and Attachment H, Attachment H shall control.

Title to and control over equipment or license of any software so purchased for City of Harlingen's performance under this Agreement shall remain with City of Harlingen so long as it is being used for the purpose for which it was intended under the terms of this Agreement.

#### **XVI. Severability Clause**

In the event that any provision of this Agreement is later determined to be invalid, void, or unenforceable, then the remaining provisions of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

#### **XVII. Dispute Resolution Process**

Chapter 2260 of the Texas Government Code ("Chapter 2260") prescribes dispute resolution processes for certain breach of contract claims applicable to certain contracts for goods and services. As required by Chapter 2260, Comptroller has adopted rules under Chapter 2260, codified at 34 Texas Administrative Code §§1.360 – 1.387, and may adopt revisions to these rules throughout the term of this Agreement, including any extensions. City of Harlingen shall comply with such rules.

The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by Comptroller and City of Harlingen to attempt to resolve any claim for breach of contract made by City of Harlingen under this Agreement:

- (A) City of Harlingen's claim for breach of this Agreement that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, City of Harlingen shall submit written notice, as required by Chapter 2260, to the Deputy Comptroller or his or her designee. Said notice shall also be given to all other representatives of Comptroller and City of Harlingen otherwise entitled to notice under this Agreement. Compliance by City of Harlingen with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
- (B) The contested case process provided in Chapter 2260 is City of Harlingen's sole and exclusive process for seeking a remedy for an alleged breach of contract by Comptroller if the parties are unable to resolve their disputes under subparagraph (A) of this Section.
- (C) Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practice and Remedies Code.



Neither the execution of this Agreement by Comptroller nor any other conduct of any representative of Comptroller relating to this Agreement shall be considered a waiver of sovereign immunity to suit.

For all other specific breach of contract claims or disputes under this Agreement, the following shall apply:

Should a dispute arise out of this Agreement, Comptroller and City of Harlingen shall first attempt to resolve it through direct discussions in a spirit of mutual cooperation. If the parties' attempts to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by Comptroller and City of Harlingen within fifteen (15) days after written notice by one of them demanding mediation under this Section. City of Harlingen and Comptroller shall pay all costs of the mediation equally. By mutual agreement, Comptroller and City of Harlingen may use a non-binding form of dispute resolution other than mediation. The purpose of this Section is to reasonably ensure that Comptroller and City of Harlingen shall in good faith utilize mediation or another non-binding dispute resolution process before pursuing litigation. Comptroller's participation in or the results of any mediation or another non-binding dispute resolution process under this Section or the provisions of this Section shall not be construed as a waiver by Comptroller of: (1) any rights, privileges, defenses, remedies or immunities available to Comptroller as an agency of the State of Texas or otherwise available to Comptroller; (2) Comptroller's termination rights; or (3) other termination provisions or expiration dates of this Agreement.

### **XVIII. Applicable Law and Conforming Amendments**

City of Harlingen shall comply with all state and federal laws, regulations, requirements and guidelines applicable to a City of Harlingen providing services to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Agreement. Comptroller reserves the right, in its sole discretion, to unilaterally amend this Agreement prior to award and throughout the term of this Agreement to incorporate any modifications necessary for Comptroller's or City of Harlingen's compliance with all applicable state and federal laws, regulations, requirements and guidelines. Other than this provision, this Agreement may only be amended by the written agreement of the parties.

### **XIX. Additional Provisions**

#### **19.1 Time Limits**

Time is of the essence in the performance of this Agreement and accordingly all time limits shall be strictly construed and rigidly enforced.

#### **19.2 No Waiver**

This Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Comptroller or otherwise available to Comptroller or City of Harlingen. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities available to Comptroller or City of Harlingen under this Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. Comptroller or City of Harlingen do not waive any privileges, rights, defenses, or immunities available to them by entering into this Agreement or by their conduct prior to or subsequent to entering into this Agreement. **The modification of any privileges, rights, defenses, remedies, or immunities available to Comptroller or City of Harlingen must be in writing, must reference this Section, and must be signed by Comptroller and City of Harlingen to be effective, and such modification of any privileges, rights, defenses, remedies, or immunities available to Comptroller shall not constitute waiver of any subsequent privileges, rights, defenses, remedies, or immunities under this Agreement or under applicable law.**

### **19.3 No Liability upon Termination**

If this Agreement is terminated for any reason, Comptroller and the State of Texas shall not be liable for any damages, claims, losses, expenses, costs or any other amounts arising from or related to any such termination.

### **19.4 Limitation on Authority; No Other Obligations**

City of Harlingen shall have no authority to act for or on behalf of Comptroller or the State of Texas except as expressly provided for in this Agreement; no other authority, power, use, or joint enterprise is granted or implied. City of Harlingen may not incur any debts, obligations, expenses or liabilities of any kind on behalf of Comptroller.

### **19.5 No Other Benefits**

City of Harlingen shall have no exclusive rights or benefits other than those set forth herein.

### **19.6 Force Majeure**

Except as otherwise provided, neither City of Harlingen nor Comptroller shall be liable to the other for any delay in, or failure of performance, of any requirement contained in this Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, terrorist attacks, fires, explosions, earthquakes, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such force majeure or otherwise waive this right as a defense.

### **19.7 Debts or Delinquencies to State**

City of Harlingen acknowledges and agrees that, to the extent City of Harlingen owes any debt or delinquent taxes to the State of Texas, any payments or other amounts City of Harlingen is otherwise owed under or related to this Agreement may be applied by the Comptroller of Public Accounts toward any debt or delinquent taxes City of Harlingen owes the State of Texas until the debt or delinquent taxes are paid in full. These provisions are effective at any time City of Harlingen owes any such debt or delinquency. City of Harlingen shall comply with rules adopted by the Comptroller under Sections 403.055, 403.0551, and 2252.903 of the Texas Government Code, and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas.

Furthermore, City of Harlingen acknowledges and agrees that any obligation to refund or return grant funds based on termination or breach of this Agreement entered into by City of Harlingen and Comptroller creates "a debt to the state" for purposes of Section 403.055 of the Texas Government Code. City of Harlingen further acknowledges and agrees that the terms of this Agreement are sufficient to create a debt by agreement between the City of Harlingen and Comptroller. Comptroller agrees that it shall provide City of Harlingen the opportunity to contest the amount due or the existence of a breach through an internal administrative review process which shall be determined by Comptroller. Applicant's failure to return any amount owed upon conclusion of Comptroller's administrative review process shall allow Comptroller to use the warrant-hold process under Section 403.055 of the Texas Government Code as a means of enforcing City of Harlingen's compliance with the terms of the Grant Agreement or to recover grant funds required to be returned by City of Harlingen under the terms of this Agreement.

If City of Harlingen is a "local government entity" as defined under Section 271.151 of the Texas Local Government Code, City of Harlingen acknowledges and agrees that this Agreement is a written contract stating the essential terms for providing services to City of Harlingen, and therefore, this Agreement is subject to Chapter 271, Subchapter I, of the Local Government Code which waives sovereign immunity for certain breach of contract claims.



## **19.8 No Conflicts**

City of Harlingen represents and warrants that City of Harlingen has no actual or potential conflicts of interest in providing services to Comptroller under the Contract and that City of Harlingen's provision of services under the Contract would not reasonably create an appearance of impropriety. Without limitation on the foregoing, other disclosures required under this Contract, and other prohibited work provisions of this Contract, City of Harlingen shall, throughout the term of this Contract, comply with and provide all of the following: provide to Comptroller, upon request, a copy of City of Harlingen's most recent audit, if any, together with a full disclosure of any and all internal control weaknesses, if any; disclose and describe in detail City of Harlingen's most recent peer review, if any, stating the date of the review and irregularities, if any, and concluding comments; disclose and describe in detail any emerging irregularities, if any, that could materially affect Comptroller's interests; and disclose and describe in detail how City of Harlingen examines whether City of Harlingen's outside auditors provide consulting or other services to City of Harlingen or City of Harlingen's clients or to Comptroller.

## **19.9 Comptroller's Anti-Fraud Policy**

City of Harlingen represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy located on Comptroller's website at <https://comptroller.texas.gov/about/policies/ethics.php>, as such Policy currently reads and as it is amended throughout the term of this Agreement.

## **19.10 Texas Public Information Act; Confidential Information**

Each party is responsible for complying with the provisions of Chapter 552, Texas Government Code (Texas Public Information Act) and the Attorney General Opinions issued under that statute. Comptroller and City of Harlingen expect that all information exchanged between them will be public information. In the event confidential information is exchanged, Comptroller and City of Harlingen shall comply with all applicable state and federal laws and regulations regarding confidentiality, privacy, and security of information. Responses to requests for confidential information shall be handled in accordance with the provisions of the Texas Public Information Act.

## **19.11 Patent, Trademark, Copyright and Other Infringement Claims**

City of Harlingen shall defend and indemnify Comptroller and the State of Texas against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from Comptroller's or City of Harlingen's use of or acquisition of any services or other items provided to Comptroller by City of Harlingen or otherwise to which Comptroller has access as a result of City of Harlingen's performance under this Agreement, provided that Comptroller shall notify City of Harlingen of any such claim within a reasonable time of Comptroller's receiving notice of any such claim. If City of Harlingen is notified of any claim subject to this Section, City of Harlingen shall notify Comptroller of such claim within five (5) working days of such notice. If Comptroller determines that a conflict exists between its interests and those of City of Harlingen or if Comptroller is required by applicable law to select separate counsel, Comptroller shall be permitted to select separate counsel and the reasonable costs of such Comptroller's counsel shall be paid by City of Harlingen. City of Harlingen shall make no settlement of any such claim without Comptroller's prior written approval. City of Harlingen shall reimburse Comptroller and the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorneys' fees and court costs, arising from any such claim. City of Harlingen represents that it has determined what licenses, patents and permits are required under this Agreement and has acquired or will acquire all such licenses, patents and permits prior to commencement of services under this Agreement.

## **19.12 DTPA; Unfair Business Practices**

City of Harlingen represents and warrants that it has not been the subject of a Deceptive Trade Practices Act (DTPA) or any unfair business practice administrative hearing or court suit and that City of Harlingen has not been found to be guilty of such practices in such proceedings. City of Harlingen certifies that it has no officers who have served as officers of other entities who have been the subject of a DTPA claim or any unfair business administrative hearing or

court suit and that such officers have not been found to be guilty of such practices in such proceedings.

### **19.13 Immigration**

City of Harlingen represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, and the Illegal Reform and Immigrant Responsibility Act of 1996 regarding employment verification and retention of verification forms for any individuals hired, who will perform any labor or services under this Agreement. City of Harlingen also represents and warrants that it shall comply with the requirements of the Immigration Act of 1990 enacted on November 29, 1990, regarding creation of the lottery system for granting visas, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 enacted on September 30, 1996 which created three year, ten year and permanent bars to entrance into the United States.

### **19.14 Antitrust**

Pursuant to 15 U.S.C. Sec. 1, et seq. and Tex. Bus. & Comm. Code Sec. 15.01, et seq., City of Harlingen represents and warrants that neither City of Harlingen nor any firm, corporation, partnership, or institution represented by City of Harlingen, nor anyone acting for such firm, corporation or institution has violated Texas antitrust laws or federal antitrust laws, nor communicated directly or indirectly the proposal to any competitor or any other person engaged in such line of business.

### **19.15 Texas Family Code**

Under Section 231.006, Texas Family Code (relating to child support), City of Harlingen certifies that the individual or business entity named in this Agreement is eligible to receive payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

### **19.16 Criminal Conviction Certification**

City of Harlingen certifies that neither City of Harlingen or any of its employees, agents, or representative, including any subcontractors and employees, agents, or representative of such subcontractors, to be assigned to the services hereunder, has been convicted of a felony criminal offense, or that if such a conviction has occurred or occurs during the term of this Agreement, City of Harlingen will immediately fully advise Comptroller as to the facts and circumstances.

### **19.17 Financial Interests; Gifts**

City of Harlingen represents and warrants that neither City of Harlingen nor any person or entity which will participate financially in this Agreement has received compensation from Comptroller for participation in preparation of specifications for this Agreement. In addition, under Section 2155.004, Texas Government Code, City of Harlingen certifies that it is not ineligible to receive the specified contract and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate. City of Harlingen represents and warrants that it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any public servant or employee in connection with this Agreement. City of Harlingen certifies that it is in compliance with Section 669.003, Texas Government Code, relating to contracting with executive head of a state agency.

### **19.18 Buy Texas**

City of Harlingen represents and warrants that, in accordance with Section 2155.4441, Texas Government Code, it shall purchase products and materials produced in Texas when they are available at a comparable price and in a comparable period of time.



#### **19.19 False Statements; Breach of Representations**

By signature to this Agreement, City of Harlingen makes all the representations, warranties, covenants, and certifications included in this Agreement. Notwithstanding any provision of this Agreement to the contrary, if City of Harlingen signs this Agreement with a false statement or it is subsequently determined that City of Harlingen has violated any of the representations, warranties, covenants or certifications included in this Agreement, City of Harlingen shall be in default under this Agreement and Comptroller may terminate or void this Agreement for cause and pursue other remedies available to Comptroller under this Agreement and applicable law.

#### **19.20 Prohibited Use of Appropriated or Other Funds Under Control of State Agency; Lobbying**

City of Harlingen represents and warrants that Comptroller's payment to City of Harlingen and City of Harlingen's receipt of appropriated or other funds under this Agreement are not prohibited by Sections 556.005, 556.0055, or 556.008, Texas Government Code.

#### **19.21 Certification Concerning Hurricane Relief**

Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, City of Harlingen certifies that the individual or business entity named in this Agreement is not ineligible to receive the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certifications inaccurate.

#### **19.22 Debarred Vendors List**

City of Harlingen represents and warrants that the offering entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and that City of Harlingen is in compliance with the State of Texas statutes and rules relating to procurement and that City of Harlingen is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sarn.gov>.

#### **19.23 Drug Free Workplace**

City of Harlingen represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 and maintain a drug-free work environment.

#### **19.24 No Boycott-State of Israel**

Pursuant to Section 2270.002 of the Texas Government Code, City of Harlingen does not boycott Israel and will not boycott Israel during the term of the Contract.

#### **19.25 Human Trafficking Prohibition**

Under Section 2155.0061 of the Texas Government Code, City of Harlingen certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified contract and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

#### **19.26 Foreign Terrorist Organizations**

City of Harlingen represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

### **19.27 Energy Company Boycotts**

City of Harlingen represents and warrants that: (1) it does not, and will not for the duration of this Agreement, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the term this Agreement, City of Harlingen shall promptly notify CPA.

### **19.28 Firearm Entities and Trade Associations Discrimination**

City of Harlingen verifies that: (1) it does not, and will not for the duration of this Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the term of this Agreement, City of Harlingen shall promptly notify CPA.

### **19.29 COVID-19 Vaccine Passport Prohibition**

Under Section 161.0085 of the Texas Health and Safety Code, City of Harlingen certifies that the individual or business entity named in this Agreement is not ineligible to receive this Agreement.

## **XX. Merger**

This Agreement, and its accompanying attachments, contain the entire agreement between the parties relating to the rights granted and the obligations assumed in it. Any oral representations or modifications concerning this Agreement shall be of no force or effect unless contained in a subsequent writing, signed by both parties.

## **XXI. Signatories**

The undersigned signatories represent and warrant that they have full authority to enter into this Agreement on behalf of the respective parties. This Agreement may be executed in one or more counterparts, each of which is an original, and all of which constitute only one agreement between the parties.

**Texas Comptroller of Public Accounts**

**City of Harlingen**

By: \_\_\_\_\_

By: \_\_\_\_\_

Lisa Craven  
Deputy Comptroller

Gabriel Gonzalez  
City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**ATTACHMENT A**  
**DELIVERABLES STATEMENT**

**A. Deliverables**

Prior to the commencement of any activities or procurements, the City of Harlingen shall request from SECO an ASHRAE Level II audit of the proposed energy efficiency retrofits described in Section 2: Project Description of the RFA No. EECBG-IIJA1-2024 approved application. The City of Harlingen shall provide to the energy auditor 12 months of utility bills prior to audit commencement. The audit purpose is to determine projected energy and demand savings for the proposed retrofits and to validate Build America Buy America material compliance.

Upon completion of the ASHRAE Level II audit, the City of Harlingen shall submit Build America Buy America material compliance certifications to SECO for approval prior to procuring equipment and materials. When the SECO Contract Manager approves the compliance certifications, the City of Harlingen may proceed with energy efficiency retrofit activities.

City of Harlingen shall provide labor and materials to install the energy efficiency retrofits described in Section 2: Project Description of the RFA No. EECBG-IIJA1-2024 application and otherwise required by this Agreement. The labor and materials shall include, but are not limited to, the furnishing of all personnel and the procurement of all equipment, supplies, and other items necessary to install the energy efficiency retrofits in compliance with this Agreement. City of Harlingen shall review and implement Comptroller recommendations, as Comptroller adopts them from time to time, so that the deliverables may be expeditiously and satisfactorily completed. City of Harlingen shall meet with Comptroller at such times as Comptroller may reasonably request to discuss the progress of deliverables and any other matters that may arise in regard to this Agreement.

**B. Standards of Performance**

1. Furnish itemized list of all proposed equipment (type and quantity) with detailed cut sheets/specifications, and efficiencies for each piece of equipment and system prior to ordering equipment. The itemized list must demonstrate compliance with Build America Buy America (BABA) requirements and the Contract Manager must approve the BABA equipment before it is ordered.
1. **Standard Warranty:** All labor and materials for one (1) year from date of substantial completion. All new fixtures shall have a five-year warranty.
2. The specification/requirements for construction and installation of the retrofits replacement systems must meet or exceed equipment and system efficiency standards established in the 2018 IECC or later versions as may be adopted by any local authority having jurisdiction over the project.
3. The proposed retrofits and any impacts on existing building systems must comply with applicable building codes such as the National Electrical Code ("NEC"), and the National Fire Protection Association (NFPA).
4. **Light levels:** City of Harlingen must conduct pre-retrofit surveys of existing fixture light levels, wattage, and reflector distribution. Post retrofit foot-candles (FC) must meet or exceed existing FC levels and be in compliance with IES standards for the application. Installation shall comply with City's outdoor lighting ordinance(s). Proposed retrofits shall comply with dark-sky ordinance(s) as applicable.
5. During the retrofit, the function and operation of all other existing control systems (timeclock, Building Automation System (BAS), and/or photocell) shall be preserved.
6. New energy efficiency retrofits equipment shall be programmed and tested with the current operating schedules.
7. All energy efficiency retrofits equipment proposed shall be new, manufactured, rated, and certified for the use proposed by the installer. Installations or combinations of equipment proposed under this contract shall at no time violate, invalidate, or disallow any rating or certification such as Underwriter's Laboratories (UL), etc.

8. Commissioning of energy efficiency retrofits, and the associated retrofit controls/systems shall be required.
9. A licensed trade specialist licensed by the Texas Department of Licensing and Regulation must:
  - Provide individual name and license number for each trade specialist who supervised the work; and
  - Certify that energy efficiency retrofits and fixtures were installed in accordance with manufacturer's recommendations, and that the energy efficiency retrofits and fixtures meet applicable codes for the application.
10. Applicant must certify the following:
  - a. Proper installation in accordance with manufacturer's recommendations;
  - b. Provide a letter stating proper disposal of existing equipment and any hazardous material waste pursuant to Texas Administrative Code, Chapter 335; and
  - c. No conflicts of interest exist with the Applicant.

**C. Davis Bacon Training**

Prior to commencement of retrofit activities, the City of Harlingen and its vendor, if applicable, shall attend LCPTracker contractor training sessions as set forth in Attachment Q and obtain access to LCPTracker for weekly certified payroll reporting for all contractors and subcontractors.

**D. Reimbursement Requests and Reporting**

1. Reimbursement Requests. City of Harlingen shall submit a minimum of two reimbursement requests with required support documentation. Reimbursement requests shall be through the SECO contract portal.
  - Monthly invoices should itemize the total labor, materials, and equipment of the installation project including electrical control equipment. All installations must comply with the current codes and original manufacturers product specifications.
  - Submit with each reimbursement request, a:
    - Texas Master/ Journeyman Electrician Name and License number who supervised the work;
    - Texas Master/ Journeyman Electrician certification that the replaced LED lighting systems and control equipment was installed in accordance with current codes and manufacturer's recommendations.
    - Final inspection reports and close out warranty information, spec sheets, and ongoing maintenance procedures for all LED equipment installed.
2. Monthly Reports. The report shall include, at a minimum and as applicable, the following information: Building(s)/areas retrofitted, retrofit activities; and total square footage of retrofitted areas. Issues or concerns should also be included in the Monthly Report. Report submission shall be through the SECO contract portal each month no later than the 10<sup>th</sup> day of the following month.
3. Quarterly Reports. Due every 3 months (based on the state fiscal year) no later than the 10<sup>th</sup> day of the month following the end of the quarter. The report shall include, at a minimum a recap of the monthly report activities. Reports shall be submitted electronically as a Microsoft Word document through the SECO contract portal in addition to completing the online report.
4. Final Report. Due 30 days after the completion of the project. At project completion, provide building name, areas, and physical address and location(s) of all new replaced equipment and controls and include the completed follow up inspection reporting required by SECO. The report shall also include, at a minimum and as applicable, a summary of all monthly reporting. The report shall be submitted electronically as a Microsoft Word document through the SECO contract portal in addition to completing the online report.



## **ATTACHMENT B**

### **BUDGET**

The following Budget includes all costs for performing the Municipally Owned Building Energy Efficiency Retrofits as described in the contract. Comptroller will not prepay any amounts. All costs in this Attachment B are not-to-exceed total costs.

|                               |                      |
|-------------------------------|----------------------|
| <b>Personnel<sup>1</sup></b>  | <b>\$ 0.00</b>       |
| <b>Subcontract</b>            | <b>\$ 225,577.00</b> |
| <b>Equipment</b>              | <b>\$ 0.00</b>       |
| <b>Supplies and Materials</b> | <b>\$ 0.00</b>       |
| <b>TOTAL</b>                  | <b>\$ 225,577.00</b> |

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<sup>1</sup> PROJECT MANAGER NAME, shall be Project Director for this project and shall be responsible for the overall supervision and conduct of the project on behalf of City of Harlingen. Any Change of Project Director shall be subject to the prior written approval of Comptroller.

## ATTACHMENT C-1

DOE F 1600.5  
(06-94)  
All Other Editions Are Obsolete

OMB Control No  
1910-0400

### U.S. DEPARTMENT OF ENERGY Assurance of Compliance Nondiscrimination in State Assisted Programs OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of Information Resources Management Policy, Plans, and Oversight, Records Management Division, HR-422-GTN, Paperwork Reduction Project (1910-0400), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585; and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-0400), Washington, DC 20503.

City of Harlingen (Hereinafter called the "Applicant") HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age Discrimination Act of 1975 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), the Department of Energy Organization Act of 1977 (Pub. L. 95-91), the Energy Conservation and Production Act of 1976, as amended, (Pub. L. 94-385) and Title 10 Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Applicant agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Applicant receives Federal assistance from the Department of Energy.

#### Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance extended to the Applicant by the Department of Energy, this assurance obligates the Applicant for the period during which Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant for the period during which the Federal assistance is extended to the Applicant by the Department of Energy.

#### Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where the Applicant's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department of Energy, the Applicant agrees not to discriminate on the ground of race, color, national origin, sex, age or disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs, or other forms of compensation and use of facilities.

#### Subrecipient Assurance

The Applicant shall require any individual, organization, or other entity with which it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws and regulations cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

#### Data Collection and Access to Records

The Applicant agrees to compile and maintain information pertaining to programs or activities developed as a result of the Applicant's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be served by race, color, national origin, sex, age and disability; (3) data regarding covered employment, including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related



information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, and disability, in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to the obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

The Applicant agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Applicant from the use of Federal assistance funds extended by the Department of Energy. Facilities of the Applicant (including the physical plants, buildings, or other structures) and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the civil rights laws shall be made available for inspection during normal business hours on request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U. S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereto, to the Applicants by the Department of Energy, including installment payments on account after such date of application for Federal assistance which are approved before such date. The Applicant recognizes and agrees that such Federal assistance will be extended in reliance upon the representations and agreements made in this assurance and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, the successors, transferees, and assignees, as well as the person(s) whose signature appears below and who are authorized to sign this assurance on behalf of the Applicant.

#### **Applicant Certification**

The Applicant certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. § 1040.5 (a copy will be furnished to the Applicant upon written request to DOE.)

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#### **Designated Responsible Employee**

---

**Name and Title (Printed or Typed)**

---

**Telephone Number**

---

**Signature**

---

**Date**

---

City of Harlingen

---

(956) 216-5002

---

**Name of Organization**

---

**Telephone Number**

---

118 E. Tyler Avenue, Harlingen, TX 78550

---

**Address**

---

#### **Authorized Official:**

---

Gabriel Gonzalez, City Manager

---

(956) 216-5002

---

**Name and Title (Printed or Typed)**

---

**Telephone Number**

---

**Signature**

---

**Date**

## ATTACHMENT C-2

DOE F 1600.5  
(06-94)  
All Other Editions Are Obsolete

OMB Control No  
1910-0400

### U.S. DEPARTMENT OF ENERGY Assurance of Compliance Nondiscrimination in State Assisted Programs

#### OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of Information Resources Management Policy, Plans, and Oversight, Records Management Division, HR-422-GTN, Paperwork Reduction Project (1910-0400), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585; and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-0400), Washington, DC 20503.

(Enter name of Recipient's Subcontractor) \_\_\_\_\_ (Hereinafter called the "Applicant") HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age Discrimination Act of 1975 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), the Department of Energy Organization Act of 1977 (Pub. L. 95-91), the Energy Conservation and Production Act of 1976, as amended, (Pub. L. 94-385) and Title 10, Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Applicant agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Applicant receives Federal assistance from the Department of Energy.

#### Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance extended to the Applicant by the Department of Energy, this assurance obligates the Applicant for the period during which Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant for the period during which the Federal assistance is extended to the Applicant by the Department of Energy.

#### Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where the Applicant's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department of Energy, the Applicant agrees not to discriminate on the ground of race, color, national origin, sex, age, or disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs, or other forms of compensation and use of facilities.

#### Subrecipient Assurance

The Applicant shall require any individual, organization, or other entity with which it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws and regulations cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

#### Data Collection and Access to Records

The Applicant agrees to compile and maintain information pertaining to programs or activities developed as a result of the Applicant's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be served by race, color,



national origin, sex, age and disability; (3) data regarding covered employment, including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, age, and disability, in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to the obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

The Applicant agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Applicant from the use of Federal assistance funds extended by the Department of Energy. Facilities of the Applicant (including the physical plants, buildings, or other structures) and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the civil rights laws shall be made available for inspection during normal business hours on request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U. S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereto, to the Applicants by the Department of Energy, including installment payments on account after such date of application for Federal assistance which are approved before such date. The Applicant recognizes and agrees that such Federal assistance will be extended in reliance upon the representations and agreements made in this assurance and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, the successors, transferees, and assignees, as well as the person(s) whose signatures appear below and who are authorized to sign this assurance on behalf of the Applicant.

#### **Applicant Certification**

The Applicant certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. § 1040.5 (a copy will be furnished to the Applicant upon written request to DOE.)

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#### **Designated Responsible Employee of Subcontractor**

---

**Name and Title (Printed or Typed)**

---

**Telephone Number**

---

**Signature**

---

**Date**

---

**Subcontractor:**

---

**Name of Organization**

---

**Telephone Number**

---

**Address**

---

**Authorized Official of Subcontractor:**

---

**Name and Title (Printed or Typed)**

---

**Telephone Number**

---

**Signature**

---

**Date**

**ATTACHMENT D**  
**Certification Regarding Debarment, Suspension, Ineligibility,  
and Voluntary Exclusion-Lower Tier Covered Transactions**

Instructions for Certification

1. The prospective lower tier participant is required to sign the attached certification.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this application is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principle," "application," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to which this application is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this application that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this application that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

(1) The prospective lower tier participant certifies, by submission of this application, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this application.

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City of Harlingen  
Organization Name

---

Gabriel Gonzalez, City Manager  
Name and Title of Authorized Representative

---

Signature

---

Date



**ATTACHMENT E**  
**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER**  
**RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Energy determines to award the covered transaction, grant, or cooperative agreement.

**1. LOBBYING**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31,

U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

---

**2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) Have not within a three-year period receding this application/proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this



certification, such prospective participant shall attach an explanation to this application/proposal.

### 3. DRUG-FREE WORKPLACE

This certification is required by the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D) and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989, and May 25, 1990.

#### **ALTERNATE 1 (SUB-RECIPIENTS OTHER THAN INDIVIDUALS)**

(1) The Sub-recipient certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Sub-recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about:
  - (1) The dangers of drug abuse in the workplace;
  - (2) The Sub-recipient's policy of maintaining a drug-free workplace;
  - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer in writing, of his or her conviction for a violation of criminal drug statute occurring in the work-place

not later than five calendar days after such conviction;

- (e) Notifying the agency, in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to energy grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
  - (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
    - (1) Taking appropriate actions against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act 9f 1973, as amended; or
    - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
  - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
- (2) The Sub-recipient may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance:

(Street address, city, county, state, zip code)

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- ☐ Check if there are workplaces on file that are not identified here.



## **ALTERNATE II (SUB-RECIPIENTS WHO ARE INDIVIDUALS)**

- (1) The Sub-recipient certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substances in conducting any activity with the grant.
- (2) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

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## **4. LOBBYING DISCLOSURE ACT OF 1995, SIMPSON-CRAIG AMENDMENT**

Applicant organization which are described in section 501 (c)(4) of the Internal Revenue Code of 1986 and engage in lobbying activities after December 31, 1995, shall not be eligible for the receipt of Federal funds constituting an award, grant, or loan. Section 501(c)(4) of the Internal Revenue Code of 1986 covers:

*Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated persons or person in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.*

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As set forth in the Lobbying Disclosure Act of 1995 (Public Law 104-65, December 19, 1995), as amended ["Simpson-Craig Amendment," see Section 129 of The Balanced Budget Down payment Act, I (Public Law 104-99, January 26, 1996)], lobbying activities is defined broadly. (See section 3 of the Act.)

The undersigned certifies, to the best of his or her knowledge and belief, that: it IS NOT an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986: OR that it IS an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986, which, after December 31, 1995, HAS NOT engaged in any lobbying activities as defined in the Lobbying Disclosure Act of 1995, as amended.

\_\_\_\_\_  
*As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.*

City of Harlingen  
Name of Applicant

City of Harlingen EECBG Retrofits  
Pre/Award Number and/or Project Name

Gabriel Gonzalez, City Manager  
Printed Name and Title of Authorized Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## ATTACHMENT F

### DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                 |                                                                                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Type of Federal Action: _____<br>a. contract<br>b. grant<br>c. cooperative agreement<br>d. loan<br>e. loan guarantee<br>f. loan insurance                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | 2. Status of Federal Action: _____<br>a. bid/offer/application<br>b. initial award<br>c. post award             | 3. Report Type: _____<br>a. initial filing<br>b. material change<br>For Material Change Only:<br>year _____ quarter _____<br>date of last report _____ |
| 4. Name and Address of Reporting Entity:<br><br>Name _____<br>Address _____<br>_____ Prime _____ Subawardee<br>Tier, if known: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                 | 5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: _____                                                                  |
| 6. Federal Department/Agency: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 7. Federal Program Name/Description<br>CFDA Number, if applicable: _____                                        |                                                                                                                                                        |
| 8. Federal Action Number, If known: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 9. Award Amount, if known: _____                                                                                |                                                                                                                                                        |
| 10.a. Name and Address of Lobbying Entity:<br>(if individual, last name, first name, MI):<br>(attach Continuation Sheet(s) SF-LLL-A, if necessary)                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 10.b. Individual Performing Services (including address if different from No. 10A) (last name, first name, MI): |                                                                                                                                                        |
| 11. Amount of Payment (check all that apply):<br><br>\$ _____ actual _____<br>Planned _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 12. Form of Payment (check all that apply):<br>a. cash _____<br>b. in-kind; specify: nature _____ value _____   |                                                                                                                                                        |
| 13. Type of Payment (check all that apply):<br>_____ a. retainer _____ c. commission _____ e. deferred<br>_____ b. one-time fee _____ d. contingent fee _____ f. other; specify _____                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                 |                                                                                                                                                        |
| 14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11: _____                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                 |                                                                                                                                                        |
| 15. Continuation Sheet(s) SF-LLL-A attached: _____ Yes _____ No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                 |                                                                                                                                                        |
| 16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annual and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure |                                                                                                                 | Authorized Representative: <u>Gabriel Gonzalez</u><br>Title: <u>City Manager</u><br>Signature: _____<br>Telephone: <u>(956) 216-5002</u> Date: _____   |

## ATTACHMENT G

### ASSURANCES -- NON-CONSTRUCTION PROGRAMS OMB Approval No. 0348-0040

*Note:* Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, Comptroller, the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.



9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction sub-agreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93- 234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 a-1 et seq.)
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. **SAM Registration.** City of Harlingen and their first-tier Subrecipients must register and maintain "active registration" status in the System for Award Management (<https://sam.gov/content/home>) database at all times during which they have active SECO awards. The registration process includes obtaining a Unique Entity Identifier (UEI). While the UEI does not expire, registrations must be updated annually and remain in "active registration" status for the award duration. Recipients must ensure that all potential subrecipients do not enter into a contractual relationship with the recipient unless the subrecipient is in "active registration" status and has an UEI number in the legally prescribed manner."
19. **Compliance with Davis-Bacon Act-** City of Harlingen must ensure bids, contracts, and subcontracts contain the applicable wage determination and the Davis-Bacon labor standards clauses found in 29 CFR § 5.5 (Code of Federal Regulations), titled Contract Provisions and Related Matters. The labor standards describe contractor responsibilities and provide remedies for noncompliance. A wage determination (WD) is a set of wages, fringe benefits, and work rules that the United States Department of Labor has ruled to be prevailing for a given labor category in a given locality. Note that if federal and state wage rates apply, contracts must contain both wage decisions/contract standards and employers must pay the higher of the two rates. At the project kick-off meeting, the City of Harlingen must provide the prevailing WD information ([www.sam.gov](http://www.sam.gov)) of the project location to SECO. During the project

construction period, City of Harlingen must provide certified payrolls for all labor on the site. The certified payrolls and all data shall be created using form WH-347 or equivalent. No submitted hand-written forms will be accepted.

20. Will comply with the requirements of the Buy America, Build America Act.
21. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

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Signature of Authorized Certifying Official

City Manager

Title

City of Harlingen

Applicant Organization

Date Submitted



**ATTACHMENT H**  
**Intellectual Property Provisions**

**AUTHORIZATION AND CONSENT – ALTERNATE I (48 CFR 52.227-1)**

(a) The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent in the performance of this contract or any subcontract at any tier.

(1) Embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract; or

(2) Used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. the entire liability to the Government for infringement of a United States patent shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor shall include the substance of this clause, including this paragraph (h), in all subcontracts that are expected to exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation (FAR) 2.101 on the date of subcontract award. However, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, does not affect this authorization and consent.

**NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (48 CFR 52.227-2)**

The provisions of this clause shall be applicable only if the amount of this grant exceeds \$250.

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this grant of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this grant or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) This clause shall be included in all contracts and subgrants under this grant.

**REPORTING OF ROYALTIES (48 CFR 52.227-6)**

If this grant is in an amount which exceeds \$250 and if any royalty payments are directly involved in the grant or are reflected in the grant price to the Government, the Contractor agrees to report in writing to the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) during the performance of this grant and prior to its completion of final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this grant together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit the identification of the patents or other basis on which the royalties are to be paid. The approval of DOE of any individual payments or royalties shall not stop the Government at any time from contesting the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

## RIGHTS IN TECHNICAL - GENERAL – ALTERNATE IV (48 CFR 52.227-14)

### (a) Definitions. As used in this clause -

Computer database or database means a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

Computer software - (1) Means (i) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and

(ii) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

(2) Does not include computer databases or computer software documentation.

Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

Data means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

Form, fit, and function data means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

Limited rights means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of paragraph (g)(3) if included in this clause.

Limited rights data means data, other than computer software, that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications.

Restricted computer software means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is copyrighted computer software, including minor modifications of the computer software.

Restricted rights, as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of paragraph (g) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

Technical data, means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases. (See 41 U.S.C. 116).

Unlimited rights means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

### (b) Allocation of rights.

(1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in -

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to -



- (i) Assert copyright in data first produced in the performance of this contract to the extent provided in paragraph (c)(1) of this clause;
- (ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;
- (iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and
- (iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) Copyright -

(1) Data first produced in the performance of the contract. Except as otherwise specifically provided in this contract, the Contractor may assert copyright in any data first produced in the performance of this contract. When asserting copyright, the Contractor shall affix the applicable copyright notice of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number), to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all such data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, by or on behalf of the Government. For computer software, the Contractor grants to the Government and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license for all such computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public), by or on behalf of the Government.

(ii) When authorized to assert copyright to the data, the Contractor shall affix the applicable copyright notices of 17 U.S.C. 401 or 402, and an acknowledgment of Government sponsorship (including contract number).

(iii) For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly by or on behalf of the Government. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(2) Data not first produced in the performance of this contract. The Contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract unless the Contractor -

(i) Identifies the data; and

(ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this contract) or as otherwise provided in a collateral agreement incorporated in or made part of this contract.

(3) Removal of copyright notices. The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) Release, publication, and use of data. The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except -

(1) As prohibited by Federal law or regulation (e.g., export control or national security laws or regulations);

(2) As expressly set forth in this contract; or

(3) If the Contractor receives or is given access to data necessary for the performance of this contract that contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless specifically authorized otherwise in writing by the Contracting Officer.

(e) Unauthorized marking of data.

(1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (g)(3) or (g)(4) if included in this clause, and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this contract, the Contracting Officer may at any time either return the data to the Contractor, or cancel or ignore the markings. However, pursuant to 41 U.S.C. 4703, the following procedures shall apply prior to canceling or ignoring the markings.

- (i) The Contracting Officer will make written inquiry to the Contractor affording the Contractor 60 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;
  - (ii) If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 60-day period (or a longer time approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.
  - (iii) If the Contractor provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Contracting Officer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor will be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer will furnish the Contractor a written determination, which determination will become the final agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government will continue to abide by the markings under this paragraph (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.
- (2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act (5 U.S.C. 552) if necessary to respond to a request thereunder.
- (3) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by paragraph (e) of the clause from bringing a claim, in accordance with the Disputes clause of this contract, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this contract.
- (f) Omitted or incorrect markings.
- (1) Data delivered to the Government without any restrictive markings shall be deemed to have been furnished with unlimited rights. The Government is not liable for the disclosure, use, or reproduction of such data.
- (2) If the unmarked data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Contractor's expense. The Contracting Officer may agree to do so if the Contractor -
- (i) Identifies the data to which the omitted notice is to be applied;
  - (ii) Demonstrates that the omission of the notice was inadvertent;
  - (iii) Establishes that the proposed notice is authorized; and
  - (iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.
- (3) If data has been marked with an incorrect notice, the Contracting Officer may -
- (i) Permit correction of the notice at the Contractor's expense if the Contractor identifies the data and demonstrates that the correct notice is authorized; or
  - (ii) Correct any incorrect notices.
- (g) Protection of limited rights data and restricted computer software.
- (1) The Contractor may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Contractor shall -
- (i) Identify the data being withheld; and
  - (ii) Furnish form, fit, and function data instead.
- (2) Limited rights data that are formatted as a computer database for delivery to the Government shall be treated as limited rights data and not restricted computer software.
- (3) [Reserved]
- (h) Subcontracting. The Contractor shall obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government those rights, the Contractor shall promptly notify the Contracting



Officer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Contracting Officer.

(i) Relationship to patents or other rights. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

**RIGHTS TO PROPOSAL DATA (TECHNICAL) (48 CFR 52.227-23)**

It is agreed that as a condition of award of this grant or modification and notwithstanding the conditions of any notice appearing on the proposal(s), the Government shall have the right to use, duplicate, and disclose and have others to do so for any purpose whatsoever, the technical data contained in the proposal(s) upon which the grant or modification is based.

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City of Harlingen

Organization Name

Gabriel Gonzalez, City Manager

Name and Title of Authorized Representative

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Signature

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Date

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## ATTACHMENT I

### **SUBCONTRACTING PROVISIONS; MANDATORY FLOWDOWN PROVISION**

City of Harlingen, if subcontracting any of its performance hereunder, shall legally bind subcontractors to perform and make such Subcontractors subject to all the duties, requirements, and obligations of City of Harlingen under this Agreement. City of Harlingen shall be jointly and severally liable for all performances under this Agreement, including, but not limited to, the performance of its Subcontractors to the extent permitted under the Constitution and laws of the State of Texas.

City of Harlingen represents and warrants that it has obtained all necessary permits, licenses, easements, waivers and permissions of whatsoever kind required for its performance and the performance of its Subcontractors under this Agreement. In no event shall any provision of this Attachment I, including, but not limited to, the requirement that City of Harlingen obtain the prior approval of Comptroller on City of Harlingen's proposed subcontracts, be construed as relieving City of Harlingen of the responsibility for ensuring that all services rendered under any subcontracts comply with all the terms and provisions of this Agreement as if they were rendered by City of Harlingen. City of Harlingen shall, upon request, furnish Comptroller with copies of all proposed subcontracts and all proposed amendments, assignments, cancellations or terminations of said subcontracts no later than thirty (30) days prior to the proposed effective date of such contracts, amendments, assignments, cancellations or terminations; provided, however, that this thirty (30) day period may be shortened by written agreement of the parties. Upon request from Comptroller, City of Harlingen shall provide any and all documentation deemed necessary by Comptroller to evidence Subcontractors compliance with all terms, conditions and performance pertaining to the Agreement and all applicable law.

As the duly authorized representative of the City of Harlingen, I hereby certify that City of Harlingen and subcontractor will comply with the above requirements.

**City of Harlingen:**

**By:** \_\_\_\_\_

**Name:** Gabriel Gonzalez, City Manager

**Date:** \_\_\_\_\_



**ATTACHMENT J**  
**EXECUTION OF APPLICATION**

1. By signature hereon, Applicant represents and warrants that the provisions in this Execution of Application apply to Applicant and all of Applicant's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this RFA or any contract resulting from it.
2. By signature hereon, Applicant represents and warrants its intent to purchase the subject items at the prices quoted in its Application.
3. By signature hereon, Applicant represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy, located on Comptroller's website at <https://comptroller.texas.gov/about/policies/ethics.php> as such Policy currently reads and as it is amended throughout the term of any resulting contract.
4. By signature hereon, Applicant represents and warrants that its prices include all costs of Applicant in providing the requested items that meet all specifications of this RFA and that its prices will remain firm for acceptance for a minimum of one hundred twenty (120) days from deadline for submission of Application.
5. By signature hereon, Applicant represents and warrants that each employee, including "replacement employees", will possess the qualifications, education, training, experience and certifications necessary to perform the services in the manner required by this RFA.
6. By signature hereon, Applicant represents and warrants that it has no actual or potential conflicts of interest in providing the requested items to Comptroller under the RFA and any resulting contract, if any, and that Applicant's provision of the requested items under the RFA and any resulting contract, if any, would not reasonably create an appearance of impropriety.
7. By signature hereon, pursuant to Section 2155.003 of the Texas Government Code, Applicant represents and warrants that it has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted Application.
8. By signature hereon, Applicant represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
9. By signature hereon, Applicant hereby represents and warrants that, pursuant to 15 U.S.C. Sec. 1, *et seq.* and Tex. Bus. & Comm. Code Sec. 15.01, *et seq.*, neither Applicant nor the firm, corporation, partnership, or institution represented by Applicant, nor anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws or communicated directly or indirectly the Application made to any competitor or any other person engaged in such line of business.
10. By signature hereon, Applicant represents and warrants that all statements and information prepared and submitted in response to this RFA are current, complete, and accurate.
11. By signature hereon, Applicant represents and warrants that the individual signing this document and the documents made part of this RFA and Application is authorized to sign such documents on behalf

of the company and to bind the company under any contract which may result from the submission of this Application.

12. By signature hereon, Applicant represents and warrants that if a Texas address is shown as the address of Applicant, Applicant qualifies as a Texas Bidder as defined by 34 Texas Administrative Code §20.32(68).
13. Check below if preference claimed under 34 Texas Administrative Code §20.38:
- ☐ Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
  - ☐ Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
  - ☐ Agricultural products grown in Texas
  - ☐ Agricultural products offered by a Texas bidder
  - ☐ Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
  - ☐ Services offered by a Texas bidder that is not owned by a Texas resident service disabled veteran
  - ☐ Texas Vegetation Native to the Region
  - ☐ USA produced supplies, materials or equipment
  - ☐ Products of persons with mental or physical disabilities
  - ☐ Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
  - ☐ Energy Efficient Products
  - ☐ Rubberized asphalt paving material
  - ☐ Recycled motor oil and lubricants
  - ☐ Products produced at facilities located on formerly contaminated property
  - ☐ Products and services from economically depressed or blighted areas
  - ☐ Vendors that meet or exceed air quality standards
  - ☐ Recycled or Reused Computer Equipment of Other Manufacturers
  - ☐ Foods of Higher Nutritional Value
  - ☐ Commercial production company or advertising agency located in Texas
14. By signature hereon, under Section 231.006, Texas Family Code, regarding child support, Applicant certifies that the individual or business named in the Application is not ineligible to receive the specified payment and acknowledges that the contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any Applicant subject to Section 231.006 of the Texas Family Code must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the Application. This information must be provided prior to award. Enter the Name and Social Security Number for each person below:

|             |            |
|-------------|------------|
| Name: _____ | SSN: _____ |
| Name: _____ | SSN: _____ |
| Name: _____ | SSN: _____ |

FEDERAL PRIVACY ACT NOTICE: This notice is given pursuant to the Federal Privacy Act. Disclosure of your Social Security Number (SSN) is required under Section 231.006(c) and Section 231.302(c)(2), Texas Family Code. The SSN will be used to identify persons that may owe child support. The SSN will be kept confidential to the fullest extent allowed under Section 231.302(e), Texas Family Code.

15. By signature hereon, Applicant represents and warrants that no relationship, whether by relative, business associate, capital funding contract or by any other such kinship exists between Applicant and an employee of any Comptroller component, and Applicant has not been an employee of any



Comptroller component within the immediate twelve (12) months prior to Applicant's Application. By signature hereon, Applicant certifies that it is in compliance with Section 669.003 of the Texas Government Code, relating to contracting with executive head of a state agency. Enter the name of any current or former executive head of a Texas State Agency that is currently employed by Applicant below:

Name of Former Executive: \_\_\_\_\_

Name of State Agency: \_\_\_\_\_

Date of Separation from State Agency: \_\_\_\_\_

Position with Applicant: \_\_\_\_\_

Date of Employment with Applicant: \_\_\_\_\_

All such disclosures will be subject to administrative review and approval prior to Comptroller entering into any contract with Applicant. Applicant acknowledges that any contract resulting from this RFA may be terminated at any time, and payments withheld, if this information is false.

16. By signature hereon, pursuant to Section 2155.004(a) of the Texas Government Code, Applicant represents and warrants that neither it nor any person or entity which will participate financially in any contract resulting from this RFA has received compensation for participation in the preparation of specifications for this RFA. Further, under Section 2155.005(b) of the Texas Government Code, Applicant certifies that the individual or business entity named in this Application or any contract resulting from this RFA is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.
17. By signature hereon, Applicant represents and warrants that all articles and services quoted in response to this RFA meet or exceed the safety standards established and promulgated under the *Federal Occupational Safety and Health Law* and its regulations in effect or proposed as of the date of this solicitation.
18. By signature hereon, Applicant represents and warrants its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
19. By signature hereon, Applicant represents and warrants its compliance with the requirements of the Americans With Disabilities Act (ADA). Applicant further represents and warrants that it will comply with all applicable Texas Accessibility requirements.
20. By signature hereon, in accordance with Section 2155.4441 of the Texas Government Code, Applicant agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.
21. By signature hereon, Applicant represents and warrants that Comptroller's payments to Applicant and Applicant's receipt of appropriated or other funds under any contract resulting from this RFA are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code.
22. By signature hereon, Applicant represents and warrants that the offering entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and that Applicant is in compliance with the State of Texas statutes and rules relating to procurement and that Applicant is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.

23. Sections 2155.006(b) and 2261.053 of the Texas Government Code, prohibit state agencies from awarding a contract to any person who, in the past five (5) years has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. By signature hereon, the Applicant represents and warrants, in accordance with Section 2155.006 of the Texas Government Code, that the individual or business entity named in its Application is not ineligible to receive the Agreement and acknowledges that the Agreement may be terminated and payment withheld if this certification is inaccurate.
24. By signature hereon, Applicant represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings or investigations, etc., pending or threatened against Applicant or any of the individuals or entities included in Part I of this document within the five (5) calendar years immediately preceding the submission of Applicant's Application in response to this RFA that would or could impair Applicant's performance under any agreement resulting from this RFA, relate to the solicited or similar goods or services, or otherwise be relevant to the agency's consideration of Applicant's Application. If Applicant is unable to make the preceding representation and warranty, then Applicant instead represents and warrants that it has included as a detailed attachment in its Application a complete disclosure of any such court or governmental agency actions, proceedings, or investigations, etc. that would or could impair Applicant's performance under any agreement resulting from this RFA, relate to the solicited or similar goods or services, or otherwise be relevant to Comptroller's consideration of Applicant's Application. In addition, Applicant represents and warrants that it shall notify Comptroller in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update Comptroller shall constitute breach of contract and may result in immediate termination of the Agreement.
25. By signature hereon, Applicant represents and warrants that it has read and agrees to all terms and conditions of this RFA.

Authorized signatory on behalf of Applicant must complete and sign the following:

\_\_\_\_\_  
Authorized Signature

Gabriel Gonzalez, City Manager

Printed Name and Title of  
Authorized Signatory

City of Harlingen

Applicant Name

74-6001047

Federal Employer Identification Number

118 E. Tyler Avenue

Physical Street Address

\_\_\_\_\_  
Mailing Address, if different

069448124/H2ZDRPM1SZX3

DUNS

\_\_\_\_\_  
Date Signed

(956) 216-5002

Phone Number

\_\_\_\_\_  
Fax Number

ggonzalez@harlingentx.gov

E-Mail Address

Harlingen, Texas 78550

City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code



## ATTACHMENT K

### NONDISCLOSURE AGREEMENT

In consideration of the Texas Comptroller of Public Accounts ("Comptroller"), considering an application/proposal from or meeting with City of Harlingen ("Contractor") regarding proposed services and because of the sensitivity of certain information which may be provided to Contractor, both parties agree that all information regarding Comptroller, or gathered, produced, collected or derived from or related to these services or provided to Contractor as a result of these services ("Confidential Information") must remain confidential subject to release only upon prior written approval of Comptroller, and more specifically agree as follows:

1. The Confidential Information may be used by Contractor only to assist Contractor in connection with its engagement with Comptroller.
2. Contractor shall not, at any time, use the Confidential Information in any fashion, form, or manner except in its capacity as contractor to Comptroller.
3. Contractor agrees to maintain the confidentiality of any and all Confidential Information related to the Agreement in the same manner that it protects the confidentiality of its own proprietary information of like kind.
4. The Confidential Information may not be copied, reproduced, disclosed or distributed without Comptroller's prior written consent.
5. All Confidential Information made available to Contractor, including copies thereof, must be returned to Comptroller upon the first to occur of: (a) termination or expiration of the Agreement or (b) request by Comptroller.
6. The foregoing must not prohibit or limit Contractor's use of the information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (a) previously known to it, (b) independently developed by it, (c) acquired by it from a third party, or (d) which is or becomes part of the public domain through no breach by Contractor of this agreement.
7. This Nondisclosure Agreement shall become effective as of the date Confidential Information is first made available to Contractor and shall survive any contract resulting from the RFA and be a continuing requirement.
8. The breach of this Nondisclosure Agreement by Contractor shall entitle Comptroller to immediately terminate this Agreement upon written notice to Contractor for such breach. The parties acknowledge that the measure of damages in the event of a breach of this Nondisclosure Agreement may be difficult or impossible to calculate, depending on the nature of the breach. Regardless of whether Comptroller elects to terminate the Agreement upon the breach hereof, Comptroller may require Contractor to pay to Comptroller the sum of \$5,000 for each breach as liquidated damages. This amount is not intended to be in the nature of a penalty, but is intended to be a reasonable estimate of the amount of damages to Comptroller in the event of a breach hereof by Contractor of this Nondisclosure Agreement. Comptroller does not waive any right to seek additional relief, either equitable or otherwise, concerning any breach of this Nondisclosure Agreement.

City of Harlingen  
Contractor Name

Gabriel Gonzalez, City Manager  
Name and Title of Authorized Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## **ATTACHMENT L**

### **Comptroller's RFA**

Comptroller's RFA No. EECBG-IIJA1-2024, issued June 28, 2024, and Comptroller's Official Responses to Questions from Potential Applicants issued July 12, 2024 (collectively "RFA"), are incorporated by reference for all purposes into this Agreement as Attachment A of this Agreement. In the event of a conflict between Comptroller's RFA and a RFA Addendum, the RFA Addendum shall control.



## **ATTACHMENT M**

### **City of Harlingen's Application**

City of Harlingen's Application dated July 26, 2024, is incorporated by reference for all purposes into this Agreement as Attachment M of this Agreement.

## ATTACHMENT N- BUILD AMERICA, BUY AMERICA CERTIFICATION

Project Number: CM24100

Project Title: City of Harlingen EECBG Retrofits

As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure (see definition below) may be obligated for a project (see definition below) unless all of the iron, steel, manufactured products, and construction materials (see definition below) used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.

Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

1. all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. all manufactured products used in the project are produced in the United States —this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
3. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Build America, Buy America (BABA) preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project. Applicants must provide itemized list of products used in project to SECO prior to ordering materials to ensure BABA compliance.

### Definitions

“Infrastructure” includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.



- “Construction materials” includes an article, material, or supply that is or consists primarily of: non-ferrous metals;
- plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);
- glass (including optic glass);
- lumber; or
- drywall.

“Construction Materials” does not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

“Domestic content procurement preference” means all iron and steel used in the project are produced in the United States; the manufactured products used in the project are produced in the United States; or the construction materials used in the project are produced in the United States.

“Project” means the construction, alteration, maintenance, or repair of infrastructure in the United States

*Build America, Buy America Waiver Requests:*

Where applicable, Recipients may apply for, and the Department of Energy (DOE) may grant a waiver from these requirements. Waivers are granted solely at the discretion of DOE following review (<https://www.energy.gov/management/doe-buy-america-requirement-waiver-requests>). As of 6/25/2024, the only waiver opportunity available is a Nonavailability waiver.

Recipients must notify SECO of their interest in submitting a waiver prior to project commencement. Waiver requests may take up to 90 days to process.

The undersigned Proposer hereby certifies on behalf of itself and all contractors (at all tiers) that it will meet Build America, Buy America requirements in Section 70914 of the Bipartisan Infrastructure Law

P.L. 117-58, using one of the following provisions (*Proposer must select the applicable provision*):

\_\_\_\_\_The infrastructure project/product contains no steel or iron products, manufactured products or construction materials manufactured outside the United States per Section 70914 of the Bipartisan Infrastructure Law, P.L. 117-58. If there is ANY foreign steel or iron, manufactured products or construction materials in your infrastructure project/product you may not check this box.

\_\_\_\_\_The project/product has foreign steel or iron, manufactured products, or construction materials; a Build America, Buy America waiver is required. The Contracting Entity may, but is not obligated to, seek a waiver of Build America, Buy America requirements if grounds for the waiver exist. However, Proposer certifies that it will comply with the applicable Build America, Buy America requirements if a waiver of those requirements is not available or not pursued by the Contracting Entity. The waiver process can take time and the project may not move forward until a waiver is completed.

A false certification is a criminal act in violation of 18 USC 1001. Should this Agreement be investigated, Proposer has the burden of proof to establish that it is in compliance.

Proposer: \_\_\_\_\_

Signature of Authorized Official: \_\_\_\_\_

Name of Authorized Official: Gabriel Gonzalez

Title: City Manager

Date: \_\_\_\_\_



## **ATTACHMENT O CERTIFICATION REGARDING DAVIS-BACON ACT**

As the duly authorized representative of the Contractor, I certify that the Contractor will comply with the applicable requirements of the Davis-Bacon Act (41 U.S.C. 3141 et seq.), including but not limited to:

- Obtain wage determination (“WD”) and monitor it through contract award.
- Ensure all bid, contract, and subcontract documents and sole source contracts contain the WD and Davis-Bacon labor standards clauses (prime contractor and sub-contractors).
- For prime contracts over \$100,000, comply with Contract Work Hours and Safety Standards Act (CWHSSA).
- Ensure no contracts are awarded to ineligible contractors.
- Ensure the Davis-Bacon poster and wage determination are posted at work site.
- Collect and submit certified payroll reports and statements of Davis-Bacon compliance for the contractor personnel and for all sub-contractors weekly.
- Designate personnel to submit certified contractor and sub-contractor payrolls via LCPTracker hosted by the United States Department of Energy (<https://prod-cdn.lcptracker.net/login/login>)
- Spot-check payroll reports/related records and update payrolls in the event that they are rejected in LCPTracker.
- Conduct and save confidential, onsite interviews using Standard Form 1445, Labor Standards Interview.
- Periodically review use of apprentices and trainees.
- Report all alleged Davis-Bacon violations within a week of the violation.
- Maintain full documentation of payrolls, certifications, interview forms, etc., for 3 years after project completion in the event the Office of Inspector General examines the project.

### **Wage Determination (WD)**

Prior to issuing a request for bids or proposals, the Contractor must obtain the WD for the project area by accessing Wage Determinations at [SAM.gov/content/wage-determinations](https://sam.gov/content/wage-determinations), then Public Building or Works or Service Contracts option, the state and county where the work will be performed, and the DBA construction type. Make sure the checked Status box is active. The Contractor must include the generated WD document in all bid specifications and resulting contracts. If you are unsure about the funding source, a project can be bid with alternates—one including federal wage rates and one without. (Note: SAM.gov replaced WDOL.gov)

### **DBA construction types**

The construction types are building, residential, highway, and heavy. The “building” type is for sheltered enclosures, especially with windows, doors, and roofs, that will be occupied at times. Municipalities, county governments, public higher education institutions, and school districts should ask their consulting engineer what type to use if they are unsure. A contract can contain more than one construction type. If over 80% of the project cost falls into one construction type, the municipalities, county governments, public higher education institutions, and school districts can use that type for the WD; this may be a benefit or a detriment depending on the project. Contact your Construction Management Team (CMT) with questions.

### **Monitor the WD**

Once the bids have been opened, the wage determination is valid for 90 days. During the bid advertisement period, municipalities, county governments, public higher education institutions, and school districts or their consulting engineers must monitor SAM.gov to ensure DOL has not changed the WD. If the WD changes more than 10 days before bid opening, the bid specifications must be amended with the new WD. If contract award is more than 90 days after bid opening, the WD must be updated. The Davis-Bacon wage

determination included in the contract at the time of contract award stays in effect for the duration of the project.

#### **Request additional classifications**

If the WD is missing a wage rate needed for a specific work/job classification, construction type, and/or project location, contact your CMT for guidance on requesting a conformance using the Request for Authorization of Additional Classification and Rate Standard Form 1444. The municipalities, county governments, public higher education institutions, and school districts should incorporate the final conformance rate into the bid specifications and construction contracts, and copies of the conformance letter should be kept on file.

#### **Ineligible Contractors**

Municipalities, county governments, public higher education institutions, and school districts cannot knowingly award a construction project to a contractor who has been debarred or suspended by the Federal government. During the bid evaluation period, municipalities, county governments, public higher education institutions, and school districts must look up all bidders at SAM.gov/content/exclusions to determine if they are ineligible contractors. Municipalities should make a note of verification in the contract file. Contractors are responsible for verifying the eligibility of sub-contractors. (Note: SAM.gov replaced Excluded Parties List System (EPLS))

#### **Payroll Reports**

Municipalities, county governments, public higher education institutions, and school districts must collect certified payroll reports and compliance statements from the prime contractor and sub-contractors weekly, in a timely manner, for every week of contract work and keep them on file for at least three years after project completion. Contractors are responsible for setting up accounts for sub-contractors in LCPTracker and for preparing and submitting payroll reports for its own employees and all sub-contractor employees in LCPTracker. Contractors must attend virtual LCPTracker training sessions offered by DOE set forth in Attachment R. Per 29 CFR 5.5(a)(3)(ii), payroll reports do **not** include full social security numbers and home addresses. A weekly payroll statement must provide the following information:

- Name of contractor or sub-contractor (indicate which)
- Project and location
- Project or contract number
- Name of employee
- Employee identification number (e.g., last four digits of social security number – Do not use full SSN)
- Work/Job classification
- Hourly rate of pay (straight and overtime)
- Daily and weekly number of hours worked
- Deductions made
- Actual wages paid

Along with each payroll report, the contractor (or payment supervisor) must submit to the Contractor a signed statement of Davis-Bacon compliance, such as the one on the back of Payroll Form WH-347.

#### **Review Payroll Reports**

To verify that contractors and sub-contractors are paying appropriate wage rates and fringe benefits, municipalities, county governments, public higher education, and school districts must spot-check a representative sample of weekly payroll reports for accuracy at least twice for each contractor and sub-



contractor during the project—a minimum of once within 2 weeks of initial payroll and once within 2 weeks of final payroll.

Note: The check boxes on page 1 of the Request for Disbursement Form 8700-215 replaced the DBRA Payroll Certification page. The check boxes serve the purpose of assurance from the Contractor to CMT certifying that Davis-Bacon has been satisfied for each week employees are paid.

### **Interview Employees**

Municipalities, county governments, public higher education, and school districts should periodically conduct and retain confidential, onsite interviews with a sampling of the contractor and sub-contractors' employees to determine whether laborers, mechanics, apprentices, and trainees are being paid in accordance with Davis-Bacon requirements—a minimum of once within 2 weeks of initial payroll and once within 2 weeks of final payroll is suggested. The Labor Standards Interview Standard Form 1445 must be completed with every interview and kept on file for at least three years after project completion.

### **Verify Apprentice and Trainee Registrations**

While municipalities, county governments, public higher education institutions, and school districts (or their designated representatives) are onsite conducting Davis-Bacon interviews, they should take the opportunity to review the apprentice and trainee registrations and certifications that the contractor should be able to easily provide upon request. Municipalities, county governments, public higher education institutions, and school districts can use the relevant documents to confirm that the number of apprentices does not exceed the ratio to journeymen allowed by the apprenticeship program plan.

### **Report Violations**

Additional interviews may be completed at the Municipalities, county governments, public higher education institutions, and school districts discretion and are required in the case of questionable payroll reports or employee complaints. Report alleged violations to the EPA Davis-Bacon Coordinator listed in the assistance agreement and to the DOL WHD District Office.

Violations include:

- Misclassification of laborers and mechanics.
- Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours).
- Inadequate recordkeeping, such as not counting all hours worked by an individual in two or more classifications during a day.
- Failure to maintain a copy of bona fide apprenticeship program and individual registration documents for apprentices.
- Failure to submit certified weekly payrolls.
- Failure to post the Davis-Bacon poster and applicable wage determination.

### **Final Closeout**

When the construction activities have reached 95% disbursement of the project amount, CMT will send a final closeout letter to the municipality, county governments, public higher education, or school district, including a Wage Rate Compliance Certification. The municipality, county governments, public higher education, or school district must prepare the certification on letterhead and submit it to SECO prior to receiving the final fund disbursement.

## APPLICABILITY OF DAVIS BACON

### Site of work

Davis-Bacon applies only to laborers and mechanics employed “directly upon the site of the work.” The site of work is the physical place or places where the construction is called for in the contract or will remain after work has been completed, and any other site where a significant portion of the building or work is construction, provided that such site is established specifically for the contract. It may also include job headquarters, tool yards, batch plants, borrow pits, etc., provided the properties are located adjacent or virtually adjacent to the “site of work” and dedicated exclusively or nearly so to the performance of the contract or project.

### Laborers and mechanics

Laborers and mechanics are employees who work with their hands, have manual or physical duties, or are in specific trades. They include carpenters, plumbers, sheet metal workers, etc., including apprentices and trainees. **The DOL focuses on the actual work being performed by the person, not necessarily the title.** As a general rule, an employee who spends the majority of time in a supervisory position onsite and who spends less than 20% of the work week engaged in skilled labor, is exempt from Davis-Bacon requirements for the percentage of time spent in that skilled time. Clerical staff (timekeepers), professionals (architects, engineers, inspectors), and certain utility installers are also exempt.

### Force account employees

Davis-Bacon does not apply to “force account” work in which the Contractor performs the construction in-house with its own “force account” employees rather than contracting out the construction work. Furthermore, the DOL does not consider a state or local government to be a contractor, even if it enters into a contract to perform construction work (see 29 CFR 5.2(h)).

### Business owners

Davis-Bacon requirements do **not** apply to the owner of a construction company. However, to be exempt, the owner must be a “business owner” as defined under 29 CFR § 541.101 and be actively engaged in the management of their business. Davis-Bacon would **apply** if the owner were not engaged in management but predominantly performs manual or physical duties of construction work.

Truck drivers Davis-Bacon does **not** apply to truck drivers employed by the contractor who come on the job site to deliver construction materials because they are not employed “directly upon the site of the work.” Davis-Bacon **does** apply to truck drivers employed by the contractor to move materials on the site of work or from a property located adjacent or virtually adjacent to it. Davis-Bacon does **not** apply to truck drivers employed by the contractor to move materials at any location that existed prior to bid opening (e.g., contractor’s headquarters).

City of Harlingen

Contractor Name

Gabriel Gonzalez, City Manager

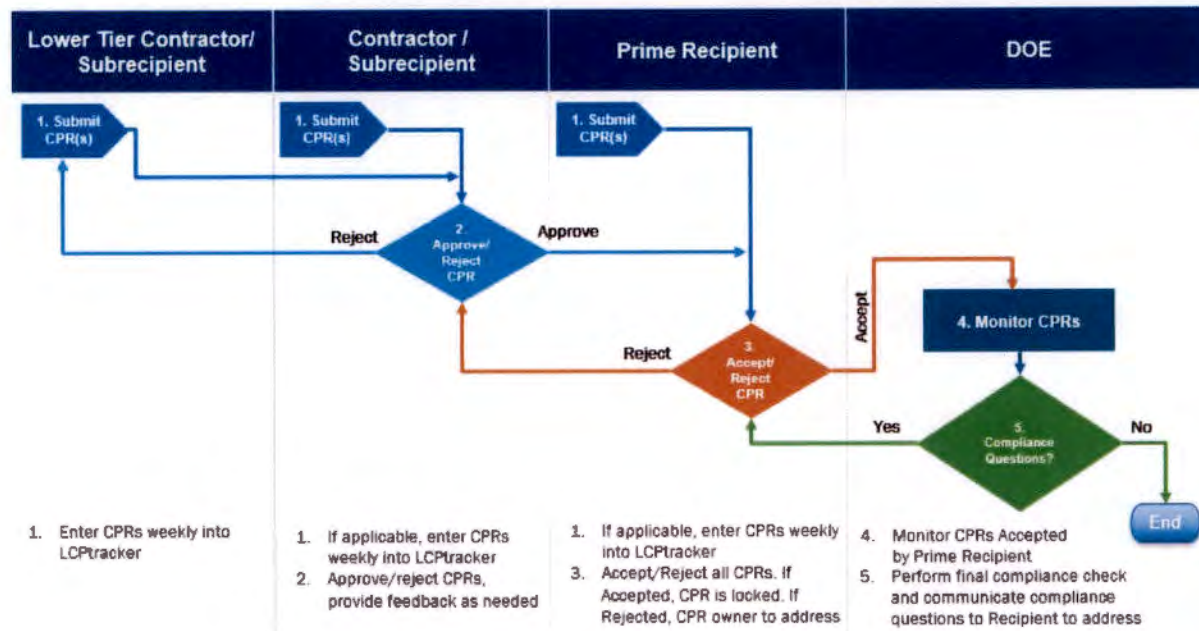
Name and Title of Authorized Representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## ATTACHMENT P LCPTRACKER FLOW CHART



# **ATTACHMENT Q** **LCPTRACKER TRAINING SCHEDULE**

|                                                                                                                                                                                 | Administrator<br>(1 hour each) | Prime Approver<br>(Prime Contractor)<br>(1.5 hours) | Contractor<br>(Prime & Lower Tier)<br>(1 hour each) |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-----------------------------------------------------|-----------------------------------------------------|
| <b>LCPtracker Pro Live</b> <ul style="list-style-type: none"> <li>• Payroll Entry</li> <li>• 1<sup>st</sup> &amp; 3<sup>rd</sup> Wed of the month at 1 pm ET</li> </ul>         |                                | X                                                   | X                                                   |
| <b>LCPtracker Pro Live</b> <ul style="list-style-type: none"> <li>• Overview</li> <li>• 1<sup>st</sup> &amp; 3<sup>rd</sup> Tue of the month at 1 pm ET</li> </ul>              | X                              |                                                     |                                                     |
| <b>LCPtracker Pro Live</b> <ul style="list-style-type: none"> <li>• Settings</li> <li>• Thur after 1<sup>st</sup> &amp; 3<sup>rd</sup> Tue at 1 pm ET</li> </ul>                | X                              |                                                     |                                                     |
| <b>LCPtracker Pro Live</b> <ul style="list-style-type: none"> <li>• Setup, eDocs, Reports</li> <li>• 2<sup>nd</sup> &amp; 4<sup>th</sup> Tue of the month at 1 pm ET</li> </ul> | X                              |                                                     |                                                     |
| <b>LCPtracker Pro Live</b> <ul style="list-style-type: none"> <li>• Hands-On User Setup</li> <li>• Thur after 2<sup>nd</sup> &amp; 4<sup>th</sup> Tue at 1 pm ET</li> </ul>     | X                              |                                                     |                                                     |
| <b>Daily Reporter</b> <ul style="list-style-type: none"> <li>• Daily Logs</li> <li>• 2<sup>nd</sup> &amp; 4<sup>th</sup> Wed of the month</li> </ul>                            | X                              |                                                     | X                                                   |
| <b>As-Needed LCPtracker Pro Live Training Sessions</b>                                                                                                                          |                                |                                                     | X                                                   |

7(m)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to approve a resolution authorizing the City Manager or designee to accept a grant award of \$192,732 from the U.S. Consumer Product Safety Commission for swimming classes and pool owner/operator training and enter into a cooperative agreement for said grant. Attachment (*Special Projects Department*)

Prepared By: Ana Hernandez, Mobility & Special Projects Director

**Brief Summary:**

The City of Harlingen, Texas has received a \$192,732 grant from the U.S. Consumer Product Safety Commission. The grant will fund year-round free swimming classes, water safety lessons, and pool owner and operator training and inspections. The Parks and Recreation Department's Aquatic Division will manage the swimming classes and water safety lessons, while the Planning and Development Services Department will oversee pool safety and inspections.

The program will run for 2 years. The city will hire swim coaches to offer classes for 9 months each year and aims to teach up to 2,880 children how to swim. The swimming classes will be available for levels 1, 2, and 3.

As part of the code enforcement, the city will employ a part-time code enforcement trainer to conduct public workshops tailored for pool operations, pool owners, and pool instruction companies to ensure compliance with the VGB Act and the 2018 ISPSC. At least one public workshop will be offered each season.

While this grant does not require a local match, a budget amendment will be necessary to use the grant award, which will be presented by the Finance Department at a later time. Additionally, a temporary part-time staff position funded by the grant will be created as a result of this grant.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount (Yes/No):

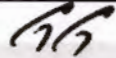
\*If no, specify source of funding and amount requested:

Finance Director's approval (Yes/No/NA):

**Staff Recommendation:**

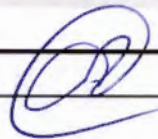
Staff recommends approval of proposed Resolution.

City Manager approval:



Comments:

City Attorney's approval:





**RESOLUTION NO. 2024 - \_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE U.S. CONSUMER PRODUCT SAFETY COMMISSION UNDER THE FISCAL YEAR 2024 POOL SAFELY GRANT PROGRAM FOR SWIMMING CLASSES AND POOL OWNER AND OPERATOR TRAINING; AND DEALING WITH RELATED MATTERS.**

**WHEREAS**, the City of Harlingen, Texas has received a Notice of Award of \$192,732 from the U.S. Consumer Product Safety Commission for year-round free-swimming classes, water safety lessons, and pool owner and operator training and inspections ("Grant"); and,

**WHEREAS**, the City of Harlingen, Texas finds it in the best interest of Harlingen residents to accept this Grant to offer free swimming classes for up to 2,880 children as well as workshops and pool inspections for pool owners and operators; and,

**WHEREAS**, the City of Harlingen, Texas wishes to authorize the City Manager to execute and deliver all grant-related documents which are necessary, customary, and proper for the acceptance of the grant.

**NOW, THEREFORE, BE IT RESOLVED** that the City Commission of the City of Harlingen, Texas, hereby authorizes the acceptance of grant funds from the U.S. Consumer Product Safety Commission in the amount of \$192,732 for year-round free-swimming classes, water safety lessons, and pool owner and operator training and inspections.

**IT IS FURTHER RESOLVED** that the City Manager or his designee is hereby authorized to execute the Grant agreement and all necessary documents in furtherance of the grant acceptance.

**CONSIDERED AND ADOPTED** this 21st day of October 2024 at a Regular Meeting of the Elective Commission of the City of Harlingen, Texas, at which a quorum was present, and which was held in accordance with Government Code Chapter 551, as amended.

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**Norma Sepulveda, Mayor**

**ATTEST:**

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**Amanda C. Elizondo, City Secretary**

|                                                                                                            |  |                                                                                                                                                     |  |
|------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 1. DATE ISSUED MM/DD/YYYY<br>09/26/2024                                                                    |  | 1a. SUPERSEDES AWARD NOTICE dated<br>except that any additions or restrictions previously imposed<br>remain in effect unless specifically rescinded |  |
| 2. CFDA NO.<br>87.002 - Virginia Graeme Baker Pool and Spa Safety                                          |  |                                                                                                                                                     |  |
| 3. ASSISTANCE TYPE Project Grant                                                                           |  |                                                                                                                                                     |  |
| 4. GRANT NO. 1 VGBCP240045-01-00<br>Formerly                                                               |  | 5. TYPE OF AWARD<br>Other                                                                                                                           |  |
| 4a. FAIN VGBCP240045                                                                                       |  | 5a. ACTION TYPE New                                                                                                                                 |  |
| 6. PROJECT PERIOD<br>From MM/DD/YYYY<br>09/30/2024                                                         |  | Through MM/DD/YYYY<br>09/29/2026                                                                                                                    |  |
| 7. BUDGET PERIOD<br>From MM/DD/YYYY<br>09/30/2024                                                          |  | Through MM/DD/YYYY<br>09/29/2026                                                                                                                    |  |
| 8. TITLE OF PROJECT (OR PROGRAM)<br>City of Harlingen Year-Round Swimming Classes and Pool Owner Education |  |                                                                                                                                                     |  |

U.S. Consumer Product Safety Commission  
Consumer Product Safety Commission  
Office of Financial Management, Planning and Evaluation

4330 East West Highway  
Bethesda, MD 20814-4408

NOTICE OF AWARD

AUTHORIZATION (Legislation/Regulations)  
Virginia Graeme Baker Pool and Safety Act, Title XIV, Public Law 110-140, 15 U.S.C 8004-8005.

|                                                                                                                                      |                                                                                                                             |
|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| 9a. GRANTEE NAME AND ADDRESS<br>CITY OF HARLINGEN<br>118 E Tyler Ave<br>Harlingen, TX 78550-9116                                     | 9b. GRANTEE PROJECT DIRECTOR<br>Ms. ANA LAURA HERNANDEZ<br>118 E Tyler Ave<br>Harlingen, TX 78550-9116<br>Phone: 9562165242 |
| 10a. GRANTEE AUTHORIZING OFFICIAL<br>Ms. ANA LAURA HERNANDEZ<br>118 E. TYLER AVENUE<br>HARLINGEN, TX 78550-9116<br>Phone: 9562165242 | 10b. FEDERAL PROJECT OFFICER<br>Jonathan Midgett<br>4330 East West Hwy<br>Bethesda, MD 20814-4408<br>Phone: 240-429-3946    |

ALL AMOUNTS ARE SHOWN IN USD

|                                                                                                                    |  |                                                                                    |  |
|--------------------------------------------------------------------------------------------------------------------|--|------------------------------------------------------------------------------------|--|
| 11. APPROVED BUDGET (Excludes Direct Assistance)                                                                   |  | 12. AWARD COMPUTATION                                                              |  |
| I Financial Assistance from the Federal Awarding Agency Only                                                       |  | a. Amount of Federal Financial Assistance (from Item 11m) 192,732.00               |  |
| II Total project costs including grant funds and all other financial participation                                 |  | b. Less Unobligated Balance From Prior Budget Periods 0.00                         |  |
|                                                                                                                    |  | c. Less Cumulative Prior Award(s) This Budget Period 0.00                          |  |
|                                                                                                                    |  | d. AMOUNT OF FINANCIAL ASSISTANCE THIS ACTION 192,732.00                           |  |
|                                                                                                                    |  | 13. Total Federal Funds Awarded to Date for Project Period 192,732.00              |  |
| 14. RECOMMENDED FUTURE SUPPORT<br>(Subject to the availability of funds and satisfactory progress of the project): |  |                                                                                    |  |
|                                                                                                                    |  | YEAR TOTAL DIRECT COSTS YEAR TOTAL DIRECT COSTS                                    |  |
|                                                                                                                    |  | a. 2 b. 3 c. 4 d. 5 e. 6 f. 7                                                      |  |
| a. Salaries and Wages 31,200.00                                                                                    |  | 15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES: |  |
| b. Fringe Benefits 8,226.00                                                                                        |  | a. DEDUCTION                                                                       |  |
| c. Total Personnel Costs 39,426.00                                                                                 |  | b. ADDITIONAL COSTS                                                                |  |
| d. Equipment 0.00                                                                                                  |  | c. MATCHING                                                                        |  |
| e. Supplies 74,522.00                                                                                              |  | d. OTHER RESEARCH (Add / Deduct Option)                                            |  |
| f. Travel 4,800.00                                                                                                 |  | e. OTHER (See REMARKS)                                                             |  |
| g. Construction 0.00                                                                                               |  |                                                                                    |  |
| h. Other 73,984.00                                                                                                 |  |                                                                                    |  |
| i. Contractual 0.00                                                                                                |  |                                                                                    |  |
| j. TOTAL DIRECT COSTS 192,732.00                                                                                   |  |                                                                                    |  |
| k. INDIRECT COSTS 0.00                                                                                             |  |                                                                                    |  |
| l. TOTAL APPROVED BUDGET 192,732.00                                                                                |  |                                                                                    |  |
| m. Federal Share 192,732.00                                                                                        |  |                                                                                    |  |
| n. Non-Federal Share 0.00                                                                                          |  |                                                                                    |  |

REMARKS (Other Terms and Conditions Attached -

☒ Yes

☐ No)

GRANTS MANAGEMENT OFFICIAL:

Janet Davis, Grants Management Officer  
550 West 7th Ave.  
Suite 1230  
Anchorage, AK 99501  
Phone: 9072713036

|                        |                          |                     |                       |               |                    |
|------------------------|--------------------------|---------------------|-----------------------|---------------|--------------------|
| 17. OBJ CLASS 410001   | 18a. VENDOR CODE 4607751 | 18b. EIN 746001047  | 19a. UEI H2ZDRPM1S2X3 | 19b. DUNS     | 20. CONG. DIST. 3d |
| FY-ACCOUNT NO.         | DOCUMENT NO.             | ADMINISTRATIVE CODE | AMT ACTION FIN ASST   | APPROPRIATION |                    |
| 21. a. FY24 VGB Grants | b. VGBCP0045A            | c. VGBCP            | d. \$192,732.00       | e. 061X01000  |                    |
| 22. a.                 | b.                       | c.                  | d.                    | e.            |                    |
| 23. a.                 | b.                       | c.                  | d.                    | e.            |                    |

## AWARD ATTACHMENTS

CITY OF HARLINGEN

1 VGBCP240045-01-00

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1. Terms and Conditions Harlingen
2. Terms and Conditions ALL



**U.S Consumer Product Safety Commission  
Award Terms and Conditions- Recipient Specific**

**RESTRICTION**

The following costs may not be allowable under the Pool Safety Grant Program without additional information:

- Car allowance (Enforcement)
- Kick boards (Education)
- Training platform (Education)
- Swim bags (Education)

Within 90 days of the grant award issue date, revised costs or additional information must be submitted for prior approval and approved by the Consumer Product Safety Commission. Please, identify the type of funding (enforcement or education) requested and clarify how the funding aligns with its intended purpose under the Virginia Graeme Baker Act (VGBA).

Please note that per the VGBA, a maximum of 75% of funds may be used for education activities and a minimum of 25% of funds must be used for enforcement.

- Enforcement funds may be used to hire and train personnel for implementation and enforcement of standards under the local swimming pool and spa safety laws.
- Education funds may be used to educate pool owners, pool operators, and other members of the public about the standards under the local swimming pool and spa safety law and about the prevention of drowning or entrapment of children using swimming pools and spas.

**1. PROJECT DESCRIPTION**

CPSC authorizes Pool Safety Grant Program funds to The City of Harlingen. The project will:

Harlingen, the second-largest city in Cameron County, is home to 71,829 residents according to the 2020 Decennial Census. A substantial portion of its population lives in poverty and has low educational attainment levels. Surrounded by bodies of water, including the Gulf of Mexico, the Arroyo Colorado River, and several water reservoirs, Harlingen offers its residents and visitors numerous recreational opportunities, such as bird watching and trail walking near water bodies, as well as access to community swimming pools. Despite these amenities, the city faces significant challenges related to water safety, highlighted by the tragic drowning of a local minor in May 2024. Drowning fatalities, as reported by the Department of Family and Protective Services (DFPS), signal a critical

## CPSC Notice of Award Terms and Conditions Pool Safety Grant Program

need for enhanced water safety education and infrastructure in Cameron County. Recognizing this, Harlingen plans to initiate preventive measures against drowning risks through free swimming and water safety lessons for children, alongside improved enforcement of city ordinances regarding pool and drain inspections. The proposal also outlines the current situation of swimming education in Harlingen, provided by the Parks and Recreation Department, which, due to budget limitations, is only available during the summer months with the hope of providing them year-round with CPSC funds. The report by the US Department of Health and Human Services and the National Center for Health Statistics showed drowning fatalities across various age groups and corresponds with drowning fatalities in statistics provided by DFPS. Workshops and violation-free inspections will be offered by the city's Planning and Development to ensure residents are familiar with the VGB Act and are not in violation of city ordinances regarding pools. The proposed initiative aims not only to reduce drowning incidents but also to ensure the well-being of Harlingen's children by equipping them with essential swimming and water safety skills.

The period of performance is 2 years and commences on the award issuance date.

### **3. AWARD REPORTING REQUIREMENTS**

#### **3.1 Progress Reports Schedule**

Your organization must submit Performance Progress Reports (PPR) to CPSC, for review and approval by the Project Officer. Due dates for federal progress reports follow the federal fiscal year:

Quarter 1, October 1–December 31

Quarter 2, January 1–March 31

Quarter 3, April 1–June 30

Quarter 4, July 1–September 30

Progress reports are due within 30 calendar days following the close of the quarter.

The **first progress report** is due within 30 calendar days of **December 31, 2024**.

Subsequent Performance Progress reports are due within 30 calendar days of the following dates:

June 30, 2025

December 31, 2025

June 30, 2026

The final Performance Progress Report is due within 120 days of the end of the period of performance.

### **5. ADMINISTRATIVE REQUIREMENTS**

## CPSC Notice of Award Terms and Conditions Pool Safety Grant Program

### 5.1.3 Advance or Reimbursement Allowance

The recipient may submit payment requests as an advance or reimbursement.



## **U.S Consumer Product Safety Commission Award – General Terms and Conditions**

The Notice of Award (NoA) issued is based on the application submitted to, and as approved by, the U.S. Consumer Product Safety Commission (CPSC) and is subject to the terms and conditions incorporated either directly, or by reference, in the following:

- a. The authorizing program statute - Virginia Graeme Baker Pool and Spa Safety Act, Public Law No. 110-140, Title XIV, as amended, 15 U.S.C. §§ 8004-8005;
- b. Funding Opportunity Announcement (FOA) CPSC-24-001;
- c. Conditions on activities and expenditure of funds in other statutory requirements, such as those included in appropriations acts;
- d. Uniform administrative requirements, cost principles, and audit requirements, as applicable to state and local governments in 2 CFR and OMB Grant Circulars;
- e. Federal award performance goals: as required in the final Pool Safety Grant Program Report; and
- f. The NoA, including all terms and conditions cited or incorporated in the NoA or attachments.
- g. A minimum of 25% of funds must be used for enforcement of local Virginia Graeme Baker Act laws and a maximum of 75% of funds may be used for education.

Additional Resources and forms are available at: <https://www.poolsafely.gov/grant-program/>.

### **1. PROJECT DESCRIPTION**

[See Recipient Specific Terms and Conditions]

### **2. AWARD CONDITIONS**

#### **2.1 Acceptance of award** - Due 5 business days after notification of award

The grantee's Authorized Official must notify by email the CPSC Program Officer (PO) listed on the NoA of acceptance within 5 business days after the notification of award. Once the NoA is accepted, unless specifically restricted by a condition of award listed in this document, the NoA, or related documents, the NoA from CPSC authorizes a grantee to initiate work on an approved grant project. The award date of the NoA will be the date the CPSC notifies the applicant and will be reflected in the NoA.

Waivers and deviations from the terms and conditions contained in this document, the NoA, and related documents must be requested and approved in writing by the Grants Management Officer (GMO). CPSC's determination of applicable conditions of award, or a GMO's denial of a request to change the terms and conditions, is discretionary and not subject to appeal.

If a recipient cannot accept an award for any reason, including the inability to perform in accordance with the provisions set forth in the NoA and in the NoA, the recipient shall notify the PO and GMO immediately in writing upon receipt of the NoA. If resolution

cannot be reached within 2 months after the award date, the GMO will void the grant in writing. Once an award is accepted by a recipient, as prescribed in this document, the contents of the NoA are binding on the recipient and CPSC, unless and until modified by a revised NoA signed by the GMO.

The terms and conditions in this document, the NoA, and related documents apply to the recipient of CPSC funds, unless a specific written waiver is granted by the GMO. The recipient is accountable for the performance of the project, program, or activity; the appropriate expenditure of funds under the award by all parties; and all other obligations of the recipient, as provided in the NoA, this document, and related documents. In general, the requirements that apply to the recipient, including public policy requirements, also flow to other entities performing work under the grant award, unless an exception is specified, in regulation, or authorized in writing by the GMO.

## 2.2 Grant Solutions

All progress reports, financial reporting, and payment requests (SF-270) must be submitted in Grant Solutions. After acceptance of the award, personnel listed in the SF-424 who do not already have a Grant Solutions account will receive an email requesting that an account be established.

## 2.3 Period of Performance

The period of performance is 2 years and begins on the award issuance date on the Notice of Award face page and in Grant Solutions.

# **3. AWARD REPORTING REQUIREMENTS**

## 3.1 Progress Reports

[See Recipient Specific Terms and Conditions]

## 3.2 Pool Safely Grant Program Final Report

The final report is due within 120 calendar days after the end of the award project period.

## 3.2 Federal Financial Report, FFR (SF-425)

An annual FFR is due within 90 days of the 1-year anniversary of the award date.

A Final FFR is due within 120 calendar days after the end of the award project period.

The FFR is a financial report which documents financial progress by providing information on expenditures and unobligated balances.

## 3.3 Tangible Personal Property (SF-428)

A final SF-428 is due within 120 calendar days after the end of the award project period.

The SF-428 (cover page and final report, SF-428B and, if necessary, SF-428C) indicates whether the recipient has equipment or supplies which exceed \$5,000. If so, the SF-428C is used to request disposition.



#### **4. AWARD SPECIFIC TERMS**

##### **4.1 Budget**

Budget (federal share, non-federal share and total project costs) is as indicated on the Notice of Award face page.

##### **4.2 Use of program income – additive**

If program income is earned during the project period from this award, grantees may add the program income to the funds committed to the award and only use it to advance eligible project objectives.

##### **4.3 Pre-award costs**

Pre-award costs for this award are not authorized.

##### **4.4 CPSC Guidelines**

Information, training, and campaigns must conform with recommended CPSC safety guidelines, which can be found at: <http://www.cpsc.gov/> and at <http://www.poolsafely.gov/>.

#### **5. ADMINISTRATIVE REQUIREMENTS**

##### **5.1 Payment Requirements**

To request an advance or reimbursement of allowable grant costs, award recipients must submit for SF-270, Request for Advance or Reimbursement.

Grantees must request payments using the form SF-270, Request for Advance or Reimbursement, which is available at: <https://grants.gov/forms/forms-repository/post-award-reporting-forms>. The form must be filled out correctly and uploaded to GrantsSolutions.gov.

- If the SF-270 form is incomplete or inaccurate, payment will be delayed or rejected.
- The SF-270 must be signed by the grantee Authorizing Official or authorized designee.
- Grantees may submit a payment request as grant funds are needed. Payment requests are normally processed within 15 business days after submission of the SF-270 request.
- Any costs incurred outside of the grant award's period of performance cannot be paid with grant funds.

##### **5.1.1 Advance Payments**

In accordance with 2 CFR § 200.305, the grantee must maintain procedures to minimize the time elapsed between receiving an advance payment and disbursing the funds. Advance payments to a grantee must be limited to the minimum amounts needed and must be timed with the actual, immediate cash requirements of the grantee in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements



by the grantee for direct program or project costs and the proportionate share of any allowable indirect costs.

Unless otherwise stated in the special terms and conditions of the NoA (or subsequent action), grantees are authorized to be paid in advance through electronic funds transfer, provided that the following conditions exist:

- a. Funds for the project period have been obligated in the form of a signed grant award notification.
- b. The grantee must minimize the time elapsing between the transfer of funds from the U.S. Treasury and the grantee's disbursement and must maintain or demonstrate the willingness to maintain written procedures to so minimize the time elapsing between the transfer of funds to the grantee from the U.S. Treasury and the disbursement of such funds.
- c. The grantee financial management system meets the standards for fund control and accountability prescribed in OMB Circular A-102; and
- d. The grantee SAM.gov registration is current and active.

Requests for advance payment must be limited to immediate cash needs for the approved award. Advance payments must be fully disbursed (e.g., checks written, signed, and issued to the payees) within 30 days after the date that the grantee receives advance funds from the U.S. Treasury. Advance payment requests must be submitted no earlier than 15 business days before the beginning of the period for which the funds are requested.

All advances will be at the discretion of the CPSC and negotiated and approved by the CPSC. Additional justification may be required.

Unless a grantee receives less than \$120,000 per year in advance grant funds, a grantee must maintain advances of federal funds in interest-bearing insured bank accounts or the most reasonably available interest-bearing account that would not earn more than \$100 (if the grantee is a state, local, or Indian Tribal Government), or \$250 (if the grantee is an institution of higher education, hospitals, or other non-profit organization) per year on the federal cash balance, or would entail bank services charges in excess of the interest earned. (Note: grantees are encouraged to use women-owned and minority-owned banks or banks that are owned at least 50 percent by women or minority group members).

Interest greater than \$600 annually that is earned on advance payments must be remitted annually to CPSC.

#### 5.1.2 Reimbursable Payments

Grantees may elect to request reimbursement payments, rather than advance payments, even if they meet the criteria for advance payments. Grantees who are unwilling or unable to maintain procedures to minimize the time elapsed between

receiving an advance payment and disbursing the funds can only request reimbursement payments.

Any remaining advanced funds at the end of the award's period of performance must be returned to the government and cannot be spent on additional purchases.

#### 5.1.3 Advance or Reimbursement Allowance [See Recipient Specific Terms and Conditions]

#### 5.2 Federal, State, and municipal requirements

Grantees must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

#### 5.3 Prior approval

CPSC anticipates that the grantee may need to modify the recipient's award budget or other aspects of its approved application during performance, to accomplish the award's programmatic objectives. In general, grantees are allowed a certain degree of latitude to re-budget within and between budget categories to meet unanticipated needs and to make other types of post-award changes, provided that the changes still meet the statutory program requirements and the regulatory requirements under 2 CFR part 200, as applicable. Situations that require CPSC written prior approval are outlined in 2 CFR § 200.407 – Prior written approval (prior approval).

When CPSC prior approval is required, the requirement applies whether the costs/activities are proposed in the application or in a separate request following award. If an application includes general language about a cost or activity that requires CPSC prior approval, approval of the application does not satisfy the prior-approval requirement. The grantee must obtain any applicable CPSC prior approval before a specific activity may be undertaken or before a specific cost is incurred.

Actions that require prior approval must be submitted in writing to the GMO. The request must bear the signature of the grantee Authorizing Official, as well as the project director's signature. Approval of the request can be granted only by the GMO and will be in writing. No other written or oral approval will be accepted; no such other written or oral approval will be binding on CPSC.

#### 5.4 Site Visits

CPSC's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Grantees must provide reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives performing their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.



### 5.5 Public acknowledgement of federal funding

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, shall clearly state—

(1) the percentage of the total costs of the program or project which will be financed with Federal money;

(2) the dollar amount of Federal funds for the project or program; and

(3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

### 5.8 AUDITS

Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, § 1 et seq., an audit of the award may be conducted at any time. The Inspector General of the CPSC, or any of his or her duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic, or other process or medium, in order to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law. When the CPSC Office of Inspector General (OIG) requires a program audit on a CPSC award, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with CPSC, or any other federal, state, or local audit entity.

#### 5.8.1 Organization-Wide, Program-Specific, and Project Audits

Organization-wide or program-specific audits shall be performed in accordance with the Single Audit Act Amendments of 1996, as implemented by OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." Per 2 CFR § 200.501, Audits, recipients that are subject to the provisions of OMB Circular A-133 and that expend \$750,000 or more in a year in federal awards shall have an audit conducted for that year in accordance with the requirements contained in OMB Circular A-133. A copy of the audit shall be submitted to the Bureau of the Census, which has been designated by OMB as a central clearinghouse, by electronic submission to the Federal Audit Clearinghouse website <http://harvester.census.gov/sac/>. If it is necessary to submit by paper, the address for submission is:

Federal Audit Clearinghouse  
Bureau of the Census  
1201 E. 10th Street  
Jeffersonville, IN 47132

#### 5.8.2 Audit Resolution

An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due to CPSC. Therefore, the recipient should take seriously its responsibility to respond to all audit findings and



recommendations with adequate explanations and supporting evidence whenever audit results are disputed.

An appeal of the Audit Resolution Determination does not prevent the establishment of the audit-related debt nor does it prevent the accrual of interest on the debt. If the Audit Resolution Determination is overruled or modified on appeal, appropriate corrective action will be taken retroactively. An appeal will stay the offset of funds owed by the auditee against funds due to the auditee.

CPSC shall review the recipient's appeal and notify the recipient of the results in an Appeal Determination Letter. After the opportunity to appeal has expired or after the appeal determination has been rendered, CPSC will not accept any further documentary evidence from the recipient. No other administrative appeals are available through CPSC.

#### 5.9 Payment of Debts Owed the Federal Government

Any debts determined to be owed the federal government shall be paid promptly by the recipient. CPSC debt collection procedures are set out in 31 U.S.C. § 3701 *et seq.*, delinquent debt is a debt that has not been paid by the date specified in the agency's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement) unless other satisfactory payment arrangements have been made. In accordance with 31 U.S.C. § 3717, failure to pay a debt by the due date, or if there is no due date, within 30 days of the billing date, shall result in the assessment of interest, penalties, and administrative costs in accordance with the provisions of 31 U.S.C. § 3717 and 31 CFR § 901.9. CPSC entities will transfer any CPSC debt that is more than 180 days delinquent to the Financial Management Service for debt collection services, a process known as "cross-servicing" under 31 U.S.C. § 3711(g), 31 CFR § 285.12 and may result in CPSC taking further action as specified in the standard terms and condition entitled, "Non-Compliance with Award Provisions." Funds for payment of a debt must not come from other federally sponsored programs. Verification that other federal funds have not been used will be made, e.g., during on-site visits and audits.

##### 5.9.1 Late Payment Charges

Interest shall be assessed on the delinquent debt in accordance with section 3717(a) of the Debt Collection Act (see 31 U.S.C. § 3701 *et seq.*, for the entire Debt Collection Act), as amended. The minimum annual interest rate to be assessed is the Department of the Treasury's Current Value of Funds Rate (CVFR). The CVFR is available online at: <http://www.fms.treas.gov/cvfr/index.html>. The CVFR is published by the U.S. Department of the Treasury in the *Federal Register* (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>) and in the Treasury Financial Manual Bulletin. The assessed rate shall remain fixed for the duration of the indebtedness. Penalties shall accrue at a rate of not more than 6 percent per year or such other higher rate as authorized by law. Administrative charges,



that is, the costs of processing and handling a delinquent debt, shall be determined by the CPSC entity collecting the debt, as directed by the CPSC Chief Financial Officer.

#### 5.9.2 Barring Delinquent Federal Debtors from Obtaining Federal Loans or Loan Insurance Guarantees

Pursuant to 31 U.S.C. § 3720B and 31 CFR § 901.6, unless waived, the CPSC is not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a federal agency. This prohibition does not apply to disaster loans.

#### 5.9.3 Effect of Judgment Lien on Eligibility for Federal Grants, Loans, or Programs

Pursuant to 28 U.S.C. § 3201(e), unless waived by the CPSC, a debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan that is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the federal government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

#### 5.10 Government Wide Debarment and Suspension

The recipient shall comply with the provisions of Subpart C of 2 CFR part 1326, "Nonprocurement Debarment and Suspension" (published in the *Federal Register* on December 21, 2006, 71 FR 76573), which generally prohibit entities that have been debarred, suspended, or voluntarily excluded from participating in federal nonprocurement transactions either through primary or lower tier covered transactions, and which sets forth the responsibilities of recipients of federal financial assistance regarding transactions with other persons, including subrecipients and contractors.

#### 5.11 Fraud, Waste and Abuse

Anyone who becomes aware of the existence (or apparent existence) of fraud, waste, or abuse related to CPSC grants or use of grant funds should report this information to CPSC. The CPSC OIG provides several means, including toll-free numbers, for this purpose.

The OIG hotline may be reached by telephone at: (301) 504-7906; online using [the OIG's Contact Form](#); or by mail at:

Office of the Inspector General  
U.S. Consumer Product Safety Commission  
4330 East-West Highway  
Room 702  
Bethesda, MD 20814

Fraud, waste, and abuse includes, but is not limited to, embezzlement, misuse, or misappropriation of grant funds or property, and false statements, whether by organizations or individuals. Examples are theft of grant funds for personal use; using funds for non-grant-related purposes; theft of federally owned property or property



acquired or leased under a grant; charging inflated building rental fees for a building owned by the recipient; submitting false financial reports; and submitting false financial data in bids submitted to the recipient (for eventual payment under the grant).

Callers are not required to give their names and, if they do, their identities are kept confidential. The federal government may pursue administrative, civil, or criminal action under a variety of statutes that relate to fraud and false statements or claims. Even if a grant is not awarded, the applicant may be subject to penalties if the information is false.

The Program Fraud Civil Remedies Act (31 U.S.C. § 3801 et seq.), provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the federal government for money (including money representing grants, loans, or other benefits).

The False Claims Amendments Act and the False Statements Act (18 U.S.C. §§ 287 and 1001, respectively) provide that whoever makes or presents any false, fictitious, or fraudulent statement, representation, or claim against the United States shall be subject to imprisonment of not more than five years and shall be subject to a fine in the amount provided by 18 U.S.C. § 287.

The Civil False Claims Act (31 U.S.C. § 3729 et seq.) provides that lawsuits can be brought by the government, or a person on behalf of the government, for false claims made under federal assistance programs.

## **6. NATIONAL POLICY REQUIREMENTS**

### **6.1 Executive Order 13798**

The grantee shall comply with Executive Order 13798, "Promoting Free Speech and Religious Liberty," when contracting with other entities. The grantee shall allow religious organizations to compete on equal footing for contracts used to support this government program. Generally, such organizations are not required to alter their religious character to participate in a government program, nor to cease engaging in explicitly religious activities outside the program, nor effectively to relinquish their federal statutory protections for religious hiring decisions.

### **6.2 Lobbying Restrictions**

By accepting funds under this award, grantees agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation. (See also statutory requirements for whistleblower protections at 41 U.S.C. § 4712, and 41 U.S.C. §§ 4304 and 4310.)

### **6.3 Hatch Act**



The Hatch Act restricts political activity of executive branch employees of the federal government and District of Columbia government employees (5 U.S.C. §§ 7321–7326) and state or local officers or employees (5 U.S.C. 1501–1508). “State or local officer or employee” means an individual employed by a state or local agency whose principal employment is in connection with an activity that is financed in whole or in part by loans or grants made by the United States or a federal agency. (Certain state educational or research institutions are excluded from this definition.)

#### 6.4 Codes of Conduct and Subaward, Contract and Subcontract Provisions

##### 6.4.1 Code of Conduct for Recipients

Pursuant to the certification on the Assurances Form SF-424B, paragraph 3, the recipient must maintain written standards of conduct to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain in the administration of this award.

If subrecipients are authorized under the award, the recipient shall require all subrecipients, including lower tier subrecipients, under the award to comply with the provisions of the award, including applicable cost principles, administrative, audit requirements, and all associated terms and conditions.

##### 6.4.2 Federal Employee Expenses

Federal agencies are generally barred from accepting funds from a recipient to pay transportation, travel, or other expenses for any federal employee. Use of award funds (federal or non-federal) or the recipient’s provision of in-kind goods or services, for the purposes of transportation, travel, or any other expenses for any federal employee may raise appropriation augmentation issues. In addition, CPSC policy prohibits the acceptance of gifts, including travel payments for federal employees, from recipients or applicants, regardless of the source.

##### 6.4.3 Civil Rights Act of 1964 (Title VI)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., provides that no person in the United States will, on the grounds of race, color, 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.

##### 6.4.4 Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended, provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. These requirements pertain to the provision of benefits or services, as well as to employment.

##### 6.4.5 Age Discrimination Act of 1975



The Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.*, prohibits discrimination based age in any program or activity receiving federal financial assistance.

#### 6.4.6 Education Amendments of 1972 (Title IX)

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681, 1682, 1683, 1685, and 1686, provides that no person in the United States will, based on sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.

#### 6.4.7 Drug-Free Workplace

The Drug-Free Workplace Act of 1988, 42 U.S.C. § 701 *et seq.*, requires that all organizations receiving grants from any federal agency agree to maintain a drug-free workplace. The recipient must notify the awarding office if an employee of the recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. Government-wide Requirements for Drug-Free Workplace for Financial Assistance are found in 2 CFR part 182.

#### 6.4.8 Smoke-Free Workplace

CPSC strongly encourages recipients to provide smoke-free workplaces and to promote the nonuse of tobacco products. CPSC defines the term "workplace" to mean office space (including private offices and other workspace), conference or meeting rooms, corridors, stairways, lobbies, rest rooms, cafeterias, and other public spaces.

#### 6.4.9 Limited English Proficiency

Per Title VI of the Civil Rights Act of 1964--Prohibition Against National Discrimination Affecting Persons with Limited English Proficiency (LEP), recipients of Federal financial assistance must take reasonable steps to ensure that people with limited English proficiency have meaningful access to services and that there is effective communication between the service provider and individuals with limited English proficiency.

#### 6.4.10 Resource Conservation and Recovery Act

Under RCRA (42 U.S.C. § 6901 *et seq.*), any state agency or agency of a political subdivision of a state using appropriated federal funds must comply with 42 U.S.C. § 6962. This includes state and local institutions of higher education or hospitals that receive direct CPSC awards. Section 6962 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA (40 CFR parts 247–254).

#### 6.4.11 Seat Belts

Pursuant to EO 13043 (April 16, 1997), Increasing the Use of Seat Belts in the United States, CPSC recipients are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating vehicles, whether organizationally owned or rented or personally owned.



#### **6.4.12 System for Award Management and Universal Identifier Requirements**

##### **A. Requirement for System for Award Management**

Unless you are exempted from this requirement under [2 CFR 25.110](#), you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest-level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another Federal award term.

##### **B. Requirement for Unique Entity Identifier**

If you are authorized to make subawards under this Federal award, you:

1. Must notify potential subrecipients that no entity (**see** definition in paragraph C of this award term) may receive a subaward from you until the entity has provided its Unique Entity Identifier to you.
2. May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to you. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.

##### **C. Definitions**

For purposes of this term:

1. System for Award Management (SAM) means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM internet site (currently at <https://www.sam.gov>).
2. Unique Entity Identifier means the identifier assigned by SAM to uniquely identify business entities.
3. Entity includes non-Federal entities as defined at [2 CFR 200.1](#) and also includes all of the following, for purposes of this part:
  - a. A foreign organization;
  - b. A foreign public entity;
  - c. A domestic for-profit organization; and
  - d. A Federal agency.
4. Subaward has the meaning given in [2 CFR 200.1](#).
5. Subrecipient has the meaning given in [2 CFR 200.1](#).

#### **6.4.13 Reporting Subawards and Executive Compensation**

##### **A. Reporting of first-tier subawards.**

1. Applicability. Unless you are exempt as provided in paragraph (d) of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph (e) of this award term).
2. Where and when to report.



- i. The non-Federal entity or Federal agency must report each obligating action described in paragraph (A)(1). of this award term to <http://www.fsrs.gov>.
  - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
- 3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.
- B. Reporting total compensation of recipient executives for non-Federal entities.
  - 1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
    - i. The total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in [2 CFR 170.320](#);
    - ii. in the preceding fiscal year, you received—
      - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at [2 CFR 170.320](#) (and subawards), and
      - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at [2 CFR 170.320](#) (and subawards); and,
    - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\)](#), [78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
  - 2. Where and when to report. You must report executive total compensation described in paragraph (B)(1) of this award term:
    - i. As part of your registration profile at <https://www.sam.gov>.
    - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- C. Reporting of Total Compensation of Subrecipient Executives.
  - 1. Applicability and what to report. Unless you are exempt as provided in paragraph (D) of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
    - i. in the subrecipient's preceding fiscal year, the subrecipient received—
      - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at [2 CFR 170.320](#) (and subawards) and,

- (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
  - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. Where and when to report. You must report subrecipient executive total compensation described in paragraph (C)(1) of this award term:
- i. To the recipient.
  - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

D. Exemptions.

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

E. Definitions. For purposes of this award term:

- 1. Federal Agency means a Federal agency as defined at [5 U.S.C. 551\(1\)](#) and further clarified by [5 U.S.C. 552\(f\)](#).
- 2. Non-Federal entity means all of the following, as defined in [2 CFR part 25](#):
  - i. A Governmental organization, which is a State, local government, or Indian tribe;
  - ii. A foreign public entity;
  - iii. A domestic or foreign nonprofit organization; and,
  - iv. A domestic or foreign for-profit organization
- 3. Executive means officers, managing partners, or any other employees in management positions.
- 4. Subaward:
  - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see [2 CFR 200.331](#)).
  - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
- 5. Subrecipient means a non-Federal entity or Federal agency that:
  - i. Receives a subaward from you (the recipient) under this award; and



- ii. Is accountable to you for the use of the Federal funds provided by the subaward.
6. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see [17 CFR 229.402\(c\)\(2\)](#)).

#### 6.4.14 Trafficking in persons, and the implementing regulations at 2 CFR PART 175

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the federal government, if the recipient or subrecipient engages in certain activities related to trafficking in persons. CPSC hereby incorporates the following award term required by 2 CFR § 175.15(b).

##### Trafficking in persons.

##### A. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
  - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - ii. Procure a commercial sex act during the period of time that the award is in effect; or
  - iii. Use forced labor in the performance of the award or subawards under the award.
2. As the federal awarding agency, we may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
  - i. Is determined to have violated a prohibition in paragraph (A)(1) of this award term; or
  - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph (A)(1) of this award term through conduct that is either—
    - (A) Associated with performance under this award; or
    - (B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that is provided in 2 CFR part 180, "OMB Guidelines to Agencies on and Suspension (Nonprocurement)."

##### B. Provision applicable to a recipient other than a private entity. We as the federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph (A)(1) of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph (A)(1) of this award term through conduct that is either—
  - i. Associated with performance under this award; or

- ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1125.

**C. Provisions applicable to any recipient.**

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (A)(1) of this award term.

2. Our right to terminate unilaterally that is described in paragraph (A)(2) or b of this section:

- i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and

- ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph (A)(1) of this award term in any subaward you make to a private entity.

**d. Definitions.** For purposes of this award term:

1. "Employee" means either:

- i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

- ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. "Private entity":

- i. Means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

- ii. Includes:

- a. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

- b. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102)

**7. Contacts**

Program Official:

Jonathan Midgett

[jmidgett@cpsc.gov](mailto:jmidgett@cpsc.gov)

301-504-8120



Grants Management Specialist:  
Harvey Kincaid  
hkincaid@cpsc.gov  
301-504-7525

**AGENDA ITEM  
EXECUTIVE SUMMARY**

7(n)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to approve a resolution adopting a Grants Management Policy.  
Attachment (*Special Projects Department*)

Prepared By: Ana Hernandez, Mobility & Special Projects Director

**Brief Summary:**

The Special Projects Department is recommending the adoption and implementation of a new Grants Management Policy to strengthen the city's overall grant oversight in conformance with 2 CFR 200 -Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The Policy is divided into pre-award and post-award policies and procedures.

Granting agencies (subrecipients) are required to conduct a risk assessment of the city before officially awarding a grant. Having a formal policy to administer grant funding allows the city to demonstrate that it has quality management systems and the ability to meet the management standards prescribed by a grant.

The Special Projects Department has solicited input from key stakeholders and all department directors, and their feedback and recommendations have been incorporated into the Policy.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount (Yes/No):

\*If no, specify source of funding and amount requested:

Finance Director's approval (Yes/No/NA):

**Staff Recommendation:**

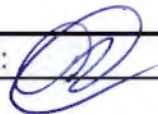
Staff recommends approval of proposed policy.

City Manager approval:



Comments:

City Attorney's approval:





**RESOLUTION NO. 2024 - \_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, APPROVING THE ADOPTION OF A NEW GRANTS MANAGEMENT POLICY; AND DEALING WITH RELATED MATTERS.**

**WHEREAS**, the City of Harlingen, Texas is a Home Rule city operating under the provisions of the State of Texas; and,

**WHEREAS**, the City Commission of the City of Harlingen, Texas ("City Commission") recognizes the importance and need for a Grants Management Policy to provide effective oversight, coordination, and administration of grants from federal, state, local, and private granting agencies; and,

**WHEREAS**, the City of Harlingen, Texas finds it in the best interest of Harlingen residents to adopt a Grants Management Policy to ensure accountability and compliance with all required federal, state, local and granting agency requirements; and,

**NOW, THEREFORE, BE IT RESOLVED** that the City Commission of the City of Harlingen, Texas, hereby authorizes the approval of a Grants Management Policy attached hereto as **Exhibit "A."**

**IT IS FURTHER RESOLVED** that the Grants Management Policy shall apply to all departments and divisions of the City of Harlingen engaged in grant-funded activities.

**IT IS FURTHER RESOLVED** that this Grants Management Policy may be amended from time to time by resolution of the City Commission of the City of Harlingen, Texas.

**IT IS FINALLY RESOLVED** that this Resolution shall take effect immediately upon its passage and approval.

**CONSIDERED AND ADOPTED** this 21st day of October 2024 at a Regular Meeting of the Elective Commission of the City of Harlingen, Texas, at which a quorum was present, and which was held in accordance with Government Code Chapter 551, as amended.

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**Norma Sepulveda, Mayor**

**ATTEST:**

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**Amanda C. Elizondo, City Secretary**



# Grants Management Policy

SPECIAL PROJECTS DEPARTMENT

*Effective Date: 10/21/2024*



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## Introduction

The purpose of this **Grants Management Policy** ("Policy") is to develop, implement, and maintain meaningful grant oversight and coordination for the City of Harlingen, Texas. The policies and procedures laid out in this Policy aim to achieve the following:

1. Ensure compliance with all required federal, state, local, private, and any other granting agency requirements;
2. Ensure that all grant-related activity is consistent with the strategic priorities of the City Commission and City Administration;
3. Increase grant-related revenues;
4. Improve the efficiency and effectiveness of projects, programs, and services funded through grants;
5. Limit the City's exposure to liability;
6. Centralize grant seeking and management to promote collaboration and coordination of the grant process between City departments;
7. Serve as a resource for all steps of the grants' lifecycle including grant seeking, post-award management, and closeout for all City departments.

Grant funding is generally encouraged unless the prospective grant conflicts with the City's strategic goals, generates more cost than benefit, or restricts the mission of the city.

Grant regulations presented in this Policy apply to all activities financed by any funds for which the City has grantee responsibility, including state, federal, and private grants. These activities may include but are not limited to planning, design, studies, construction, programming, hiring, and procurement of goods and services. **Donations** are not considered grants; therefore, this Policy does not apply to donations.

This Policy is divided in two (2) sections:

**Section 1: Pre-Award Procedures** – This section guides users through the most common situations encountered while going through the grant development process including what policies and procedures are in place to ensure that a grant application is submitted successfully.

**Section 2: Post-Award Procedures** – Provides direction on grants management and compliance after a grant is awarded to the city.

This Policy is a working, living document, and necessary changes may periodically be identified, especially if federal or state rules change. Please contact the Special Projects Director with input and questions regarding updates to this Policy or any other questions.

## Grant Administration

All City staff involved with grants must manage grant awards in accordance with **Title 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards** (also commonly referred to as "Uniform Guidance" or UG), the **Texas Grant Management Standards (TxGMS)**, the City of Harlingen's accounting, cash handling, travel, purchasing, and procurement, and record retention policies; the policies and procedures for procurement of Federally Funded Highway Programs (FHWA); and corresponding contractual agreements. The 2 CFR 200 and TxGMS are included in the **Attachments** section.

As part of the daily administration of grants, project or program managers **must**:

1. Administer the grant/award in accordance with state, federal, and local regulations. While Directors may delegate their daily responsibilities for administering the grant/award to a project or program manager, the Department Director still retains overall responsibility for the grant/award.
2. Monitor contractors to ensure compliance with all contract provisions.

3. For grants with sub-recipients, refer to Sub-Recipient Monitoring on page 15.
4. Maintain documentation evidencing compliance with all grant and program requirements.
5. Provide copies of all grant-related documentation to the Finance Department and the Special Projects Department such as award letters, statements of grant awards, grant agreements, applicable adopted plans, contract amendments, extension request letters, extension approval letters, professional service agreements, etc.
6. Before incurring grant or program expenditures, the Department Director must contact the Finance Department to:
  - a. Determine the project coding of program expenditures.
  - b. Ensure general ledger accounts are set up and activated by the Finance Department.
  - c. Ensure internal budget amendments have been processed.
7. Submit all reimbursement requests and backup documentation to the Finance Department and Special Projects Department prior to submission to the granting agency.
8. Initiate requests for award extensions and/or agreement amendments if necessary. Changes to the original terms of the award must be reviewed and approved by the Special Projects Department, Legal Department, and Finance Department prior to submission to the granting agency.

City staff is also encouraged to take advantage of the multiple grant resources available online. Please contact the Special Projects Department Director for grant training offerings.

### **Roles and Responsibilities**

There are several responsible parties for activities surrounding the submittal, implementation, maintenance, reporting and other related duties for grant funded projects or programs. The full development of a project or program requires the assistance and support from the following parties:

**City Commission:** The City of Harlingen operates a Council-Manager form of government. There are five City Commission members and the mayor. The mayor is elected at-large with the remaining city commission members elected from single-member districts.

**City Manager:** The city's chief administrative officer authorized to submit grant applications and execute grant agreements on the city's behalf.

**Administering Department:** The Department within the city who was awarded the grant and/or is overseeing the activities of a grant-funded program or project.

**Department Director:** An executive manager with programmatic and fiscal responsibilities for a designated department. He or she is the individual who ensures adequate staff and infrastructure are provided for the appropriate performance of grant award management and supervises staff members identified as key members on grant awards. The department director is responsible for ensuring grant programs meet the city's current priorities and policy objectives and oversight of the project or program manager.

**Project/Program Manager:** The project or program manager is responsible for the management activities on a grant-funded project. The project or program manager is the chief accountable person and bears responsibility for the overall administrative and fiscal conduct of the grant award as well as meeting the terms and conditions of the award and representing the project or program to the granting agency.

**Granting Agency:** A governmental unit, foundation or other entity that awards grants.

**Special Projects Director:** The primary person responsible for providing city-wide coordination and monitoring of programmatic compliance for all grants as well as preparation of grant applications. The Special Projects Director is responsible for ensuring that the City's grants management and compliance program is current and effectively fulfills the compliance requirements of the City's administrative policies and external granting agencies. The Special Projects Director has delegated authority by the City Manager to submit grant applications on the city's behalf.



**Grant Coordinator:** The position responsible for providing support with grant writing, management, and compliance activities for the city.

**Finance Director:** The Finance Director is responsible for the oversight of the city's financial activity. The Finance Director has the authority to review all financial aspects associated with a grant funded project or program and provide general oversight of other grant financial related issues.

**Assistant Finance Director:** The Assistant Finance Director coordinates the preparation and distribution of single audit reports in tandem with the Annual Comprehensive Financial Statements and ensures that the city's policies and procedures regarding single audit act requirements is implemented.

**Accountant Manager:** The Accountant Manager is responsible for setting up grant accounts, monitoring grant expenditures, reconciling reimbursement requests, reviewing required reports prior to submission to the granting agency, and preparing the Schedule of Expenditures of Federal Awards (SEFA) at year-end.

**Purchasing Division:** The Purchasing Division will process procurements according to the grant agreement, state and federal laws and regulations, and city policies. The Purchasing Division will also provide guidance in the development of contracts and sub-recipient agreements in compliance with applicable regulations and requirements. Project or program managers are ultimately responsible for adhering to the stipulations from the approved award / contract to ensure that allowable expenditures are conducted.

**City Attorney:** The City Attorney or their designee shall review the terms and conditions of a grant agreement. Grant agreements involve little or no negotiation. Despite the City's lack of bargaining power in this regard, it is nevertheless prudent to conduct a legal review of grant agreements to ensure that all the terms of the agreement are legally enforceable. In consultation with the Legal Department, the City will decide on accepting or declining an award based on the terms of the agreement.

## Section 1: Pre-Award Procedures

### Grant Search

The Special Projects Department aims to help city departments find and apply for grant opportunities. This will enable each department to expand its overall capacity without placing a greater burden on the city's operating and capital budgets. In order to achieve this, the Special Projects Department needs to have a good understanding of all departmental needs that can potentially be met through grant funding as well as the timing. Understanding a department's needs and priorities will allow the Special Projects Department to conduct research to find possible grant opportunities that suit departmental needs.

The Special Projects Department will use the following methods to match department needs with grant opportunities:

1. **Harlingen City Commission's strategic priorities:** All grants must align with the City Commission's strategic priorities. At the beginning of the fiscal year, the City Commission may provide the City Manager with a list of priorities that the Special Projects Department will use to inform regular grant searches and prepare a prioritized annual listing of grants that the city will pursue that year. The City Commission may amend its list of priorities during the formation of the city's annual operating and capital budgets or as needed throughout the year.
2. **Annual meetings with Department Directors:** The Special Projects Department will meet with Department Directors at the beginning of the fiscal year and during the annual formation of the city's operating and capital budgets to identify their respective departments' current needs and priorities. These identified priorities will inform regular searches. The Special Projects Department will prepare a prioritized annual listing of grants that the city will be pursuing that year based on the needs and



priorities identified during the annual meetings. Department Directors will also be notified throughout the year as promising new grant opportunities are identified.

3. **Ad-hoc grant seeking:** All city employees are encouraged to bring new ideas or initiatives to the Special Projects Director. In these cases, the Special Projects Department staff will work to match your idea to existing grant opportunities and add the information to our internal department priority lists at any time during the year.

Once a grant opportunity is identified, Special Projects Department staff will work with the appropriate Department Director and/or staff member to complete a high-quality application.

### Pre-Application Assessment

Once a grant opportunity has been identified, the Special Projects Department will schedule a meeting with the appropriate staff to evaluate the competitiveness of a possible grant application. During the meeting, the following steps will be completed by Special Projects Department staff and department representatives:

1. Review the application material in-depth
2. Identify all content and application components that must be developed for a successful application
3. Identify financial implications
  - a. Total anticipated project cost
  - b. Match requirements and sources
  - c. Partner organizations/sub-contractors
  - d. Staffing requirements (including salary and benefits increases for multi-year grants)
  - e. Documentation of a clear continuation plan
4. Identify programmatic implications
  - a. Whether the project will meet the needs of the city and the community
  - b. Alignment with City Commission's strategic priorities
  - c. Alignment with department's goals
  - d. Department's capacity to administer the programmatic, financial, and administrative aspects of the grant.
  - e. How ready or complete the project is
  - f. How soon the funding is needed

In evaluating grant opportunities, Departments are required to develop continuation plans prior to applying for grants. Continuation plans should address strategies for continuing grant-funded programs or projects if funding is reduced or terminated. These plans should include strategies for sustaining the programs or finding alternative sources of funding. Departments should understand that grants are temporary and that any extra costs cannot be covered by the city's operating budget.

Departments must also give special consideration to the anticipated grant award and agreement timelines, as **federal grants can take 12-24 months before a project or program can begin, while state or foundation grants usually allow projects or programs to start within 6 months of the award date.**

### Grant Review

Upon reviewing the factors above, a decision will be made regarding whether to pursue the grant opportunity. The Special Projects Department and the Administering Department will meet to discuss whether the grant opportunity should be pursued and submit their joint recommendation to the City Manager. The City Manager will notify the Special Projects Director to move forward with the grant application or decline further action.

If the funding opportunity is deemed viable but cannot be pursued at the time, the Special Projects Department staff will add it to an internal log for future consideration.



### Pre-Award Budget

Departments are responsible for preparing a grant application budget unless this responsibility is assigned to the Special Projects Department during the pre-application assessment meeting.

Departments may contact the Finance Department directly to request technical assistance in the formulation of the grant application budget as it relates to fringe benefit rates, salary projections, indirect costs, and determination of allowable costs.

Granting agencies typically have a prescribed budget format that is made available to potential grant applications. If a budget template is not provided by the granting agency, the Administering Department may use either the [SF-424A \(non-construction\)](#) or [SF-424C \(construction\)](#) form as budget templates.

### Assembling a Grant Application

The process of assembling a grant application can vary greatly, as can the time commitment required to complete a competitive application. The Special Projects Department is always available as a resource, but departmental staff must be active contributors to the application and provide the necessary technical and operational expertise and knowledge as well as comply with internal deadlines. Should a grant application require technical and/or operational expertise and knowledge beyond the capabilities of department staff, department staff must immediately notify the Special Projects Director. The Special Projects Director will confer with the City Manager if resources are available to engage outside expertise or decline further action.

The following can be expected from Special Projects Department staff during the application process:

1. Schedule and attend regular project team meetings and provide expertise and feedback.
2. Assist with project scoping and make suggestions on how to make a project more competitive.
3. Prepare all required narratives that are compelling, factual, and free from grammatical errors.
4. Prepare and provide required demographic, statistical, and narrative information.
5. Assist with securing letters of support to be included with the grant application.
6. Offer guidance on best practices for developing budgets, logic models, and other commonly required application components.

**Only the Special Projects Department is authorized to submit a grant application on behalf of the city.** The goal is to ensure that program and application materials align with established City priorities, meet the City's document quality standards, have matching funds available (if required), and that the means for continuation of the project or program after the grant period ends have been given realistic consideration.

The Special Projects Department will use the process below to submit all grant applications, regardless of complexity:

1. Departments provide the Special Projects Department with all relevant application materials in a timely manner.
2. The Special Projects Department verifies any necessary information with department heads, Finance Department, and the City Manager.
3. The Special Projects Department submits the grant application, budget, schedule, performance indicators and/or workplan to the city manager and relevant department head for final review before officially submitting to the granting agency.
4. The Special Projects Department submits the final grant application and materials to the granting agency by the deadline.
5. The Special Projects Department forwards the city manager and relevant department head a copy of all application materials submitted to the granting agency.
6. The Special Projects Department saves the final grant application and materials in the Special Projects Department's grant master folder in the shared drive.

### Authorized Signatory Official

The Special Projects Department will prepare an agenda item for City Commission's approval before submitting a grant application if the grant meets one or more of the following conditions:

1. It is required by the granting agency.
2. It is requested by the City Manager.
3. The required city contribution or match exceeds \$50,000.
4. It will increase the number of personnel requiring ongoing funding beyond the grant period's term.
5. It is a grant request to fund park projects or improvements benefitting the Parks and Recreation Department.
6. It is a grant request for a project not included in a list of prioritized projects previously approved by the City Manager or City Commission.
7. The grant will establish a new program and/or have a measurable impact on existing level of service.
8. It does not align with the City Commission's strategic goals.

The City Manager is the authorized signatory official on all matters related to the submission of grant applications. The Special Projects Director has delegated authority by the City Manager to submit grant applications.

### Unique Entity Identifier (formerly known as DUNS number)

As of April 4, 2022, the Unique Entity Identifier (UEI) replaced the ubiquitous DUNS number. The Unique Entity ID is a 12-character alphanumeric ID assigned to an entity by SAM.gov. The Finance Department Director, as the electronic business point of contact, manages the City's SAM.gov. The Finance Director is responsible for renewing the city's Unique Entity Identifier (UEI) once a year in SAM.gov and ensuring all information is accurate and up to date.

**All City Departments must use the Unique Entity ID: H2ZDRPM1SZX3, and which replaced DUNS # 069448124.** Only the Police Department (DUNS # 945609816) and the Airport Department (DUNS # 170223945) are allowed to use a different UEI or DUNS number.

No city employee is authorized to create a new UEI or modify an existing UEI without the prior authorization of the Finance Director.

### Internally Competing Applications

Granting agencies generally will not consider any proposal from a jurisdiction if that jurisdiction has submitted more than one proposal during the same funding round. Even if the granting agency allows competing applications from the city, it may not be in the best interest of the city to compete against itself. Upon identifying the potential for the submission of multiple grant applications to the same granting agency during the same funding cycle, the Special Projects Director will confirm with the granting agency's program manager in writing to determine if the granting agency permits multiple submissions and inform the City Manager. The City Manager will ultimately decide which grant application will take preference or if more than one grant application may be submitted.

## Section 2: Post-Award Grant Management

This section of the Policy pertains directly to the grant accounting and reporting functions once a grant has been awarded. The city will manage grant awards in accordance with 2 CFR 200, applicable state and federal laws and regulations, city policies, and corresponding contractual agreements.

### Grant Award Notification

The funding agency mails or emails the notice or letter of grant award to the person whose name appears as the signatory on the grant application. If this is the case, the Special Projects Department will send the award notice to the Administering Department. In some cases, the award notice is accompanied by an



agreement or contract stipulating the terms and conditions of the award. Upon receiving this document, the Administering Department will continue with the established procedures to ensure timely review of documentation and return signed contract/agreement to the granting agency. A project or program cannot begin until a contract/agreement has been executed.

**NOTE: The amount of the actual award may differ from the amount originally requested by the Administering Department.**

### **Grant Award Acceptance**

Once grant funding has been awarded, the work of project implementation begins. The Department receiving the award must work collaboratively with the Special Projects Department and the Finance Department to carry out the implementation, monitoring, and evaluation of the grant funded project throughout the grant's period of performance.

Those charged with managing the grant must:

1. Comply with the granting agency's terms and conditions.
2. Meet financial and programmatic reporting requirements.
3. Work to ensure that they maintain high standards.
4. Achieve their stated goals and objectives in a timely manner.
5. Meet agreed upon deadlines.
6. Stay within budget.
7. Expend funds as required.
8. Maintain appropriate records.
9. Stay responsive to all inquiries and requests by the granting agency as well as the Finance and Special Projects Departments.
10. Immediately notify other city staff responsible for financial and programmatic compliance of any errors, findings, or disallowed costs.
11. Communicate results.

Oversight of this process is critical to ensure that the interests and responsibilities of the city are met. The process below will be followed for all grant awards acceptance:

1. The Special Projects Department notifies the City Manager and Administering Department immediately upon notification of a grant award.
2. The Administering Department, Special Projects Department, Finance Department, and City Manager review the award letter and grant agreement to assure that all conditions required by the granting agency can be fulfilled prior to acceptance of the award.
3. Each grant award and grant agreement must be approved by the City Commission before it can be executed unless the granting agency explicitly allows for the City Manager to accept a grant and execute the grant agreement.
4. The Administering Department will prepare an agenda item for City commission approval of the award via resolution. The agenda item must include information pertaining to the match requirements. At a minimum, it must specify if matching funds have been budgeted or whether a budget amendment or supplemental appropriation would be needed and is being requested with the agenda item. If an award is a multi-year agreement, future matching requirements should also be disclosed.
5. All grant agreements must be approved by the Legal Department and signed by the City Manager. Certain grant agreements may require additional signatures depending on the granting agency. Pay attention to the deadline to accept a grant and remember to allow sufficient time for City Commission

approval and for the City Manager to execute a grant agreement when developing your project schedule during the pre-award phase.

6. Once a grant agreement has been signed by the City Manager, the Administering Department must submit a **grant set up request form** to the Finance Department. The form must be accompanied by the signed executed grant agreement, grant award letter, executive summary (if applicable), and any other grant documentation requested by the Finance Department. The Finance Department will then set up the grant in the City's financial system (Central Square), create unique accounts in Fund 120 – Award Programs, and provide guidance on completing a grant set up form and budget amendment forms. For the latest versions of the grant set up request form and the budget amendment form contact the Finance Department.
7. Each Administering Department is responsible for sending executed and signed grant documentation to the granting agency. This is usually a paper file but may in some cases be electronic. The final award document (executed award) will be sent from the granting agency. When copies are received, the Administering Departments must forward copies to the City Secretary's Office, Finance, and Special Projects Department.
8. Once these steps have been completed, the Administering Department must create a master project file in the city's shared folder and upload the award letter, executed grant agreement, executive summary, resolution or ordinance approving the grant award, and any other relevant grant documentation.

### Grant Implementation Plan

All departments that receive grant funding must work with the Special Projects Department to develop a Grant Implementation Plan that identifies the goals and objectives to be achieved, the project timeline, milestone events, and anticipated expenditure schedule, roles and responsibilities, and considers the granting agency's terms and conditions. The purpose of this policy is to ensure that all grant funded programs and projects are managed according to the terms set forth in the grant agreement, this Policy, and other applicable city's policies and procedures.

### Managing Your Grant

Once grant funding is awarded and accepted, the Administering Department assumes responsibility for accurately expending grant funds in accordance with the approved budget as well as implementing the scope of work for the project. **Department Directors must ensure compliance with all grant requirements through ongoing administrative and operational support even if they are not the project or program manager.** There are unique financial and implementation requirements for every grant, which will be laid out in the award documents.

### Requesting Access on Agency Grant Portal

The Special Projects Department has existing access to several state and federal agencies grant portals. If you are new to the city or the grant portal, contact the Special Projects Director first before reaching out to the agency. The Special Projects Director may already have the authority to add new users.

### Procurement

All purchases made with federal award funds must be done in a way that allows for fair and open competition and in adherence with 2 CFR 200.320 - Methods of procurement to be followed. To ensure this, all procurement activities related to grant-funded projects or programs must follow the city's purchasing manual, as well as follow the approved grant budget and the granting agency's overall requirements. **Unless prior written authorization by the granting agency is given, no services paid with grant funds should be procured using sole source or given to a firm already on a retainer contract.**



The Administering Department is responsible for providing any special procurement requirements, if any, that must be followed by the Purchasing Division. If required by the grant, the Administering Department must provide a detailed list of items the granting agency has approved for purchase to the Purchasing Division, and the Finance and Special Projects Departments.

Please refer to the City's Procurement Policy for all procurement-related questions. In general, the Administering Department should consult with the Purchasing Division on the most fitting procurement method to follow before any services are procured or purchases are made.

### **Grant Purchases**

All grant purchases must be made by purchase order (PO) or through the appropriate bid process. City credit cards must not be used for grant-related purchases except to pay for training and travel expenses, emergency response and deployment, and vendors who do not accept POs.

### **Grant-Funded Travel**

The cost for grant-related travel is limited to the amount specifically stated in the grant budget. Grant budgets usually stipulate the position stated in the grant and the destination indicated in the application and/or agreement. Most travel budgets are very detailed. Refer to the City's Travel Policy for additional guidance.

Federal grants require compliance with the City's travel policy for all grant-related travel. Please note that some agencies will only reimburse based on actuals not per diem rates, therefore you must keep meal receipts. All travel reconciliations must be completed within ten (10) working days after the conclusion of the travel in accordance with the City's Travel Policy.

### **Fringe Benefits**

Grant applications may ask for a breakdown of employee benefits, also called fringe benefits. These are various non-wage compensations provided to employees in addition to their normal wages or salaries. These benefits can be used as in-kind contributions if these are allowable by the grant. Contact the Finance Department for the percentages for FICA tax, retirement, worker's compensation, and unemployment, etc.

### **Program Income**

Program income are funds received when a grant program produces revenue. Sources may include:

- Fees
- Interest
- Forfeiture
- Proceeds from the disposition by sale or long-term lease (15 years or more) of real property purchased
- Disposition of equipment
- Payment of principal and interest
- Proceed from sale of loan

It is very important that program income is properly tracked, recorded and reported monthly. Uses of program income:

- Reduce requests for reimbursement by amount of program income
- Use program income to further activities of grant
- Return program income to funding agency

Program Income must be reported with the expenditures on the Schedule of Expenditures of Federal Awards (SEFA).

### Disallowed Costs

Disallowed cost means charges to a Federal award that the Federal agency or pass-through entity determines to be unallowable in accordance with applicable Federal statutes, regulations, the provisions of this part, or the terms and conditions of the Federal award. The specific reporting requirements and allowable expenditures vary for each grant. It is critical that city departmental staff working with grants in any capacity know and understand the grant terms and conditions as defined by the respective granting agency and the cost principles dictated by 2 CFR 200. The city must abide by the grant award as it is a binding contract. The grant award will list or define the grant requirements or conditions. Any deviations from the grant award must be authorized by the granting agency in writing and the amended contract must be provided and executed prior to any purchases or changes in program deliverables.

Disallowed costs represent items that should not be charged to the applicable grant. Questioned costs AS defined by OMB include costs that are examined by auditors due to an audit finding. These findings may include but are not limited to violations of the grant agreement, items not supported by adequate documentation or costs incurred that are unreasonable and do not reflect the mission or purpose of the grant.

When it becomes probable that the granting agency will disallow costs or will require the city to return all or part of the grant funds, the city is responsible for recognizing a decrease in receivables, or increase in liabilities, and an expense adjustment for the amount to be cancelled or returned. The adjustment must be requested in writing by the Department Director of the Administering Department either by email or in a memo format. The Finance Department will make the adjustment in the accounting period in which the determination was made. The Special Projects Department and Finance Department must be notified immediately by the Administering Department whenever it becomes probable that the granting agency may disallow any costs in connection with a grant-funded project or program.

Costs disallowed by the granting agency or found ineligible for grant reimbursement through internal review or other means, must be moved to the City department's non-federal source of funding or another grant that can absorb the costs if the expenditures are allowable per the terms of the grant as soon as possible during the year of determination of ineligibility. If disallowance of the cost is probable and the amount is reasonably estimated, then the adjustment should be made as soon as possible in the current reporting year.

### Accruals

An extensive review of the expenditures must be done by the Administering Department to ensure that the expenditures are allowable per the grant agreement and that the expenditures fall within the grant award period. Accrual journal entries to record receivable and revenue are entered by the Finance Department as soon as the drawdown or the request for reimbursement has been submitted to the granting agency. As soon as payment is received, the Finance Department will offset the receivable and record the cash entry. Upon request, the Finance Department will provide Journal Entry and Cash Wire Numbers to the Administering Departments for reference.

At the end of the fiscal year, generally the grant reimbursement should only be pending the month of August or the last quarter of the fiscal year. An accrual journal entry will be recorded by the Finance Department in the fiscal year it belongs to balance with the expenditures.

### Suspension/Debarment

Non-federal entities must adhere to the non-procurement debarment and suspension regulations outlined in Executive Orders 12549 and 12689, as well as 2 CFR part 180. These regulations impose limitations on awards, subawards, and contracts with specific parties that have been debarred, suspended, or otherwise excluded from participating in Federal assistance programs or activities.

The Administering Department is responsible for ensuring that any contractor or vendor being considered to provide goods or services paid with federal or state grants is not listed as debarred or suspended on



SAM.gov. This verification must be conducted prior to awarding any contract and on an annual basis thereafter. Documentation confirming the search results must be included in the master project file.

**NOTE: If the city extends a contract to a suspended or debarred entity, the city is subject to return all related contract grant funds.**

### Reimbursement Requests/Expenditures

The Administering Department is responsible for preparing the reimbursement documents for all drawdowns or reimbursement requests for all grants. The Finance Department is responsible for reviewing reimbursement requests before the Administering Department submits any reimbursement requests to the granting agency. **Funds should be drawn down monthly to minimize the cash outlay of the city.** Reimbursement requests must follow the agreed-upon schedule included in the executed grant agreement. Most grants received by the city are on a reimbursement basis and cash receipts are received within 45 to 60 days of the outlay. The Department Director and the project or program manager are responsible for ensuring that all funds have been drawn down and accurately reflected on their reports.

The Administering Department must provide the Finance Department with at least two (2) weeks to review reimbursement requests.

At a minimum, reimbursement requests must include:

1. reimbursement request form
2. granting agency's reimbursement request form (if applicable)
3. invoice(s)
4. purchase order(s)
5. backup for each line item included in the forms, as applicable.
6. Pictures (if applicable)
7. Any other documentation requested by the Finance Department

### Receipt of Grant Funds

When grant funds are received, the Administering Department and/or the Finance Department, whoever first identifies payment has been made, must notify other necessary staff of the receipt. The Finance Department staff will determine the correct deposit coding.

### Grant Funded Positions

In accordance with best practices, all job postings for grant funded positions must clearly state that the position is subject to elimination when grant funding expires. Department Directors must complete an annual certification for each grant-funded position.

### Grant Reporting

The Administering Department is responsible for preparing and submitting financial reports for their respective grant funds, including monthly reimbursement requests and quarterly reporting to the applicable granting agency. The Finance Department staff must review all financial reports and request corrections as needed from the Administering Department before it submits any financial reports to the applicable granting agency.

Programmatic grant reports are also the responsibility of the Administering Department. This task will likely fall under the responsibility of the project or program manager. The Administering Department must submit all programmatic reports to the Special Projects Department and Finance Department for review at least 2 weeks before they are due to the applicable granting agency. The Administering Department is responsible for submitting accurate programmatic reports to the applicable granting agency.

The grant award will list or define the grant requirements or conditions which must be followed. **Any deviations from the grant award must be authorized in writing by the granting agency.**



The grant award will provide the following information:

- Mission or purpose of the grant
- Grant award date
- Allowable expenditures
- Match requirements
  - Only eligible resources as stipulated by the grant agreement
- Reporting requirements
  - Timely submission of financial and programmatic reporting as per the instructions in the grant; for example, a specific format or through a specific website.
- Period of Performance
- Liquidation period
- Closing requirements

Grant expenditures must be reviewed for compliance. Central Square budget reports should be run by each department monthly. These and other Central Square reports should be used as a management tool to assist in properly expending all grant funds in a timely manner and appropriately obligating and spending funds before the grant end date. Copies of all reports must be saved to the master project file.

### **Budget or Programmatic Changes to the Grant**

The granting agency must approve any significant budget or programmatic changes through a written request. For example, if an item costs significantly more or less than what was entered in the budget, if there is a change of staff, or a change in project scope, departments will need the granting agency's permission to implement changes. If a modification request is not submitted, it is likely that grant funds will need to be returned (to the granting agency) or they will not be reimbursed, etc. Refer to the grant agreement to determine the appropriate process for requesting a budget or programmatic change from the granting agency.

The Administering Department that anticipates significant changes in budget or scope of work/project goals should immediately contact the Special Projects Department and the Finance Department to discuss an action plan.

### **Period of Performance Extension Requests**

If a project is taking longer to complete than originally anticipated, immediately contact the Special Projects Director to request an extension from the granting **agency within 90 days prior to the end of the grant period**. Extensions requests must be in writing and will be signed by the City Manager. **Only the City Manager has the authority to sign letters requesting modification to the grant agreement terms on behalf of the City.**

### **Real Property and Equipment**

Special rules apply to real property and equipment purchased with grant monies. These rules are detailed in the regulations or in documents pertaining to the specific grant, but they generally entail the following:

1. Property and equipment must be used for the originally authorized purpose
2. The City must not restrict or burden the title of such property or equipment
3. When real property or equipment is no longer needed for the authorized purpose, the City must request disposition instructions from the granting agency. All necessary documentation authorizing disposal must be added to the grant folder.

When in doubt, contact the Purchasing Division or the Special Projects Department with questions.

### **Sub-recipient Monitoring**

Any Administering Department with sub-recipients, must adhere to the following:



1. Perform a risk assessment for each sub-recipient before passing along awarded funds as per 2 CFR 200.331 – “Requirements for pass-through entities,” and formulate a risk mitigation plan based on identified risk factors.
2. Terms and conditions from an award will be imposed on a sub-recipient to the same degree that they are imposed on the City and/or Administering Department as the prime recipient.
3. Departments overseeing sub-recipients must also perform sub-recipient monitoring as per 2 CFR 200.330 – “Sub-recipient and Contractor Determinations,” and 2 CFR 200.331, and document such monitoring. Monitoring includes ensuring the sub recipient is:
  - a. Performing the proposed and approved grant activities/goals.
  - b. Meeting programmatic, administrative, and fiscal requirements.
  - c. Identifying and resolving problems/issues/concerns.
  - d. Receiving the needed technical assistance.
  - e. Meeting Federal regulations.

Sub-recipient monitoring can be accomplished through the following methods:

- a. Technical assistance
- b. Desk review/audit
- c. On-site and assessment visits
- d. Monthly reporting and back up documentation

### **Recordkeeping**

The Administering Department is responsible for maintaining an electronic master file saved to the city's shared drive. At a minimum, the following documents must be included in the folder:

1. Copy of final grant proposal or application
2. Award letters
3. City Commission documents such as executive summary, resolution, agenda, agenda minutes, etc.
4. Executed Grant Agreement with all exhibits, subsequent Grant Agreement Amendments, and any related correspondence.
5. Memorandum of Understanding
6. Procurement documentation
7. Reimbursement requests and supporting documentation
8. Contracts
9. Required programmatic and financial reports
10. Documentation evidencing the performance of any required physical inventories.

All grant-related documents, such as grant applications, notice of grant award, grant contracts/agreements & amendments, approved budget, reimbursement requests, quarterly financial reports, programmatic reports, granting agency's correspondence, emails, and any other grant-related documents must be saved by the project or program manager in the master project file that is audit-ready at all times.

At a minimum, the Administering Department's master project file should follow the recommended structure below with clear separations between different fiscal years:

- Submittal (e.g., application guidance and a copy of the application)
- Award (e.g., award letter, council agenda item, grant agreement, grant amendments, modifications, extensions, cancellations and terminations and anything else related to the award)
- Finance (e.g., account set up, purchase orders, invoices)
- Reports (e.g., reports to granting entity and evaluation components)



### Conflict of Interest

Grant audit findings due to conflicts of interest can damage the reputation and credibility of the city. Further, the appearance of a conflict of interest can be just as damaging to the city's reputation and credibility as an actual conflict. The purpose of this policy is to avoid the appearance and an actual conflict of interest or breach of trust by an official or employee of the city.

1. City employees cannot transact any business on behalf of the city in their official capacity with any business entity of which the employee is an officer, agent or member, or in which the employee owns a substantial interest. When a business entity seeks a business arrangement with the city, any employee who is an officer or employee of that business must make known his or her interest in the enterprise. All business dealings with that company must be turned over to the employee's superior and the employee must cease his or her involvement.
2. City employees cannot have any interest, financial or otherwise, direct or indirect, or have any arrangement concerning prospective employment that will, or may be reasonably expected to, bias the design, conduct, or reporting of a grant funded project on which the employee is working.
3. The Department Director and/or project/program manager for each grant funded project or program will ensure that in the use of project funds, officials or employees of the city and non-governmental recipients or sub-recipients will avoid any action that might result in, or create the appearance of:
  - a. Using his or her official position for private gain.
  - b. Giving preferential treatment to any person or organization.
  - c. Losing complete independence or impartiality.
  - d. Making an official decision outside official channels.
  - e. Affecting adversely public confidence in the grant funded program and the city in general.

### Grant Closeout

As grant awards come to an end, final documentation is required to be submitted for final close-out. This documentation will usually include a final financial statement and a final programmatic report.

The following process will be followed for grant award closeout:

1. The Special Projects Department will meet with the Administering Department six (6) months prior to the end of grant close-out period to discuss any procedures and/or developments and to ensure submission of final paperwork.
2. If a cooperation agreement or memorandum of understanding was included in the grant paperwork, the Administering Department will ensure that all paperwork from the partner organization is submitted as well.
3. If subrecipients are involved, the Administering Department must ensure that all paperwork, draw requests, and required reports are submitted by the subrecipient(s).
4. The Administering Department must ensure that property purchased, donated, or constructed in relation with grant funding is accounted for in accordance with 2 CFR 200.310 through 200.316 and 200.329.
5. The Administering Department is responsible for final performance reports required by the terms and conditions of the award.
6. The Administering Department is responsible for final financial reports required by the terms and conditions of the award.
7. The Administering Department must prepare the final reimbursement request for review by the Finance Department. Finance Department must verify the final reimbursement prior to submission.
8. The Administering Department must ensure that all financial activities are recorded, that revenues balance to expenditures, and that revenues and expenditures balance to budget figures.
9. The Administering Department is responsible for ensuring that their records are saved to the project master file and maintained in accordance with applicable city policy, state law, and federal regulations.



## Audits

An independent review of the City of Harlingen grant-related records in the form of an audit can take place at any time. The goal of an audit is to ensure that the City has fully complied with all requirements of a given grant agreement and to verify the accuracy of all associated financial records. Some audits are predictable and take place on a regular basis, while other audits are performed by the granting agency on an ad-hoc basis. Certain types of grants are automatically audited on a yearly basis. The Single Audit, for example, is a yearly review overseen by the Finance Department and conducted by an outside party. During the process, auditors review all Federal grants as well as any grants in which the source of funds originated from the Federal government (called Federal pass-through grants). The audit includes all expenditures and receipt of payments for all relevant grants.

The following requirements apply to audits:

1. Finance Department must prepare a Schedule of Expenditures of Federal Awards and maintain this report throughout the year for audit planning and reporting purposes.
2. Finance Department must coordinate the annual audit of grant programs (Single Audit) as per the Office of Management and Budget's (OMB) Uniform Guidance. The Single Audit must be submitted to the Federal Clearinghouse within 30 days of the date of the auditors' report on the Annual Comprehensive Financial Report (ACFR).
3. Procurement of the audit services must comply with state procurement procedures and the provisions of the Uniform Guidance.
4. If the Administering Department is notified of an upcoming review by federal or state auditors, the Administering Department must notify the City Manager, Finance Director, Special Projects Director, and the Internal Auditor. A copy of any review reports received from the Federal or State auditors must be forwarded to the City Manager, Finance Director, Special Projects Director, and the Internal Auditor.
5. If any audit detects irregularities, deficiencies, or fraud, the City Manager must be immediately notified. Management will take steps necessary to mitigate the potential for further fraudulent actions. These steps may include, but are not limited to, directive review, reporting, staff training, and if applicable, appropriate disciplinary action up to termination.

The possibility for a grant audit always exists, which underscores the importance of record retention.

## Grant Documentation Retention Policies

All Administering Departments must keep electronic grant files for the length of time as specified by the granting agency guidelines or city record retention policies, whichever is longer. If neither the granting agency nor the city record retention policies specify a length of time, all grant documentation must be kept a minimum of five years past the official close of the grant. For all grants that are re-opened due to an audit, the five years starts from the end of the audit. Under certain circumstances such as pending litigation, reporting, investigation, etc. all master project files must be kept by the Administering Department for as long as needed.

## Fraud, Waste, and Abuse Hotline

The Internal Auditor, through Lighthouse, a third-party service provider, administers the City's Employee Fraud, Waste and Abuse Hotline for incident reporting. The primary objective of the Hotline is to provide a means for city employees and citizens to confidentially report an activity or conduct in which he or she suspects instances of fraud, waste or abuse and violations of federal or state laws. City employees that would like to make a report can submit it online at <https://report.syntrio.com/myharlingen/> or by phone at 1-800-126-1288. Reports can be made in English or Spanish. Examples of actions constituting fraud that should be reported include:

- Any dishonest or fraudulent act
- Misappropriation of funds, securities, supplies or other assets

- Impropriety in the handling or reporting of money or financial transactions
- Profiteering as a result of insider knowledge of City activities
- Disclosing confidential and proprietary information to outside parties
- Accepting or seeking anything of material value from contractor, vendors, or persons providing services/materials to the city
- Unauthorized destruction, removal or inappropriate use of records, furniture, fixtures and equipment

The Internal Auditor will perform an investigation following the procedures recommended by the Association of Certified Fraud Examiners for any allegations of improper financial activity and fraud, waste and/or abuse that appear to be material in nature. The scope of the investigation will be to determine if the accusations made are valid and to determine if there are any potential internal control weaknesses that need to be corrected that allowed the fraud, waste and/or abuse to occur.

For each significant fraud-related allegation, preliminary evidence will be gathered such as reviewing the information provided via the hotline, reviewing other pertinent records and interviewing appropriate witnesses to assess if the allegation appears to be valid.

The Internal Auditor will notify and consult with the City Manager, Chief of Police, and City Attorney, as applicable, for any circumstances that appear to involve criminal activity. Investigative procedures will continue for each significant allegation, as necessary, until a case can be made for prosecution, or it is determined that there is insufficient evidence of fraud.

**Regular issues that do not require anonymity should be reported to an employee's direct supervisor or the Human Resources Director. All non-fraud incidents are referred to the City Manager.**



## Attachment(s)

- I. [2 CFR 200 – UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS](#)
- II. [TEXAS GRANT MANAGEMENT STANDARDS VERSION 2.0 \(TxGMS\)](#)

7(0)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to approve a resolution authorizing the City Manager to accept a grant award of \$1,383,069 from the Texas Division of Emergency Management for the 5th and 7th Streets Storm Sewer Drainage Improvements Project and enter into an agreement for said grant. Attachment (*Special Projects Department*)

Prepared By: Ana Hernandez, Mobility & Special Projects Director

**Brief Summary:**

The City of Harlingen, Texas has been awarded a \$1,383,069 Legislative Pre-Disaster Mitigation Program Grant from the Texas Division of Emergency Management (TDEM) for the 5th and 7th Streets Storm Sewer Drainage Improvement. This grant was awarded by the city with the support of Congressman Vicente Gonzalez through the FY 2024 Community Project Funding (CPF). The CPF allows Congress to direct funding to their congressional districts for critical projects via programmatic and language-based requests during the appropriations cycle. The Engineering Department will oversee this drainage project, which is expected to be completed within 12 months.

This project will replace undersized stormwater sewer infrastructure along 5th Street and 7th Street in Drainage System 21, within the City of Harlingen, Texas. The project will replace 5,055 linear feet of existing stormwater sewer pipes, manholes, and inlets with upsized infrastructure. The proposed project will reduce the risk of flooding to 234 properties during the 25-year storm events.

The grant requires a local match of \$345,767 and an overmatch of \$1,180,040 that will require a budget amendment to utilize the grant award that will be presented by the Finance Department at a later time.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount (Yes/No):

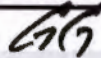
\*If no, specify source of funding and amount requested:

Finance Director's approval (Yes/No/NA):

**Staff Recommendation:**

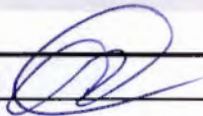
Staff recommends approval of this Resolution.

City Manager approval:



**Comments:**

City Attorney's approval:





**RESOLUTION NO. 2024 - \_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE TEXAS DIVISION OF EMERGENCY MANAGEMENT UNDER THE LEGISLATIVE PRE-DISASTER MITIGATION PROGRAM FOR THE 5<sup>TH</sup> AND 7<sup>TH</sup> STREETS STORM SEWER DRAINAGE IMPROVEMENT PROJECT; AND DEALING WITH RELATED MATTERS.**

**WHEREAS**, the City of Harlingen, Texas has received a Notice of Award of \$1,383,069 from the Texas Division of Emergency Management for the 5<sup>th</sup> and 7<sup>th</sup> Streets Storm Sewer Drainage Improvement Project ("Grant"); and,

**WHEREAS**, the City of Harlingen, Texas finds it in the best interest of Harlingen residents to accept this Grant as it will help the city to improve the stormwater sewer infrastructure along 5<sup>th</sup> Street and 7<sup>th</sup> Street, which are part of System 021, thereby reducing the risk of flooding to 234 properties during 25-year storm events; and,

**WHEREAS**, the City of Harlingen, Texas wishes to authorize the City Manager to execute and deliver all grant-related documents, which are necessary, customary, and proper for the acceptance of the grant.

**NOW, THEREFORE, BE IT RESOLVED** that the City Commission of the City of Harlingen, Texas, hereby authorizes the acceptance of grant funds from the Texas Division of Emergency Management in the amount of \$1,383,069 for the 5<sup>th</sup> and 7<sup>th</sup> Streets Storm Sewer Drainage Project.

**IT IS FURTHER RESOLVED** that the City Commission of the City of Harlingen, Texas, hereby authorizes the city to commit the local match and overmatch, as required by the Grant.

**IT IS FINALLY RESOLVED** that the City Manager or his designee is hereby authorized to execute the Grant agreement and all necessary documents in furtherance of the grant acceptance.

**CONSIDERED AND ADOPTED** this 21st day of October 2024 at a Regular Meeting of the Elective Commission of the City of Harlingen, Texas, at which a quorum was present, and which was held in accordance with Government Code Chapter 551, as amended.

\_\_\_\_\_  
**Norma Sepulveda, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Amanda C. Elizondo, City Secretary**



October 7, 2024

Gabriel Gonzalez  
City Manager  
City of Harlingen  
118 E Tyler Ave  
Harlingen, TX 78550

Subject: Sub-Grant Award

Dear Mr. Gonzalez:

The Texas Division of Emergency Management (TDEM) has issued a sub-grant for the Legislative Pre-Disaster Mitigation Program, FY2024. The following is the information related to this award:

**Sub-Recipient Information:**

UEI Number: ND6XW56XH9N7  
TINS Number: 74-6001047  
FIPS Number: 061-32372-00

**Award Information:**

Catalog of Federal Domestic Assistance: 97.047  
FEMA Award Identification Number: EMT-2024-PD-0003  
FEMA Project Number: LPDM-PJ-06-TX-2024-006  
Project Title: City of Harlingen 5th and 7th Streets Storm Sewer Drainage Improvement  
Period of Performance (POP): September 19, 2024 to September 18, 2027

| PROJECT FUNDS OBLIGATIONS |           |                             |                       |                         |                     |                       |
|---------------------------|-----------|-----------------------------|-----------------------|-------------------------|---------------------|-----------------------|
| Version/<br>Amendment     | Date      | Total<br>Subgrant<br>Amount | Federal<br>Share<br>% | Federal Share<br>Amount | Local<br>Share<br>% | Local Share<br>Amount |
| 0                         | 9/19/2024 | \$2,908,876.14              | 47.55%                | \$1,383,069.00          | 52.45%              | \$1,525,807.14        |

*Please Note: This award is not for research or development as defined in 2 Code of Federal Regulations (C.F.R.) § 200.87.*

The approved Scope of Work (SOW) follows and the terms and conditions of this award are attached. It is important that the sub-recipient read, understand and comply with the SOW

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and all terms and conditions. It is also vital that this information be disseminated to sub-recipient's staff and contractors involved in work related to this project.

The subapplicant has submitted a subapplication for the replacement of undersized stormwater sewer infrastructure along 5th Street and 7th Street in Drainage System 21, within the City of Harlingen, Texas. The project will replace 5,055 linear feet of existing stormwater sewer pipes, manholes, and inlets with upsized infrastructure. The proposed project will reduce risk of flooding to 234 properties during the 25 year storm event.

In accordance with FEMA Instruction 108-1-1 and DHS Instruction 023-01-001-01; this project has been determined to be Categorically Excluded (CATEX N7). FEMA concludes that the project is categorically excluded from the National Environmental Policy Act (NEPA) requirement to prepare further environmental documentation. No extraordinary conditions in accordance with DHS Instruction 023-01-001-01 exist involving this project.

Signing and returning this award letter indicates sub-recipient's acceptance of the SOW of the sub-award, the ability to pay the local cost share, and all grant terms and conditions outlined in the attached documents.

The sub-recipient must ensure that:

1. The initial quarterly progress report for the project is submitted at the end of the approving quarter. Please include the project number (provided above) in your future quarterly reports. Note that 44 C.F.R. § 206.438(c) indicates the state must provide a quarterly progress report to FEMA indicating the status and completion date for each project funded. The report must include any problems or circumstances affecting completion dates, SOW, or project cost that may result in non-compliance with the approved grant conditions.
2. In accordance with LPDM rules and policy, TDEM requires the submittal of all closeout documentation within 90-days of the project completion not to exceed the POP. The Governor's Authorized Representative (GAR) "shall certify that reported costs were incurred in the performance of eligible work, that the approved work was completed and that the mitigation measure is in compliance with the provisions of the FEMA-State Agreement" in accordance with 44 C.F.R. § 206.438(d).

If changes are needed to the SOW for the sub-award, period of performance or costs associated to the sub-award, the sub-recipient should immediately contact TDEM. No change to the sub-award will be considered approved until the sub-recipient is notified in writing by TDEM.

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This signed and dated award letter and attached grant terms and conditions must be returned to TDEM before payment on the sub-award can be processed. Your signature is required on this award letter and on the last page of the attached grant terms and conditions. You must also initial each exhibit on the last page of the grant terms and conditions. Please sign, date, and return both the award letter along with the attached grant terms and conditions acknowledging acceptance of this sub-award via email to the assigned Mitigation Coordinator, Yolanda Cardona, at [yolanda.cardona@tdem.texas.gov](mailto:yolanda.cardona@tdem.texas.gov).

---

Gabriel Gonzalez, City Manager

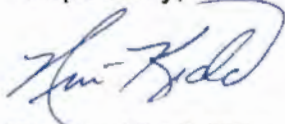
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Date

Should you wish to appeal any determination related to this sub-award you must do so within 60 days of receipt of the notice of the action. You will need to provide your appeal with any documentation supporting your position to your assigned TDEM Mitigation Coordinator within the allotted time.

If you have any questions please contact your Mitigation Coordinator, Yolanda Cardona, at 956-414-9167 or [yolanda.cardona@tdem.texas.gov](mailto:yolanda.cardona@tdem.texas.gov).

Respectfully,



**W. Nim Kidd, MPA, CEM®**

Chief - Texas Division of Emergency Management  
Vice Chancellor for Disaster and Emergency Services  
The Texas A&M University System

ATTACHMENTS: Grant Terms and Conditions  
Record of Environmental Considerations  
National Technical Review Memo

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Texas Division of Emergency Management

# **Subrecipient Agreement for TDEM-Administered Grant Awards**

Date Revised: February 22, 2024

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## Letter to Subrecipient

Dear Subrecipient:

Congratulations on your new award!

The following document, in conjunction with the applicable State Administrative Plan (SAP) or Disaster State Administrative Plan (DSAP), lays out applicable laws, rules, and regulations set forth by local, State, and Federal authority that you, Subrecipient, agree to upon acknowledgement. Before you may request or receive any funding awarded to you, you must establish acceptance of this award. By accepting this award, you acknowledge that the terms of the following document are conditions of your award.

Please read this agreement in full. Acknowledgement by means of signature at the conclusion of the document, holds Subrecipient to the terms and conditions in the agreement. Failure to sign this agreement infringes on the ability to obtain Federal awards, or state or local grant awards, administered through the Texas Division of Emergency Management.

## Subrecipient Information

### Entity Information

Entity Name: \_\_\_\_\_  
EIN/TIN: \_\_\_\_\_  
UEI: \_\_\_\_\_ UEI Expiration Date: \_\_\_\_\_  
Address Line 1: \_\_\_\_\_  
Address Line 2: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip (+4) \_\_\_\_\_ - \_\_\_\_\_

### Subrecipient Contacts

#### Primary Contact

Serves as the primary point of contact for project(s).

Name: \_\_\_\_\_ Position/Job Title: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone Number: \_\_\_\_\_

#### Certifying Official

Serves as the official representative of the organization.

Must possess the authority to obligate funds & enter into contracts for the organization.

Name: \_\_\_\_\_ Position/Job Title: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone Number: \_\_\_\_\_

#### Primary Finance Contact

Serves as primary contact for all financial matters.

Name: \_\_\_\_\_ Position/Job Title: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone Number: \_\_\_\_\_





Texas Division of Emergency Management

# **Subrecipient Agreement for TDEM-Administered Grant Awards**

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## Revisions

Rev. 1. Change from Authorized Agent to Primary Finance Contact information on the Subrecipient Information page.

Rev. 2. Inclusion of language related to subrecipient reimbursement for Recipient management cost.

## State of the Agreement

### Agreement Authority

This agreement applies to all Department of Homeland Security Federal Emergency Management Agency (DHS/FEMA) awards or other awarding agency financial assistance awards administered by the Texas Division of Emergency Management (TDEM). The federal government, the State of Texas, and TDEM have the right to seek judicial enforcement of these actions.

Subrecipients are required to follow applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at [Title 2, Code of Federal Regulations \(C.F.R.\) Part 200](#), and adopted by DHS at [2 C.F.R. Part 3002](#), as well as all other applicable federal, state, and local laws, regulations, policies, procedures, and executive orders.

By accepting this agreement, Subrecipient and its executives, as defined in [2 C.F.R. §170.315](#), certify that the subrecipient's policies are in accordance with guidance applicable to federal, state and local laws, and relevant executive guidance. This agreement, consisting of these terms and conditions and all exhibits, is between the Texas Division of Emergency Management (TDEM), an agency of the State of Texas, hereinafter referred to as TDEM, and Subrecipient.

TDEM and Subrecipient are collectively hereinafter referred to as the parties. All awards made under this agreement are subject to the same terms and conditions except where additional provisions may be added by TDEM to assure compliance with the aforementioned authority.

Subrecipient may not assign or transfer any interest in this award without prior written consent of TDEM and, if required, DHS/FEMA or other awarding agency.



## Agreement

### I. General Terms

1. The terms recipient and pass-through entity have the same meaning as grantee, as used in governing statutes, regulations, and DHS/FEMA guidance.
2. Throughout this document the terms grant and award will be used interchangeably.
3. A recipient is a non-Federal entity for administration purposes.
4. A subrecipient is known as a subgrantee as used in governing statutes, regulations, and DHS/FEMA guidance.
5. The grant referred to in this agreement is an award to the subrecipient passed through from TDEM to Subrecipient.
6. The "certifying official" is the mayor, judge, or executive director authorized to execute these terms and conditions, and to submit changes of subrecipient agents. Contracted staff and/or vendors may assist the certifying official in completing related grant tasks but may not act in lieu of the certifying official.
7. Project and any subsequent versions for those projects accepted by Subrecipient and subsequently obligated or de-obligated by DHS/FEMA are considered subawards to this agreement.
8. TDEM uses contractors to assist in administering subawards, both in communication with Subrecipient and the awarding agency. A subrecipient's point of contact for all awards will be the assigned regional staff. TDEM may task various grant management tasks to contractors to work directly with subrecipients.
9. Within 10 calendar days of any change, Subrecipient must notify TDEM of any change in Designated Subrecipient Agents as submitted during the execution of this agreement, and any subsequent changes submitted by Subrecipient in TDEM's Grants Management System (GMS).
10. In the event Subrecipient hires a consultant to assist them with managing its Public Assistance and Hazard Mitigation grants (or other), they must be listed on the Designated Subrecipient Agent Form (DSA) and may not act in lieu of the designated agent. TDEM will direct all correspondence to the Subrecipient. The Subrecipient is solely responsible for sharing written communications with the consultant. The Subrecipient is the primary point of contact and must be included in all decision-making activities.

## II. Standard of Performance

Subrecipient must perform all activities as approved by TDEM and that is required in applicable grant/funding awards. Subrecipient must perform all activities in accordance with all terms, provisions and requirements set forth in the award, including, the following exhibits:

1. Assurances – Non-Construction Programs (Federal authority), hereinafter referred to as Exhibit A
2. Assurances – Construction Programs (Federal authority), hereinafter referred to as Exhibit B
3. Certifications for Grant Agreements (Federal authority), hereinafter referred to as Exhibit C
4. State of Texas Assurances (State authority), hereinafter referred to as Exhibit D
5. Environmental Review Certification (Federal authority), hereinafter referred to as Exhibit E
6. Additional Grant Certifications (State authority), hereinafter referred to as Exhibit F
7. Request for Information and Documentation Policy (State authority), hereinafter referred to as Exhibit G
8. Pre-Obligation Request for Information and Documentation Policy (State authority), hereinafter referred to as Exhibit H
9. Recoupment of Funds (State authority), hereinafter referred to as Exhibit I

## III. Failure to Perform

In the event Subrecipient fails to implement and complete the project(s) approved and awarded, or comply with any provision of this grant, Subrecipient is liable to TDEM for an amount not to exceed the amount of this award and may be barred from receiving additional DHS/FEMA grant program funds or any other grant program funds administered by the State of Texas until repayment is made and any other compliance or audit finding is satisfactorily resolved, in addition to any other remedy specified in this grant. Failure to timely implement and complete projects may reduce future funding in additional DHS/FEMA and/or other grant programs administered by TDEM.



#### IV. Funding Obligations

TDEM is not liable to Subrecipient for any costs incurred by Subrecipient that are not allowable costs authorized under the applicable award.

1. Notwithstanding any other provision of this grant, the total of all payments and other obligations incurred by TDEM under this award must not exceed the total cumulative award amounts listed on the subawards (projects and subsequent versions).
2. Subrecipient must contribute the required cost share, also known as non-Federal share or match, listed on the subaward.
3. Subrecipient must provide supporting documentation that supports the totality of funding requests in accordance with program policy.
4. In the event that TDEM is required to continue to manage the subrecipients award after the Recipients (TDEM) allocated state management funds have been exhausted, subrecipient agrees to reimburse TDEM for such costs necessary to close FEMA awards including the final recoupment of any funds due to FEMA and/or TDEM and the State of Texas.

#### V. Recoupment of Funds

Subrecipient must refund to TDEM any sum of these award funds that TDEM and/or DHS/FEMA determines to be an overpayment to and/or has not been spent by Subrecipient in accordance with this award. Refund payment(s) may be made from local, state, or federal grant funds unless prohibited by federal regulation or other provision.

Nothing in Exhibit I-Recoupment of Funds shall limit TDEM's ability to implement alternative remedies for which it has authority to resolve outstanding recoupments or to limit TDEM's ability to take immediate recoupment action(s) after notice of required refund has been made.

#### VI. Uniform Administrative Requirements, Cost Principles and Audit Requirements

Except as specifically modified by law or this grant, Subrecipient shall administer this award through compliance with the most recent version of all applicable laws and regulations, including but not limited to DHS/FEMA program legislation, federal awarding agency regulations, and the terms and conditions of this grant. A non-exclusive list sanctioned by Federal Authority is provided below (not all may apply in every project):

- a. Public Law 93-288, as amended (Stafford Act)
- b. 44 C.F.R., Emergency Management and Assistance
- c. 2 C.F.R., Grants and Agreements
- d. Disaster Mitigation Act of 2000
- e. Executive Order 11988, Floodplain Management
- f. Executive Order 11990, Protection of Wetlands
- g. Executive Order 12372, Intergovernmental Review of Programs and Activities
- h. Executive Order 12549, Debarment and Suspension
- i. Executive Order 12612, Federalism
- j. Executive Order 12699, Seismic Design
- k. Executive Order 12898, Environmental Justice
- l. Coastal Barrier Resources Act, Public Law 97-348
- m. Single Audit Act, Public Law 98-502
- n. Sandy Recovery Improvement Act publications
- o. Disaster Recovery Reform Act of 2018 16 U.S.C. § 470, National Historic Preservation Act
- p. 16 U.S.C. § 1531, Endangered Species Act References
- q. FEMA program publications, guidance, and policies

## VII. State Requirements for Grants

Subrecipient must comply with all other federal, state, and local laws and regulations applicable to this award including but not limited to the laws and the regulations promulgated in Texas Government Code, Chapter 783, Uniform Grant and Contract Management (UGMS) at:

<http://www.window.state.tx.us/procurement/catrad/ugms.pdf> and the most recent applicable version of the program State Administrative Plan (and all effective updates), available at <https://tdem.texas.gov>. Subrecipient must, in addition to the assurances and certifications, comply and require each of its subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders, Office of Management and Budget (OMB) circulars,



terms and conditions of this award and the approved application.

Grant funds must not be awarded to or expended by any entity which performs political polling. This prohibition does not apply to a poll conducted by an academic institution as part of the institution's academic mission that is not conducted for the benefit of a particular candidate or party.

Award funds may not be expended by a unit of local government unless the following limitations and reporting requirements are satisfied:

1. Texas General Appropriations Act, Art. IX, Parts 2 and 3, except there is no requirement for increased salaries for local government employees;
2. Texas Government Code Sections 556.004, 556.005, and 556.006, which prohibits using any money or vehicle to support the candidacy of any person for office, influencing positively or negatively the payment, loan, or gift to a person or political organization for a political purpose, and using grant funds to influence the passage or defeat of legislation including not assisting with the funding of a lobbyist, or using grant funds to pay dues to an organization with a registered lobbyist;
3. Texas Government Code Sections 2113.012 and 2113.101, which prohibits using grant funds to compensate any employee who uses alcoholic beverages on active duty and Subrecipient may not use grant funds to purchase an alcoholic beverage and may not pay or reimburse any travel expense for an alcoholic beverage;
4. Texas General Appropriations Act, Art. IX, Section 6.13, which requires Subrecipient to make every effort to attain key performance target levels associated with this grant, including performance milestones, milestone time frames, and related performance reporting requirements; and
5. General Appropriations Act, Art. IX, Sections 7.01 and 7.02, and Texas Government Code §2102.0091, which requires that this award may only be expended if Subrecipient timely completes and files its reports.

TDEM strongly encourages subrecipients to complete refresher training in federal procurement standards as variances from these standards account for the majority of funding de-obligation. TDEM will provide training or sources for subrecipients to attain training. Federal procurement training may be required of some recipients in advance of funding or as a condition of funding and/or if additional monitoring is deemed appropriate by TDEM.

## VIII. Restrictions and General Conditions

DHS/FEMA grant funds must only be used for the purposes set forth in this award and must be consistent with the statutory authority for the grant. Award funds must not be used for matching funds for other federal grants/cooperative agreements, lobbying, or intervention in federal regulatory or adjudicatory proceedings. In addition, federal funds must not be used to sue the federal government or any other government entity.

1. Federal employees are prohibited from directly benefiting from any funds under this Grant.
2. In accordance with [2 C.F.R. §25.300](#), TDEM will not make a subaward unless the Subrecipient has obtained a unique entity identifier (UEI). A UEI is the identifier required for [System for Award Management \(SAM\)](#) registration to uniquely identify entities with which the federal government does business.
3. Subrecipient maintains that it has registered at [SAM.gov](#) or other federally established site for contractor registration and entered TDEM-required information. Subrecipient shall keep current, and then review and update the information at least annually. Subrecipient shall keep information current in the SAM database until the later of when it submits this grant's final financial report or receives final award payment. Subrecipient agrees that it must not make any subaward agreement or contract related to this award without first obtaining the vendor or subawardee's mandatory UEI. See [2 C.F.R. Part 25, Appendix A](#).
4. Subrecipient must report total compensation for each of the five most highly compensated executives for the preceding completed fiscal year if the following is applicable ([2 C.F.R. Subtitle A; Chapter 1, Part 170, Appendix A to Part 170](#)). See [FEMA Information Bulletin 350](#).
  - a. Subrecipient shall report whether Subrecipient received \$25 million or more in Federal procurement contracts or financial assistance subject to the Transparency Act per [2 C.F.R. §170.320](#).
  - b. Subrecipient shall report whether 80% or more of Subrecipient's annual gross revenues were from Federal procurement contracts or Federal financial assistance. If Subrecipient answers "yes" to both questions, Subrecipient shall report, along with subrecipient's UEI, the names and total compensation (see [17 C.F.R. §229.402\(c\)\(2\)](#)) for each of subrecipient's five most highly compensated executives for the preceding completed fiscal year.
  - c. Subrecipient shall report executive total compensation at [SAM.gov](#), or other federally established replacement site.



5. By signing this grant, Subrecipient certifies that, if required, Subrecipient has registered, entered the required information, and shall keep information in the System for Award Management (SAM) database current, and update the information at least annually until the subrecipient submits its final financial report, or receives final payment.
6. Subrecipient agrees that it shall not make any subaward agreement or contract without first obtaining the subawardee's mandatory UEI.
7. Subrecipient must comply with Federal Executive Orders [12549](#) and [12689](#), which provide protection against waste, fraud, and abuse by debaring or suspending those persons deemed irresponsible in their dealings with the Federal government
8. A completed direct deposit form from Subrecipient must be provided to TDEM, prior to receiving any funds under the provisions of this grant. The direct deposit form is currently available at <https://tdem.texas.gov>.
9. Subrecipient shall maintain property/inventory records which, at minimum, shall include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, the cost of the property, the percentage of federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property. Subrecipient shall develop and implement a control system to prevent loss, damage, or theft of property and Subrecipient shall investigate and document any loss, damage or theft of property funded under this grant.
10. DHS/FEMA and/or TDEM, through its authorized representatives, have the right at all reasonable times to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If any site visit is made by DHS/FEMA or TDEM on the premises of Subrecipient or a contractor under this grant, Subrecipient must provide and must require its contractors to provide all reasonable facilities and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner that will not unduly delay the work. A final physical site inspection for eligible scope of work and program compliance may be conducted after the subrecipient's Project Completion and Certification Report has been submitted.

#### IX. Procurement Contracting

Subrecipient shall comply with all applicable federal, state, and local laws and requirements, including but not limited to proper competitive solicitation processes where required, for any procurement which utilizes federal funds awarded under this

award in accordance with 2 C.F.R. 200. 317-327 and Appendix II to Part 200 (A-C) and (E-J).

1. All contracts executed using funds awarded under this award shall contain the contract provisions listed under [2 C.F.R. 200.327](#) and Appendix II (A), Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
2. For each of the following types of procurement, activities must follow the most restrictive of federal, state, or local procurement regulations:
  - a. Micro purchase
  - b. Small purchase
  - c. Sealed bid
  - d. Competitive proposal
  - e. Non-Competitive proposal (solely when the award of a contract is unfeasible under the other methods)
3. The State must approve the use of a noncompetitive procurement method. Federal regulations allow for noncompetitive procurements under certain circumstances, including when a non-state entity determines that immediate actions required to address the public exigency or emergency cannot be delayed by a competitive solicitation. Failure to follow eligible procurement methods will result in ineligible costs. Other types of agreements for services must have State approval prior to use or execution. A copy of the local procurement policy must be provided to the State before initial payment.
4. Contracts attributed as "cost-plus-percentage-of-cost" or "percentage-of-construction-cost" are explicitly prohibited by Federal procurement standards and are ineligible for DHS/FEMA grant.
5. Subrecipients must perform cost/price analysis for every procurement action in excess of the Simplified Acquisition Threshold.
6. Subrecipients must negotiate profit as a separate element where required.
7. Subrecipients must not make any award to any party which is debarred or suspended, or is otherwise excluded from participation in the Federal assistance programs ([Executive Order 12549, Debarment and Suspension](#)).
  - a. Subrecipient must maintain documentation validating review of debarment list of eligible contractors. Evidence of non-debarment for vendors must be documented through [SAM.gov](#) and [http://www.window.state.tx.us/procurement/prog/vendor\\_performance/debarred/](http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred/) and submitted for review. TDEM will not reimburse any expense for a



debarred vendor or a vendor or Subrecipient that does not have a valid [SAM.gov](https://sam.gov) registration.

8. Subrecipients must comply with rules related to underutilized businesses (small and minority businesses, women's enterprises and labor surplus firms) at [2 C.F.R §200.321](#).
9. Subrecipients must comply with the rules of recovered materials for procurements at [2 C.F.R §200.323](#).
10. Subrecipients must comply with the rules for domestic preferences for procurements at [2 C.F.R § 200.322](#).

#### X. Monitoring

Subrecipient will be monitored periodically by federal, state, or local entities, both programmatically and financially, to ensure that project goals, objectives, performance requirements, timelines, milestone completion, budget, and other program-related criteria are met.

- a. TDEM, or its authorized representative, reserves the right to perform periodic desk/office-based and/or on-site monitoring of subrecipient's compliance with this award and of the adequacy and timeliness of subrecipient's performance pursuant to this award.
- b. After each monitoring visit, if the monitoring visit reveals deficiencies in subrecipient's performance under this grant, a monitoring report will be provided to the subrecipient that includes requirements for the timely correction of such deficiencies by subrecipient. Failure by subrecipient to take action(s) specified in the monitoring report may be cause for suspension or termination of this award pursuant to the Changes, Amendments, Suspensions or Termination Section (XIII) herein.

#### XI. Audit

Subrecipients expending \$750,000 or more in total federal financial assistance in a fiscal year will be required to provide an audit made in accordance with OMB Uniform Guidance; Cost Principles, Audit, and Administrative Requirements for Federal Awards, Subpart F.

1. A copy of the Single Audit must be submitted to TDEM or your cognizant state agency within nine months of the end of the subrecipient's fiscal year. If not required to submit a single audit, a response to the request will suffice. Failing to follow the regulation can result in significant adverse consequences including any action listing in the Enforcement Section (XIV) of this agreement

Subrecipient must give DHS/FEMA, the Comptroller General of the United States, the Texas State Auditor, TDEM, or any of their duly authorized representatives access to and the right to conduct a financial or compliance audit of funds received, and performances rendered under this award. Subrecipient must permit TDEM or its authorized representative to audit subrecipient's records. Subrecipient must provide any documents, materials, or information necessary to facilitate such audit.

1. Subrecipient understands and agrees that it is liable to TDEM for any costs disallowed pursuant to any financial or compliance audit(s) of these funds. Subrecipient further understands and agrees that reimbursement to TDEM of such disallowed costs shall be paid by Subrecipient from funds that were not provided or otherwise made available to the subrecipient pursuant to this award or any other federal contract.
2. Subrecipient must take such action to facilitate the performance of such audit(s) conducted pursuant to this section as TDEM may require of Subrecipient. Subrecipient must ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Subrecipient and the requirement to cooperate is included in any subcontract it awards.
3. Subrecipient understands that acceptance of funds under this award acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds. Subrecipient further agrees to cooperate fully with the State Auditor's Office's audit or investigation, including providing all records requested. Subrecipient must ensure that this clause concerning the State Auditor's Office's authority to audit funds and the requirement to cooperate fully with the State Auditor's Office is included in any subgrants or subcontracts it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Subrecipient relating to this award.

## XII. Retention and Accessibility of Records

Subrecipient shall follow its own internal retention policy, or the State's retention policy, whichever is more restrictive. At a minimum, the subrecipient must maintain fiscal records and supporting documentation for all expenditures of this award's funds pursuant to the applicable [OMB 2 C.F.R. Subpart D – Post Federal Award Requirements, §200.334-338](#), and this agreement.

1. Subrecipient shall retain these records and any supporting documentation for a minimum of three (3) years from the later of the completion of this project's public objective, submission of the final expenditure report, or any litigation, dispute, or audit.



2. Records shall be retained for three (3) years after any real estate or equipment final disposition.
3. DHS/FEMA or TDEM may direct subrecipient to retain documents or to transfer certain records to DHS/FEMA custody when DHS/FEMA determines that the records possess long term retention value.

Subrecipient must give DHS/FEMA, the Comptroller General of the United States, the Texas State Auditor, TDEM, or any of its duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things, or property belonging to or in use by subrecipient pertaining to this award including records concerning the past use of DHS/FEMA funds. Such rights to access shall continue as long as the records are retained by Subrecipient.

### XIII. Changes, Amendments, Suspensions or Termination

TDEM may modify this agreement after an award has been made. Once notification has been made in writing, any subsequent request for funds indicates Subrecipient's acceptance of the changes to this subrecipient award. Any alteration, addition, or deletion to this agreement by subrecipient is not valid.

Any alterations, additions, or deletions to this agreement that are required by changes in federal and state laws, regulations, or policy are automatically incorporated into this agreement without written amendment to this award and shall become effective upon the date designated by such law or regulation. In the event DHS/FEMA or TDEM determines that changes are necessary to this agreement after an award has been made, including changes to the period of performance of the award, or terms and conditions, the certifying official shall be notified electronically of the changes in writing. Once notification has been made, any subsequent request for refunds will indicate subrecipients acceptance of the changes to this award.

1. In the event subrecipient fails to comply with any term of this grant or agreement, TDEM may, upon written notification to subrecipient, suspend this award, in whole or in part, withhold payments to Subrecipient, and prohibit Subrecipient from incurring additional obligations of this grant's funds.
2. TDEM has the right to terminate this award, in whole or in part, at any time before the end of the Performance Period, if TDEM determines that subrecipient has failed to comply with any terms of this grant. TDEM shall provide written notice of the termination that includes:
  - a. The reason(s) for such determination;
  - b. The effective date of such termination; and

- c. The scope of the termination of the award.
- d. Termination of an award is final.

#### XIV. Enforcement

If subrecipient materially fails to comply with any term of this award or agreement, whether stated in a federal or state statute or regulation, an assurance, in a state plan or application, a notice of award, or elsewhere, TDEM or DHS/FEMA may take one or more of the following actions, as appropriate in the circumstances:

1. Increased monitoring of projects and require additional financial and performance reports;
2. Require all payments as reimbursements rather than advance payments;
3. Temporarily withhold payments pending correction of the deficiency;
4. Disallow or deny use of funds and matching credit for all or part of the cost of the activity or action not in compliance;
5. Request DHS/FEMA to wholly or partially de-obligate funding for a project;
6. Withhold cash payments pending correction of the deficiency by subrecipient or more severe enforcement action by TDEM or DHS/FEMA;
7. Withhold future awards for the grant program; and
8. Take other remedies that may be legally available

In taking an enforcement action, TDEM will adhere to any administrative proceeding to which Subrecipient is entitled under any statute or regulation applicable to the action involved, and where TDEM, as the recipient, is obligated to follow.

The costs to a subrecipient resulting from expenses incurred by the subrecipient during a suspension or after termination of this award are not allowable.

The enforcement remedies identified in this section, including suspension and termination, do not preclude subrecipient from being subject to "Debarment and Suspension" under Executive Order 12549. 2 C.F.R., Appendix II Part 200, (1).

#### XV. Conflicts of Interest

The subrecipient must maintain and provide upon request written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts and must establish safeguards to prohibit employees from using their positions for a purpose that



constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

XVI. Closing of this Award

TDEM will close each subaward after receiving all required final documentation from the subrecipient. If the close out review and reconciliation indicates that subrecipient is owed additional funds, TDEM will send the final payment automatically to subrecipient. If Subrecipient did not use all the funds received, TDEM will recover the unused funds. This does not affect:

1. DHS/FEMA or TDEM's right to disallow costs and recover funds on the basis of a later audit or other review;
2. Subrecipient's obligation to return any funds due as a result of later refunds, corrections, or other transactions;
3. Records retention requirements, property management requirements, and audit requirements, as set forth herein; and
4. Any other provisions of this award that impose continuing obligations on Subrecipient or that govern the rights and limitations of the parties to this award after the expiration or termination of this award.

XVII. Notices

All notices and other communications pertaining to this agreement shall be delivered in electronic format and shall be transmitted in TDEM's Grant Management System, hereinafter referred to as "GMS". TDEM reserves the right to use other delivery avenues as needed.

XVIII. TDEM Grants Management System

TDEM requires the use of the TDEM's Grants Management System (GMS) for subrecipient grant management functions. Subrecipient is required to access GMS for all grant related functions as required by TDEM unless written authorization from TDEM is given. Requested forms and processes may be adjusted and changed to accommodate GMS processes and requirements.

Subrecipient agrees to monitor GMS as necessary to properly manage and complete awarded projects under this agreement. Paper forms and email requests to initiate grant management functions within GMS are not accepted.

## **XIX. Performance Period**

The performance period for this award is listed on the subaward letter for each project. All projects must be completed within the performance period and within the approved budget. Subrecipient shall have expended all award funds and must submit final requests for reimbursements, invoices, and any supporting documentation to TDEM no later than 60 calendar days after the end of the performance period. TDEM is not obligated to reimburse expenses incurred after the performance period or submitted after the deadline.

From time to time, the performance period for grants may be extended by TDEM. These extensions do not change the established performance periods for subrecipients to submit final requests for reimbursements, invoices, and any supporting documentation.

1. All work must be done prior to the approved project completion deadline assigned to each project.
  - a. For Public Assistance projects written at 100% complete, documentation must be submitted within 60 days of the Recovery Scoping Meeting (or DHS/FEMA process equivalent).
  - b. For projects not written at 100% complete for both Hazard Mitigation and Public Assistance awards, documentation must be submitted within 60 days of the work completion date.
2. Should additional time be required, a time extension request must be submitted which:
  - a. Identifies the projects requiring an extension;
  - b. Explains the reason for an extension;
  - c. Indicates the percentage of work that has been completed;
  - d. Provides an anticipated completion date;
  - e. Provides detailed milestones documenting expected progress.

The reason for an extension must be based on extenuating circumstances, or unusual project requirements that are beyond the control of Subrecipient. Failure to submit a time extension request 90 days prior to the end of the period of performance may result in denial, or reduction or withdrawal of federal funds for approved work.



XX. Cost/Scope Modification

Any change to a project's approved scope of work must be reported and approved through TDEM and DHS/FEMA before starting the project. Failure to do so will jeopardize award funding.

Subrecipient shall submit requests for cost overruns to TDEM for review. Any requests sent for a Public Assistance project will be submitted to DHS/FEMA for review and approval. Approval of these requests is not guaranteed and is subject to funding availability. Costs incurred prior to approval of any scope or budget/cost changes may be denied.

XXI. Final Expenditures Report

The Project Completion and Certification Report (P4) must be submitted to TDEM within 90 days of all approved work being completed for each project. If any project requires the purchase of insurance as a condition of receiving federal funds, a copy of the current policy must be attached to this report and the Applicant's Attestation for Duplication of Benefits (DOB) form certifying other funds were received to complete the project.

XXII. Net Small Project Overrun

If the total actual cost of all of a subrecipient's Public Assistance small projects combined exceeds the total obligated for all small projects, the subrecipient may request additional funding through the appeal process, within 60 days of the latest work completion date of all its Small Projects, as described in the [Public Assistance Program and Policy Guide](#). A net small project overrun appeal will require a review of all small projects and could result in a reduction of funding.

XXIII. Appeals

1. Public Assistance

In the event that a subrecipient does not agree with the determinations made by DHS/FEMA, the subrecipient has the right to file an appeal. This appeal must be submitted in GMS by initiating a New Project Appeal, attaching documented justification supporting the subrecipient's position, specifying the monetary figure in dispute and the provisions in federal law, regulation, or policy with which the subrecipient believes the initial action was inconsistent. Additionally, for disasters declared on or after January 1, 2022, subrecipients must submit appeals using DHS/FEMA's Grants Portal system, in addition to GMS. An appeal must be submitted by the subrecipient within the following time frames:

- a. Any DHS/FEMA determination – 60 days from the written notice of the determination being made.
- b. Second Appeal – 60 days from the written notice of the determination made on the previous appeal.

Appeals should be addressed to the TDEM's Deputy Chief of Recovery & Mitigation and should contain additional information that the subrecipient wants to have considered. Upon receipt of an appeal from Subrecipient, TDEM will review the material submitted, and forward the appeal with a written recommendation to DHS/FEMA within 60 days.

For presidentially declared disasters on or after October 30, 2012, a subrecipient may choose to arbitrate in lieu of submitting a second appeal. The arbitration program is designed to offer an alternate second appeal process by providing final adjudication through an independent, neutral panel of arbitrators for particular PA projects involving a dispute equal to or in excess of \$500,000 (or \$100,000 if the Applicant is in a "rural area", defined as having a population of less than 200,000 living outside an urbanized area) and must be filed within 60 days of receipt of the first appeal decision. For specific information, refer to [44 CFR § 206.206](#).

## 2. Hazard Mitigation

In the event that a subrecipient does not agree with the determinations made by DHS/FEMA, the subrecipient has the right to file an appeal. This appeal must be submitted in GMS by initiating a New Project Appeal, attaching documented justification supporting the subrecipient's position, specifying the monetary figure in dispute and the provisions in federal law, regulation, or policy with which the subrecipient believes the initial action was inconsistent. [In accordance with 44 C.F.R. §206.440](#), an appeal must be submitted by the subrecipient within the following time frames:

- a. Any DHS/FEMA or TDEM determination – 60 days from the date of the determination of the appeal written on the DHS/FEMA letter;
- b. Second Appeal – 60 days from the written notice of the determination made on the previous appeal. The decision of the Second Appeal is final and not subject to arbitration.

Appeals must be addressed to the State Hazard Mitigation Officer (SHMO) and should contain additional information, in accordance with Hazard Mitigation Assistance (HMA) guidance, that the subrecipient wants to have considered by DHS/FEMA. Upon receipt of an appeal from the subrecipient, TDEM will forward the appeal to DHS/FEMA within 60 days.



#### XXIV. Requests for Reimbursement

Subrecipient will request payment of funds on projects by initiating a request for reimbursement (RFR) in GMS or an advance of funds request (AFR) through GMS. The request must include documentation supporting the request.

Payments for open projects must be requested at least quarterly if expenditures have been made in that quarter. If payment is not requested quarterly, Subrecipient is subject to enforcement mechanisms described in the Enforcement section (XIV). Additional monitoring may be required of subrecipients if funds are advanced.

Small projects will be paid upon completion of work and submission of all necessary closeout documentation to TDEM. Due to the increase of the small project maximum, subrecipients may require an Advance of Funds to pay eligible costs of approved project scopes of work.

#### XXV. Quarterly Report Requirements

Subrecipients must submit quarterly progress reports (QPR) for open, large projects in Public Assistance, all Hazard Mitigation Grant Program, Building Resilient Infrastructure and Communities (BRIC), and Pre-Disaster Mitigation Grant projects using GMS. QPRs are due to TDEM the 15<sup>th</sup> of the month after the reporting period ends. The reporting period consists of 4 3-month periods:

- a. Quarter 1 (Q1): October – December
- b. Quarter 2 (Q2): January – March
- c. Quarter 3 (Q3): April – June
- d. Quarter 4 (Q4): July – September

Failure to submit required QPRs that demonstrate appropriate project progress for two or more quarters, or Requests for Reimbursement (RFR) not submitted quarterly, can result in the withholding or de-obligation of funding for subrecipients until all QPRs are submitted to TDEM.

TDEM may use the data provided in QPRs when considering requests for overruns, period of performance extensions, or any other award activity. If projects are not progressing, TDEM will require additional reporting or may take any other appropriate action to comply with required standards.

#### XXVI. Equipment Records

When an individual item of equipment is no longer required for federally-funded programs or projects, Subrecipient must calculate the current fair market value of the individual item. If items have a fair market value in excess of \$5,000.00, Subrecipient must make DHS/FEMA aware. For full rules and regulations regarding purchased

equipment, reference [2 C.F.R. 200.313](#).

**XXVII. FEMA Public Assistance Portal and FEMA GO**

In addition to TDEM's Grants Management System, must utilize the required DHS/FEMA grant management systems. The FEMA Public Assistance Delivery Model, or Simplified Application process, is used to facilitate the writing of project worksheets in FEMA's Grants Portal system (Portal). The subrecipient must establish and maintain an active account in the Portal. It is the subrecipient's responsibility to provide and upload timely, all information requested that is needed to write accurate project worksheets. The Portal provides the subrecipient visibility of the entire project writing process.

The FEMA Grant Outcomes (FEMA GO) platform is used to facilitate the application, tracking, and management of Hazard Mitigation Grant Programs (HMGP) including Building Resilient Infrastructure and Communities (BRIC), Flood Mitigation Assistance (FMA), and HMGP Post Fire Assistance. The subrecipient is responsible for requesting and maintaining an active account in FEMA GO and responding timely to any information requested in order to complete the award process.

The use of FEMA's Grants Portal and FEMA GO do not eliminate the requirement to use TDEM's Grants Management System.

**XXVIII. Indirect Cost Rates**

The subrecipient may use the negotiated Indirect Cost Rate approved by its cognizant agency, or may use the 10 percent de minimis rate of modified total direct costs (MTDC) (as per [2 C.F.R. § 200.414](#)) when receiving Management Costs.

**XXIX. Request for Information**

TDEM and/or DHS/FEMA may request additional information from the subrecipient throughout the life cycle of this grant. This process, the Request for Information, herein referred to as RFI. DHS/FEMA RFIs may be received directly from TDEM's Grants Management System (GMS), FEMA systems (FEMA Grants Portal & FEMA GO), DHS/FEMA employees, or indirectly through TDEM representatives. DHS/FEMA RFI timeframes may vary, but due dates are always communicated upon transmission of the RFI. The TDEM RFI policies can be found in Exhibits G & H.



## Exhibits

### Exhibit A: Assurance – Non-Construction Programs

(See [Standard Form 424B](#))

As the duly authorized representative of subrecipient, I certify that subrecipient

1. Has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-federal share of project cost) to ensure proper planning, management and completion of the project described in this grant.
2. Will give the Department of Homeland Security, the Texas Division of Emergency Management, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this grant and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686 and 44 C.F.R. Part 19), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to

confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which agreement for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply or has already complied with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction sub-agreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000.00 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190 as amended by 42 U.S.C. 4311 et seq. and Executive Order (EO) 11514) which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for DHS grant-supported activities, DHS-FEMA requires the environmental aspects to be reviewed and evaluated before final action on the application; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) comply with the Clean Air Act of 1977, (42 U.S.C. §§7401 et seq. and Executive Order 11738) providing for the protection of and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical,



and biological integrity of the nation's waters; (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348, 45 C.F.R. 46, and DHS Management Directive 026-044 (Directive) regarding the protection of human subjects involved in research, development, and related activities supported by this Grant. "Research" means a systematic investigation, including research, development, testing, and evaluation designed to develop or contribute to general knowledge. See Directive for additional provisions for including humans in the womb, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). See also state and local law for research using autopsy materials.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) which requires the minimum standards of care and treatment for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public according to the Guide for Care and Use of Laboratory Animals and Public Health Service Policy and Government Principals Regarding the Care and Use of Animals.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.), which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133 (now OMB 2 C.F.R. 200.500), "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, grant guidance, and policies governing this Grant.

## Exhibit B: Assurances – Construction Programs

(See [Standard Form 424D](#))

As the duly authorized representative of subrecipient, I certify that subrecipient:

1. Has the legal authority to apply for federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-federal share of project costs) to ensure proper planning, management and completion of project described in this Grant.
2. Will give the Department of Homeland Security, the Texas Division of Emergency Management, the Comptroller General of the United States and, if appropriate, the State, the right to examine all records, books, papers, or documents related to this grant and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with federal assistance funds to assure nondiscrimination during the useful life of this Grant.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards of merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

10. Will comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686 and 44 C.F.R. Part 19), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which agreement for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the agreement.
11. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
12. Will comply or has already complied with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327- 333) regarding labor standards for federally- assisted construction sub-agreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the



following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) as amended by 42 U.S.C. 4311 et seq. and Executive Order (EO) 11514 which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) comply with the Clean Air Act of 1977, (42 U.S.C. §§7401 et seq. and Executive Order 11738) providing for the protection of and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters; (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133 (now OMB 2 C.F.R. 200.500), "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, grant guidance and policies governing this grant.

## Exhibit C: Certifications for Grant Agreements

The undersigned, as the authorized official, certifies the following to the best of his/her knowledge and belief:

1. No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee or a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee or a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL Disclosure of Lobbying Activities, in accordance with its instructions.
3. The undersigned shall require that the language of this certification prohibiting lobbying be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
4. As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 C.F.R. Part 67, for prospective participants in primary covered transactions, as defined at 28 C.F.R. Part 67, Section 67.510. (Federal Certification), the subrecipient certifies that it and its principals and vendors:
  - a. Are not debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency. Subrecipient can access debarment information by going to [www.sam.gov](http://www.sam.gov) and the State Debarred Vendor List at: [www.window.state.tx.us/procurement/prog/vendor\\_performance/debarred](http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred).

- b. Have not within a three-year period preceding this grant been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (D)(2) of this certification;
  - d. Have not within a three-year period preceding this grant had one or more public transactions (federal, state, or local) terminated for cause or default; or
  - e. Where subrecipient is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this grant. (Federal Certification).
- 5. Federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Subrecipient may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.
  - 6. Subrecipient will comply with 2 C.F.R. Part 180, Subpart C as a condition of receiving grant funds and subrecipient will require such compliance in any subgrants or contract at the next tier.
  - 7. Subrecipient will comply with the Drug-free Workplace Act, in Subpart B of 2 C.F.R. Part 3001.
  - 8. Subrecipient is not delinquent on any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129 and form SF-424, item number 17 for additional information and guidance.
  - 9. Subrecipient will comply with all applicable requirements of all other federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this grant.
  - 10. Subrecipient understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of funds in this grant.



## Exhibit D: State of Texas Assurances

As the duly authorized representative of subrecipient, I certify that subrecipient:

1. Shall comply with Texas Government Code, Chapter 573, by ensuring that no officer, employee, or member of the Subrecipient's governing body or of the Subrecipient's contractor shall vote or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition shall not prohibit the employment of a person who shall have been continuously employed for a period of two years, or such other period stipulated by local law, prior to the election or appointment of the officer, employee, or governing body member related to such person in the prohibited degree.
2. Shall insure that all information collected, assembled, or maintained by the Subrecipient relative to a project will be available to the public during normal business hours in compliance with Texas Government Code, Chapter 552, unless otherwise expressly prohibited by law.
3. Shall comply with Texas Government Code, Chapter 551, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.
4. Shall comply with Section 231.006, Texas Family Code, which prohibits payments to a person who is in arrears on child support payments.
5. Shall not contract with or issue a license, certificate, or permit to the owner, operator, or administrator of a facility if the Subrecipient is a health, human services, public safety, or law enforcement agency and the license, permit, or certificate has been revoked by another health and human services agency or public safety or law enforcement agency.
6. Shall comply with all rules adopted by the Texas Commission on Law Enforcement pursuant to Chapter 1701, Texas Occupations Code, or shall provide the grantor agency with a certification from the Texas Commission on Law Enforcement that the agency is in the process of achieving compliance with such rules if the Subrecipient is a law enforcement agency regulated by Texas Occupations Code, Chapter 1701.
7. Shall follow all assurances. When incorporated into a grant award or contract, standard assurances contained in the application package become terms or conditions for receipt of grant funds. Administering state agencies and subrecipients shall maintain an appropriate contract administration system to ensure that all terms, conditions, and specifications are met. (See UGMS Section \_\_.36 for additional guidance on contract provisions).

8. Shall comply with the Texas Family Code, Section 261.101, which requires reporting of all suspected cases of child abuse to local law enforcement authorities and to the Texas Department of Child Protective and Regulatory Services. Subrecipient shall also ensure that all program personnel are properly trained and aware of this requirement.
9. Shall comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990 including Titles I, II, and III of the Americans with Disability Act which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities, 44 U.S.C. §§ 12101-12213; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to this grant.
10. Shall comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally assisted construction subagreements.
11. Shall comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91- 646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Shall comply with the provisions of the Hatch Political Activity Act (5 U.S.C. §§7321-



- 29), which limit the political activity of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Shall comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act and the Intergovernmental Personnel Act of 1970, as applicable.
  14. Shall insure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA (EO 11738).
  15. Shall comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition proposed for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.
  16. Shall comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1977, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
  17. Shall comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
  18. Shall assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).



19. Shall comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) which requires the minimum standards of care and treatment for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public according to the Guide for Care and Use of Laboratory Animals and Public Health Service Policy and Government Principals Regarding the Care and Use of Animals.
20. Shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residential structures.
21. Shall comply with the Pro-Children Act of 1994 (Public Law 103-277), which prohibits smoking within any portion of any indoor facility used for the provision of services for children.
22. Shall comply with all federal tax laws and are solely responsible for filing all required state and federal tax forms.
23. Shall comply with all applicable requirements of all other federal and state laws, executive orders, regulations, and policies governing this program.
24. And its principals are eligible to participate and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and it is not listed on a state or federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement have Exclusions listed at [SAM.gov](https://www.sam.gov).
25. Shall adopt and implement applicable provisions of the model HIV/AIDS workplace guidelines of the Texas Department of Health as required by the Texas Health and Safety Code, Ann., Sec. 85.001, et seq.

## Exhibit E: Environmental Review

As the duly authorized representative of subrecipient, I certify that subrecipient:

1. Shall assess its federally funded projects for potential impact to environmental resources and historic properties.
2. Shall submit any required screening form(s) as soon as possible and shall comply with deadlines established by TDEM. Timelines for the Environmental Planning and Historic Preservation (EHP) review process will vary based upon the complexity of the project and the potential for environmental or historical impact.
3. Shall include sufficient review time within its project management plan to comply with EHP requirements. Initiation of any activity prior to completion of FEMA's EHP review will result in a non-compliance finding and TDEM will not authorize or release Grant funds for non-compliant projects.
4. As soon as possible upon receiving this grant, shall provide information to TDEM to assist with the legally required EHP review and to ensure compliance with applicable EHP laws and Executive Orders (EO) currently using the FEMA EHP Screening Form OMB Number 1660-0115/FEMA Form 024-0-01 and submitting it, with all supporting documentation, to TDEM for review. These EHP requirements include but are not limited to the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, EO 11988 – Floodplain Management, EO 11990 – Protection of Wetlands, and EO 12898 – Environmental Justice. Subrecipient shall comply with all Federal, State, and local EHP requirements and shall obtain applicable permits and clearances.
5. Shall not undertake any activity from the project that would result in ground disturbance, facility modification, or purchase and use of sonar equipment without the prior approval of FEMA. These include but are not limited to communications towers, physical security enhancements involving ground disturbance, new construction, and modifications to buildings.
6. Shall comply with all mitigation or treatment measures required for the project as the result of FEMA's EHP review. Any changes to an approved project description will require re-evaluation for compliance with EHP requirements before the project can proceed.
7. If ground disturbing activities occur during project implementation, subrecipient shall ensure monitoring of ground disturbance and if any potential archeological resources are discovered, subrecipient shall immediately cease construction in that area and notify FEMA and the appropriate State Historical Preservation Office.

## Exhibit F: Additional Grant Certifications

### 1. Public Assistance and Hazard Mitigation Program Grant (HMGP)

#### a. Match Certifications

Subrecipient certifies that it has the ability to meet or exceed the cost share required for all subawards (projects) and amendments (versions) under this Grant Agreement.

#### b. Duplication of Program Statement

Subrecipient certifies there has not been, nor will be, a duplication of benefits for this project Match Certification.

#### c. Federal Debt Disclosure

Subrecipient certifies that it not delinquent on and Federal debt.

### 2. HMGP Only

#### a. Maintenance Agreement

Applicant certifies that there is a Maintenance Agreement needed for this facility and that a copy of that agreement will be provided to TDEM.

#### b. Environmental Justice Statement

Federal Executive Order 12898 compliance requirements – If there are any concentration of low income or minority populations in or near the HMGP projects:

- i. Applicant certifies that the HMGP project result will not result in a disproportionately high effect on low income or minority populations.

OR

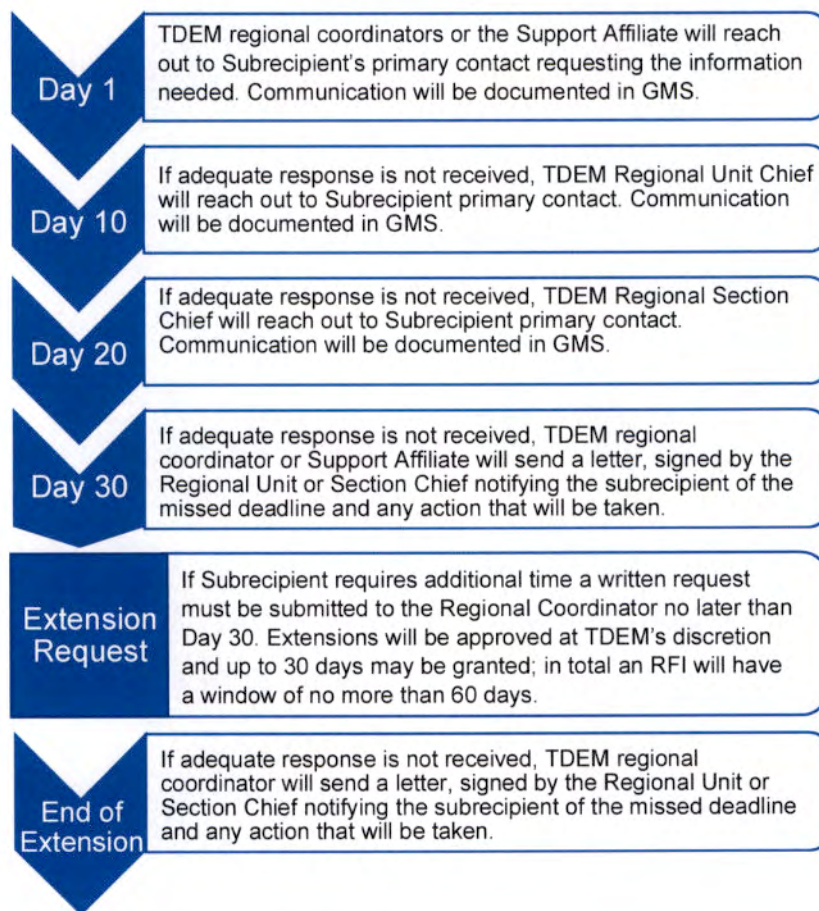
- ii. Applicant certifies that actions will be taken to ensure of environmental justice for low income and minority populations related to this HMGP project.



## Exhibit G: Request for Information Policy

Timelines for providing complete and accurate information and documentation are crucial to the success of the overall Grant Program and to the timely completion and closure of awarded projects. TDEM has developed a framework following a progressive series of communications for the Subrecipient, referred to as Request for Information (RFI). TDEM will work with Subrecipients throughout the RFI process as communication is the key to success.

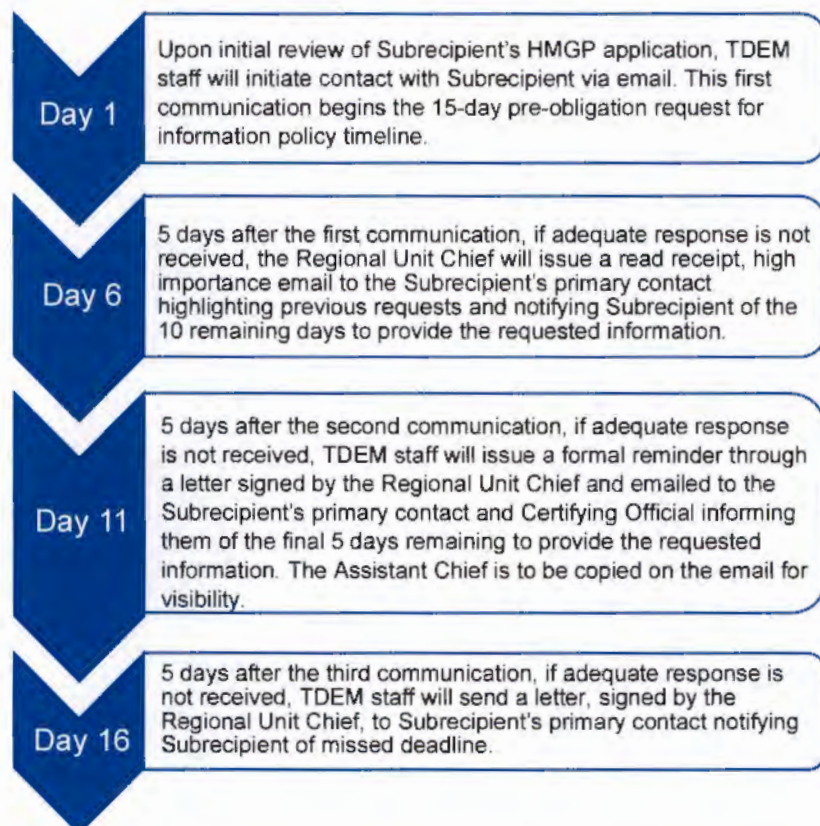
This policy will be applied to Public Assistance and Hazard Mitigation projects for management and closeout activities after obligation. This policy will address non-responsive and inadequate responses to requests for information. Although the timeline outlines milestones to be completed, nothing limits the ability of TDEM from sending communications.



## Exhibit H: Pre-Obligation Request for Information Policy

Timelines for providing complete and accurate information and documentation are crucial to the success of the overall Grant Program and to the timely obligation of projects. TDEM has developed a framework following a progressive series of communications for the subrecipient, referred to as Request for Information (RFI). TDEM will work with subrecipients throughout the RFI process as communication is the key to success.

This policy will be applied to Hazard Mitigation projects for management activities pre-obligation. This policy will address non-responsive and inadequate responses to requests for information. The timeline outlined below represents a single, 15-day period beginning from TDEM's first review of Subrecipient's application. Failure to supply timely responses could result in dismissal of application or award submission. Although the timeline outlines milestones to be completed, nothing limits the ability of TDEM from sending communications.



## Exhibit I: Recoupment of Funds

### Procedure Summary

1. This procedure is to ensure responsible spending of federal dollars, [2 CFR § 200.344](#) and [2 CFR § 200.345](#) require that the State of Texas and the Texas Division of Emergency Management (TDEM) act to identify and recover any improper payments.
2. This procedure applies to all Division subrecipients that receive funds from or through TDEM and explains the process by which funding to subrecipients will be recovered in the event that such funding is determined to be an overpayment or is not expended appropriately under the terms and conditions between TDEM and the subrecipient and/or applicable FEMA program, statute, regulations, or guidance.
3. The federal dollars described in this policy are passed through the Division, which serves as the Governor's authorized representative for certain federal grants and awards. Any amount of debt owed to the federal government is ultimately the responsibility of the State of Texas, not specifically the responsibility of the Division.

### Procedure

1. Applicability of Recoupment
  - 1.1. This procedure will be applied to subrecipients that have been determined by the Division to have received an overpayment or that the Division determines has not spent federal funds in accordance with their grant or financial award.
2. Recipient's Responsibilities
  - 2.1. subrecipients are required to sign Grant Terms and Conditions prior to receipt of funds that stipulate subrecipients shall refund to the Division any sum that has been determined by the Division to be an overpayment to Subrecipient or that the Division determines has not been spent by Subrecipient in accordance with their grant or financial award.
  - 2.2. No refund payment(s) shall be made from local, state or federal grant funds unless repayment with grant funds is specifically permitted under the applicable program.
  - 2.3. Subrecipients shall make such refund to the Division within thirty (30) calendar days after the Division requests such refund.
3. Division Collection Actions



- 3.1. Upon determination that a subrecipient has received an overpayment or has not expended funds in accordance with the grant or fiscal award, the following steps will be taken:
- 3.1.1. First Formal Communication: A recoupment letter will be sent to the subrecipient's Authorized Agent(s) highlighting the amount of federal funds owed, electronic transfer information, and the requirement to repay the amount within thirty (30) calendar days.
    - 3.1.1.1. The communication will be sent using electronic mail to the designated agent identified in the grant/funding application, and;
    - 3.1.1.2. Posted in TDEM's Grants Management System (GMS), and;
  - 3.1.2. The Division will confirm receipt of the recoupment letter by either receiving a written confirmation from the subrecipient or making documented verbal contact with the subrecipients designated agent, mayor, or county judge as applicable.
  - 3.1.3. If the subrecipient fails to make repayment of the amount identified in the recoupment letter within thirty (30) business days of receipt of the letter, the Division may offset an applicant's owed funds against current available funding due to applicant unless an agreement to return funding is reached with the applicant as approved by TDEM
  - 3.1.4. If the repayment is not made, the Division shall send an additional notice to the subrecipient by electronic mail and posted to the TDEM Grants Management System (GMS) thirty (30) to forty-five (45) days after the first letter was sent and then confirm receipt of the recoupment letter by either receiving a written confirmation from the subrecipient or making documented verbal contact with the subrecipients designated agent, mayor, or county judge as applicable. This letter will indicate the amount of funds that have been transferred to offset the amount due and remaining balance or will confirm if offset will occur. In addition, the letter will contain information related to recoupment options that may be taken in accordance with section 3.2 Delinquent Accounts.

If the repayment is not made after the second letter, the Division shall send a third notice to the subrecipient by electronic mail and posted to the TDEM Grants Management System (GMS) thirty (30) to forty-five (45) days after the second letter was sent and then confirm receipt of the recoupment letter by either receiving a written confirmation from the subrecipient or making documented verbal contact with the subrecipients designated agent, mayor, or county judge as applicable. This letter will indicate the amount of funds that have been

transferred to offset the amount due and remaining balance or will confirm if offset will occur. In addition, the letter will contain information related to recoupment options that may be taken in accordance with section 3.2 Delinquent Accounts.

3.1.5. If the subrecipient fails to make repayment of the amount identified in the recoupment letter or enter an agreement to repay the funding with the Division approved by TDEM within one hundred twenty (120) days from the date that the original recoupment letter was sent, the Division will take any and all authorized actions to withhold funding for other grants, including issuing a State Comptroller Warrant Hold and/or referring the matter to the attorney general. The Division shall notify the subrecipient of any such decision.

### 3.2. Delinquent Accounts

#### 3.2.1. Delinquency Determination

3.2.1.1. If a subrecipient fails to make repayment of the amount identified in the recoupment letter or enter an agreement approved by TDEM to repay the funding with the Division within 120 days from the date the original recoupment letter was sent, the Division may determine that the account is delinquent.

3.2.1.2. At TDEM's sole discretion, TDEM may authorize payment plans that fully reimburse the full amount owed over a 1–9-month period or prior to the end of the grant period. From time to time, variances in approved timelines may occur based on the phase of the grant process and other timelines determined by FEMA such as periods of performance and closeout liquidation periods.

3.2.1.3. Should a subrecipient enter into a payment plan and then fail to make more than one timely payment, the payment plan shall be considered invalid and the full balance shall be due within 30 calendar days. If payment is not made within 30 days, the actions contained within Section 3.1.7 and Section 3.2.

#### 3.2.2. Warrant Hold Process

3.2.2.1. Once the Division has determined that the debt is delinquent, the Division may utilize the state comptroller's warrant hold process to ensure payments are not issued to the individual or entity that is indebted to the state.

#### 3.2.3. Referral to the Attorney General

3.2.3.1. Once the account is determined to be delinquent, the Division may determine whether to refer the account to the Attorney General through the System Office of the General Counsel.

3.2.3.2. The determination as to the manner in which to pursue the collection of the account must consider the following:

3.2.3.2.1. The size of the debt;

3.2.3.2.2. The existence of any security or collateral;

3.2.3.2.3. The likelihood of collection through passive means;

3.2.3.2.4. The cost to the Division or Attorney General in attempting to collect the obligation; and

3.2.3.2.5. The availability of resources within the Division or Attorney General to devote to the collection of the obligation.

#### 3.2.4. Referral to the Attorney General

3.2.4.1. Upon a determination to refer to the Attorney General, the Division shall notify the subrecipient of the delinquency status of the account, including the amount in no more than two mailed letters.

3.2.4.1.1. The first demand letter shall be mailed USPS First Class Mail within 30 days after the debt has been determined delinquent and an Attorney General referral is desired.

3.2.4.1.2. The second demand letter shall be mailed USPS First Class Mail between 30-60 days after the first demand letter was mailed if repayment of the amount has not occurred.

3.2.4.2. If the Division determines that it will refer the matter to the Attorney General, it shall, through the System Office of the General Counsel, notify the Attorney General around the 90<sup>th</sup> day after the first demand letter was sent.

3.3. The Division shall maintain copies of all communications with the subrecipients regarding the recoupment of the grant or financial award funding.

#### 4. TDEM's Ability to Remedy

Nothing in this procedure shall limit TDEM's ability to implement alternative remedies for which it has authority to resolve outstanding recoupments.



Nothing in this policy shall prohibit TDEM from immediately taking any recoupment action after the first thirty (30) day notice has been issued requesting repayment.

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#### **Related Statutes, Policies, or Requirements**

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- [Texas A&M University System Regulation 21.01.04](#)
- [1 Tex. Admin. Code Section 59.2](#)
- [Tex. Gov't Code Section 403.055](#)
- [Tex. Gov't Code Chapter 2107](#)
- [Texas A&M University System Office Collection and Write-off Guidance](#)
- [Texas A&M University System Regulation 09.04.01](#)

## Grant Acknowledgement, Agreement and Signature

Please provide your signature next to each item in acknowledgement you have received, read, understand, and agree to abide by the terms.

I, \_\_\_\_\_, the undersigned and Certifying Official of  
Printed Name

\_\_\_\_\_ understand that TDEM strongly encourages refresher  
Subrecipient Name

training in federal procurement standards as variances from these standards account for the majority of funding deobligation. I also certify that I have read and understand each section of the above agreement. My signatures below serve as Subrecipient agreement to comply with all laws, rules, regulations, and policy presented.

\_\_\_\_\_  
Signature Agreement Authority

\_\_\_\_\_  
Signature Agreement (Section I – XXIX)

\_\_\_\_\_  
Signature Exhibit A: Assurance – Non-Construction Programs

\_\_\_\_\_  
Signature Exhibit B: Assurance – Construction Programs

\_\_\_\_\_  
Signature Exhibit C: Certifications for Grant Agreements

\_\_\_\_\_  
Signature Exhibit D: State of Texas Assurances

\_\_\_\_\_  
Signature Exhibit E: Environmental Review Certification

|           |                                                          |
|-----------|----------------------------------------------------------|
| _____     | Exhibit F: Additional Grant Certifications               |
| Signature |                                                          |
| _____     | Exhibit G: Request for Information Policy                |
| Signature |                                                          |
| _____     | Exhibit H: Pre-Obligation Request for Information Policy |
| Signature |                                                          |
| _____     | Exhibit I: Recoupment of Funds                           |
| Signature |                                                          |

Please sign below to acknowledge subrecipient's acceptance of this grant and all exhibits and subrecipient's agreement to abide by all terms and conditions.

|                                         |              |
|-----------------------------------------|--------------|
| _____                                   | _____        |
| <b>Signature of Certifying Official</b> | <b>Date</b>  |
| _____                                   | _____        |
| <b>Printed Name</b>                     | <b>Title</b> |



## RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project LPDM-PJ-06-TX-2024-006 (0)

Title: City of Harlingen 5th and 7th Streets Storm Sewer Drainage Improvements

## NEPA DETERMINATION

|                        |                |                |
|------------------------|----------------|----------------|
| Non Compliant Flag: No | EA Draft Date: | EA Final Date: |
| EA Public Notice Date: | EA Fonsi       | Level: CATEX   |
| EIS Notice of Intent   | EIS ROD Date:  |                |

**Comment** The City of Harlingen proposes to increase the size of the drainage pipes along 5th and 7th Streets to allow for faster drainage of water and reduce ponding on impervious surfaces to mitigate public health concerns and infrastructure damage to residential areas.

The project will expand existing storm sewer lines and remove and replace sidewalks, curb ramps, utility holes, and curb inlets located on 5th Street (26.191866; -97.691218), from E Van Buren St to S Commerce St, and on 7th Street (26.188614; -97.689004), from E Polk St to S Commerce St. The storm sewer lines will be upsized from 15-18 inches to 24-54 inches on 5th St (approx. 2,841 linear feet); and from 15-24 inches to 24-54 inches on 7th St (approx. 2,214 linear feet). The project will help lessen the frequency and severity of flooding in the area and mitigate flood damage to infrastructure and private property.

The site is wholly located in existing public right-of-way and is readily accessible for construction. Temporary access roads or right of way are not anticipated to be necessary for the completion of this project.

The anticipated amount of ground disturbance is 1 acre. Average depths for installation of new concrete pipes are estimated to be between 5-15 feet. The location of ground disturbance will be at the centerline of both streets and additional soil disturbances for the stormwater laterals to connect the inlets. Site preparation will include installing required stormwater pollution prevention plan measures and adequate traffic control devices.

The proposed improvements through this project will connect to existing concrete storm sewer systems. Fencing and landscaping impacted by the project will be replaced with equal materials. As required by the Texas Commission on Environmental Quality (TCEQ), the contractor will provide a SW3P and comply with all required provisions of the plan and TXR150000, the TCEQ general permit to discharge under the Texas Pollutant Discharge Elimination System.

This project has been determined to be Categorically Excluded from the need to prepare either an Environmental Impact Statement or Environmental Assessment in accordance with FEMA Instruction 108-1-1 and DHS Instruction 023-01-001-01; CATEX N7. No extraordinary circumstances in accordance with DHS Instruction 023-01-001-01 have been identified regarding this action.

- dcook125 - 08/23/2024 18:17:19 GMT

## CATEX CATEGORIES

| Catex Category Code | Description                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Selected |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| *n7                 | (*n7) Federal Assistance for Structure and Facility Upgrades. Federal assistance for the reconstruction, elevation, retrofitting, upgrading to current codes and standards, and improvements of pre-existing facilities in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use. This category does not include actions within or affecting streams or stream banks or actions seaward of the limit of moderate wave action (or V zone when the limit of moderate wave action has not been identified). | Yes      |

## EXTRAORDINARY

## RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project LPDM-PJ-06-TX-2024-006 (0)

Title: City of Harlingen 5th and 7th Streets Storm Sewer Drainage Improvements

| Extraordinary Circumstance Code | Description                                  | Selected ? |
|---------------------------------|----------------------------------------------|------------|
|                                 | No Extraordinary Circumstances were selected |            |

## ENVIRONMENTAL LAW / EXECUTIVE ORDER

| Environmental Law/<br>Executive Order                                                 | Status    | Description                                                                                                              | Comment                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------|-----------|--------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Clean Air Act (CAA)                                                                   | Completed | Project will not result in permanent air emissions - Review concluded                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                |
| Coastal Barrier Resources Act (CBRA)                                                  | Completed | Project is not on or connected to CBRA Unit or otherwise protected area - Review concluded                               |                                                                                                                                                                                                                                                                                                                                                                                                                |
| Clean Water Act (CWA)                                                                 | Completed | Project would not affect any water of the U.S. - Review concluded                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                |
| Coastal Zone Management Act (CZMA)                                                    | Completed | Project is not located in a coastal zone area and does not affect a coastal zone area - Review concluded                 |                                                                                                                                                                                                                                                                                                                                                                                                                |
| Executive Order 11988 - Floodplains                                                   | Completed | No effect on floodplain/flood levels and project outside floodplain - Review concluded                                   | Per Flood Insurance Rate Map (FIRM) panel 48061C0255F dated 2/16/2018, the project is located outside the 100- year floodplain, special flood hazard area and the activity does not adversely affect floodplain values. - dcook125 - 08/23/2024 18:26:42 GMT                                                                                                                                                   |
| Executive Order 11990 - Wetlands                                                      | Completed | No effects on wetlands and project outside wetlands - Review concluded                                                   | A review of the National Wetland Inventory (NWI) online mapper, accessed on 8/23/24, for the site indicates that the area is not located within a designated wetland. - dcook125 - 08/23/2024 18:28:11 GMT                                                                                                                                                                                                     |
| Executive Order 12898 - Environmental Justice for Low Income and Minority Populations | Completed | Low income or minority population in or near project area                                                                | Minority or low-income populations were identified through submitted project documentation, public involvement, state EJ community lists or maps, or EJSCREEN reports for the project area. Review of the project scope of work revealed no disproportionate adverse effects on these populations. Therefore, no additional review for potential EJ concerns is required. - dcook125 - 08/23/2024 18:29:18 GMT |
|                                                                                       | Completed | No disproportionately high and adverse impact on low income or minority population - Review concluded                    |                                                                                                                                                                                                                                                                                                                                                                                                                |
| Endangered Species Act (ESA)                                                          | Completed | Listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action |                                                                                                                                                                                                                                                                                                                                                                                                                |

## RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project LPDM-PJ-06-TX-2024-006 (0)

Title: City of Harlingen 5th and 7th Streets Storm Sewer Drainage Improvements

| Environmental Law/<br>Executive Order                                       | Status    | Description                                                                                                                         | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------------------------------------------------------------|-----------|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                             | Completed | No effect to species or designated critical habitat (See comments for justification) - Review concluded                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Farmland Protection Policy Act (FPPA)                                       | Completed | Project does not affect designated prime or unique farmland - Review concluded                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Fish and Wildlife Coordination Act (FWCA)                                   | Completed | Project does not affect, control, or modify a waterway/body of water - Review concluded                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Migratory Bird Treaty Act (MBTA)                                            | Completed | Project located within a flyway zone                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                             | Completed | Project does not have potential to take migratory birds - Review concluded                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Magnuson-Stevens Fishery Conservation and Management Act (MSA)              | Completed | Project not located in or near Essential Fish Habitat - Review concluded                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| National Historic Preservation Act (NHPA)                                   | Completed | Applicable executed Programmatic Agreement. Activity meets Programmatic Allowance (enter date and # in comments) - Review concluded | The scope of work has been reviewed and meets the criteria in Appendix B - Programmatic Allowances, Tier II; Section D.1(a) of FEMA's Programmatic Agreement (PA) dated March 16, 2022. In accordance with this PA, FEMA is not required to determine the National Register eligibility of properties where work performed meets the Appendix B criteria. The scope of work has been reviewed and FEMA has determined, based on Tribal preferences, that the project will not require Tribal Consultation.- R.Moyer - dcook 125 - 08/23/2024 18:21:12 GMT |
| Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA) | Completed | Review concluded                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Wild and Scenic Rivers Act (WSR)                                            | Completed | Project is not along and does not affect Wild and Scenic River - Review concluded                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

## CONDITIONS

Special Conditions required on Implementation of Projects:



## RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

**Project** LPDM-PJ-06-TX-2024-006 (0)**Title:** City of Harlingen 5th and 7th Streets Storm Sewer Drainage Improvements

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Unusable equipment, debris and material shall be disposed of in an approved manner and location. In the event significant items (or evidence thereof) are discovered during implementation of the project, applicant shall handle, manage, and dispose of petroleum products, hazardous materials and toxic waste in accordance to the requirements and to the satisfaction of the governing local, state and federal agencies.

Source of condition: Resource Conservation and Recovery Act, aka Solid Waste  
Disposal Act (RCRA)

Monitoring Required: No

**Standard Conditions:**

Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

## FY 24 PDM – Grant Application Review Summary

|                               |                                                                         |                              |             |
|-------------------------------|-------------------------------------------------------------------------|------------------------------|-------------|
| <b>Subapplication Number</b>  | LPDM-PJ-06-TX-2024-006                                                  |                              |             |
| <b>Project Title</b>          | City of Harlingen 5th and 7th Streets Storm Sewer Drainage Improvements |                              |             |
| <b>Applicant Name</b>         | Texas Division of Emergency Management                                  |                              |             |
| <b>Subapplicant Name</b>      | City of Harlingen                                                       |                              |             |
| <b>Project Type</b>           | Stormwater Management                                                   |                              |             |
| <b>Recommendation</b>         | Yes                                                                     |                              |             |
| <b>Federal Cost (eGrants)</b> | \$1,383,069                                                             | <b>Phased Project</b>        | No          |
| <b>BCR (subapplication)</b>   | 3.16                                                                    | <b>Duplicate Project</b>     | No          |
| <b>BCR (reanalysis)</b>       | 2.99                                                                    | <b>Benefits (reanalysis)</b> | \$9,931,939 |

### Summary

This is a technical feasibility and cost-effectiveness review in support of the Fiscal Year (FY) 2024 Pre-Disaster Mitigation Program.

### Scope of Work

The scope of work is well-defined and clearly explains the activities necessary to complete the work. The subapplicant has submitted a subapplication for the replacement of undersized stormwater sewer infrastructure along 5th Street and 7th Street in Drainage System 21, within the City of Harlingen, Texas. The project will replace 5,055 linear feet of existing stormwater sewer pipes, manholes, and inlets with upsized infrastructure. The proposed project will reduce risk of flooding to 234 properties during the 25-year storm event.

### Technical Feasibility

#### *Project Schedule*

The schedule duration is 15 months. The schedule includes all items in the scope of work and is reasonable.

#### *Cost Estimate*

The cost estimate includes sufficient line items consistent with the scope of work.

#### *Technical Design Information*

The following information and documentation were provided to support the project:

| Item                         | Documentation                                                     | Evaluation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|------------------------------|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Proposed Level of Protection | Subapplication narrative, Hydrologic and hydraulic (H&H) analysis | The project proposes to protect 234 properties during the 25-year event. The proposed level of protection is consistent with the city design standards. An H&H report submitted with the subapplication details the drainage infrastructure upgrades necessary to achieve the proposed level of protection. The H&H report also provides flows, velocities, and water surface elevations under existing and proposed conditions, which shows the proposed project will achieve the proposed level of protection. |

| Item                               | Documentation                          | Evaluation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Flood Risk Data                    | FEMA FIRM, H&H analysis                | The proposed project is not in the Special Flood Hazard Area. Flood risk in the project area is from heavy precipitation events that exceed capacity of existing stormwater drainage system.<br><br>The provided documentation does show how the proposed project will reduce risk. The H&H report includes calculations and analysis used to evaluate the existing and proposed infrastructure. The H&H report shows the proposed project will reduce risk of flooding during the 25-year event. |
| Residual Risk                      | Subapplication narrative, H&H analysis | Residual risk was identified for events larger than the 25-year event. Flooding would occur in the project area for events larger than the proposed level of protection but damages would be reduced from existing conditions.                                                                                                                                                                                                                                                                    |
| Design and Performance Standards   | Subapplication narrative, H&H analysis | The proposed project will adhere to the City of Harlingen's Subdivision Development Guide, which specifies a 25-year level of protection for storm sewer systems for collector streets. The proposed project will also comply with Texas Commission on Environmental Quality (TCEQ) regulations for stormwater management and permitting to discharge under the Texas Pollutant Discharge Elimination System.                                                                                     |
| Design Drawings, Maps, Photographs | Design drawings, project maps          | Documentation was provided to support the project. Design drawings were provided which are supported by the H&H analysis. Project area maps with existing stormwater infrastructure and sizing were also provided.                                                                                                                                                                                                                                                                                |
| Upstream and Downstream Impacts    | H&H analysis                           | The documentation indicates the proposed project will not have adverse upstream or downstream impacts.                                                                                                                                                                                                                                                                                                                                                                                            |

Based on the documentation provided, the project is technically feasible and effective at reducing risk to individuals and property from natural hazards.

#### **Cost-Effectiveness**

The benefit-cost analysis (BCA) was completed based on professional expected damages from a previous project on 9th and 13th Streets and used to estimate damages for the proposed 5th and 7th Streets project based on the ratio of benefitting structures in the two projects.

The previous project has similar building types, elevations, and rainfall intensities as the proposed project. Therefore, using a ratio of the number of benefitting structures in the 9th and 13th Streets project to the number of benefitting structures in the proposed project should provide a reasonable representation of expected damages for the proposed 5th and 7th Streets project.

A spreadsheet with the damage calculations for a specific subbasin within the 9th and 13th Streets project was provided to support the proposed project.



The following was found during review of the submitted BCA:

#### *Cost Estimation*

| Input                            | Value       | Evaluation                                                                                                                                                                                                                                                    |
|----------------------------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Project Useful Life (PUL)        | 50 years    | This value is consistent with the FEMA standard value.                                                                                                                                                                                                        |
| BCA Toolkit Initial Project Cost | \$3,044,805 | This amount is not consistent with the subapplication project cost estimate. The project cost estimate increased to \$3,226,176 in response to an RFI during review of the subapplication, so the initial project cost used in the submitted BCA is outdated. |
| Annual Maintenance Cost          | \$3,791     | This amount is reasonable.                                                                                                                                                                                                                                    |
| BCA Toolkit Total Project Cost   | \$3,140,527 | This amount is calculated based on the initial project cost, the annual maintenance costs, and the PUL.                                                                                                                                                       |

#### *Flood Data*

Damages from flooding were calculated outside of the BCA Toolkit.

| Input                          | Value                                                                                                                                                                   | Evaluation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Lowest Floor Elevations (LFEs) | 40.87 ft (Unknown Datum)                                                                                                                                                | <p>LFEs were based on a digital terrain model of the project area and a spreadsheet containing finished floor elevations was provided to support this input. However, the LFEs did not account for raised foundations on any of the structures, although most are at ground level, based on publicly available street view imagery of the project area.</p> <p>The values used in the BCA are consistent with the supporting documentation.</p>                                                                           |
| Flood Hazard Data              | <p>Flood depths of:</p> <p>-0.70 ft during 5-year event</p> <p>0.92 ft during 10-year event</p> <p>3.38 ft during 25-year event</p> <p>6.45 ft during 50-year event</p> | <p>Rainfall depths with corresponding flood depths were provided to support this input. The source of the rainfall data was not provided but the values align with NOAA Atlas 14 data for the 24-hour storm event for the project area. Flood depths before and after mitigation were provided but it is not clear how the values were calculated; however, the flood depths appear reasonable based on the information provided.</p> <p>The values used in the BCA are consistent with the supporting documentation.</p> |

| Input                            | Value                                    | Evaluation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                  | 10.53 ft during 100-year event           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Depth-Damage Function            | USACE generic one-story without basement | This curve is not consistent with the structure types and mitigation action. The same DDF was applied to all structures, including nonresidential structures, which have unique DDFs. However, most structures in the project area are residential and the correct DDF was used for those structures.                                                                                                                                                                                                                                                                                                                      |
| Building Size                    | 820 – 6,592 sq ft                        | Estimates from geographic information system (GIS) were provided to support this input.<br><br>The values used in the BCA are consistent with the supporting documentation.                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Building Replacement Value (BRV) | \$38/sq ft                               | The BRV used in the BCA is a nonstandard value that was not supported by documentation. The damage calculation spreadsheet for the 9th and 13th Streets project states BRV is based on a RES1 structure, which indicates the value is from an older version of HAZUS, but the source of the BRV could not be confirmed. However, the current FEMA BCA Toolkit (Version 6.0) BRV Distributional Weight Multiplier is 3.3 for the project area, so a BRV of \$330/sq ft is acceptable. Therefore, the BRV used for the 9th and 13th Streets project is significantly lower than the acceptable BRV for the proposed project. |
| Building Occupancy               | Not included in BCA                      | Building occupancy was not included in the calculation of damages for the submitted BCA due to utilization of an outdated methodology from Version 4.5 of the FEMA BCA Toolkit.                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Contents Value                   | 50 percent of structure value            | Nondefault values were used, based on previous methodology for calculating damages to contents from Version 4.5 of the FEMA BCA Toolkit. The current default value in the FEMA BCA Toolkit (Version 6.0) for contents is 100 percent of the structure value. Therefore, the value used in the submitted BCA underestimates damages to contents.                                                                                                                                                                                                                                                                            |
| Displacement Costs               | \$1.44/sq ft/month                       | Nondefault values were used, based on previous methodology for calculation displacement costs from Version 4.5 of the FEMA BCA Toolkit. This methodology results in significantly lower displacement costs than the current methodology based on GSA per diem rates for lodging and meals.                                                                                                                                                                                                                                                                                                                                 |



#### *Professional Expected Damages*

| Input                     | Evaluation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Before-Mitigation Damages | Before-mitigation damages for the 9th and 13th Streets project were included for structures, contents, and displacement in the 5-, 10-, 25-, 50-, and 100-year events. Damage calculations for the 9th and 13th Streets project were based on 325 structures in the project area. The proposed project for 5th and 7th Streets would benefit 234 structures based on the drainage subbasin area of 5th and 7th Streets. Therefore, before-mitigation damages for the proposed project were based on a ratio of 234 benefitting structures to the 325 benefitting structures in the 9th and 13th Streets project. This is a reasonable approach because the project areas have similar topography, drainage, building types, and flood risk. |
| After-Mitigation Damages  | After-mitigation damages were included for structures, contents, and displacement in the 10-, 25-, 50-, and 100-year events based on the reduction in flood depths from the proposed drainage improvements. The after-mitigation damages from the 9th and 13th Streets project were applied to the proposed project based on the ratio of structures between the two projects in the same method as before-mitigation damages.                                                                                                                                                                                                                                                                                                              |

#### **Reanalysis BCA**

A reanalysis BCA was performed, and the following edits were made:

| Input                            | Value       | Explanation                                                                               |
|----------------------------------|-------------|-------------------------------------------------------------------------------------------|
| BCA Toolkit Initial Project Cost | \$3,226,176 | The project cost was revised in response to an RFI during the application review process. |

Based on the reanalysis BCA, the total benefits associated with this project, \$9,931,939, are greater than the total project cost of \$3,321,892, producing a BCR of 2.99.

Based on the documentation provided, the project is cost-effective. While the methodology for the BCA used in the 9th and 13th Streets project contains some errors (i.e., LFEs not accounting for steps to front door and using same DDF for all structures), the outdated methodology and default values from Version 4.5 of the FEMA BCA Toolkit significantly underestimated damages compared to current default values in Version 6.0 of the FEMA BCA Toolkit. Therefore, the errors in the BCA should be outweighed by the underestimation of damages from outdated values from Version 4.5 of the FEMA BCA Toolkit. Furthermore, social benefits could be applied to the BCA for the proposed project, which would further improve the BCR. A lower bound analysis was performed using 2.75 residents and 1 worker per household, based on Census data for Harlingen, which results in a cost-effective project from social benefits alone if 218 residential structures benefit from the proposed project.

#### **Conclusion**

Based on the information provided, the project is technically feasible and cost-effective; therefore, it is recommended for further consideration.



This review is an evaluation of the project's technical feasibility and cost-effectiveness. Additional EHP, eligibility and completeness, and funding limitation considerations may affect the selection of this subapplication for further consideration and funding.

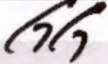
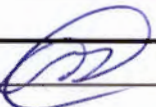
**Conditions**

1. Applicant must coordinate with the local authorities to obtain required permits and comply with any conditions of the permitting prior to initiating work. All permits and coordination pertaining to these activities must be retained as part of the project file and provided to FEMA at closeout. All applicable codes and standards must be met.
2. The project must include a verification that the completed project conditions conform with the design. This shall include signed and sealed as-built drawings surveys. All documents must be provided at closeout.

7(P)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 21, 2024**

|                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Agenda Item:</b>                                                                                                                                                                                                                                                                                                                                                                          |
| Consideration and possible action to approve the Fire Service Agreements with Cameron County Emergency Services District No. 1, and Cities of Combes, Primera, and Palm Valley for Fiscal Year 2024-2025. Attachment ( <i>Fire Dept.</i> )                                                                                                                                                   |
| Prepared By: Rafael Balderas, Fire Chief                                                                                                                                                                                                                                                                                                                                                     |
| <b>Brief Summary:</b>                                                                                                                                                                                                                                                                                                                                                                        |
| This is the annual renewal of Fire Services Agreements between the City of Harlingen and Cameron County ESD No. 1 (\$417,365.12), the City of Combs (\$164,550.18), the City of Primera (\$265,967.90), and the City of Palm Valley (\$163,699.37). These amounts are to be paid in quarterly installments on the following dates: December 31st, March 31st, June 30th, and September 30th. |
| <b>Funding (if applicable):</b>                                                                                                                                                                                                                                                                                                                                                              |
| Are funds specifically designated in the current budget for the full amount (Yes/No):<br>*If no, specify source of funding and amount requested:                                                                                                                                                                                                                                             |
| Finance Director's approval (Yes/No/NA): N/A                                                                                                                                                                                                                                                                                                                                                 |
| <b>Staff Recommendation:</b>                                                                                                                                                                                                                                                                                                                                                                 |
| Staff recommends approval.                                                                                                                                                                                                                                                                                                                                                                   |
| City Manager approval:                                                                                                                                                                                                                                                                                      |
| <b>Comments:</b>                                                                                                                                                                                                                                                                                                                                                                             |
| City Attorney's approval:                                                                                                                                                                                                                                                                                  |



THE STATE OF TEXAS       §  
                                         §  
COUNTY OF CAMERON       §

**CAMERON COUNTY EMERGENCY SERVICES DISTRICT NO. 1  
FIRE SERVICES AGREEMENT**

This Agreement is made and entered into pursuant to Chapter 775 of the Texas Health & Safety Code, by and between the Cameron County Emergency Services District No. 1, hereinafter referred to as “DISTRICT,” acting by and through its undersigned President, and the **City of Harlingen**, located in Cameron County, Texas, hereinafter referred to as “PROVIDER,” acting by and through its undersigned Executive. **Chapter 775 of the Texas Health & Safety Code shall be followed by all parties.**

In consideration of the mutual covenants, agreements, and benefits to both parties, it is AGREED as follows:

**I. PROVISION OF SERVICES**

During the term of this Agreement, PROVIDER agrees to furnish “firefighting” services - defined as the use of personnel and equipment to fight, extinguish and suppress fires, including the handling of “hazardous material incidents” or the provision of “rescue services” to the unincorporated area of Cameron County designated as **Zone 2** on the Official Fire Protection Service Zone Map of the DISTRICT, which is attached hereto as Exhibit A – ESD Fire Zones (rev. 2023) and incorporated by reference herein as if fully copied and set forth at length. Pursuant to Chapter 775 of the Texas Health & Safety Code, monies paid for the services shall be for the benefit of Emergency Services District No. 1 constituents.

While the purpose of this map is to define generally the PROVIDER’s main area of responsibility, such a designation does not limit the PROVIDER’s duty to respond to other areas within the DISTRICT should the need arise; therefore, it is expressly agreed that when, in the judgment of the PROVIDER’s Fire Chief, an emergency



demands the response of the PROVIDER's firefighting services outside of its designated zone, the PROVIDER shall be obligated to respond.

PROVIDER will conduct itself in conformity with the requirements and standards of emergency services (i.e., firefighting) provided by State and Federal requirements and professional associations' best practices, and shall, to the best of PROVIDER's ability, adhere to Exhibit B – Performance Statement, unless specifically agreed to in this Agreement. PROVIDER will perform all acts necessary to successfully fulfill the purpose of this Agreement and shall, at all times, faithfully, diligently, and to the best of its abilities, experience, and talents, perform all the duties that may be required of and from it pursuant to the express and implicit terms of this Agreement and to the reasonable satisfaction of the DISTRICT.

The DISTRICT reserves the right to have its consultant or any other authorized agent or employee contact the PROVIDER and inspect the PROVIDER's facilities, equipment, and personnel to confirm compliance with the terms of this Agreement.

## **II. INDEPENDENT CONTRACTOR**

PROVIDER, as it pertains to this Agreement, is acting as an independent contractor, not an agency or an arm of the DISTRICT. The PROVIDER controls the method and details of the task, pursuant to above, and answers to the DISTRICT only as to the results. PROVIDER's employees are neither employed by the DISTRICT nor paid with DISTRICT funds.

## **III. MUTUAL AID**

It is specifically understood and agreed that the PROVIDER will provide mutual aid, if feasible and without compromising its duties to its assigned Zone, to other Zones in the unincorporated areas of the County, when requested by another PROVIDER. Any dispatch of firefighting or rescue, and personnel pursuant to this Agreement is subject to the foregoing conditions:

1. PROVIDER shall include in its quarterly report a statement detailing the amount and type of equipment used, the number of personnel that responded to the call, and the location to which the equipment and personnel were dispatched to;

2. The responding PROVIDER shall be released as soon as feasible by the requesting agency when the services of the responding PROVIDER are no longer required.

#### IV. COMPENSATION

DISTRICT agrees to pay, subject to the availability of funds, the sum of **\$417,365.12** to the PROVIDER for firefighting services in the said unincorporated area of its designated zone and for any mutual assistance provided in the unincorporated areas of any other zones. Such sum to be paid to the PROVIDER in quarterly payments. If during the term of this Agreement funds become unavailable, DISTRICT will notify PROVIDER in writing after the next DISTRICT Board Meeting that PROVIDER will be excused from any further duties or obligations arising out of this Agreement. DISTRICT will hold harmless PROVIDER for any claims arising subsequent to said unavailability of funds.

PROVIDER acknowledges that it can only request payment for a call that falls under the categories listed in Exhibit C – Covered Calls.

It is specifically understood and agreed that as a condition precedent to payment, the PROVIDER shall provide to the DISTRICT a written report summarizing the services rendered to the DISTRICT during the term of this Agreement, with all such reports (for each “fire call”) describing the particular incident, in accordance with the standardized Exhibit D – Fire Runs Report. All such reports shall be due no later than the fifteenth (15th) day of the month following the end of each quarter. Furthermore, PROVIDER agrees that as all services executed and all funds paid are solely for the benefit of DISTRICT’s constituents, by and through the funding and maintenance of the PROVIDER’s fire department, if either PROVIDER or DISTRICT receive a formal written complaint that such funds are not being used for the benefit of said constituents, a report or an audit detailing the spending of said funds may be ordered by the DISTRICT and submitted by PROVIDER prior to the execution of a subsequent agreement between the DISTRICT and PROVIDER. In the event that PROVIDER receives the formal written complaint, a copy of the complaint must be submitted to the District’s Coordinator within 10 days of receipt.

PROVIDER shall not, in any event, be required to provide to the DISTRICT, or include in any such report, any privileged, confidential or private information regarding any patient or person for whom ambulance or emergency medical services have been provided, including but not limited to name, address, medical condition, or treatment information, or any other information determined by PROVIDER to be protected from disclosure under any applicable federal or state law or regulation. However, PROVIDER does agree to disclose in their monthly reports to the DISTRICT the general nature of medical services requested and the address for which PROVIDER was dispatched to, regardless of whether or not the address incidentally happens to be the residence of the third-party beneficiary of said emergency services. The need for this information is to ensure payment for eligible

emergency service runs. Such a disclosure is permissible pursuant to 45 C.F.R. 164.506 – “Uses and Disclosures to Carry Out Treatment, Payment, or Health Care Operations”.

## **V. SPECIAL EVENT FUND**

The intent of the “Special Event” fund is to offset the expenses of emergency services (Fire & EMS) in the event of a large-scale emergency that is over and above routine emergency calls.

The intent is not to cover ALL expenses from an event, but only the approved expenses incurred over and above what would be a normal emergency call. All DISTRICT contracted PROVIDERS are eligible to apply for reimbursement, subject to fund availability, for a Special Event. PROVIDERS must submit appropriate documentation as to why extra funding is needed. However, Special Events that are eligible for state or federal reimbursement are not eligible for reimbursement by the DISTRICT.

“Special Events” shall be considered for funding, whether whole or in part, on an individual basis to be approved by the Cameron County Fire Chiefs’ Association and ratified by the DISTRICT’S Board. A PROVIDER’S request for Special Event funding which has been denied by the Cameron County Fire Chiefs’ Association may appeal their request to the DISTRICT’S Board. All appeals must be in writing and submitted to the DISTRICT’S Coordinator prior to the annual fund disbursement.

Providers shall submit their special event fund requests in writing and in compliance with Exhibit D to the DISTRICT on a monthly basis; however, review and approvals by the DISTRICT will not occur until August of the contract year.

## **VI. TERM OF AGREEMENT/TERMINATION**

The term of the Agreement shall be from October 1, 2024, through September 30, 2025. This Agreement may be terminated at-will by either party sixty (60) days after the other party is sent written notice from the party desiring termination. In the event that a new agreement is not reached prior to the end of this Agreement, this Agreement will continue until either terminated as prescribed or superseded by a new agreement.

## **VII. ACT OF GOD EXCUSES PERFORMANCE**

In the event that either party shall be prevented from completing performance of their respective obligations hereunder by an “act of God” or any other occurrence



whatsoever which is beyond the control of the parties hereto, then such party shall be excused from any further performance of its obligations and undertakings hereunder, but only for the period of time after such occurrence that is necessary.

### **VIII. LIABILITY**

If a cause of action occurs due to PROVIDER's or their employee's' activities or acts, the DISTRICT will not legally defend the PROVIDER/employee(s), pay any legal fees, or pay any settlement costs.

### **IX. WARRANTIES OR REPRESENTATIONS**

THE PARTIES TO THIS AGREEMENT SPECIFICALLY ACKNOWLEDGE THAT NO WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER IS BEING MADE BY EITHER PARTY IN CONNECTION WITH THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT, EXCEPT AS IS SET FORTH IN THIS AGREEMENT.

### **X. NOTICE**

All notices to the DISTRICT shall be sent by certified or registered mail, addressed to: Cameron County Emergency Services District No. 1, 964 East Harrison Street, Brownsville, Texas 78520, or at such other address as the DISTRICT may otherwise designate. All notices to PROVIDER shall be sent certified or registered mail, addressed to: 118 E. Tyler Ave. Harlingen, Texas 78550.

### **XI. LAW GOVERNING/VENUE**

This Agreement shall be governed by the laws of the State of Texas and shall be performable in Cameron County, Texas.

### **XII. ENTIRE AGREEMENT**

This Agreement shall comprise the entire agreement between the parties hereto and any amendment shall be enforceable only after being reduced to writing, executed by the parties hereto and attached hereto.

Executed in duplicate by the President of the DISTRICT and the PROVIDER'S designated agent, both of whom are duly authorized to represent and bind said DISTRICT and PROVIDER, respectively, to the terms and conditions of this Agreement, as set forth above, on the day this Agreement is executed by both parties.

**CAMERON COUNTY EMERGENCY  
SERVICES DISTRICT NO. 1**

**PROVIDER**

\_\_\_\_\_  
Oscar Tapia, CCESD President

\_\_\_\_\_  
Norma Sepulveda, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTESTED BY:

ATTESTED BY:

\_\_\_\_\_  
Grecia Lucio, CCESD

\_\_\_\_\_  
Amanda Elizondo, City Secretary

THE STATE OF TEXAS

COUNTY OF CAMERON

FIRE PROTECTION SERVICE CONTRACT

This is a contract and agreement made and entered into on the date set forth preceding the signatures of the parties who herein mutually agree as follows:

I.  
CONTRACT

The parties to this contract are the City of Harlingen Texas, (Harlingen) a Home-Rule Municipal Corporation located in Cameron County Texas, and the City of Combes Texas, (Combes) a Municipal Corporation located in Cameron County Texas. Both entities are acting by and through their duly authorized elected representatives in authorizing the execution of this contract under the provisions of the Interlocal Cooperation Act (Section 791.001 et. seq, Government Code) as amended or recodified.

II.  
PROVISIONS OF CONTRACT

During the terms of this agreement, The City of Harlingen, through its Fire Department, agrees to furnish fire-fighting services defined as:

1. the use of personnel and equipment to extinguish and suppress fires
2. to handle hazardous material incidents, and
3. confined space rescue.

For the purposes of this agreement fire fighting services do not include activities to facilitate the prevention of fires. The Harlingen Fire Department agrees to respond to all calls referred to it by its agents, representatives of Combes, or any resident or tenant of Combes who may be in need of fire-fighting services as defined by this agreement.

III.  
COMPENSATION

The rate for fire-fighting services is determined from the total appraised net taxable value (Exhibit A) of all property within the City of Combes at the rate of .10 cents per \$100.00 valuation. Combes agrees to pay Harlingen the sum of \$164,550.18 for fiscal year 24/25 based on the 2024 Certified Net Taxable value, in quarterly installments of \$41,137.55 on the following dates: December 31<sup>st</sup>, March 31<sup>st</sup>, June 30<sup>th</sup>, and September 30<sup>th</sup>.

Combes agrees to indemnify and hold harmless the City of Harlingen and all its employees and officers pursuant to the provisions of Section 791.006(a), et. seq., Gov't Code, throughout the term of this contract. Any failure of Combes to pay such sums billed by Harlingen or any additional breach of the terms hereof shall be considered a breach of the contract and this contract may be terminated immediately at Harlingen's option, and Harlingen may file suit for any unpaid sums due in a Court of appropriate jurisdiction in Cameron County, Texas.

Harlingen shall provide a written report summarizing the fire fighting services rendered to Combes during that payment period, with said report listing all calls by date, location, and nature of call. This report shall be due (15) days after the pertinent payment period (set forth in the paragraph above) ends.

IV.  
OBLIGATION TO RESPOND

Combes acknowledges that Harlingen is not obligated to respond to fire calls in the vicinity of but outside the city limits of Combes.

V.  
TERMS OF AGREEMENT

The terms of the agreement shall be one year, beginning October 1, 2024, and ending September 30, 2025.



## VI.

Either party may terminate this Agreement in whole or in part hereto whenever such termination is found to be in the best interest of either party. Termination shall be affected by the conveyance of a written notification thereof to the other party at least sixty (60) days in advance of the effective date of the termination.

## VII.

## VIII.

## BY

**ATTEST:**

CITY OF COMBES, TEXAS

BY

**ATTEST:**

8/22/2024  
4852-9006-3050, v. 1

THE STATE OF TEXAS

COUNTY OF CAMERON

FIRE PROTECTION SERVICE CONTRACT

This is a contract and agreement made and entered into on the date set forth preceding the signatures of the parties who herein mutually agree as follows:

I.  
CONTRACT

The parties to this contract are the City of Harlingen Texas, (Harlingen) a Home-Rule Municipal Corporation located in Cameron County Texas, and the City of Primera Texas, (Primera) a Municipal Corporation located in Cameron County Texas. Both entities are acting by and through their duly authorized elected representatives in authorizing the execution of this contract under the provisions of the Interlocal Cooperation Act (Section 791.001 et. seq, Government Code) as amended or recodified.

II.  
PROVISIONS OF CONTRACT

During the terms of this agreement, The City of Harlingen, through its Fire Department, agrees to furnish fire-fighting services defined as:

1. the use of personnel and equipment to extinguish and suppress fires
2. to handle hazardous material incidents, and
3. confined space rescue.

For the purposes of this agreement fire fighting services do not include activities to facilitate the prevention of fires. The Harlingen Fire Department agrees to respond to all calls referred to it by its agents, representatives of Primera, or any resident or tenant of Primera who may be in need of fire-fighting services as defined by this agreement.

III.  
COMPENSATION

The rate for fire-fighting services is determined from the total appraised net taxable value (Exhibit A) of all property within the City of Primera at the rate of .10 cents per \$100.00 valuation. Primera agrees to pay Harlingen the sum of \$265,967.90 for fiscal year 24/25 based on the 2024 Certified Net Taxable value, in quarterly installments of \$66,491.98 on the following dates: December 31<sup>st</sup>, March 31<sup>st</sup>, June 30<sup>th</sup>, and September 30<sup>th</sup>.

Primera agrees to indemnify and hold harmless the City of Harlingen and all its employees and officers pursuant to the provisions of Section 791.006(a), et. seq., Gov't Code, throughout the term of this contract. Any failure of Primera to pay such sums billed by Harlingen or any additional breach of the terms hereof shall be considered a breach of the contract and this contract may be terminated immediately at Harlingen's option, and Harlingen may file suit for any unpaid sums due in a Court of appropriate jurisdiction in Cameron County, Texas.

Harlingen shall provide a written report summarizing the fire fighting services rendered to Primera during that payment period, with said report listing all calls by date, location, and nature of call. This report shall be due (15) days after the pertinent payment period (set forth in the paragraph above) ends.

IV.  
OBLIGATION TO RESPOND

Primera acknowledges that Harlingen is not obligated to respond to fire calls in the vicinity of but outside the city limits of Primera.

V.  
TERMS OF AGREEMENT

The terms of the agreement shall be one year, beginning October 1, 2024, and ending September 30, 2025.



VI.  
**TERMINATION OF RENEWAL**

This Agreement shall be for an initial term of one (1) year and will renew upon signed and written agreement by the parties to this agreement with adjustments made to the total appraised net taxable value as agreed to among the parties, unless terminated as herein provided.

Either party may terminate this Agreement in whole or in part hereto whenever such termination is found to be in the best interest of either party. Termination shall be affected by the conveyance of a written notification thereof to the other party at least sixty (60) days in advance of the effective date of the termination.

Should Primera intend to renegotiate this contract, Harlingen shall be notified in writing by United States Mail, return receipt requested, not later than the first of July prior to the fiscal year, which begins on October 1, 2024. If such negotiations have not been completed on or before the beginning of that fiscal year, both Harlingen and Primera expressly agree to act in accordance with the terms and conditions of this contract for a period of thirty days. If during such time both parties fail to negotiate a new contract, the negotiation period shall terminate at the end of the thirtieth (30th) day of said period. However, the contract obligations of both parties shall be extended an additional thirty-day period beyond the end of the negotiation period to allow Primera time to secure alternate fire fighting services. At the end of this second period, this contract shall terminate. During these extensions beyond the Contract period, Primera shall pay Harlingen the rate set out in this contract.

VII.  
**ENTIRE AGREEMENT**

This contract shall comprise the entire agreement between the parties hereto and any amendment shall be enforceable only after being reduced to writing, mutually executed by the parties hereto and attached hereto.

VIII.  
**"ACT OF GOD EXCUSES PERFORMANCE"**

In the event that either party shall be prevented from completing performance of their respective obligations by natural disasters like hurricanes, floods, earthquakes, and other similar events to include war, terrorism or threats of terrorism, civil disorder, labor strikes or disruptions, disease or medical epidemics or outbreaks, or any other occurrence which is beyond the control of the parties hereto; then they shall be excused from any further performance of their obligations and undertakings hereunder for the period of such occurrence.

Executed in duplicate by the Mayor of Primera and the Mayor of the City of Harlingen, duly authorized to represent and bind said cities to the terms and conditions of the contract, as set forth below, on the \_\_\_\_\_ day of \_\_\_\_\_ 2024.

CITY OF HARLINGEN, TEXAS

BY \_\_\_\_\_  
Norma Sepulveda, Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

CITY OF PRIMERA, TEXAS

BY R. Dave Kusch  
R. Dave Kusch, Mayor

ATTEST:

Norma Sepulveda  
City Secretary



FIRE PROTECTION SERVICE CONTRACT

This is a contract and agreement made and entered into on the date set forth preceding the signatures of the parties who herein mutually agree as follows:

I.  
CONTRACT

The parties to this contract are the City of Harlingen Texas, (Harlingen) a Home-Rule Municipal Corporation located in Cameron County Texas, and the City of Palm Valley Texas, (Palm Valley) a Municipal Corporation located in Cameron County Texas. Both entities are acting by and through their duly authorized elected representatives in authorizing the execution of this contract under the provisions of the Interlocal Cooperation Act (Section 791.001 et. seq, Government Code) as amended or recodified.

II.  
PROVISIONS OF CONTRACT

During the terms of this agreement, The City of Harlingen, through its Fire Department, agrees to furnish fire-fighting services defined as:

1. the use of personnel and equipment to extinguish and suppress fires
2. to handle hazardous material incidents, and
3. confined space rescue.

For the purposes of this agreement fire fighting services do not include activities to facilitate the prevention of fires. The Harlingen Fire Department agrees to respond to all calls referred to it by its agents, representatives of Palm Valley, or any resident or tenant of Palm Valley who may be in need of fire-fighting services as defined by this agreement.

III.  
COMPENSATION

The rate for fire-fighting services is determined from the total appraised net taxable value (Exhibit A) of all property within the City of Palm Valley at the rate of .10 cents per \$100.00 valuation. Palm Valley agrees to pay Harlingen the sum of \$163,699.37 for fiscal year 24/25 based on the 2024 Certified Net Taxable value, in quarterly installments of \$40,924.85 on the following dates: December 31<sup>st</sup>, March 31<sup>st</sup>, June 30<sup>th</sup>, and September 30<sup>th</sup>.

Palm Valley agrees to indemnify and hold harmless the City of Harlingen and all its employees and officers pursuant to the provisions of Section 791.006(a), et. seq., Gov't Code, throughout the term of this contract. Any failure of Palm Valley to pay such sums billed by Harlingen or any additional breach of the terms hereof shall be considered a breach of the contract and this contract may be terminated immediately at Harlingen's option, and Harlingen may file suit for any unpaid sums due in a Court of appropriate jurisdiction in Cameron County, Texas.

Harlingen shall provide a written report summarizing the fire fighting services rendered to Palm Valley during that payment period, with said report listing all calls by date, location, and nature of call. This report shall be due (15) days after the pertinent payment period (set forth in the paragraph above) ends.

IV.  
OBLIGATION TO RESPOND

Palm Valley acknowledges that Harlingen is not obligated to respond to fire calls in the vicinity of but outside the city limits of Palm Valley.

V.  
TERMS OF AGREEMENT

The terms of the agreement shall be one year, beginning October 1, 2024, and ending September 30, 2025.

VI.  
TERMINATION OF RENEWAL

This Agreement shall be for an initial term of one (1) year and will renew upon signed and written agreement by the parties to this agreement with adjustments made to the total appraised net taxable value as agreed to among the parties, unless terminated as herein provided.

Either party may terminate this Agreement in whole or in part hereto whenever such termination is found to be in the best interest of either party. Termination shall be affected by the conveyance of a written notification thereof to the other party at least sixty (60) days in advance of the effective date of the termination.

Should Palm Valley intend to renegotiate this contract, Harlingen shall be notified in writing by United States Mail, return receipt requested, not later than the first of July prior to the fiscal year, which begins on October 1, 2024. If such negotiations have not been completed on or before the beginning of that fiscal year, both Harlingen and Palm Valley expressly agree to act in accordance with the terms and conditions of this contract for a period of thirty days. If during such time both parties fail to negotiate a new contract, the negotiation period shall terminate at the end of the thirtieth (30th) day of said period. However, the contract obligations of both parties shall be extended an additional thirty-day period beyond the end of the negotiation period to allow Palm Valley time to secure alternate fire fighting services. At the end of this second period, this contract shall terminate. During these extensions beyond the Contract period, Palm Valley shall pay Harlingen the rate set out in this contract.

VII.  
ENTIRE AGREEMENT

This contract shall comprise the entire agreement between the parties hereto and any amendment shall be enforceable only after being reduced to writing, mutually executed by the parties hereto and attached hereto.

VIII.  
"ACT OF GOD EXCUSES PERFORMANCE"

In the event that either party shall be prevented from completing performance of their respective obligations by natural disasters like hurricanes, floods, earthquakes, and other similar events to include war, terrorism or threats of terrorism, civil disorder, labor strikes or disruptions, disease or medical epidemics or outbreaks, or any other occurrence which is beyond the control of the parties hereto; then they shall be excused from any further performance of their obligations and undertakings hereunder for the period of such occurrence.

Executed in duplicate by the Mayor of Palm Valley and the Mayor of the City of Harlingen, duly authorized to represent and bind said cities to the terms and conditions of the contract, as set forth below, on the \_\_\_\_\_ day of \_\_\_\_\_ 2024.

CITY OF HARLINGEN, TEXAS

BY \_\_\_\_\_  
Norma Sepulveda, Mayor

ATTEST:

\_\_\_\_\_  
City Secretary

CITY OF PALM VALLEY, TEXAS

BY   
Michael Galvan, Mayor

ATTEST:

  
\_\_\_\_\_  
City Secretary



**AGENDA ITEM  
EXECUTIVE SUMMARY**

9(a)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Public hearing for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, located at 1826 W. Tyler Avenue, bearing a legal description of Lot 1, Block 1, Storm Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. **(Planning & Development)**

Prepared By: Xavier Cervantes, AICP, CPM

Title: Planning and Development Director

Signature: *Xavier Cervantes*

**Brief Summary:**

Project Timeline

- August 19, 2024 – Application for Special Use Permit (SUP) submitted to the City. **(ATTACHMENT I)**
- September 23, 2024 – In accordance with State and local law, notice of required public hearings mailed to all property owners within 200 feet of subject tract.
- September 28, 2024 – In accordance with State and local law, notice of required public hearings published in the Valley Morning Star.
- October 9, 2024 – Public hearing and consideration of requested Special Use Permit by the Planning and Zoning Commission.
- October 21, 2024 – Public hearing and consideration of requested Special Use Permit via 1<sup>st</sup> ordinance reading scheduled before the City Commission.
- November 6, 2024 – Pending approval of 1<sup>st</sup> ordinance reading, consideration of approval of 2<sup>nd</sup> ordinance reading scheduled before the City Commission.

Summary

- Per Section 111-62 the City of Harlingen's Code of Ordinances, the sale of alcoholic beverages for on-site consumption in a General Retail ("GR") District requires the approval of a Special Use Permit (SUP) by the City Commission.
- 7-Eleven Inc., the applicant, is requesting a Special Use Permit to allow the sale of alcohol for on-site consumption in an existing Stripes Convenience Store located at 1826 W. Tyler Avenue. The Stripes Convenience Store is approximately 4,084 square feet. **(ATTACHMENT II, III)**
- According to the site plan and information submitted, the applicant has applied to change their TABC application from a "Wine and Malt Beverage Retailers Off Premise Permit ("BQ") to a Wine and Malt Beverage Retail Dealer's On-Premise Permit ("BG"), which allows for the sale of wine and malt beverages for on- and off-premise consumption. The applicant is proposing to sell a wine based ready-to-drink product known as the "Margarita" for on-premise consumption. Seating will be provided indoors for the on-premise consumption. The hours of operation will be every day from 7:00 a.m. to 12:00 p.m. Fifteen (15) parking spaces are required, and nineteen (19) parking spaces are provided. **(ATTACHMENT IV AND V).**
- Surrounding properties are zoned General Retail ("GR") District to the east, south and west and Light Industry ("LI") District to the north. Surrounding land uses



consist of a BlueWave Express Car Wash, A-MAX Auto Insurance, and PNC Bank to the east, Burger King and Lone Star Inn & Suites to the south, the Texas Travel Information Center to the west, and AEP Harlingen to the north. **(ATTACHMENT IV, V)**

- The Special Use Permit (SUP) for the Stripes Convenience Store located at 1610 S. F Street was approved by the Planning & Zoning Commission on March 27<sup>th</sup>, 2024, and by the City Commission on April 17<sup>th</sup>, 2024. Additionally, the Special Use Permits (SUPs) for the following Stripes Convenience Stores located at 1725 S. F Street, 202 N. Ed Carey, 1250 N. 77 Sunshine Strip, and 1313 Haverford Boulevard, were approved by the Planning & Zoning Commission on September 25<sup>th</sup>, 2024, and by the City Commission on October 2<sup>nd</sup>, 2024.
- The Building Inspections Department, Fire Prevention Bureau, Harlingen Police Department, and Health Department have reviewed the application and recommended approval of the Special Use Permit. **(ATTACHMENT VI-VIII)**
- In accordance with the zoning ordinance, the P&Z Commission and City Commission may impose requirements and conditions of approval as needed to ensure that a use requested by a SUP is compatible and complementary to adjacent properties.
- To present, the Planning and Development Department has not received any calls regarding the Special Use Permit (SUP) request. Staff mailed out six notices to surrounding property owners.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the special use permit subject to complying with the following conditions:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by the Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, every day.

City Manager's approval:  ☐ Yes ☐ No ☒ N/A

**Comments:**

City Attorney's approval:  ☒ Yes ☐ No ☐ N/A

## **PLANNING AND ZONING COMMISSION**

**October 9, 2024**

**Public hearing and take action to consider a request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District located at 1826 W. Tyler Avenue, bearing a legal description of Lot 1, Block 1, Storm Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven, Inc.**

City Planner, Soledad A. Núñez presented the following information related to the request for a Special Use Permit, as follows:

- Ms. Núñez prefaced the information by saying this was another Stripes requesting a Special Use Permit for on-premise consumption of alcohol.
- The Legal Notice map that was sent out was presented. The store is located on the corner of Tyler and the Frontage Road.
- The footprint of the store is approximately four thousand, eighty-four (4084) square feet.
- A Street View of the subject property from west Tyler was presented.
- Ms. Núñez restated that this was the same as the other that have come before the Board. The hours of operation are going to be from 7:00 a.m. to midnight (12:00 a.m.).
- The site plan provided by the 7-11 corporate was presented.
- The floor plan of the existing store was presented.
- An Aerial View of the subject property was presented to describe the surrounding land uses. The properties around are zoned Commercial to the east, south and west and Light Industrial to the north.
- Surrounding commercial properties include Burger King, the Blue Wave Express right next to it, Amax Insurance, Starbucks is down west Tyler and the Lone Star Inn and Suites. On the end that is Light Industry, there is the old AEP building and across the way is the Harlingen Travel Information Center.
- The legal notice that was sent out was presented.
- A photo of a Stripes in Pharr showing what they are proposing was presented.
- Ms. Núñez stated that Staff does recommend approval of the Special Use Permit subject to the following conditions –
  - Maintaining and obtaining all State and City permits,
  - Maintaining the required parking, which is fifteen (15) parking spaces,
  - Provide minimum thirty (30) day surveillance,
  - Abiding by their hours of operation, which are 7:00 a.m. to 12:00 a.m. (midnight) every day, and
  - Complying with all of the requirements administered by Planning and Zoning, Building Inspections, Fire Prevention Bureau, Health and the Police Department.

Chairman Consiglio thanked Ms. Núñez. He asked if there were any questions for Staff.

Comr. Flores cited the chain history of convenience stores. He questioned that the stores already sell alcoholic beverages. Ms. Núñez said that they do. She said that the difference is that the permit that they have right now is for off-premise consumption. Comr. Flores asked if they would drink on-premise. Ms. Núñez said this was correct. She said that this was similar to your typical bar and grills where you can order a meal and an alcoholic beverage. She said this is what they were planning to do

here. Chairman Consiglio asked if this was all in-line with the past meeting and other meeting before that. Ms. Núñez said this was correct and explained that all they are doing is changing the type of alcohol license that they have from TABC to change from off-premise to on-premise consumption of alcoholic beverages. Mr. Cervantes added that if this is approved, they will get this margarita machine and then the margarita can be taken to go, or you can drink it with your meal at the tables inside the store. He said the machine would be in the cooking area and not accessible to the public and that you would be carded.

Comr. Sanchez asked if this would be specific to the margarita drink or if you could buy a six pack of beers and drink them on the premise. Mr. Cervantes said you could technically buy one of the single beers and drink it there with your meal.

Chairman Consiglio asked about the photo example of the Stripes in Pharr. Ms. Núñez said it was an example of what they are proposing to do here. She pointed out the location of the margarita machine in the photo from the PowerPoint presentation. She said it was facing towards the Laredo Taco Company section and not out towards the public. She said you have to be served this alcohol; that you can't just go and serve it yourself.

The Chrm. asked if there were any questions for staff. Upon hearing none, he proceeded to the Public Hearing on the item. The Public Hearing was opened. The Vice Chrm. asked if there was anyone present that would like to speak on this item, either for or against, and asked them to approach the podium. Upon hearing and seeing no one, the Public Hearing was closed.

Chairman Consiglio asked if there was a motion. Comr. Sanchez made the motion to approve. Comr. Cruz-Velázquez seconded the motion. The Chrm. asked if there was a need for further discussion and upon hearing none moved the motion to a vote. The motion passed unanimously.



9(b)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 21, 2024**

**Agenda Item:**

Public hearing for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, located at 1837 Stuart Place Road, bearing a legal description of Lots 1 and 2, Block 1 North Star Business Center Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment **(Planning & Development)**

Prepared By: Xavier Cervantes, AICP, CPM

Title: Planning and Development Director

Signature: *Xavier Cervantes*

**Brief Summary:**

Project Timeline

- August 19, 2024 – Application for Special Use Permit (SUP) submitted to the City. **(ATTACHMENT I)**
- September 23, 2024 – In accordance with State and local law, notice of required public hearings mailed to all property owners within 200 feet of subject tract.
- September 28, 2024 – In accordance with State and local law, notice of required public hearings published in the Valley Morning Star.
- October 9, 2024– Public hearing and consideration of requested Special Use Permit by the Planning and Zoning Commission.
- October 21, 2024 – Public hearing and consideration of requested Special Use Permit via 1<sup>st</sup> ordinance reading scheduled before the City Commission.
- November 6, 2024 – Pending approval of 1<sup>st</sup> ordinance reading, consideration of approval of 2<sup>nd</sup> ordinance reading scheduled before the City Commission.

Summary

- Per Section 111-62 the City of Harlingen's Code of Ordinances, the sale of alcoholic beverages for on-site consumption in a General Retail ("GR") District requires the approval of a Special Use Permit (SUP) by the City Commission.
- 7-Eleven Inc., the applicant, is requesting a Special Use Permit to allow the sale of alcohol for on-site consumption in an existing Stripes Convenience Store located at 1837 Stuart Place Road. The Stripes Convenience Store is approximately 4,833 square feet. **(ATTACHMENT II, III)**
- According to the site plan and information submitted, the applicant has applied to change their TABC application from a "Wine and Malt Beverage Retailers Off Premise Permit ("BQ") to a Wine and Malt Beverage Retail Dealer's On-Premise Permit ("BG"), which allows for the sale of wine and malt beverages for on- and off-premise consumption. The applicant is proposing to sell a wine based ready-to-drink product known as the "Margarita" for on-premise consumption. Seating will be provided indoors for the on-premise consumption. The hours of operation will be every day from 7:00 a.m. to 12:00 p.m. Seventeen (17) parking spaces are required, and fifty-five (55) parking spaces are provided. **(ATTACHMENT IV AND V).**
- Surrounding properties are zoned General Retail ("GR") District to the south and Residential, Single-Family ("R-1") District to the west, to the north and east is



County. Surrounding land uses consist of a Residential, Single-Family houses to the west and O'Reilly's Auto Parts to the south. **(ATTACHMENT IV, V)**

- The Special Use Permit (SUP) for the Stripes Convenience Store located at 1610 S. F Street was approved by the Planning & Zoning Commission on March 27<sup>th</sup>, 2024, and by the City Commission on April 17<sup>th</sup>, 2024. Additionally, the Special Use Permits (SUPs) for the following Stripes Convenience Stores located at 1725 S. F Street, 202 N. Ed Carey, 1250 N. 77 Sunshine Strip, and 1313 Haverford Boulevard, were approved by the Planning & Zoning Commission on September 25<sup>th</sup>, 2024, and by the City Commission on October 2<sup>nd</sup>, 2024.
- The Building Inspections Department, Fire Prevention Bureau, Harlingen Police Department, and Health Department have reviewed the application and recommended approval of the Special Use Permit. **(ATTACHMENT VI-VIII)**
- In accordance with the zoning ordinance, the P&Z Commission and City Commission may impose requirements and conditions of approval as needed to ensure that a use requested by a SUP is compatible and complementary to adjacent properties.
- To present, the Planning and Development Department has not received any calls regarding the Special Use Permit (SUP) request. Staff mailed out four notices to surrounding property owners.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

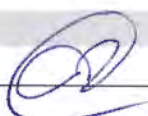
**Staff Recommendation:**

Staff recommends approval of the special use permit subject to complying with the following conditions:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by the Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, every day.

City Manager's approval:  ☐ Yes ☐ No ☒ N/A

**Comments:**

City Attorney's approval:  ☐ Yes ☐ No ☐ N/A

## **PLANNING AND ZONING COMMISSION**

**October 9, 2024**

**Public hearing and take action to consider a request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District located at 1837 Stuart Place Road, bearing a legal description of Lots 1 and 2, Block 1, North Star Business Center Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven, Inc.**

City Planner, Soledad A. Núñez presented the following information related to the request for a Special Use Permit, as follows:

- Ms. Núñez prefaced the information by saying this was the exact same thing.
- The Legal Notice map that was sent out was presented. She said this was the Stripes on Stuart Place Road, on the corner of Stuart Place Road and Wilson Road.
- The footprint of the store is approximately four thousand, eight hundred and thirty-three (4833) square feet.
- A Street View of the subject property from Stuart Place Road was presented.
- A Street View of the subject property from Wilson Road was presented.
- Ms. Núñez stated that this was the same type of liquor license and that they are proposing to go from off-premise to on-premise for consumption of margaritas inside the store.
- Surrounding properties are zoned general retail to the south and then single-family residential to the west. The area to the north and east is inside Cameron County.
- The site plan provided by the company was presented.
- The floor plan of the store was presented.
- Ms. Núñez said they are required to have seventeen (17) parking spaces, and they have fifty-five (55) on premise.
- An aerial view was presented. Ms. Núñez pointed out the single-family homes in the area. She identified the Dollar General and the O-Reilly's Auto Part store right next to the property. She identified the area that was in the County.
- The legal notice that was sent out was presented.
- Ms. Núñez stated that Staff is recommending approval of the Special Use Permit subject to the following conditions –
  - Obtaining and maintaining all State and City permits.
  - Maintaining the required parking.
  - Provide minimum thirty (30) day surveillance,
  - Complying with all the requirements from the appropriate city departments, and
  - Abiding by their hours of operation, which are 7:00 a.m. to 12:00 a.m. (midnight) every day.

Chairman Consiglio thanked Ms. Núñez. He asked for clarification regarding the mailout since the property is right on the border of the City Limit. Ms. Núñez said that the mailout went out to areas to the west and south. She said that everything outside of the City did not receive the notice. The Chrm. Consiglio asked how many residential properties she thought had gone out. Ms. Núñez said it would have just been that one, referencing the map. She said that the area further down was corporate properties.



The Chrm. to the Public Hearing on the item. The Public Hearing was opened. The Vice Chrm. asked if there was anyone present that would like to speak on this item, either for or against, asking them to approach the podium. Upon hearing and seeing no one, the Public Hearing was closed.

Chairman Consiglio asked if there was a motion. Cmr. Cruz-Velázquez made the motion to approve. Cmr. Flores seconded the motion. The Chrm. moved the motion to a vote. The motion passed unanimously.

9(c)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

**Meeting Date:** October 21, 2024

**Agenda Item:**

Public hearing amending the City of Harlingen Code of Ordinances, Chapter 109, Subdivisions, Article VII, Cost Participation, Section 109-193(5), Park Land Dedication, Exemption, to add a provision which exempts non-profits that focus on affordable housing from paying park fees. Applicant: City of Harlingen. Attachment (***Planning & Development***)

Prepared By: Xavier Cervantes, AICP, CPM

Title: Planning and Development Director

Signature: *Xavier Cervantes*

**Brief Summary:**

Project Timeline

- September 28, 2024 - In accordance with State and local law, notice of required public hearings published in the Valley Morning Star.
- October 9, 2024 - Public hearing and consideration of the subdivision ordinance amendment by the Planning and Zoning Commission.
- October 16, 2024 - Consideration of the requested ordinance amendment via 1<sup>st</sup> ordinance reading scheduled before the City Commission.
- November 6, 2024 - Pending approval of 1<sup>st</sup> ordinance reading, consideration of approval of 2<sup>nd</sup> ordinance reading scheduled before the City Commission.

Summary

- The Parkland Dedication ordinance was adopted on November 1, 2023. The ordinance established park fees for new residential subdivisions at \$450.00 per dwelling unit with an automatic annual increase of \$25.00 per dwelling unit.
- There are non-profit organizations that develop subdivisions throughout the Rio Grande Valley that are negatively affected by the implementation of the payment of the required park fees. These are community based non-profit organizations dedicated to enhancing the quality of life by providing affordable housing and related services to eligible families. These agencies provide home ownership opportunities and financial education to low-income residents of South Texas. They provide a service to working families who would otherwise not qualify for a conventional bank mortgage. In addition, they provide multi-cultural, in-house home buyer education.
- The proposed ordinance amendment would exempt these agencies from having to pay the required park fees during the subdivision process.
- The proposed changes to the Code of Ordinances are noted on the attached ordinance with the additions underlined.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount for this purpose?

☐

Yes

☐

No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval:

☐

Yes

☐

No

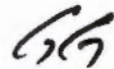
☐

N/A

**Staff Recommendation:**

Staff recommends approval.

City Manager's approval:



☐

Yes

☐

No

☒

N/A

Comments:

City Attorney's approval:



☒

Yes

☐

No

☐

N/A



## **PLANNING AND ZONING COMMISSION**

**October 9, 2024**

**Public hearing and take action to consider a request to amend the City of Harlingen Code of Ordinances, Chapter 109, Subdivisions, Article VII, Cost Participation, Section 109-193(5), Park Land Dedication, Exemption, to add a provision which exempts non-profits that focus on affordable housing from paying park fees. Applicant: City of Harlingen**

Xavier Cervantes, Planning and Development Director, presented the request to amend the Code of Ordinances as follows:

Mr. Cervantes recounted to the Board that it was last November when the city adopted the new ordinance to require park fees on any new residential subdivision which would include single-family homes, duplexes, apartments, etc. He stated that developers are now required to pay four hundred and fifty dollars (\$450) per dwelling unit and there is also an inflation factor. He explained that at the one (1) year anniversary, it goes up automatically by twenty-five dollars (\$25). He said that in November of this year, the park fee will be four hundred and seventy-five dollars (\$475) per dwelling unit. He further explained that this is paid prior to the recording of the subdivision, adding that the park fees have already been paid before the P&Z Chairman signs the mylar. He mentioned that several subdivisions have been processed already under the park fees rules. He recounted that they go before this Board and then they go before the City Commission, and that Staff informs how much they have to pay and to what park zone it goes.

He explained that there are agencies that are nonprofits that focus on affordable housing. He said that there was one headquartered in McAllen, one in Harlingen and one in Brownsville. He explained they are nonprofit corporations, and that they focus on providing affordable housing to people that normally don't qualify for a conventional mortgage. He said these agencies are able to get federal grants, state grants and city assistance to make these houses affordable for working families that don't qualify because they don't have the income to qualify for a typical mortgage. Mr. Cervantes continued and said that the required park fees affect their bottom line on being able to provide affordable housing and said they need to save as much as possible on the development fees and the required infrastructure to be able to provide their homes at rates that families can afford. Mr. Cervantes said that this was something that was discussed with the mayor and that the mayor is very interested in giving agencies like this a break from having to pay these fees, in the spirit of providing affordable housing in Harlingen.

Chairman Consiglio thanked Mr. Cervantes. He asked if there were any questions for Staff.

Cmr. Cruz-Velázquez indicated she had a question. She prefaced by saying that she thought this was great and that she was really in favor of this. Cmr. Cruz-Velázquez asked if this could create a loophole for regular developers to create a non-for-profit corporation to bypass the fees. She asked if we needed to be more specific. Mr. Cervantes directed the Cmr. to the new language in the ordinance. He noted that he put in the ordinance that the articles of incorporation for the non-profit will have to be reviewed and approved by the City attorney. Mr. Cervantes also added that he knows who the developers are and who the nonprofits are and said that if he noticed something like this, he would be on the lookout.

Chairman Consiglio asked if these organizations ever team up with a traditional developer per se and develop projects and if there is a partnership too. He said this created a big umbrella. The Chrm. remarked that he was sure Attorney Sossi helped to write the language but pointed out that Cmr. Cruz-Velázquez had a good point of someone trying to work the system. He mentioned a recent item with a developer whose bill was like one hundred and twenty thousand dollars, (\$120,000) in park fees. He said it was a considerable amount of money and that there may be thoughts about how to create a loophole. Chairman Consiglio remarked that it this was definitely something that, if it is in the spirit of what we are trying to do, we should make sure it is as ironclad as possible. Cmr. Flores added that there was a developer, about a month or so ago, that wanted a discount from about sixty thousand dollars (\$60,000) to thirty thousand dollars (\$30,000). He remarked that it was too much money for park equipment and that half the time going by those subdivisions, there is nobody out there, regardless of the time of day. He said maybe just dogs. Cmr. Flores said that some of the developers might not be able to afford these [park fees] and so he agreed that this should be handled on a case-by-case basis. Cmr. Cruz-Velázquez said this had been her only concern but reiterated that she was all for this. Mr. Cervantes said that this is why he had included that language in there. He said that if a developer wants to be exempt then he would need to show the articles of incorporation and that these would be taken to the City attorney for review and approval. Otherwise, the exemption would not be accepted.

Cmr. Cruz-Velázquez asked if there could be a second level of review. Mr. Cervantes pointed out that the item would come before this Board and then it goes before the City Commission. He said that this would be the double review.

The Chrm. indicated the item has a Public Hearing and proceeded. The Public Hearing was opened. The Chrm. asked if there was anyone that would like to speak for or against this item and asked them to approach the podium.

#### **Myra Martinez, CEO for Affordable Homes of South Texas**

Ms. Martinez introduced herself before the Board. She made a disclaimer about her title, saying that it implies corporate, but stressed that it was actually a nonprofit affordable housing development organization that they have. She said they were a rather large organization and that they were hopeful to come into Harlingen to build their first affordable housing subdivision. She said that she was a Harlingen native and that although she no longer lived here, her family still lives here and that nothing would make her prouder than to know the organization that she has worked at for twelve (12) years, and seeing it make such an impact on families across the valley, could come here and make an impact on Harlingen families as well.

Ms. Martinez said she could understand the concern about circumventing the system. She said that there will always be people trying to hustle and see how they can create that. She said that from experience the model for each organization tends to vary. She said their model is that they are the developer and the general contractor. She said that they go out and procure subs and that they build the homes themselves and do not partner with a corporate builder. She said there are other organizations too but that as long as you take a good look at the Articles of Incorporation and look at their model, then you will be able to tell very quickly if they are a true nonprofit that does this on their own or if they are partnering with a developer, their history and if it is of benefit. She also stated that a nonprofit who just chartered brand new Articles of Incorporation and brand new everything, would not be able to build a subdivision right off the bat and that it would be virtually impossible.

Ms. Martinez continued and said that the fee waiver does make a big impact in their families being able to afford homeownership. Ms. Martinez affirmed that it was not a handout and said it was a thirty (30) year fixed rate mortgage and that just like anything else, they pay insurance and property taxes on

it. She said that since the pandemic, unfortunately, the income of the customers that they are forced to serve is nearing about forty-five to fifty thousand dollars (45,000-50,000) a year in income. She said the lower, moderate-income level has been left out. She said they are making efforts to try to find other ways that they can leverage the funding that they receive to reach those lower income families. She said that it was tough but that in cases like this, where they can waive fees here and there, that it does make a big impact in being able to help those households at a lower income level.

Ms. Martinez introduced Mr. Ricardo Garcia, who was accompanying her today and is the consultant on the project. She said that he wanted to provide some project specifics. Chairman Consiglio thanked Ms. Martinez.

**Ricardo Garcia, Affordable Homes of South Texas consultant**

Mr. Garcia addressed the Board and expressed his thanks to Mr. Cervantes, to the City Manager and Mayor Sepulveda. He said they were present at their request.

Mr. Garcia said that Affordable Homes of South Texas had been in existence for almost forty-eight (48) years, remarking that they were not the new kids on the block. He said that his experience has been local government, saying that he worked thirty-three (33) years in city government but was now retired and doing some help with consulting in terms of affordable homes. He said they are looking at a piece of property that is thirty (30) acres in Harlingen. He said they are putting the pencil to it to see if this is viable for them to do. He mentioned that they have partnered in every community with the city through the waivers of the permit fees, development fees, impact fees and in some cases use of CDBG funds to assist homeowners. He said that every community was different and that they didn't set the model, so they work with each community to make sure that they deliver a product that is affordable to the local families. He said that this is part of what they were wanting to do and that he appreciated the opportunity to be here.

Comr. Sanchez asked about the average home value. Ms. Martinez said she could speak to what they have in the upper Valley. She said the sales price ranges anywhere from one hundred and sixty thousand to one hundred and ninety thousand dollars (\$160,000-\$190,000). She commented that they had barely started getting into the low two (2) hundreds and that this was a shock for them. She said that, as Mr. Garcia had stated, they have been doing this a long time and shared that they are selling now at what it cost us to build just a couple of years ago. She said the prices are just insane. Ms. Martinez continued and explained that they have their own loan product, their own portfolio loan product, which is what helps them maintain that level of affordability. She said that even with that, they have to understand that there are going to be some people that can't afford it and that there is only so much they can do, but that they still try. She said that not everybody gets grants and that there are not a lot of grants out there. She said that sometimes foundations help them and that they are not all federal funds but that they try to leverage what they can to do more and make the gap achievable and less of a gap.

Ms. Martinez added that something else that they do in addition to the building and financing of the homes is that they are also a HUD approved counseling agency, which means they counsel families on getting mortgage ready if they are not ready yet. She said they counsel them for free to get mortgage ready. She explained that they provide a two (2) hour financial fitness skills class on budgeting, taking care of their credit. She said they also offer post purchase classes to teach them how to make their own simple repairs in their homes such as repairing holes in the sheetrock and maintain their home in addition to protecting their investment. She talked about having them do a will or a TOD (Transfer on Death Deed) on their home so that when the day comes that they have to pass it on, their kids don't



have to worry about that. She said they are building wealth from generation to generation. She referenced their customer profiles over the years and said they have customers that are fourth (4<sup>th</sup>) generation buyers. She said they were doing something great for the community and said it was a quality product that was an Energy Star certified home that keep utility bills low.

Cmr. Flores asked if this was the same company that was called South Texas Homes or something along those lines. Ms. Martinez said no and explained that when they were incorporated back in 1976, it started off as McAllen Housing Services focused on McAllen only. She said they had some names changes and then had a merger that created the Community Development Corporation of South Texas that would then take care of anybody outside of McAllen. She said they were two (2) organizations for some time but then they merged in 2008 to become Affordable Homes of South Texas which is valley wide. Cmr. Flores recounted having worked for Mr. Garcia as the Building Official in Mercedes and praised the work by the organization, saying they did a fantastic job in compliance with all the requirements of the building code. Ms. Martinez said they were very proud of that.

Mr. Garcia returned to the podium and added that Affordable Homes of South Texas had a very low default rate and said that this spoke to the quality of work done by the staff and making sure that a family is ready to assume the responsibility that come with a home, with the maintenance and cost. Ms. Martinez added that defaults are rare and that they work with them. She said they service the loans themselves and not a third party, and that they work with customers. She shared that they really get to know them being a one-stop shop, saying that they start off with them and then take a picture and celebrate with them when they make their last payment, tearing up the note. She acknowledged that some of them just can't, having lost their job and being unable to find one but that overall, the families tried their hardest to make their house payments. She reiterated that their default rate was very low, at maybe one (1) every other year, if that.

Mr. Cervantes asked whether they had offices in Weslaco too. Ms. Martinez said yes. She stated that any services they would provide for Harlingen families would be done in Harlingen. She said they would find a location and added that they can bring their classes on-site to do in Harlingen so they wouldn't have to travel.

Chairman Consiglio asked if there any other questions or comments.

Cmr. Cruz-Velázquez indicated that she had a question for the record. She asked if McAllen had already done this [waiver] for them; if we would be joining other cities that have been giving this exemption. Ms. Martinez said this was correct, stating that this is in every city that build and that this was basically copying what every other city has.

At this point Chrm Consiglio closed the Public Hearing and thanked the attendees for speaking on this item.

Cmr. Sanchez said he thought this was a great idea. He addressed Mr. Cervantes asking if rather than changing the ordinance, if it would be better to handle it as a variance. Mr. Cervantes said that this was the best way to go because the word "variance" has a negative connotation and that this way, other non-profit agencies could qualify for the exemption. He explained how the ordinance will work if approved. He said he will take the Articles of Incorporation to the City attorney for review and approval. He said that when the subdivision comes before the Board, it will have a recommendation from the City attorney whether it meets the exemption for not having to pay the park fees.

Chairman Consiglio asked Mr. Cervantes if he foresaw having to submit the Articles of Incorporation to the City attorney would delay any of the projects for weeks or months at a time. Mr. Cervantes said no. He said that subdivisions take time to process and that he could use that time to visit with the City Attorney to have him review it. He added that a large subdivision was processed recently and that it took less than a month from subdivision application to P&Z approval. He said that the process could happen that quickly. Mr. Cervantes said that the Articles of Incorporation could be included in the meeting packet.

Chairman Consiglio asked if there was a motion. Cmr. Cruz-Velázquez made the motion to approve. Cmr. Sanchez seconded the motion. The Chrm. asked if there was a need for further discussion and upon hearing none moved the motion to a vote. The motion passed unanimously. Cmr. Cruz-Velázquez addressed the guests telling them "Welcome to Harlingen". Others joined and told them they did a good job.

**AGENDA ITEM  
EXECUTIVE SUMMARY**

10(a)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on first reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, located at 1826 W. Tyler Avenue, bearing a legal description of Lot 1, Block 1, Storm Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (**Planning & Development**)

Prepared By: Xavier Cervantes, AICP, CPM

Title: Planning and Development Director

Signature: *Xavier Cervantes*

**Brief Summary:**

Project Timeline

- August 19, 2024 – Application for Special Use Permit (SUP) submitted to the City. (**ATTACHMENT I**)
- September 23, 2024 – In accordance with State and local law, notice of required public hearings mailed to all property owners within 200 feet of subject tract.
- September 28, 2024 – In accordance with State and local law, notice of required public hearings published in the Valley Morning Star.
- October 9, 2024– Public hearing and consideration of requested Special Use Permit by the Planning and Zoning Commission.
- October 21, 2024 – Public hearing and consideration of requested Special Use Permit via 1<sup>st</sup> ordinance reading scheduled before the City Commission.
- November 6, 2024 – Pending approval of 1<sup>st</sup> ordinance reading, consideration of approval of 2<sup>nd</sup> ordinance reading scheduled before the City Commission.

Summary

- Per Section 111-62 the City of Harlingen's Code of Ordinances, the sale of alcoholic beverages for on-site consumption in a General Retail ("GR") District requires the approval of a Special Use Permit (SUP) by the City Commission.
- 7-Eleven Inc., the applicant, is requesting a Special Use Permit to allow the sale of alcohol for on-site consumption in an existing Stripes Convenience Store located at 1826 W. Tyler Avenue. The Stripes Convenience Store is approximately 4,084 square feet. (**ATTACHMENT II, III**)
- According to the site plan and information submitted, the applicant has applied to change their TABC application from a "Wine and Malt Beverage Retailers Off Premise Permit ("BQ") to a Wine and Malt Beverage Retail Dealer's On-Premise Permit ("BG"), which allows for the sale of wine and malt beverages for on- and off-premise consumption. The applicant is proposing to sell a wine based ready-to-drink product known as the "Margarita" for on-premise consumption. Seating will be provided indoors for the on-premise consumption. The hours of operation will be every day from 7:00 a.m. to 12:00 p.m. Fifteen (15) parking spaces are required, and nineteen (19) parking spaces are provided. (**ATTACHMENT IV AND V**).
- Surrounding properties are zoned General Retail ("GR") District to the east, south



and west and Light Industry ("LI") District to the north. Surrounding land uses consist of a BlueWave Express Car Wash, A-MAX Auto Insurance, and PNC Bank to the east, Burger King and Lone Star Inn & Suites to the south, the Texas Travel Information Center to the west, and AEP Harlingen to the north. **(ATTACHMENT IV, V)**

- The Special Use Permit (SUP) for the Stripes Convenience Store located at 1610 S. F Street was approved by the Planning & Zoning Commission on March 27<sup>th</sup>, 2024, and by the City Commission on April 17<sup>th</sup>, 2024. Additionally, the Special Use Permits (SUPs) for the following Stripes Convenience Stores located at 1725 S. F Street, 202 N. Ed Carey, 1250 N. 77 Sunshine Strip, and 1313 Haverford Boulevard, were approved by the Planning & Zoning Commission on September 25<sup>th</sup>, 2024, and by the City Commission on October 2<sup>nd</sup>, 2024.
- The Building Inspections Department, Fire Prevention Bureau, Harlingen Police Department, and Health Department have reviewed the application and recommended approval of the Special Use Permit. **(ATTACHMENT VI-VIII)**
- In accordance with the zoning ordinance, the P&Z Commission and City Commission may impose requirements and conditions of approval as needed to ensure that a use requested by a SUP is compatible and complementary to adjacent properties.
- To present, the Planning and Development Department has not received any calls regarding the Special Use Permit (SUP) request. Staff mailed out six notices to surrounding property owners.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

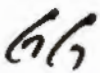
\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the special use permit subject to complying with the following conditions:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by the Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, every day.

City Manager's approval:  ☒ Yes ☐ No ☐ N/A

City Attorney's approval:  **Comments:** ☒ Yes ☐ No ☐ N/A

# ATTACHMENT I

## CITY OF HARLINGEN PLANNING AND DEVELOPMENT DEPARTMENT MASTER APPLICATION

40711A

### PROPERTY INFORMATION: (Please PRINT or TYPE)

Project Address 1826 W TYLER AVE Nearest Intersection Tyler Ave and S Expressway 83  
(Proposed) Subdivision Name Harlingen- Storm Lot 1 Block 1  
Existing Zoning Designation Retail Future Land Use Plan Designation On Premise Alcohol Sales

### OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)

Applicant/Authorized Agent Tim Ilaoa Phone 972-890-2560 FAX N/A  
Email Address (for project correspondence only): tim@texaslicensing.net  
Mailing Address 217 E. Main St. #819 City Royse City State TX Zip 75189  
Property Owner 7-Eleven Inc. Phone 972-828-6265 FAX N/A  
Email Address (for project correspondence only): shantelle.grier-green@7-11.com  
Mailing Address P.O. Box 139044 City Dallas State TX Zip 75313

Select appropriate process for which approval is sought. Attach completed checklists with this application.

- |                                                                              |                                                                                             |
|------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Annexation Request..... <u>No Fee</u>               | <input type="checkbox"/> Preliminary Construction Plans and Final Plat..... <u>\$150.00</u> |
| <input type="checkbox"/> Administrative Appeal (ZBA)..... <u>\$125.00</u>    | <input type="checkbox"/> Minor Plat ..... <u>\$100.00</u>                                   |
| <input type="checkbox"/> Comp. Plan Amendment Request... <u>\$250.00</u>     | <input type="checkbox"/> Re-Plat..... <u>\$250.00</u>                                       |
| <input type="checkbox"/> Re-zoning Request ..... <u>\$250.00</u>             | <input type="checkbox"/> Vacating Plat..... <u>\$250.00</u>                                 |
| <input checked="" type="checkbox"/> SUP Request/Renewal..... <u>\$250.00</u> | <input type="checkbox"/> Development Plat ..... <u>\$50.00</u>                              |
| <input type="checkbox"/> Zoning Variance Request (ZBA).... <u>\$250.00</u>   | <input type="checkbox"/> Subdivision Variance Request..... <u>\$25.00 (each)</u>            |
| <input type="checkbox"/> PDD Request..... <u>\$250.00</u>                    | <input type="checkbox"/> Right-of-Way / Utility Easement Abandonment..... <u>No Fee</u>     |
| <input type="checkbox"/> License to Encroach..... <u>\$250.00</u>            |                                                                                             |

Please provide a basic description of the proposed project: Changing the alcohol type from off-premise alcohol sales to on-premise

\*See enclosed letter

I hereby certify that I am the owner and/or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Applicant's Signature: Tim Ilaoa Date: 8/15/24

Property Owner(s) Signature: [Signature] Date: 8/15/24

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_



Street View from West Tyler





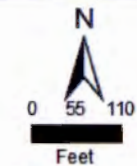
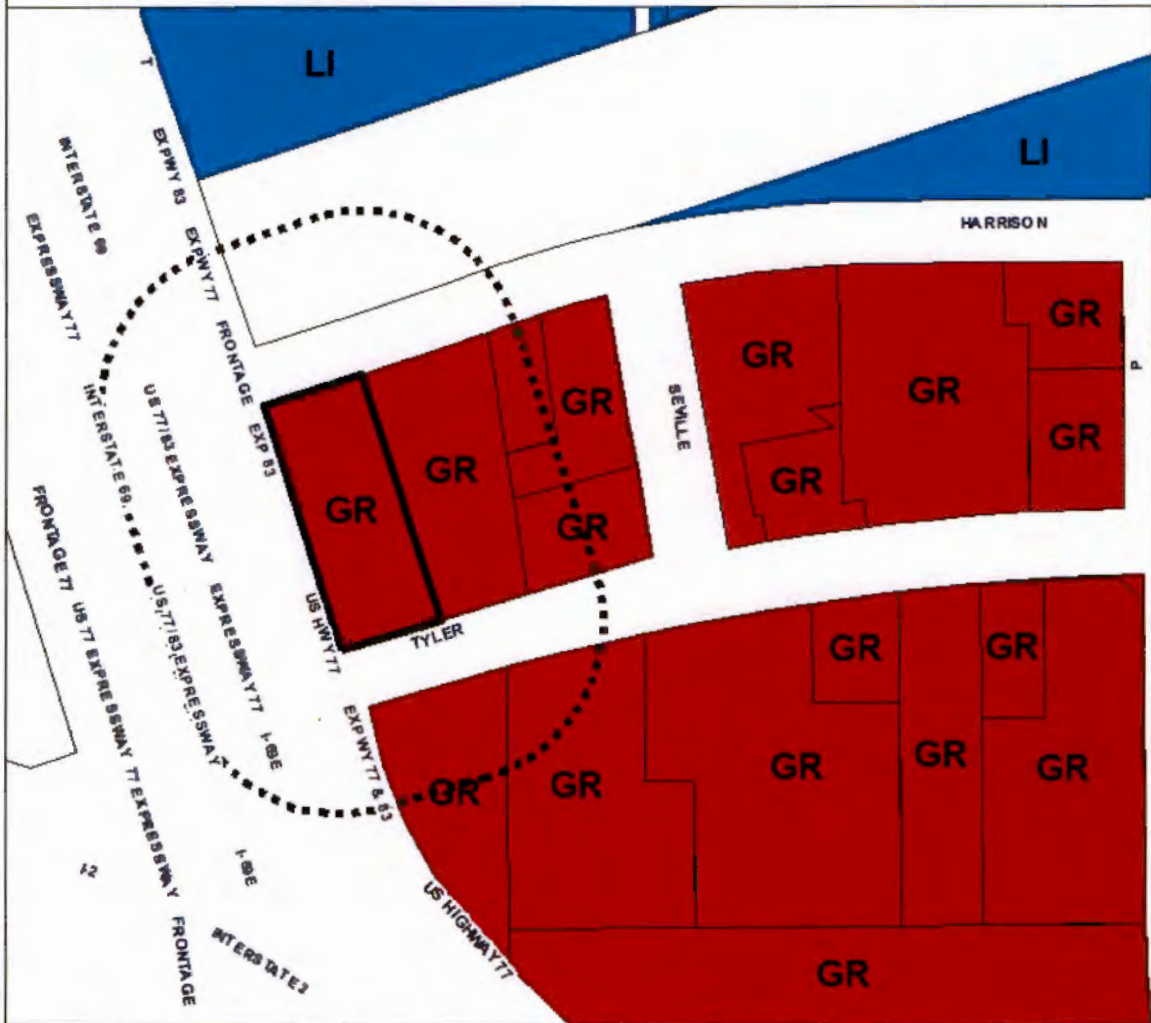
Street View from West Harrison



# ATTACHMENT III



Request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-site consumption, in a General Retail District ("GR") located at 1826 W. Tyler Avenue, bearing a legal description of Lot 1, Block 1, Storm Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven inc.



## Boundary lines

- Harlingen city limits shp
- 200' Notification Boundary
- Subject Property

## Zoning Designations

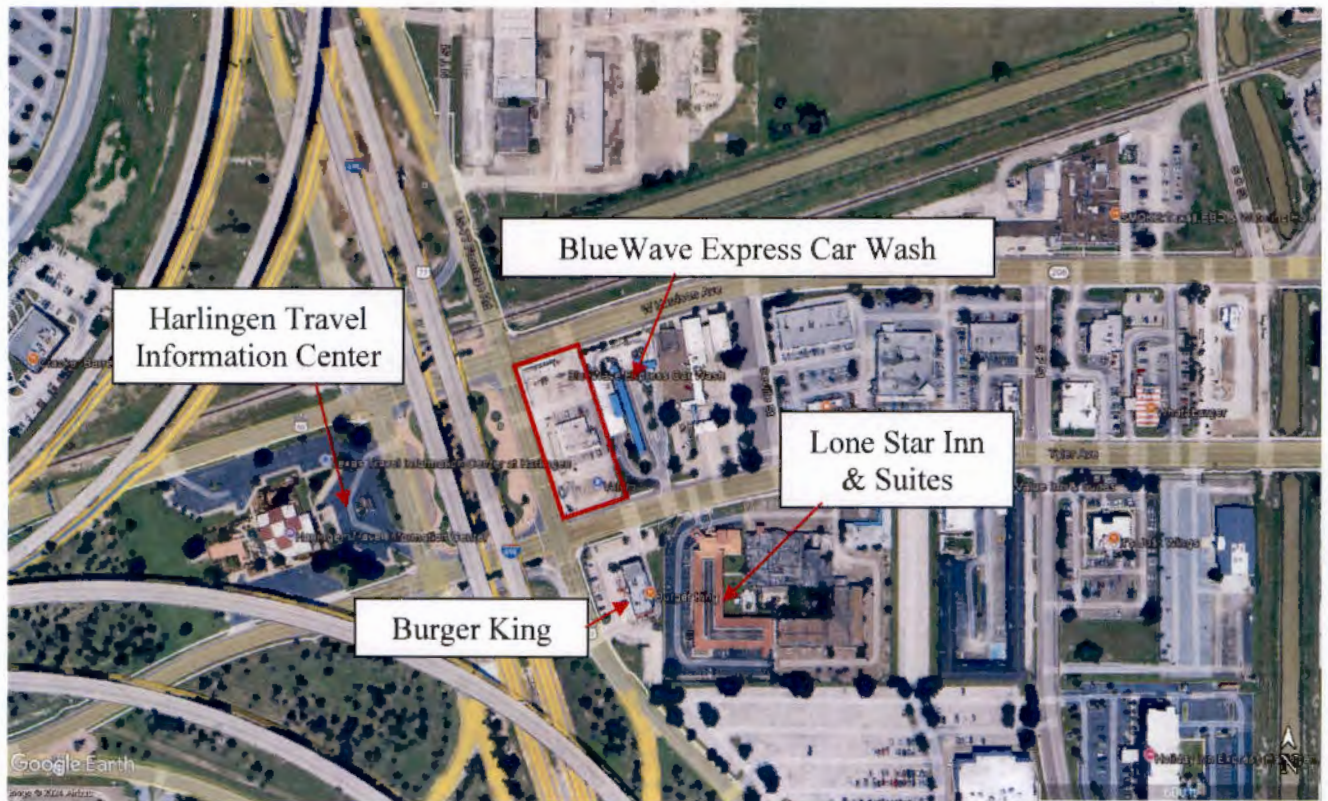
- |                           |                               |                                |
|---------------------------|-------------------------------|--------------------------------|
| General Retail (GR)       | Multi Family Residential (M2) | Office (O)                     |
| Heavy Industry (HI)       | Mobile Home Residential (MH)  | Planned Development (PD)       |
| Light Industry (LI)       | Not-Designated (N)            | Single Family Residential (R1) |
| 3/4 Plex Residential (M1) | Neighborhood Services (NS)    | Duplex Residential (R2)        |
|                           |                               | Residential Patio Home (RPH)   |

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 09.23.2024



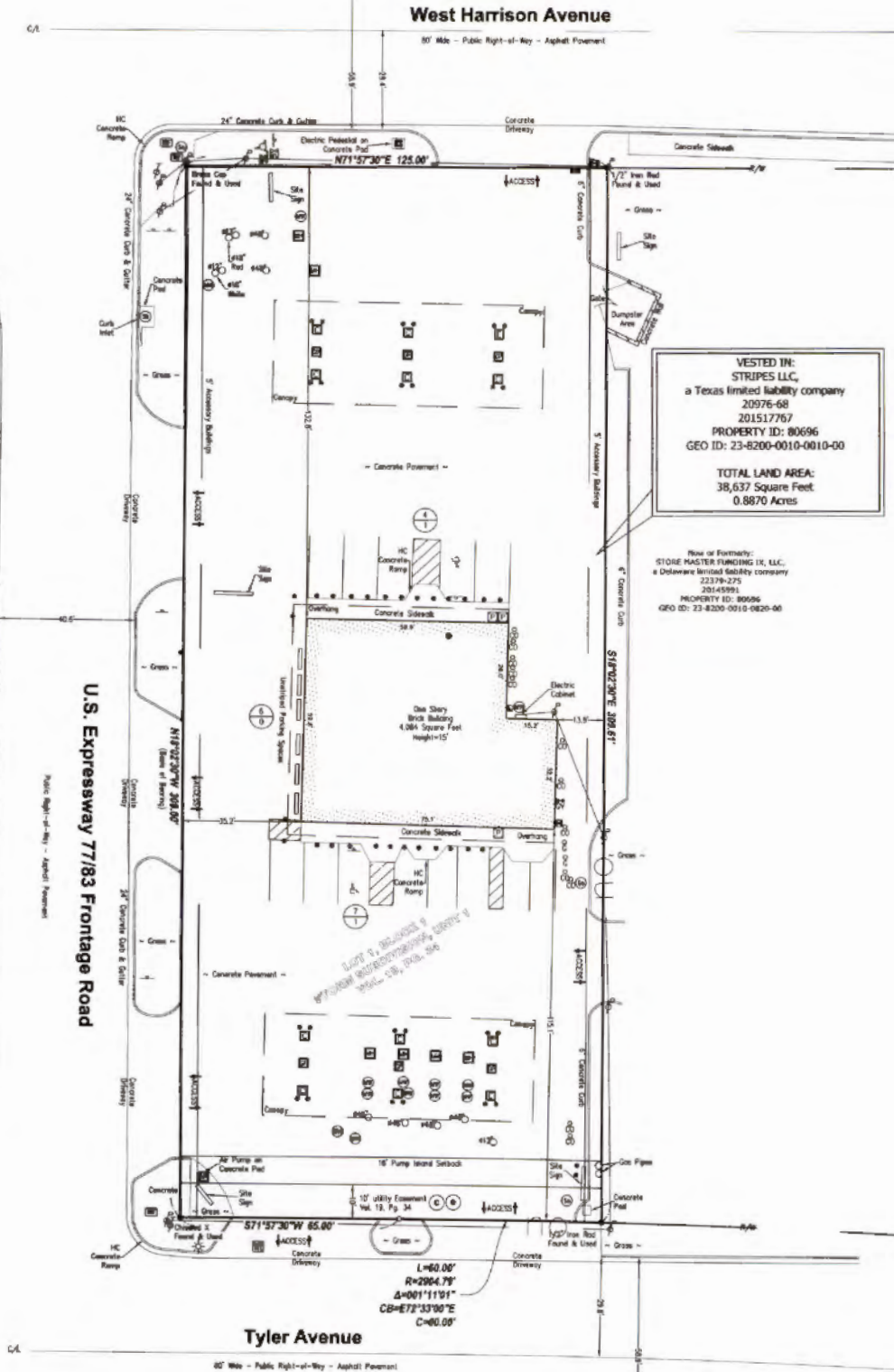
ATTACHMENT IV

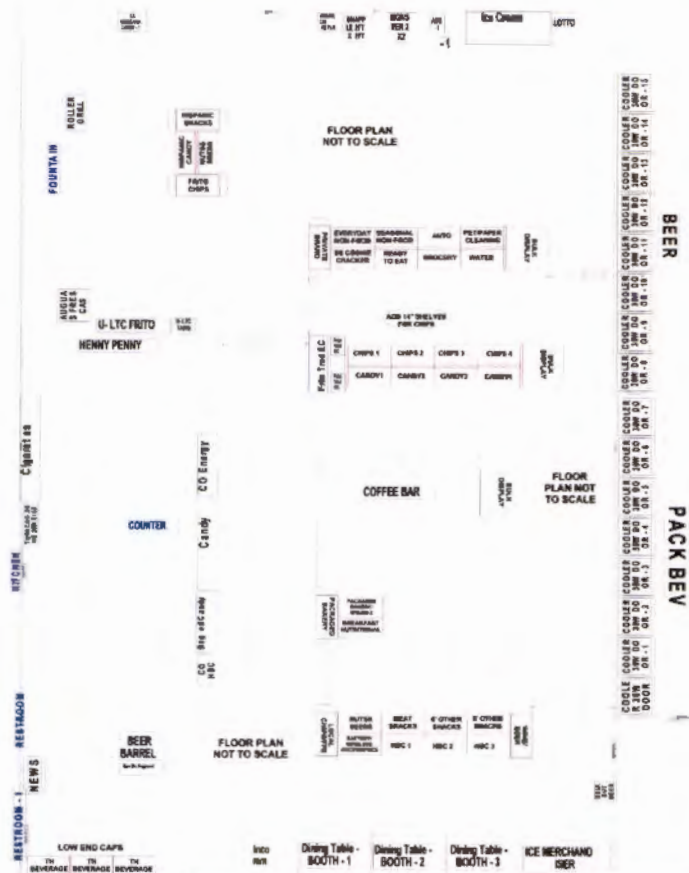
Aerial View





**ATTACHMENT V — Site Plan**





40711-9112  
1826 W. TYLER AVE  
HARLINGEN, TX

MD  
NOT TO SCALE  
REVISED  
7-31-19  
APPROVED  
BY OPS  
7-Eleven Inc.  
Floor Planning Team  
40711-9112

For questions or concerns, please contact: [GM-HorizonPlanogramSupport@7-11.com](mailto:GM-HorizonPlanogramSupport@7-11.com)



**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Tim Ilaoa c/o 7-Eleven Inc.

**Phone No.:** (972) 890-2560

**Location:** 1826 W. Tyler Avenue

**Project Description:** Request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-site consumption, in a General Retail ("GR") District located at 1826 W Tyler Avenue.

**Department:** Fire Prevention Bureau

**Approval:**   X   YES    NO

**Comments:** Applicant will have to meet any code, regulation, ordinance, and standard required for permit.

**Fire Marshal Juan Saucedo Jr.**

Juan Saucedo Jr.

**Date:** September 23, 2024





**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Tim Ilaoa c/o 7-Eleven Inc.

**Phone No.:** (972) 890-2560

**Location:** 1826 W. Tyler Avenue

**Project Description:** Request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-site consumption, in a General Retail ("GR") District located at 1826 W. Tyler Avenue.

**Department:** HARLINGEN POLICE DEPT.

**Approval:** ✓ YES     NO

**Comments:** \_\_\_\_\_

  
**Signature**

  
**Date**



**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Tim Ilaoa c/o 7-Eleven Inc.

**Phone No.:** (972) 890-2560

**Location:** 1826 W. Tyler Avenue

**Project Description:** Request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-site consumption, in a General Retail ("GR") District located at 1826 W. Tyler Avenue.

**Department:** Building Permits and Inspections Department.

**Approval:** X YES         NO

**Comments:**

A Building Permit application for Re-Occupancy with floor plans must be submitted to the building department office for review for the proposed address to comply with the 2018 International Building Code and Family of Codes.

A handwritten signature in blue ink, appearing to be 'Tim Ilaoa', is written over a horizontal line.

**09/23/2024**

**Signature**

**Date**



**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Tim Ilaoa c/o 7-Eleven Inc.

**Phone No.:** (972) 890-2560

**Location:** 1826 W. Tyler Avenue

**Project Description:** Request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-site consumption, in a General Retail ("GR") District located at 1826 W. Tyler Avenue.

**Department:** Health Department

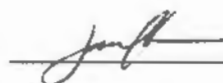
**Approval:**      ☒ YES      ☐ NO

**Comments:**      **7-Eleven located at 1826 W. Tyler Ave. is currently permitted by the Health Department and by the Finance Department at City Hall to sell alcohol on their property. The health permit does not distinguish between the selling or the consumption of alcohol on the property, that rule falls under the Texas Alcohol and Beverage Commission (TABC) and the Texas Alcoholic Beverage Code – ALCO BEV 101.72 Consumption of Alcoholic Beverage on Premises Licensed for Off-Premises Consumption (a) A person commits an offense if the person knowingly consumes liquor or beer on the premises of a holder of a wine and beer retailer's off-premise permit or a retail dealer's off-premise license. No, you cannot drink alcohol in a convenience store in**



**ATTACHMENT X – Health Department con't.**

**Texas if you are knowingly consuming liquor or beer. This is because it is illegal to consume alcohol on the premise of a retailer that holds an off-premise permit or license for wine and beer. 7-Eleven will have to apply for On-premises Consumption Permit**



**Signature**

**10-3-24**

**Date**

## **ORDINANCE NO. 24-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: A SPECIAL USE PERMIT ISSUED TO 7-ELEVEN INC TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON—SITE CONSUMPTION IN A GENEAL RETAIL ("GR") DISRICT LOCATED AT 1826 W. TYLER AVENUE, BEARING A LEGAL DESCRIPTION OF LOT 1, BLOCK 1, STORM SUBDIVISION PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.**

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a change in the zoning classification for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed rezoning having been fully made and complied with as required by said Zoning Ordinance and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

### **BE IT ORDAINED BY THE CITY OF HARLINGEN**

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated in Exhibit "A":

Special Use Permit (SUP) issued to 7-Eleven Inc. to allow the sale of alcoholic beverages for on-site consumption in a General Retail ("GR") District located at 1826 W. Tyler Avenue, bearing a legal description of Lot 1, Block 1, Storm Subdivision as shown in Exhibit "A".

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Chief Building Official and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.

The Special Use Permit is made contingent upon construction being complied in accordance with the site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as Exhibit "A" and shall comply with the conditions as listed below:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by the Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, every day.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2024 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

**CITY OF HARLINGEN**

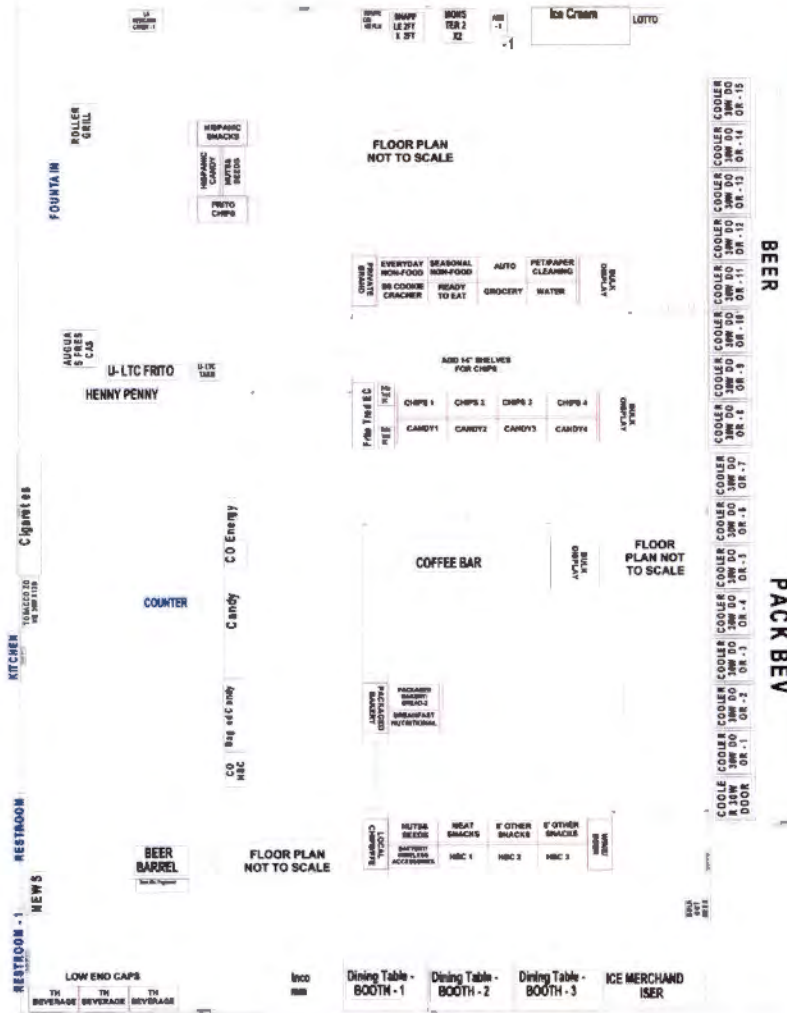
\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary



## Exhibit "A"



DISCLAIMER:  
THIS IS NOT A LEGAL  
DOCUMENT. INTENT TO  
SHOW CURRENT  
EQUIPMENT CONDITIONS

40711-9112  
1826 W. TYLER AVE  
HARLINGEN, TX

DRAWN BY: MD  
 SCALE:  
**NOT TO SCALE**  
 DATE: REVISED  
 7-31-19  
 APPROVED  
 BY OPS  
 7-Eleven Inc.  
 Floor Planning Team

**40711-9112**

For questions or concerns, please contact: [GM-HorizonPlanogramSupport@7-11.com](mailto:GM-HorizonPlanogramSupport@7-11.com)

10(b)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on first reading for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-premise consumption in a General Retail ("GR") District, located at 1837 Stuart Place Road, bearing a legal description of Lots 1 and 2, Block 1 North Star Business Center Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven Inc. Attachment (***Planning & Development***)

Prepared By: Xavier Cervantes, AICP, CPM

Title: Planning and Development Director

Signature: *Xavier Cervantes*

**Brief Summary:**

Project Timeline

- August 19, 2024 – Application for Special Use Permit (SUP) submitted to the City. (**ATTACHMENT I**)
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- September 28, 2024 – In accordance with State and local law, notice of required public hearings published in the Valley Morning Star.
- October 9, 2024 – Public hearing and consideration of requested Special Use Permit by the Planning and Zoning Commission.
- October 21, 2024 – Public hearing and consideration of requested Special Use Permit via 1<sup>st</sup> ordinance reading scheduled before the City Commission.
- November 6, 2024 – Pending approval of 1<sup>st</sup> ordinance reading, consideration of approval of 2<sup>nd</sup> ordinance reading scheduled before the City Commission.

Summary

- Per Section 111-62 the City of Harlingen's Code of Ordinances, the sale of alcoholic beverages for on-site consumption in a General Retail ("GR") District requires the approval of a Special Use Permit (SUP) by the City Commission.
- 7-Eleven Inc., the applicant, is requesting a Special Use Permit to allow the sale of alcohol for on-site consumption in an existing Stripes Convenience Store located at 1837 Stuart Place Road. The Stripes Convenience Store is approximately 4,833 square feet. (**ATTACHMENT II, III**)
- According to the site plan and information submitted, the applicant has applied to change their TABC application from a "Wine and Malt Beverage Retailers Off Premise Permit ("BQ") to a Wine and Malt Beverage Retail Dealer's On-Premise Permit ("BG"), which allows for the sale of wine and malt beverages for on- and off-premise consumption. The applicant is proposing to sell a wine based ready-to-drink product known as the "Margarita" for on-premise consumption. Seating will be provided indoors for the on-premise consumption. The hours of operation will be every day from 7:00 a.m. to 12:00 p.m. Seventeen (17) parking spaces are required, and fifty-five (55) parking spaces are provided. (**ATTACHMENT IV AND V**).
- Surrounding properties are zoned General Retail ("GR") District to the south and Residential, Single-Family ("R-1") District to the west, to the north and east is



County. Surrounding land uses consist of a Residential, Single-Family houses to the west and O'Reilly's Auto Parts to the south. **(ATTACHMENT IV, V)**

- The Special Use Permit (SUP) for the Stripes Convenience Store located at 1610 S. F Street was approved by the Planning & Zoning Commission on March 27<sup>th</sup>, 2024, and by the City Commission on April 17<sup>th</sup>, 2024. Additionally, the Special Use Permits (SUPs) for the following Stripes Convenience Stores located at 1725 S. F Street, 202 N. Ed Carey, 1250 N. 77 Sunshine Strip, and 1313 Haverford Boulevard, were approved by the Planning & Zoning Commission on September 25<sup>th</sup>, 2024, and by the City Commission on October 2<sup>nd</sup>, 2024.
- The Building Inspections Department, Fire Prevention Bureau, Harlingen Police Department, and Health Department have reviewed the application and recommended approval of the Special Use Permit. **(ATTACHMENT VI-VIII)**
- In accordance with the zoning ordinance, the P&Z Commission and City Commission may impose requirements and conditions of approval as needed to ensure that a use requested by a SUP is compatible and complementary to adjacent properties.
- To present, the Planning and Development Department has not received any calls regarding the Special Use Permit (SUP) request. Staff mailed out four notices to surrounding property owners.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

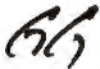
\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the special use permit subject to complying with the following conditions:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by the Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, every day.

City Manager's approval:  ☒ Yes ☐ No ☐ N/A

City Attorney's approval:  **Comments:** ☒ Yes ☐ No ☐ N/A



# ATTACHMENT I

40704H

## CITY OF HARLINGEN PLANNING AND DEVELOPMENT DEPARTMENT MASTER APPLICATION

### PROPERTY INFORMATION (Please PRINT or TYPE)

Project Address 1837 N Stuart Place Rd Nearest Intersection Wilson and N Stuart Place Rd  
(Proposed) Subdivision Name North Star Business Center Lot 2 Block 1  
Existing Zoning Designation Retail Future Land Use Plan Designation On Premise Alcohol Sales

### OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)

Applicant/Authorized Agent Tim liaca Phone 972-890-2560 FAX N/A  
Email Address (for project correspondence only) tim@texaslicensing.net  
Mailing Address 217 E. Main St. #819 City Royse City State TX Zip 75189  
Property Owner 7-Eleven Inc. Phone 972-828-6285 FAX N/A  
Email Address (for project correspondence only) shantelle.grier-green@7-11.com  
Mailing Address P.O. Box 139044 City Dallas State TX Zip 75313

Select appropriate process for which approval is sought. Attach completed checklists with this application.

- |                                                                               |                                                                                             |
|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Annexation Request..... <u>No Fee</u>                | <input type="checkbox"/> Preliminary Construction Plans and Final Plat..... <u>\$150.00</u> |
| <input type="checkbox"/> Administrative Appeal (ZBA) ..... <u>\$125.00</u>    | <input type="checkbox"/> Minor Plat ..... <u>\$100.00</u>                                   |
| <input type="checkbox"/> Comp. Plan Amendment Request <u>\$250.00</u>         | <input type="checkbox"/> Re-Plat ..... <u>\$250.00</u>                                      |
| <input type="checkbox"/> Re-zoning Request. .... <u>\$250.00</u>              | <input type="checkbox"/> Vacating Plat ..... <u>\$250.00</u>                                |
| <input checked="" type="checkbox"/> SUP Request/Renewal. .... <u>\$250.00</u> | <input type="checkbox"/> Development Plat ..... <u>\$50.00</u>                              |
| <input type="checkbox"/> Zoning Variance Request (ZBA) ..... <u>\$250.00</u>  | <input type="checkbox"/> Subdivision Variance Request ..... <u>\$25.00 (each)</u>           |
| <input type="checkbox"/> PDD Request..... <u>\$250.00</u>                     | <input type="checkbox"/> Right-of-Way / Utility Easement Abandonment... <u>No Fee</u>       |
| <input type="checkbox"/> License to Encroach... <u>\$250.00</u>               |                                                                                             |

Please provide a basic description of the proposed project: Changing the alcohol type from off-premise alcohol sales to on-premise

\*See enclosed letter

I hereby certify that I am the owner and/or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked

Applicant's Signature: [Signature] Date: 8/15/24

\*Property Owner(s) Signature: [Signature] Date: 8/15/24

Accepted by: \_\_\_\_\_ Date \_\_\_\_\_

Street View from Stuart Place Road





ATTACHMENT II

Street View from Wilson Road

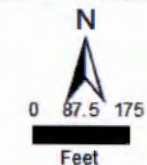
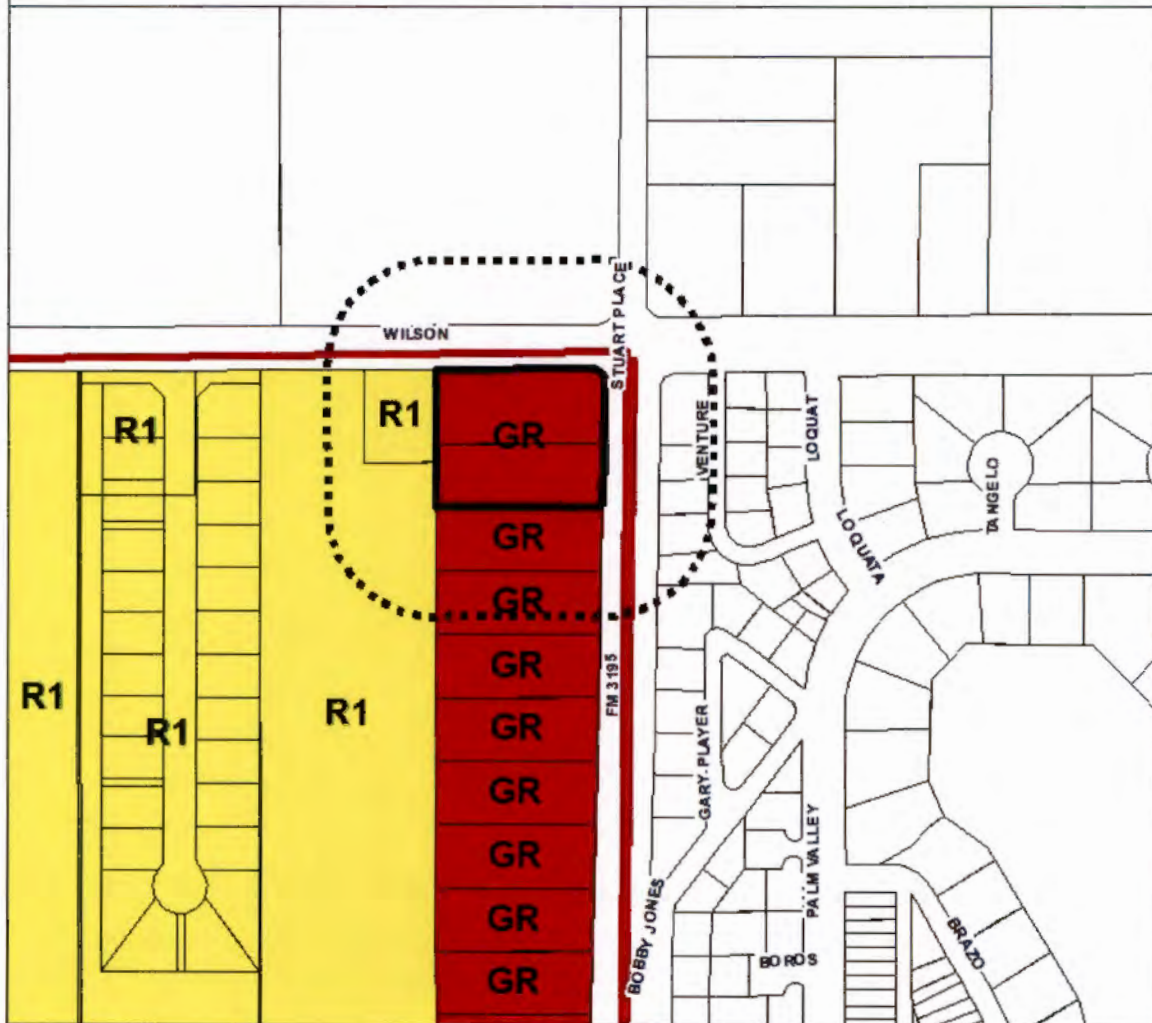




# ATTACHMENT III



Request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-site consumption, in a General Retail District ("GR") located at 1837 Stuart Place Road, bearing a legal description of Lots 1 and 2, Block 1, North Star Business Center Subdivision. Applicant: Tim Ilaoa c/o 7-Eleven inc.



## Boundary lines

- Harlingen city limits.shp
- 200' Notification Boundary
- Subject Property

## Zoning Designations

- |                           |                               |                                |
|---------------------------|-------------------------------|--------------------------------|
| General Retail (GR)       | Multi Family Residential (M2) | Office (O)                     |
| Heavy Industry (HI)       | Mobile Home Residential (MH)  | Planned Development (PD)       |
| Light Industry (LI)       | Not-Designated (N)            | Single Family Residential (R1) |
| 3/4 Plex Residential (M1) | Neighborhood Services (NS)    | Duplex Residential (R2)        |
|                           |                               | Residential Patio Home (RPH)   |

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 09.23.2024

ATTACHMENT IV

Aerial View



**Wilson Road**

100' Public Right-of-Way - Asphalt Pavement

Concrete Driveway

Access

36' Concrete Curb & Gutter

100' Public Right-of-Way - Asphalt Pavement

Stuart Place Road

36' Concrete Curb & Gutter

100' Public Right-of-Way - Asphalt Pavement

One Story Storage & Machinery Shop Building  
4,833 Square Feet  
Height=10'

36' x 72' x 9'

15' ACCESS ESMT VOL. 11565, PG. 227

S89°51'14"W 299.43'

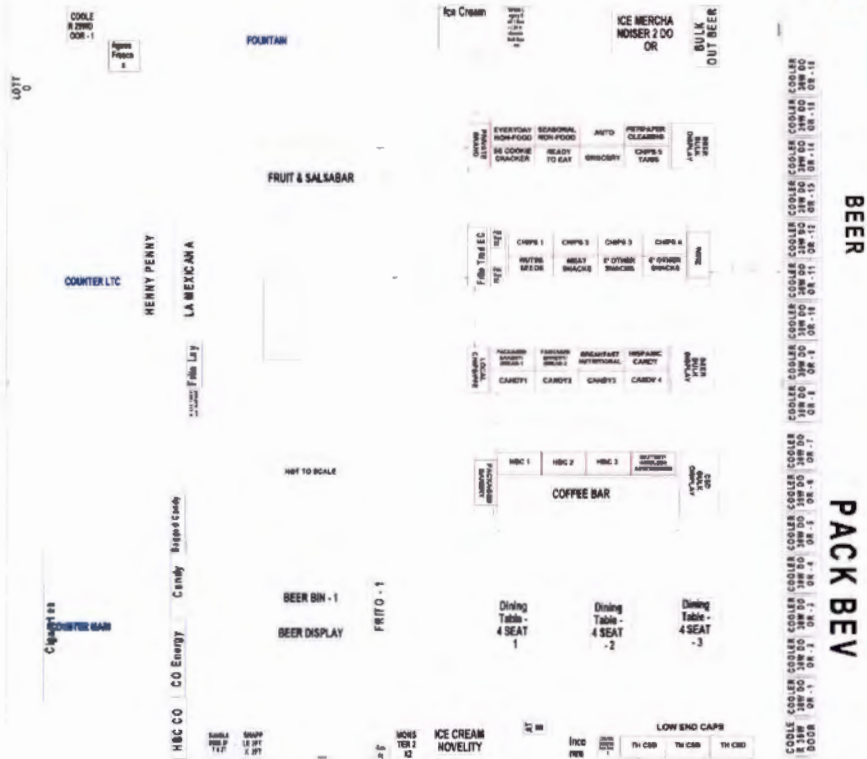
15' ACCESS ESMT VOL. 11565, PG. 227

TRACT II: EASEMENT ESTATE

Map of Formerly:  
O'REILLY AUTO ENTERPRISES LLC,  
a Delaware limited liability company  
VOL. 20104 PAGE: 232  
PARCEL ID: 212824



# ATTACHMENT VI – Floor Plan



THIS FLOOR PLAN IS NOT A LEGAL DOCUMENT. IT IS FOR INFORMATIONAL PURPOSES ONLY. IT DOES NOT REPRESENT THE ACTUAL CONDITION OF THE STORE.

40704-2211  
1837 N. STUART PLACE  
HARLINGEN, TX 78552

NOT TO SCALE  
Revised  
7-2-19  
Approved by  
Ops  
7-Eleven Inc.  
Floor Planning Team  
40704-2211

For questions or concerns, please contact: GM-HorizonPlanogramSupport@7-11.com



**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Tim Ilaoa c/o 7-Eleven Inc.

**Phone No.:** (972) 890-2560

**Location:** 1837 Stuart Place Road

**Project Description:** Request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-site consumption, in a General Retail ("GR") District located at 1837 Stuart Place Road.

**Department:** Fire Prevention Bureau

**Approval:**   X   YES    NO

**Comments:** Applicant will have to meet any code, regulation, ordinance, and standard required for permit.

**Fire Marshal** Juan Saucedo Jr.

Juan Saucedo Jr.

**Date:** September 23, 2024



**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Tim Ilaga c/o 7-Eleven Inc.

**Phone No.:** (972) 890-2560

**Location:** 1837 N. Stuart Place Road

**Project Description:** Request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-site consumption, in a General Retail ("GR") District located at 1837 Stuart Place Road.

**Department:** HARLINGEN POLICE DEPT.

**Approval:** ☒ YES ☐ NO

**Comment:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

  
\_\_\_\_\_  
**Signature**

  
\_\_\_\_\_  
**Date**





**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Tim Ilaoa c/o 7-Eleven Inc.

**Phone No.:** (972) 890-2560

**Location:** 1837 Stuart Place Road

**Project Description:** Request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-site consumption, in a General Retail ("GR") District located at 1837 Stuart Place Road.

**Department:** Building Permits and Inspections Department.

**Approval:** ☒ YES ☐ NO

**Comments:**

A Building Permit application for Re-Occupancy with floor plans must be submitted to the building department office for review for the proposed address to comply with the 2018 International Building Code and Family of Codes.

A handwritten signature in blue ink, appearing to be 'Tim Ilaoa'.

**09/23/2024**

**Signature**

**Date**



**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Tim Ilaoa c/o 7-Eleven Inc.

**Phone No.:** (972) 890-2560

**Location:** 1837 Stuart Place Road

**Project Description:** Request for a Special Use Permit (SUP) to allow the sale of alcoholic beverages for on-site consumption, in a General Retail ("GR") District located at 1837 Stuart Place Road.

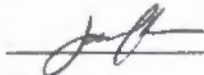
**Department:** Health Department

**Approval:**      ☒ YES      ☐ NO

**Comments:** 7-Eleven located at 1837 Stuart Place Rd. is currently permitted by the Health Department and by the Finance Department at City Hall to sell alcohol on their property. The health permit does not distinguish between the selling or the consumption of alcohol on the property, that rule falls under the Texas Alcohol and Beverage Commission (TABC) and the Texas Alcoholic Beverage Code - ALCO BEV 101.72 Consumption of Alcoholic Beverage on Premises Licensed for Off-Premises Consumption (a) A person commits an offense if the person knowingly consumes liquor or beer on the premises of a holder of a wine and beer retailer's off-premise permit or a retail dealer's off-premise license. No, you cannot drink alcohol in a convenience store in

**ATTACHMENT X – Health Department con't.**

**Texas if you are knowingly consuming liquor or beer. This is because it is illegal to consume alcohol on the premise of a retailer that holds an off-premise permit or license for wine and beer. 7-Eleven will have to apply for On-premises Consumption Permit**



**Signature**

**10-3-24**

**Date**



## **ORDINANCE NO. 24-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: A SPECIAL USE PERMIT ISSUED TO 7-ELEVEN INC TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON—SITE CONSUMPTION IN A GENEAL RETAIL ("GR") DISRICT LOCATED AT 1837 STUART PLACE ROAD, BEARING A LEGAL DESCRIPTION OF LOTS 1 AND 2, BLOCK 1 NORTH START BUSINESS CENTER SUBDIVISION PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.**

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a change in the zoning classification for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed rezoning having been fully made and complied with as required by said Zoning Ordinance and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

### **BE IT ORDAINED BY THE CITY OF HARLINGEN**

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated in Exhibit "A":

Special Use Permit (SUP) issued to 7-Eleven Inc. to allow the sale of alcoholic beverages for on-site consumption in a General Retail ("GR") District located at 1837 Stuart Place Road, bearing a legal description of Lots 1 and 2, Block 1, North Star Business Center Subdivision as shown in Exhibit "A".

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Chief Building Official and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.

The Special Use Permit is made contingent upon construction being complied in accordance with the site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as Exhibit "A" and shall comply with the conditions as listed below:

1. Must obtain and maintain the proper State and City permits;
2. Must maintain the required parking in accordance with city regulations;
3. Must provide video surveillance with a minimum 30 day retention; and,
4. Must comply with the requirements administered by the Planning and Zoning, Building Inspections, Fire Prevention, Health and Police Departments
5. Hours of operation shall be from 7:00 am to 12:00 pm, every day.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2024 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

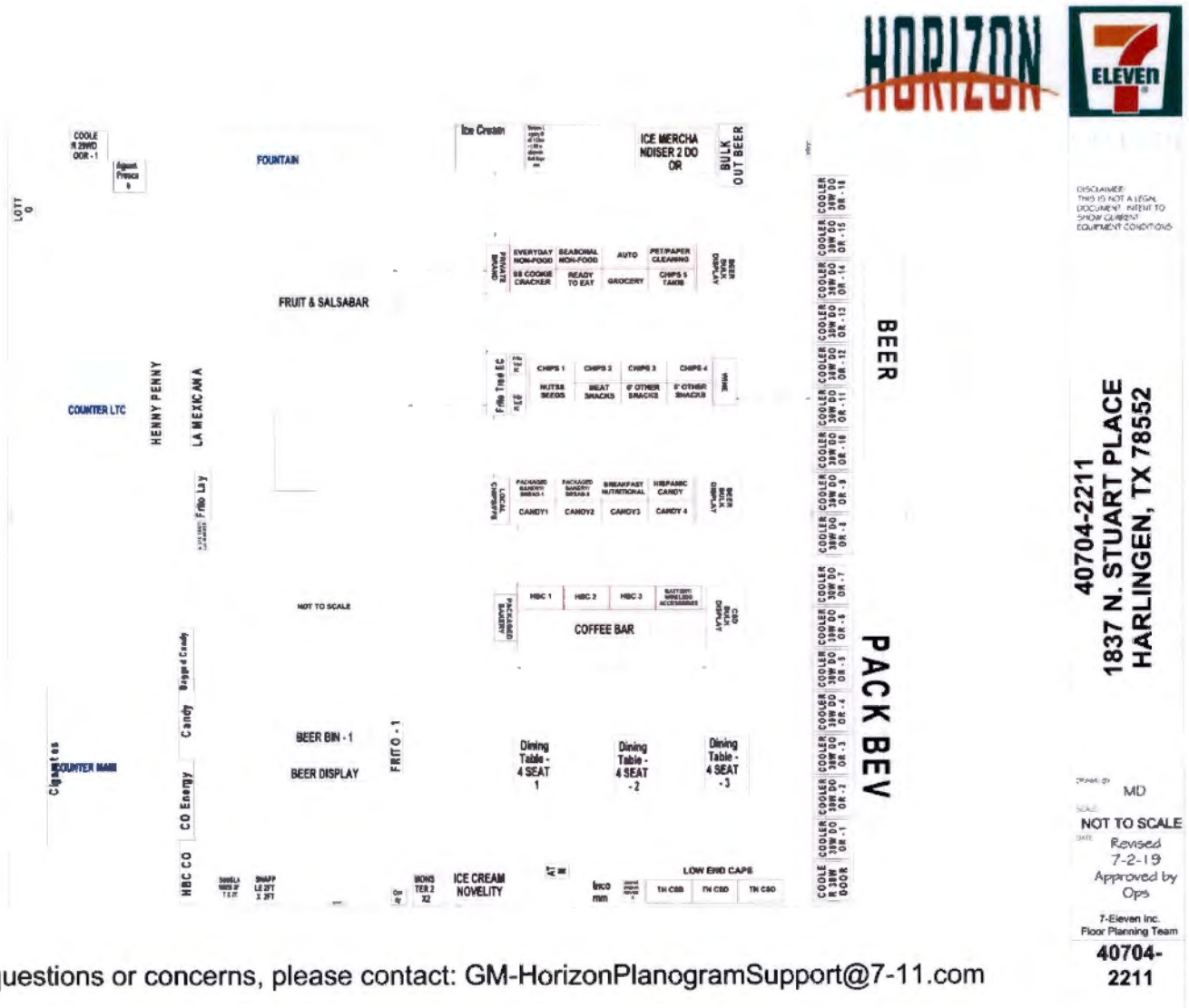
**CITY OF HARLINGEN**

\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary

### Exhibit "A"





10(c)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

**Meeting Date:**                      **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on first reading amending the City of Harlingen Code of Ordinances, Chapter 109, Subdivisions, Article VII, Cost Participation, Section 109-193(5), Park Land Dedication, Exemption, to add a provision which exempts non-profits that focus on affordable housing from paying park fees. Applicant: City of Harlingen. Attachment (***Planning & Development***)

Prepared By: **Xavier Cervantes, AICP, CPM**

Title: **Planning and Development Director**

Signature: *Xavier Cervantes*

**Brief Summary:**

Project Timeline

- September 28, 2024 - In accordance with State and local law, notice of required public hearings published in the Valley Morning Star.
- October 9, 2024 - Public hearing and consideration of the subdivision ordinance amendment by the Planning and Zoning Commission.
- October 16, 2024 - Consideration of the requested ordinance amendment via 1<sup>st</sup> ordinance reading scheduled before the City Commission.
- November 6, 2024 - Pending approval of 1<sup>st</sup> ordinance reading, consideration of approval of 2<sup>nd</sup> ordinance reading scheduled before the City Commission.

Summary

- The Parkland Dedication ordinance was adopted on November 1, 2023. The ordinance established park fees for new residential subdivisions at \$450.00 per dwelling unit with an automatic annual increase of \$25.00 per dwelling unit.
- There are non-profit organizations that develop subdivisions throughout the Rio Grande Valley that are negatively affected by the implementation of the payment of the required park fees. These are community based non-profit organizations dedicated to enhancing the quality of life by providing affordable housing and related services to eligible families. These agencies provide home ownership opportunities and financial education to low-income residents of South Texas. They provide a service to working families who would otherwise not qualify for a conventional bank mortgage. In addition, they provide multi-cultural, in-house home buyer education.
- The proposed ordinance amendment would exempt these agencies from having to pay the required park fees during the subdivision process.
- The proposed changes to the Code of Ordinances are noted on the attached ordinance with the additions underlined.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount for this purpose?

☐

Yes

☐

No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval:

☐

Yes

☐

No

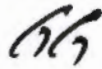
☐

N/A

**Staff Recommendation:**

Staff recommends approval.

City Manager's approval:

☒

Yes

☐

No

☐

N/A

Comments:

City Attorney's approval:

☒

Yes

☐

No

☐

N/A



**AN ORDINANCE AMENDING THE CITY OF HARLINGEN CODE OF ORDINANCES CHAPTER 109, SUBDIVISIONS, ARTICLE VII, COST PARTICIPATION, SECTION 109-193(5), PARK LAND DEDICATION, EXEMPTION, TO ADD A PROVISION WHICH EXEMPTS NON-PROFITS THAT FOCUS ON AFFORDABLE HOUSING FROM PAYING PARK FEES, PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING**

**WHEREAS,** The amendments are consistent with the purpose of the One Vision One Harlingen Comprehensive Plan, which is to provide a growth-friendly economic development environment that also preserves and enhances the character of the area; and

**WHEREAS,** The Planning and Zoning Commission has reviewed the proposed subdivision amendment and has recommended approval;

**WHEREAS,** The City of Harlingen has complied with all notices and public hearings as required by law; and

**WHEREAS,** The City Commission of the City of Harlingen desires to amend the subdivision code of ordinances and finds that it is in the best interests of the citizens of Harlingen to amend the subdivision code of ordinances as set forth below;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF HARLINGEN, TEXAS, THAT:**

**SECTION I:** The City of Harlingen Code of Ordinances, Chapter 109, Subdivisions, Article VII, Cost Participation, Section 109-193(5) Park Land Dedication, Exemption is hereby amended by adding the language underlined (added) to read in full as follows:

**Sec. 109-193 - Park land Dedication**

(a) Requirements for park land dedication: Neighborhood and community parks are those facilities providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby. Park zones are hereby established in the map below and shall be prima facie proof that any park located therein is within such a convenient distance from any residence located therein. The residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities. Therefore, the following requirements are adopted to effect the purposes stated.



# PARK ZONES

## PROPOSED PARK ZONES

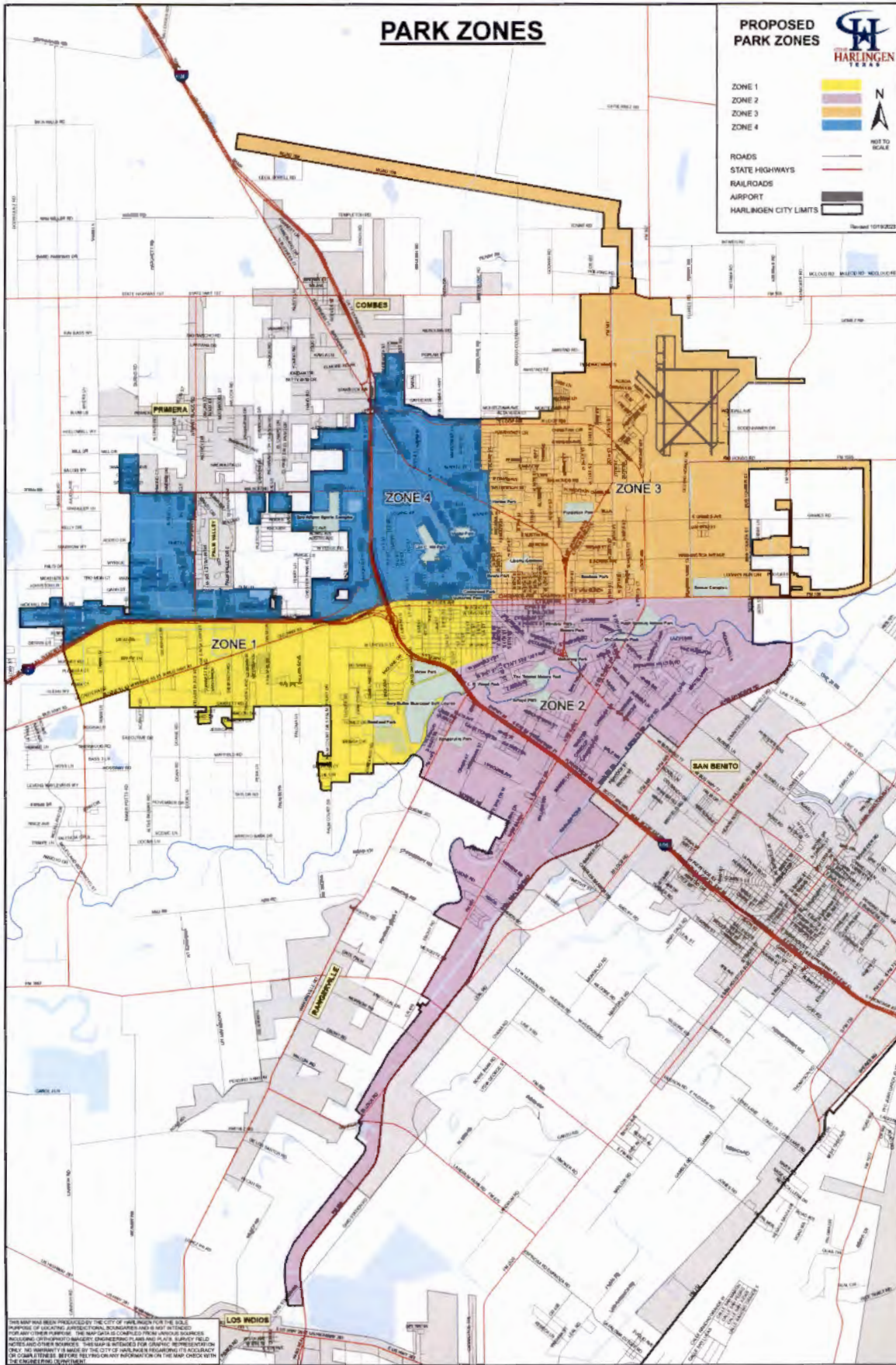


- ZONE 1
- ZONE 2
- ZONE 3
- ZONE 4



- ROADS
- STATE HIGHWAYS
- RAILROADS
- AIRPORT
- HARLINGEN CITY LIMITS

Revised 10/18/2023



THIS MAP WAS PREPARED BY THE CITY OF HARLINGEN FOR THE SOLE PURPOSE OF LOCATING PROPOSED PARK ZONES AND IS NOT INTENDED FOR ANY OTHER PURPOSE. THE MAP DATA IS BASED ON AERIAL PHOTOGRAPHS AND OTHER SOURCES. THE MAP DATA IS NOT GUARANTEED TO BE 100% ACCURATE. THE CITY OF HARLINGEN IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE MAP IS PROVIDED AS A GENERAL REPRESENTATION ONLY. NO WARRANTY IS MADE BY THE CITY OF HARLINGEN REGARDING ITS ACCURACY OR COMPLETENESS. BEFORE RELYING ON ANY INFORMATION ON THE MAP, CHECK WITH THE ENGINEERING DEPARTMENT.

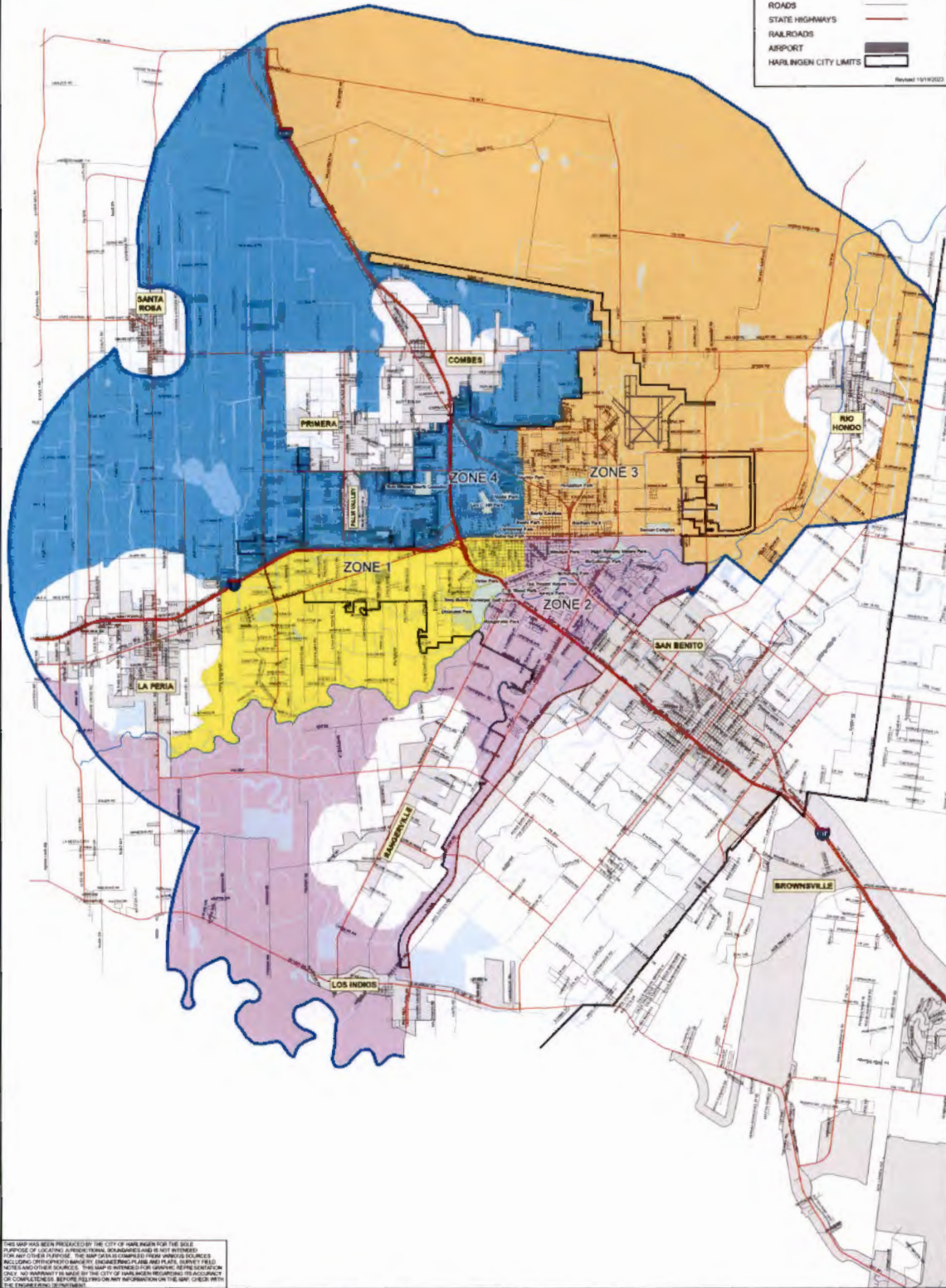


# **PARK ZONES** WITH ETJ AREA SHOWN

PROPOSED  
PARK ZONES



- ZONE 1
- ZONE 2
- ZONE 3
- ZONE 4
- 5 MILE ETJ
- ROADS
- STATE HIGHWAYS
- RAILROADS
- AIRPORT
- HARLINGEN CITY LIMITS



THIS MAP HAS BEEN PREPARED BY THE CITY OF HARLINGEN FOR THE SOLE PURPOSE OF ILLUSTRATING PROPOSED PARK ZONES AND IS NOT INTENDED FOR ANY OTHER PURPOSE. THE MAP DATA IS COMPILED FROM VARIOUS SOURCES INCLUDING OFFICIAL RECORDS, AERIAL PHOTOGRAPHS, AND PUBLICLY AVAILABLE INFORMATION. THE CITY OF HARLINGEN MAKES NO WARRANTY, REPRESENTATION, OR GUARANTEE AS TO THE ACCURACY, COMPLETENESS, OR TIMELINESS OF THE INFORMATION SHOWN ON THIS MAP. THE USER ASSUMES ALL LIABILITY FOR ANY USE OF THIS MAP.



(1). General requirements.

a. Whenever a final plat is filed for approval with the city for the development of a residential or multi-family development within the city limits or within the extraterritorial jurisdiction, such plat shall contain a clear fee simple dedication of an area of land to the City for park purposes, which area shall equal two (2) acres for each 30 acres of net development. Any proposed plat submitted to the City for approval shall show the area proposed to be dedicated under this Section. The required dedication of this subsection may be met by a payment of money in lieu of land when permitted or required by the other provisions of this Section. For subdivisions within the Harlingen extraterritorial jurisdiction a payment of money in lieu of land shall be the only option. Residential or multi-family subdivisions within the extraterritorial jurisdiction in which the developer has requested voluntary annexation to the city limits, and the annexation took place, shall be exempt from the provisions of this section.

b. The City Commission declares that development of an area resulting in a land dedication smaller than two (2) acres for public parks purposes is impractical. Therefore, if fewer than 30 acres are proposed by a plat filed for approval, the developer shall be required to pay the applicable payment in lieu of land amount provided by Section 2, Money in lieu of land, rather than to dedicate any land area. No plat showing a dedication of less than two (2) acres shall be approved.

c. In instances where an area is required to be dedicated, the City Commission shall have the right to accept the dedication on the final plat, or to refuse same, after consideration of the recommendation of the Planning and Zoning Commission. If the dedication is disapproved by the City Commission, or the development is less than 30 acres in net area, a payment in lieu of land in the amount of \$450.00 per dwelling unit shall be required prior to plat recording. The fee shall increase in the amount of \$25.00 per dwelling unit after each annual anniversary of the adoption of this ordinance to be capped at \$750.00 per dwelling unit. If the actual number of dwelling units proposed for construction exceed the figure upon which the original land dedication or payment was based, such additional dedication shall be required, and shall be made by the payment per each additional dwelling unit before the building permit is issued.

d. The general criteria for the determination to accept or reject the proposed dedicated land shall be whether or not there is sufficient park area in the public domain in the area of the proposed development or if the recreational potential for that park zone would be better served by expanding or improving existing parks, or whether or not the particular property is suitable for park purposes because of traffic conditions, environmental concerns, adjacent property uses, configuration of the



property or other appropriate criteria to be established by the City Commission.

e. In those cases where developers of land provide significant amenities, such as, swimming pools, tennis courts, basketball courts, ball fields or walking trails within the development for the benefit of those residing therein, and where, with a positive recommendation from the Planning and Zoning Commission, could obtain a reduction of up to 50 percent of the required payment in lieu of land dedication.

(2). Money in lieu of land.

a. Payments may be used only for acquisition of land and improvements or for improvements to an existing park located within the same park zone as the area being developed.

b. Funds from all the park zones could be used for the acquisition of land for a park to be created after the passing of this ordinance or for improvements to regional parks. The existing regional parks that could use funds from all the park zones are the following: Victor Park, Lon C. Hill Park, Pendleton Park, the Soccer Complex and the Wilson Sports Complex.

(3) Special fund; right to refund

a. There is hereby established a special fund for the deposit of all sums paid in lieu of land dedication for park purposes, which fund shall be known as the Park Land Dedication Fund and divided by zones as per the map in subsection (a).

b. The City shall account for all sums paid in lieu of land dedication under this Section with reference to the individual plats involved. Any funds paid for such purposes must be expended by the City within ten (10) years from the date received by the City for acquisition for development of a neighborhood park as defined herein. Such funds shall be considered to be spent on a first in, first out basis. If not so expended, the subdivision developer on the last day of such period shall be entitled to a refund of such sums without accrued interest. The developer of such property must request such refund within one (1) year of entitlement, in writing, or such right shall be barred.

(4) Additional requirements

- a. Any land dedicated to the City under this Section must be suitable for park and recreational uses and approved by the City Commission.
- b. Each park must have ready access to public streets.
- c. Due to this Section all residential and multi-family subdivisions within the city limits or within the extraterritorial jurisdiction will require approval of the preliminary construction plans and the final plat from the City Commission.

(5) Exemption

This Ordinance shall not apply and have no effect on any subdivision in the City that a plat application has been filed prior to the passage of this ordinance.

Not for profit corporations that focus on providing affordable housing to families of low to moderate income are exempt from this ordinance. The Articles of Incorporation of the corporation must be reviewed and approved by the City Attorney.

**SECTION II:** That the City Secretary of the City of Harlingen, Texas is hereby authorized and directed to cause a true copy of the caption of this ordinance to be published in a newspaper having general circulations in the City of Harlingen, Cameron County, Texas.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024, at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

**CITY OF HARLINGEN**

\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary

**AGENDA ITEM  
EXECUTIVE SUMMARY**

10(d)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on second and final reading for a Special Use Permit ("SUP") to allow a battery storage energy facility in a General Retail ("GR") District located along the north side of East Harrison Avenue, approximately 485 feet east of Loop 499, bearing a legal description of 2.00 acres out of the west 6.88 acres, Block 49, Palmetal Company Subdivision. Applicant: Christopher Rose on behalf of Aggreko Energy Transition Solutions. Attachment (**Planning & Development**)

Prepared By: Xavier Cervantes, AICP, CPM

Title: Planning and Development Director

Signature: *Xavier Cervantes*

**Brief Summary:**

Summary

- Per Section 111-62 the City of Harlingen's Code of Ordinances, a light industry manufacturing facility in a General Retail ("GR") District requires the approval of a Special Use Permit (SUP) by the City Commission.
- Christopher Rose, the applicant, is requesting a Special Use Permit (SUP) to allow a battery storage energy facility on a vacant tract of land. The battery banks will charge and hold electricity for times of which it would be needed by the electrical grid. (**ATTACHMENTS II, III**)
- Based on the site plan and information submitted, the applicant is proposing to operate four (4) battery storage units and three (3) inverters. Each battery storage would measure 8' x 20' and would store 9.9 megawatts (MW). Because it is an unmanned facility, there would be no parking spaces. The land would need to be subdivided before permits are issued. (**ATTACHMENTS II, III**)
- Surrounding properties are zoned General Retail ("GR") District to the north, south, east, and west. The surrounding land uses consist of vacant land to the north, east, and south, and the Cardenas Autogroup to the west. (**ATTACHMENTS IV, V**)
- To the present, the Planning and Development Department has received no phone calls in opposition from the surrounding property owners for the proposed request. Staff mailed out four (4) legal notices to the surrounding property owners. (**ATTACHMENT IV**)
- On September 19<sup>th</sup>, 2024, the applicant provided a table of a 30-year property tax forecast. As per the table provided, the proposed battery storage energy facility is projected to produce an estimated \$555,076.00 in taxes to the City of Harlingen specifically. (**ATTACHMENT VI**)
- The Building Inspections Department, Fire Prevention Bureau, and Engineering Departments have reviewed the application and recommended approval of the Special Use Permit. (**ATTACHMENTS VII-IX**)
- During the September 11<sup>th</sup>, 2024 and September 25<sup>th</sup>, 2024 regular meetings of the Planning and Zoning Commission, the applicant provided supplemental slides



to explain the project. **(ATTACHMENTS X-XIX)**

- In accordance with the zoning ordinance, the P&Z Commission and City Commission may impose additional requirements and conditions of approval as are needed to ensure that the use is compatible and complementary to adjacent properties.
- The applicant has provided a memo explaining that the energy from the batteries will go to the local substation first to take care of the local energy needs. **(ATTACHMENT XX).**
- The applicant has provided a memo agreeing to support the Harlingen Animal Shelter with donation funds. **(ATTACHMENT XXI).**

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

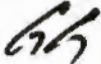
\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the request subject to the following:

1. Compliance with Planning ordinances and regulations, Fire Prevention Bureau's regulations, Engineering's regulations, and Building Inspections ordinances and regulations.
2. Install and maintain an 8-foot opaque wall along Harrison Avenue with ten feet of landscaping between the wall and the property line.

City Manager's approval:  ☒ Yes ☐ No ☐ N/A

City Attorney's approval:  **Comments:** ☒ Yes ☐ No ☐ N/A

**ATTACHMENT I**

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**CITY OF HARLINGEN PLANNING AND DEVELOPMENT DEPARTMENT  
MASTER APPLICATION****PROPERTY INFORMATION: (Please PRINT or TYPE)**

Project Address 3700 East Harrison Avenue Nearest Intersection North Ed Carey Drive (North Loop 499)  
(Proposed) Subdivision Name PC 5 - Valley Baptist Missions/Education Center Lot 9000 Block 0500  
Existing Zoning Designation M2 Future Land Use Plan Designation Commercial

**OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)**

Applicant/Authorized Agent Christopher Rose Phone 203-524-9343 FAX \_\_\_\_\_  
Email Address (for project correspondence only): Christopher.Rose@Aggreko.com  
Mailing Address 300 Atlantic St Suite 501 City Stamford State CT Zip 06901  
Property Owner Othal Brand Phone \_\_\_\_\_ FAX \_\_\_\_\_  
Email Address (for project correspondence only): OthalBrand@Gmail.com  
Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**Select appropriate process for which approval is sought. Attach completed checklists with this application.**

- |                                                                             |                                                                                             |
|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Annexation Request..... <u>No Fee</u>              | <input type="checkbox"/> Preliminary Construction Plans and Final Plat..... <u>\$150.00</u> |
| <input type="checkbox"/> Administrative Appeal (ZBA)..... <u>\$125.00</u>   | <input type="checkbox"/> Minor Plat..... <u>\$100.00</u>                                    |
| <input type="checkbox"/> Comp. Plan Amendment Request... <u>\$250.00</u>    | <input checked="" type="checkbox"/> Re-Plat..... <u>\$250.00</u>                            |
| <input type="checkbox"/> Re-zoning Request..... <u>\$250.00</u>             | <input type="checkbox"/> Vacating Plat..... <u>\$250.00</u>                                 |
| <input type="checkbox"/> SUP Request/Renewal..... <u>\$250.00</u>           | <input type="checkbox"/> Development Plat..... <u>\$50.00</u>                               |
| <input type="checkbox"/> Zoning Variance Request (ZBA)..... <u>\$250.00</u> | <input type="checkbox"/> Subdivision Variance Request..... <u>\$25.00 (each)</u>            |
| <input type="checkbox"/> PDD Request..... <u>\$250.00</u>                   | <input type="checkbox"/> Right-of-Way / Utility Easement Abandonment..... <u>No Fee</u>     |
| <input type="checkbox"/> License to Encroach..... <u>\$250.00</u>           |                                                                                             |

Please provide a basic description of the proposed project: 9.99 MW Battery Energy Storage Facility

I hereby certify that I am the owner and/or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Applicant's Signature: [Signature] Date: 5/6/2024

Property Owner(s) Signature: [Signature] Chairman Date: 4/24/2024

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_



## ATTACHMENT I

DocuSign Envelope ID: C422F4A3-7E52-4531-A631-021FDE1BFF38

### PLANNED DEVELOPMENT DISTRICT (PDD) REQUEST SPECIFIC USE PERMIT (SUP) REQUEST SUBMITTAL CHECKLIST

*Please submit the following items along with the completed master application and appropriate fees. The project cannot be scheduled for consideration unless all items are marked complete. Citations come from the Zoning Ordinance.*

#### Complete

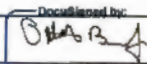
- ☐ One (1) copy of a comprehensive site plan showing the proposed development of the property. The site plan shall consist of the following items, as applicable:
    - o Existing/proposed building footprints and building heights (or buildable areas for single and two-family residential); and
    - o Locations of proposed uses; and
    - o Ingress and egress to/from property;
    - o Existing/proposed streets in compliance with the City of Harlingen Long Range Thoroughfare Plan; and
    - o Existing/proposed sidewalks; and
    - o Existing/proposed utilities; and
    - o Existing/proposed drainage; and
    - o Existing/proposed parking spaces.
  - ☐ A written statement describing the proposed use(s) of the subject property.
  - ☐ Any other information (elevation drawings, pictures, etc.) in support of the subject request.
- 
- I understand that I am requesting an amendment to the City's Zoning Ordinance and it will not be scheduled for Planning and Zoning Commission review unless all items on this list are completed.
  - I understand that in accordance State law and the Zoning Ordinance, no later than ten (10) days prior to consideration by the Planning and Zoning Commission:
    - o A notice will be published in the Valley Morning Star describing the request and the date, time, and location of the public hearing; and
    - o Notices will be mailed to all property owners within 200 feet of the tract describing the request and the date, time, and location of the public hearing.
  - I understand that while all requirements for the submittal of a PDD or SUP request may be complete, the City Commission is the sole authority for the consideration and approval or denial of the request.
  - I understand that the purpose of a PDD or SUP is to allow for development not otherwise authorized in the Zoning Ordinance. Hence, the Planning and Zoning Commission and/or City Commission may impose development standards important to the health, safety, welfare, and protection of the proposed development and the adjacent property and its occupants.

Owner: Othal Brand Date 4/24/2024

Owner Address: 3700 E. Harrison Ave Harlingen, TX 78550

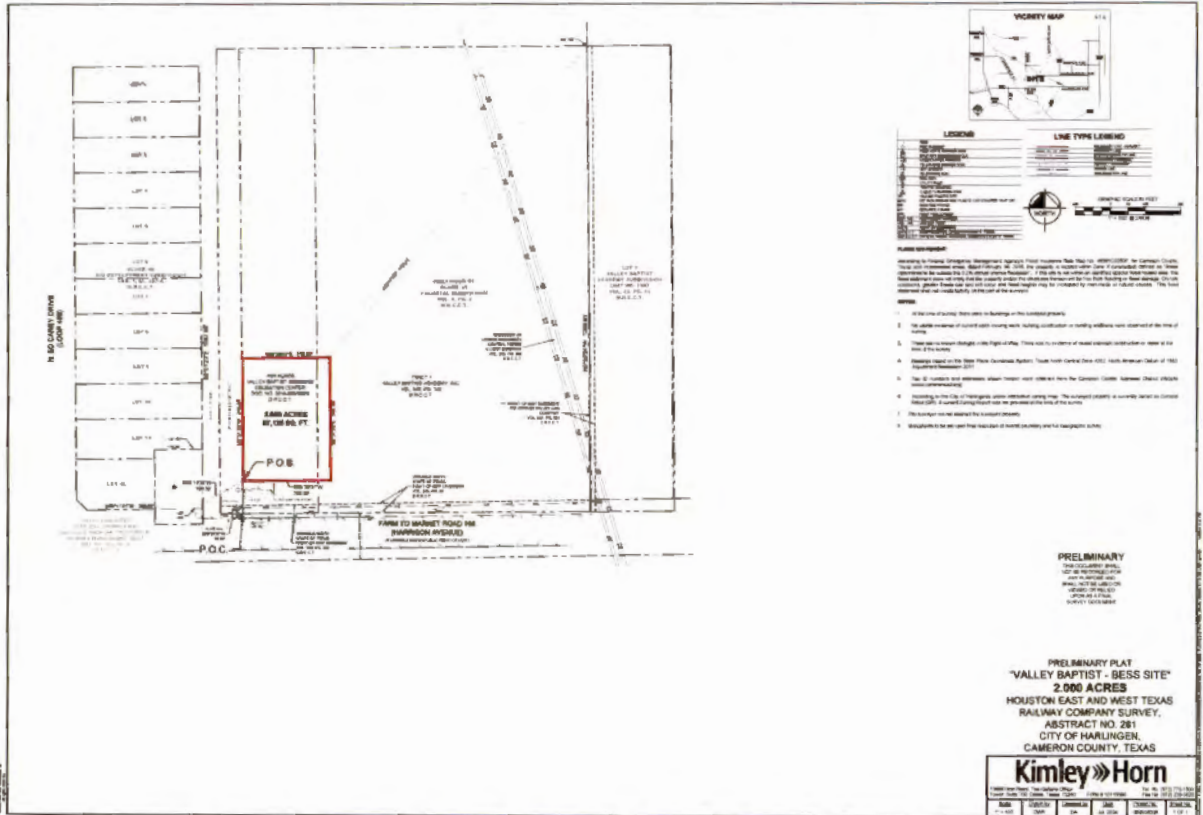
Phone/Fax: \_\_\_\_\_

Signature: \_\_\_\_\_

  
9FAAA0GEC944E3  
Chairman



# ATTACHMENT I



[illegible]

**ATTACHMENT II**

**Street View from E Harrison Avenue**





ATTACHMENT III

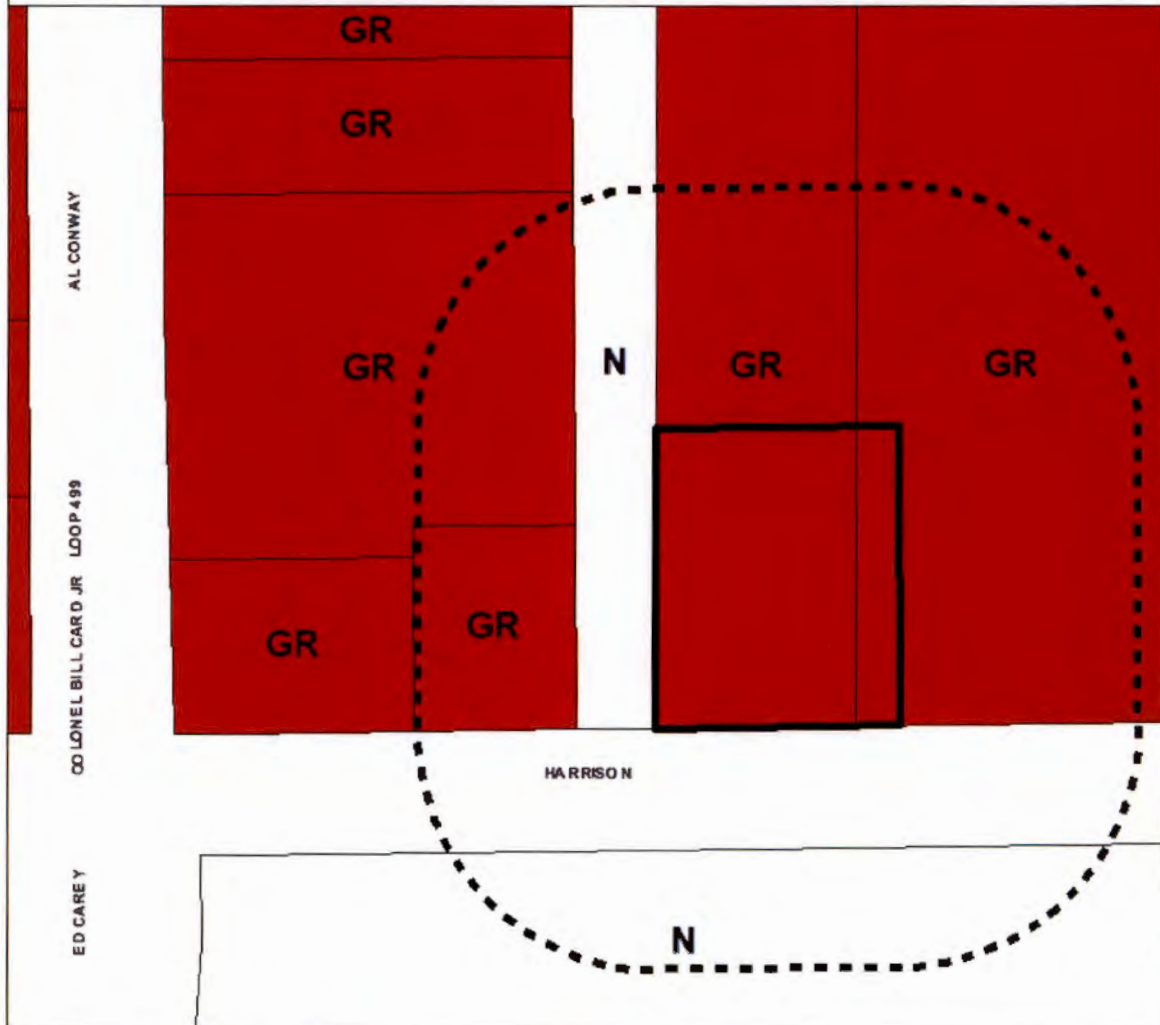
Artist rendering with required wall  
and landscaping



# ATTACHMENT IV



Request for a Special Use Permit ("SUP") to allow a battery storage energy facility in a General Retail ("GR") District located at a property along the north side of East Harrison Avenue, approximately 485 feet east of Loop 499, bearing a legal description of 2.00 acres out of west 6.88 acres, Block 49, Palmetal Company Subdivision. Applicant: Christopher Rose



## Boundary lines

- Harlingen city limits.shp
- 200' Notification Boundary
- Subject Property

## Zoning Designations

- |                           |                               |                                   |
|---------------------------|-------------------------------|-----------------------------------|
| General Retail (GR)       | Multi Family Residential (M2) | Office (O)                        |
| Heavy Industry (HI)       | Mobile Home Residential (MH)  | Planned Development District (PD) |
| Light Industry (LI)       | Not-Designated (N)            | Single Family Residential (R1)    |
| 3/4 Plex Residential (M1) | Neighborhood Services (NS)    | Duplex Residential (R2)           |
|                           |                               | Residential Patio Home (RPH)      |

This map has been produced by the City of Harlingen for the sole purpose of locating jurisdictional boundaries and is not intended for any other. The map data is compiled from various sources including orthophoto imagery, engineer plans and plats, survey field notes, and other sources. This map is intended for graphic representation only. No warranty is made by the City regarding its accuracy or completeness. Before relying on any information on the map, check with the Planning Department. Date of map 07.02.2024



Aerial View





# ATTACHMENT VI – 30-year Tax Forecast

| Year                | Installed cost | Depreciation factor | Taxable value | Tax rate (Cameron co) | Tax rate (City of Harlingen) | Tax rate (Port) | Tax rate (South Texas IND) | Tax rate (Harlingen IND) | Total tax rate | Est. taxes (Cameron county) | Est. taxes (City of Harlingen) | Est. taxes (Port) | Est. taxes (South Texas IND) | Est. taxes (Harlingen IND) | Total taxes  |
|---------------------|----------------|---------------------|---------------|-----------------------|------------------------------|-----------------|----------------------------|--------------------------|----------------|-----------------------------|--------------------------------|-------------------|------------------------------|----------------------------|--------------|
| 2026                | \$ 10,000,000  | 100.0%              | \$ 10,000,000 | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 43,189                   | \$ 54,552                      | \$ 2,206          | \$ 4,920                     | \$ 93,520                  | \$ 198,387   |
| 2027                | \$ 10,000,000  | 91.5%               | \$ 9,152,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 39,527                   | \$ 49,926                      | \$ 2,019          | \$ 4,503                     | \$ 85,590                  | \$ 181,564   |
| 2028                | \$ 10,000,000  | 83.0%               | \$ 8,300,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 35,847                   | \$ 45,278                      | \$ 1,831          | \$ 4,084                     | \$ 77,622                  | \$ 164,661   |
| 2029                | \$ 10,000,000  | 74.5%               | \$ 7,450,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 32,176                   | \$ 40,641                      | \$ 1,644          | \$ 3,665                     | \$ 69,672                  | \$ 147,799   |
| 2030                | \$ 10,000,000  | 66.0%               | \$ 6,600,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 28,505                   | \$ 36,004                      | \$ 1,456          | \$ 3,247                     | \$ 61,723                  | \$ 130,956   |
| 2031                | \$ 10,000,000  | 57.5%               | \$ 5,750,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 24,834                   | \$ 31,367                      | \$ 1,269          | \$ 2,829                     | \$ 53,774                  | \$ 114,073   |
| 2032                | \$ 10,000,000  | 49.0%               | \$ 4,900,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 21,163                   | \$ 26,730                      | \$ 1,081          | \$ 2,411                     | \$ 45,825                  | \$ 97,210    |
| 2033                | \$ 10,000,000  | 40.5%               | \$ 4,050,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 17,492                   | \$ 22,094                      | \$ 893            | \$ 1,993                     | \$ 37,876                  | \$ 80,347    |
| 2034                | \$ 10,000,000  | 32.0%               | \$ 3,200,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 13,821                   | \$ 17,457                      | \$ 706            | \$ 1,574                     | \$ 29,926                  | \$ 63,484    |
| 2035                | \$ 10,000,000  | 23.5%               | \$ 2,350,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 10,149                   | \$ 12,820                      | \$ 518            | \$ 1,156                     | \$ 21,977                  | \$ 46,621    |
| 2036                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2037                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2038                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2039                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2040                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2041                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2042                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2043                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2044                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2045                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2046                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2047                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2048                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2049                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2050                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2051                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2052                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2053                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2054                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2055                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| 2056                | \$ 10,000,000  | 20.0%               | \$ 2,000,000  | 0.43%                 | 0.55%                        | 0.02%           | 0.05%                      | 0.94%                    | 1.98%          | \$ 8,638                    | \$ 10,910                      | \$ 441            | \$ 984                       | \$ 18,704                  | \$ 39,677    |
| Total years (1-10)  |                |                     |               |                       |                              |                 |                            |                          |                | \$ 266,703                  | \$ 336,869                     | \$ 13,823         | \$ 30,383                    | \$ 577,505                 | \$ 1,225,081 |
| Total years (11-20) |                |                     |               |                       |                              |                 |                            |                          |                | \$ 86,379                   | \$ 109,104                     | \$ 4,412          | \$ 9,840                     | \$ 187,040                 | \$ 396,775   |
| Total years (21-30) |                |                     |               |                       |                              |                 |                            |                          |                | \$ 86,379                   | \$ 109,104                     | \$ 4,412          | \$ 9,840                     | \$ 187,040                 | \$ 396,775   |
| Total               |                |                     |               |                       |                              |                 |                            |                          |                | \$ 439,460                  | \$ 555,076                     | \$ 22,448         | \$ 50,062                    | \$ 951,585                 | \$ 2,018,630 |



**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Christopher Rose

**Phone No.:** (203) 524-9343

**Location:** Along the north side of East Harrison Avenue, approximately 485 feet east of Loop 499

**Project Description:** Request for a Special Use Permit (SUP) to allow a battery storage energy facility in a General Retail ("GR") District located at a property along the north side of East Harrison Avenue, approximately 485 feet east of Loop 499, bearing a legal description of 2.00 acres out of west 6.88 acres, Block 49, Palmetal Company Subdivision.

**Department:** Fire Prevention Bureau

**Approval:**   X   YES    NO

**Comments:** **1. The applicant will have to meet any code, regulation, ordinance, and standard required for a construction permit.**

**2. Fire department access road will be an all-weather driving surface capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds.**

**3. Electrical energy storage system design will need to comply with Section 1206 of the 2018 IFC.**

**Fire Marshal Juan Saucedo Jr.**

Juan Saucedo Jr

**Date:** July 9, 2024

ATTACHMENT VIII – Building Inspections



**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Christopher Rose

**Phone No.:** (203) 524-9343

**Location:** Along the north side of East Harrison Avenue, approximately 485 feet east of Loop 499

**Project Description:** Request for a Special Use Permit ("SUP") to allow a battery storage energy facility in a General Retail ("GR") District located at a property along the north side of East Harrison Avenue, approximately 485 feet east of Loop 499, bearing a legal description of 2.00 acres out of west 6.88 acres, Block 49, Palmetal Company Subdivision.

**Department:** \_\_\_\_\_

**Approval:**       X   YES            NO

**Comments:**

A Building Permit application and complete set of plans must be submitted to the building department office for review for the proposed use to obtain the required building permit and comply with the 2018 International Building Code and Family of Codes.

A handwritten signature in blue ink, appearing to be 'Christopher Rose', written over a horizontal line.

9/05/2024

**Signature**

**Date**





**Specific Use Permit ("SUP") Routing Slip**

**Applicant:** Christopher Rose

**Phone No.:** (203) 524-9343

**Location:** Along the north side of East Harrison Avenue, approximately 485 feet east of Loop 499

**Project Description:** Request for a Special Use Permit ("SUP") to allow a battery storage energy facility in a General Retail ("GR") District located at a property along the north side of East Harrison Avenue, approximately 485 feet east of Loop 499, bearing a legal description of 2.00 acres out of west 6.88 acres, Block 49, Palmetal Company Subdivision.

**Department:** Engineering

**Approval:** X YES      NO

**Comments:**

Approved based on the revisions submitted 8-12-2024

Roberto Hernandez

**Signature**

08-14-2024

**Date**

**aggreko**

ENERGY TRANSITION SOLUTIONS

# Aggreko Energy Transition Solutions

City of Harlingen, Planning and Zoning meeting

Presented by: Chris Rose,  
Manager of Development  
Date: September 25<sup>th</sup>, 2024

## Aggreko: Powering Major Events Worldwide and Communities



- FI Racing;
  - Providing critical power, temperature control, and energy services to keep the race on track.
- Super Bowl;
  - Ensuring uninterrupted power supply for one of the world's largest sporting events with backup generation.
- Olympic Games;
  - Supporting the global event with reliable power solutions for venues, broadcasting, and infrastructure.
- Music Festivals;
  - Powering stages, lighting, and sound systems for major music festivals around the globe.
- World Cup;
  - Delivering dependable power and cooling solutions to ensure smooth operations during the tournament.
- Natural Disaster Support and Recovery;
  - Rapid deployment of temporary power solutions and critical equipment to support disaster recovery efforts, ensuring communities and businesses can restore operations and access essential services after a hurricane.





# ATTACHMENT XII – Aggreko Presentation

## 30-year Tax Forecast

aggreko

ENERGY TRANSITION SOLUTIONS

| Year                | Installed wind capacity (MW) | Weighted average capacity factor (%) | Taxable value (summers only) | Tax rate (city of Hamilton) (%) | Tax rate (provincial) (%) | Tax rate (municipal) (%) | Tax rate (federal) (%) | Tax rate (total) (%) | Taxable value (summers only) (2021) | Tax rate (city of Hamilton) (%) | Tax rate (provincial) (%) | Tax rate (municipal) (%) | Tax rate (federal) (%) | Tax rate (total) (%) | Taxable value (summers only) (2021) | Tax rate (city of Hamilton) (%) | Tax rate (provincial) (%) | Tax rate (municipal) (%) | Tax rate (federal) (%) | Tax rate (total) (%) |
|---------------------|------------------------------|--------------------------------------|------------------------------|---------------------------------|---------------------------|--------------------------|------------------------|----------------------|-------------------------------------|---------------------------------|---------------------------|--------------------------|------------------------|----------------------|-------------------------------------|---------------------------------|---------------------------|--------------------------|------------------------|----------------------|
| 2026                | \$ 10,000,000                | 100.0%                               | \$ 10,000,000                | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 43,189                       | \$ 4,552                  | \$ 2,206                 | \$ 4,920               | \$ 93,520            | \$ 198,387                          |                                 |                           |                          |                        |                      |
| 2027                | \$ 10,000,000                | 91.5%                                | \$ 9,152,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 39,527                       | \$ 4,926                  | \$ 2,019                 | \$ 4,509               | \$ 85,590            | \$ 181,564                          |                                 |                           |                          |                        |                      |
| 2028                | \$ 10,000,000                | 83.0%                                | \$ 8,300,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 35,847                       | \$ 4,528                  | \$ 1,831                 | \$ 4,084               | \$ 77,622            | \$ 164,661                          |                                 |                           |                          |                        |                      |
| 2029                | \$ 10,000,000                | 74.5%                                | \$ 7,450,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 32,176                       | \$ 4,041                  | \$ 1,644                 | \$ 3,665               | \$ 69,672            | \$ 147,799                          |                                 |                           |                          |                        |                      |
| 2030                | \$ 10,000,000                | 66.0%                                | \$ 6,600,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 28,505                       | \$ 3,604                  | \$ 1,456                 | \$ 3,247               | \$ 61,723            | \$ 130,906                          |                                 |                           |                          |                        |                      |
| 2031                | \$ 10,000,000                | 57.5%                                | \$ 5,750,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 24,834                       | \$ 3,167                  | \$ 1,269                 | \$ 2,829               | \$ 53,774            | \$ 114,073                          |                                 |                           |                          |                        |                      |
| 2032                | \$ 10,000,000                | 49.0%                                | \$ 4,900,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 21,163                       | \$ 2,730                  | \$ 1,081                 | \$ 2,411               | \$ 45,825            | \$ 97,210                           |                                 |                           |                          |                        |                      |
| 2033                | \$ 10,000,000                | 40.5%                                | \$ 4,050,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 17,492                       | \$ 2,294                  | \$ 893                   | \$ 1,993               | \$ 37,876            | \$ 80,347                           |                                 |                           |                          |                        |                      |
| 2034                | \$ 10,000,000                | 32.0%                                | \$ 3,200,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 13,821                       | \$ 1,857                  | \$ 706                   | \$ 1,574               | \$ 29,926            | \$ 63,484                           |                                 |                           |                          |                        |                      |
| 2035                | \$ 10,000,000                | 23.5%                                | \$ 2,350,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 10,149                       | \$ 1,420                  | \$ 518                   | \$ 1,156               | \$ 21,977            | \$ 46,631                           |                                 |                           |                          |                        |                      |
| 2036                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2037                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2038                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2039                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2040                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2041                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2042                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2043                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2044                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2045                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2046                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2047                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2048                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2049                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2050                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2051                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2052                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2053                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2054                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2055                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| 2056                | \$ 10,000,000                | 20.0%                                | \$ 2,000,000                 | 0.43%                           | 0.55%                     | 0.02%                    | 0.05%                  | 0.94%                | 1.96%                               | \$ 8,638                        | \$ 1,010                  | \$ 441                   | \$ 984                 | \$ 18,704            | \$ 39,677                           |                                 |                           |                          |                        |                      |
| Total years (1-10)  |                              |                                      |                              |                                 |                           |                          |                        |                      |                                     | \$ 266,703                      | \$ 336,869                | \$ 13,623                | \$ 30,382              | \$ 577,505           | \$ 1,225,081                        |                                 |                           |                          |                        |                      |
| Total years (11-20) |                              |                                      |                              |                                 |                           |                          |                        |                      |                                     | \$ 86,379                       | \$ 109,104                | \$ 4,412                 | \$ 9,840               | \$ 187,040           | \$ 396,775                          |                                 |                           |                          |                        |                      |
| Total years (21-30) |                              |                                      |                              |                                 |                           |                          |                        |                      |                                     | \$ 86,379                       | \$ 109,104                | \$ 4,412                 | \$ 9,840               | \$ 187,040           | \$ 396,775                          |                                 |                           |                          |                        |                      |
| Total               |                              |                                      |                              |                                 |                           |                          |                        |                      |                                     | \$ 439,460                      | \$ 555,076                | \$ 22,448                | \$ 50,062              | \$ 951,585           | \$ 2,018,630                        |                                 |                           |                          |                        |                      |

**Purpose of 9.9 MW Battery Energy Storage System (BESS) Project**

**Enhances Grid Stability and Efficiency**

- Provides a reliable storage solution for local electricity grid
- Supports renewable energy integration and manages peak load demands

**Optimizes Energy Usage**

- Stores excess energy from renewable sources during low demand
- Releases stored energy during peak usage to reduce grid strain

**Reduces Fossil Fuel Dependence**

- Minimizes the need for fossil fuel-based power generation
- Contributes to a more sustainable and resilient energy infrastructure

**Supports Community Transition**

- Facilitates the shift towards cleaner, more efficient energy use
- Benefits the local community with improved energy practices



## 9.9 MW Battery Storage System Overview

**Technology Used: Hithium Energy Storage technology.**



### Key Specifications;

- **Energy Density:** 200-220 Wh/kg
  - *Higher than typical industry range (150-250 Wh/kg)*
- **Cycle Life:** 8,000-10,000 cycles at 80% DoD
  - *Significantly exceeds standard 3,000-5,000 cycles*
- **Efficiency:** 95-97% round-trip efficiency
  - *Above average compared to 90-95% benchmark*
- **Operating Temperature:** -20°C to 60°C (-4°F to 140°F)
  - *Broader range than typical -10°C to 45°C*

### Unique Features;

- **Advanced Thermal Management:** Prevents overheating, enhances safety.
- **Sophisticated BMS:** Monitors cell performance, extends battery life.
- **Comprehensive Safety Protections:** Overcharge, over-discharge, short-circuit, temperature.

### Warranties;

- **10 Years or 20,000 Cycles**
  - *Extended warranty surpassing standard industry offerings.*





### 3D Renderings of Project Site

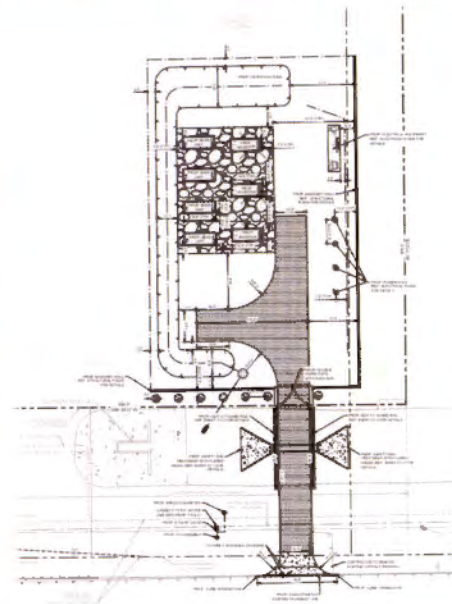
View from East and West on E. Harrison Ave



Note – Payment made into escrow to be made in lieu of sidewalk per agreement

**aggreko**

ENERGY TRANSITION SOLUTIONS



## Fire Prevention Inside Hithium Containers

The Hithium 5015 kWh ESS container is equipped with a comprehensive fire protection system designed to meet stringent safety standards, including NFPA 855. The system includes:

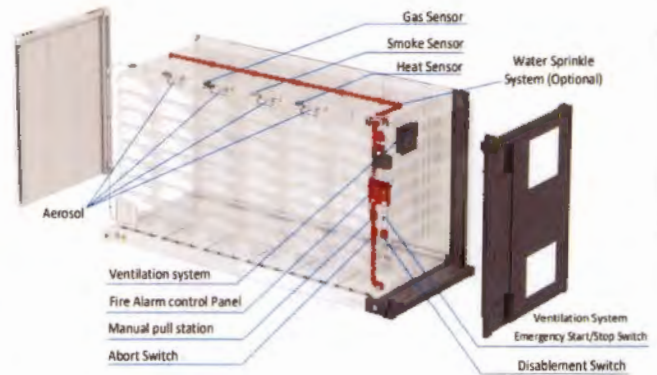
•**Automatic Alarm System:** Integrated with smoke detectors, heat detectors, and a fire alarm control panel (FACP), this system ensures early detection of fire-related hazards. The system triggers alarms and initiates fire suppression protocols automatically.

•**Ventilation System:** This system includes combustible gas detectors, fans, and electric shutters to manage airflow and prevent the buildup of hazardous gases, ensuring the safety of the container environment.

•**Aerosol Fire Extinguishing System:** The container is equipped with an aerosol fire suppression system, which is automatically activated in the event of a fire, effectively containing and extinguishing flames.

•**Optional Water Spray System:** Sprinklers and piping can be installed to provide an additional layer of fire suppression, particularly useful for large-scale fires or when dealing with high-risk environments.

Each component is meticulously integrated to create a comprehensive, multi-layered defense, effectively mitigating potential fire hazards and ensuring the safety of both the energy storage system and the surrounding area.



## Fire Safety Compliance Overview

### **NFPA 855: Installation of Stationary Energy Storage Systems**

#### **System Location & Spacing:**

- Select sites with minimal risk; ensure adequate spacing from infrastructure and residential areas to prevent fire spread and facilitate safe maintenance.

#### **Fire Suppression & Thermal Management:**

- Install appropriate fire suppression systems (e.g., sprinklers, gas suppression) suited to the battery type. Implement advanced thermal management to prevent overheating and thermal runaway.

#### **Emergency Response Planning:**

- Design site layouts with clear, accessible routes for emergency responders. Develop and communicate detailed emergency response plans with local fire authorities.

### **International Fire Code (IFC)**

#### **Chapter 12: Hazardous Materials Handling:**

- Implement safe storage and handling protocols for hazardous materials, including containment, labeling, and periodic compliance audits.

#### **Chapter 38: Stationary Energy Storage Systems:**

- Ensure all installations meet IFC Chapter 38 requirements, including system design and operation. Perform regular inspections and testing to maintain safety and code compliance.



## Emergency Response and Monitoring

- Fractal EMS will provide continuous 24/7 monitoring and control for battery energy storage systems. Fractal provides continuous real-time monitoring of all system components. It uses machine learning algorithms to detect anomalies before they escalate into full-blown emergencies. These algorithms are calibrated to detect deviations in temperature, battery voltage, state of charge, and system integrity.
- Fractal is a leader in energy management systems with tailored solutions to maximize efficiency and uptime.
- In the event of a critical alarm, a technician will be dispatched immediately to the site. The technician will arrive within 4 hours under normal conditions. If the technician cannot reach the site within this window due to unforeseen circumstances (such as roadblocks, natural disasters, etc.), the system will automatically escalate the response protocol to local fire authorities.
- In extreme cases, the Fractal EMS system can implement automated shutdown protocols remotely to minimize damage. This includes isolating malfunctioning sections of the BESS, cutting off power to affected containers, and engaging all available suppression systems.
- City of Harlingen Fire Department Number eight is 1.44 miles away from the site and can be on site within 6 minutes of an emergency





## Site Emergency Procedures

### Initial Response:

- Upon the detection of abnormal conditions (excess heat, smoke, or gas), the automatic alarm system is triggered, initiating pre-programmed shutdowns and alerting the Fractal EMS operators and local fire department.
- The aerosol fire suppression system is immediately activated to contain and suppress any fire before it escalates. The system can fully suppress a fire within minutes without causing water damage to sensitive equipment.

### Secondary Response:

- If the aerosol suppression system is overwhelmed, or if multiple battery containers are affected, the secondary water spray system is automatically engaged. The water system targets high-risk areas and mitigates further fire spread by cooling adjacent containers.
- The Fractal EMS platform continues to send live updates to on-site staff, the dispatch team, and local authorities.

### Fire Department Intervention:

- The City of Harlingen Fire Department arrives within 6 minutes, as their proximity (1.44 miles) allows for rapid deployment. Upon arrival, firefighters are briefed by the on-site emergency management team using Fractal EMS data to provide situational awareness, including heat signatures, gas levels, and other relevant data.
- Firefighters use specialized tools, including thermal imaging cameras and portable CO2 extinguishers, to manage hot spots and prevent reignition.

## Memo

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From: Chris Rose, Manager of Development, Aggreko ETS

To: City of Harlingen City Council

Date: October 8<sup>th</sup>, 2024

Subject: AEP's Response on Energy Transmission for Battery Storage Project

Dear City Council Members,

I am writing to provide an update on the response we received from AEP regarding the energy transmission details for our battery storage project within the City of Harlingen. AEP has confirmed the following regarding the connection and energy flow of the proposed system:

1. Substation Connection:

The energy storage system, as proposed, will be directly connected to a single substation On E Grimes Street, Harlingen. This substation will serve as the primary point of energy distribution for the storage system.

2. Energy Supply to Substation and Feeders:

The stored energy will be used to meet all the energy demands of the substation and the electrical feeders that are connected to it. This ensures that the energy storage system will effectively support the local grid by providing power to the areas served by the substation.

3. Excess Energy Export:

In the event that the energy stored in the system exceeds the instantaneous demand of the substation and its feeders, the excess energy will then be exported to the bulk electric transmission lines. This ensures that any surplus energy generated will still contribute to the larger grid, optimizing the overall energy efficiency.

Please let me know if you have any questions or require further clarification on AEP's response. We are committed to working closely with both AEP and the City of Harlingen to ensure the successful integration of this battery storage project into the local grid.

Sincerely,

Chris Rose

Manager of Development

Aggreko ETS



## Memo

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To: City of Harlingen City Council

From: Aggreko ETS

Subject: Commitment to Support the City of Harlingen Animal Shelter

Date: October 11, 2024

Dear Members of the City of Harlingen City Council,

At Aggreko ETS, we believe that being part of a community means much more than simply doing business; it means giving back and making a real, lasting difference. Over the past year, we've developed strong ties with the City of Harlingen, and it's a privilege for us to contribute to initiatives that truly matter to the people who live and work here.

As a part of this commitment, we are thrilled to announce a donation of \$75,000 to the City of Harlingen Animal Shelter. This donation will be divided equally over the next five years, with \$15,000 contributed annually. We know how vital the work of the Animal Shelter is in caring for and finding homes for the animals that need it most, and we are honored to support this mission.

Being an active and engaged member of the Harlingen community means everything to us at Aggreko ETS. Our team is dedicated to helping make the city a better place for everyone – whether it's through our business efforts or through contributions like this that directly benefit those in need.

We look forward to continuing our partnership with the City of Harlingen and the Animal Shelter over the next five years and beyond. Together, we can make a real difference in the lives of both people and animals, and we're excited to be a part of that journey.

**ATTACHMENT XXI – Aggreko Memo**

Sincerely,

Prashanth Prakash

*Prashanth Prakash*

Chief Commercial Officer, Aggreko ETS

Chris Rose

*Chris Rose*

Manager of Development, Aggreko ETS

## **ORDINANCE NO. 24-**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: A SPECIAL USE PERMIT ISSUED TO ALLOW A BATTERY STORAGE ENERGY FACILITY IN A GENERAL RETAIL ("GR") DISTRICT LOCATED ALONG THE NORTH SIDE OF EAST HARRISON AVENUE, APPROXIMATELY 485 FEET EAST OF LOOP 499, BEARING A LEGAL DESCRIPTION OF 2.00 ACRES OUT OF THE WESY 6.88 ACRES, BLOCK 49, PALMETAL COMPANY SUBDIVISION.**

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a change in the zoning classification for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed rezoning having been fully made and complied with as required by said Zoning Ordinance and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

### **BE IT ORDAINED BY THE CITY OF HARLINGEN**

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated in Exhibit "A":

Special Use Permit ("SUP") issued to Christopher Rose to allow a battery storage energy facility in a General Retail ("GR") District located at a property along the north side of East Harrison Avenue, approximately 485 feet east of Loop 499, bearing a legal description of 2.00 acres out of west 6.88 acres, Block 49, Palmetal Company Subdivision.

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Chief Building Official and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.



The Special Use Permit is made contingent upon construction being complied in accordance with the site plan, a true and correct copy of which is attached hereto and incorporated herein by reference as Exhibits "A" and "B" and shall comply with the conditions as listed below:

1. Compliance with Planning ordinances and regulations, Fire Prevention Bureau's regulations, and Building Inspections ordinances and regulations.
2. Install and maintain an 8-foot opaque wall along Harrison Avenue with ten feet of landscaping between the wall and the property line.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this 21st day of October, 2024 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

**CITY OF HARLINGEN**

\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary

[illegible]





**AGENDA ITEM  
EXECUTIVE SUMMARY**

10(e)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to adopt an ordinance on first reading for the adoption of the 2024 International Codes and the 2023 National Electrical codes. Applicant: City of Harlingen. Attachment (**Planning & Development**)

Prepared By: Xavier Cervantes, AICP, CPM  
Title: Planning and Development Director

Signature: *Xavier Cervantes*

**Brief Summary:**

Summary

- The City of Harlingen adopted the 2018 International Building Codes and the 2017 Electrical Codes in May of 2020.
- The adoption of the most current codes and standards is the most efficient and effective method of creating safe environments that protect and improve public health, safety, general welfare and the economic interests of the community.
- The adoption of the most current codes and standards provides the opportunity for cost savings based on the usage of the latest technology and practices (i.e. plastic pipe for plumbing, trusses vs. dimensional lumber, engineered wood products, etc.) and assures that products and materials are available in the market and comply with specifications and testing standards referenced in the code.
- According to the Insurance Service Office (ISO), communities with well-enforced, up-to-date codes generally fare better in the face of hazards.
- The current codes are in excess of 6 years of age which result in a lower classification by the Insurance Services Office, Inc (ISO). Failure to adopt the most recent codes would inevitably result in a higher classification from the ISO. This would result in higher insurance premiums for the local property owners.
- A survey was conducted to show what the different communities in the Rio Grande Valley are currently enforcing. The table with the comparison can be found in **Attachment I**.
- A list of changes from the 2018 International Building codes to the proposed 2024 International Codes is shown in **Attachment II**.
- In the proposed ordinance it states that the new codes will take effect after the six-month anniversary of the adoption of the ordinance.

**Funding (if applicable):**

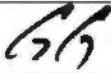
Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval.

City Manager's approval:  ☒ Yes ☐ No ☐ N/A

**Comments:**

City Attorney's approval:  ☒ Yes ☐ No ☐ N/A

**Attachment I****Attachment I****RGV ADOPTED CODES COMPARISONS  
As of September 16, 2024**

| <b>CITY</b>               | <b>ADOPTED CODE</b>                            |
|---------------------------|------------------------------------------------|
| <b>Los Fresnos</b>        | 2018 International Codes                       |
| <b>South Padre Island</b> | 2018 International Codes                       |
| <b>Brownsville</b>        | 2018 International Codes                       |
| <b>Edinburg</b>           | 2018 International Codes                       |
| <b>La Feria</b>           | 2021 International Codes                       |
| <b>McAllen</b>            | 2018 International Codes                       |
| <b>Mission</b>            | 2021 International Codes                       |
| <b>Pharr</b>              | 2018 International Codes                       |
| <b>San Benito</b>         | 2024 International Codes                       |
| <b>San Juan</b>           | 2018 International Codes                       |
| <b>Weslaco</b>            | 2015 but getting ready to adopt the 2021 codes |



## 2024 IBC Significant Changes

### 105.2 **Fences Not Exempt from Permit**

Fences up to 7 feet in height no longer exempt from permit requirements where utilized as a swimming pool barrier.

Recognizes life safety protection provided by minimum fence height, limitation on size of any openings, lack of climb ability, and controlled gate access.

Permit requirement provides mechanism for ensuring fence and its installation go through the plan review and inspection process

### 306.2 **Group F Occupancy Classification**

Group F-1 occupancy classification also now includes: Energy storage systems (ESS) and equipment containing lithium-ion or lithium metal batteries  
Manufacture of lithium-ion batteries  
Manufacture and assembly of vehicles powered by lithium-ion or lithium metal batteries  
Recognition as Group F-1 based on moderate degree of hazard due to large part to safeguards mandated in IBC

### 310.4 **Group R Occupancy Classification**

In addition to several clarifications of various residential uses, the lodging house provisions have been revised. Emergency services living quarters introduced as congregate living facilities Scoping provisions for bed and breakfast establishments and similar lodging houses classified as a Group R-3 occupancy no longer mandate a maximum of 10 occupants. In addition, no longer an occupant load limit required for construction of an owner-occupied lodging house under the International Residential Code Threshold of five guest rooms remains as sole factor for lodging house classification

## **Attachment II – Changes from the existing codes**

### **510.2 Horizontal Building Separations**

Where the horizontal building separation allowance (podium buildings) of Section 510 is applied, the restriction on occupant loads for the upper building has been eliminated

Previously, the only Group A occupancies permitted above the podium level were those with an occupant load of less than 300. In addition, where vertical offsets occur in the horizontal separation required between the upper and lower buildings, the offsets shall be constructed as for fire barriers

### **903.2, 903.3.1.1.3 Automatic Sprinkler Protection for Batteries**

Allowance to exempt sprinkler protection for battery areas in telecommunications buildings where automatic smoke detection and fire resistive separation is provided has been modified to those conditions where such battery areas not required to have sprinkler system per IFC Section 1207. Where sprinkler protection required for areas containing lithium-ion or lithium metal batteries, design of system to be based on series of fire tests involving scenarios that address range of variables associated with arrangement of hazards to be protected. Tests to be conducted or witnessed and reported by approved testing laboratory

### **903.2 Sprinkler System Required – Lithium-ion and Lithium Metal Batteries**

Sprinkler systems are required in certain Group B, F-1, M and S-1 occupancies where these batteries are involved.

Not limited to use in Energy Storage Systems as previously done. Addresses the unique fire hazard the batteries create and the potential for a thermal runaway fire.

Sprinkler required for: Group B: Laboratories, testing, research and development of batteries Group F-1: Manufacture of batteries or vehicles, ESS or equipment using them Group M: Storage Group S-1: Storage or repair of vehicles powered by these batteries with fire area over 500 square feet

## Attachment II – Changes from the existing codes

### 907.2.11.3 **Smoke Alarms Near Cooking Appliances**

Modifies the location requirements applicable to smoke alarms due to changes in the listing standard. New testing standards help reduce nuisance alarms caused by cooking sources. Align with NFPA 72 and UL 217 Requires 10-foot horizontal separation to permanently installed cooking appliance, with exception permitting reduction to 6 feet to ensure detectors are installed where required by 907.2.11.1 or 907.2.11.2. Code previously used 20 feet, 10 feet or 6 feet, depending on alarm type.

### 1015.8 **Window Openings in Group R-2 and R-3 Buildings**

Scope of Section 1015.8 is windows in Group R-2 and R-3 buildings including dwelling units where: Bottom of clear opening of operable window located less than 36 inches above finished floor and more than 72 inches above finished grade or other surface below on exterior of building. Provisions reorganized to regulate two conditions: Windows located less than 75 feet but more than 6 feet above exterior grade or surface below Window openings located 75 feet or more above exterior grade or surface below

### 1107.2 **Electrical Vehicle Charging Stations**

Electrical vehicle charging stations serving Group R-2 occupancies must now comply with accessible provisions of Section 1107.2.

Exemption continues to apply to Groups R-3 and R-4 Electrical vehicle charging stations not required to be accessible where used exclusively by: Buses, Trucks, Other deliver vehicles, Law enforcement vehicles, Motor pools

### 1208 **Dwelling Unit Size**

Minimum size of 70 square feet has been established for sleeping units. Previously unaddressed, now consistent with minimum size required for habitable rooms of a dwelling unit. Dwelling units now required to have a minimum of 190 square feet of habitable space. Provides consistency with minimum size required for efficiency dwelling units.

### 1403.13, 1403.14, 1404.19 **Exterior Wall Materials and Installation**



## Attachment II – Changes from the existing codes

### 1409 **Insulated Metal Panels (IMP)**

New provisions now regulate the materials, construction and quality of insulated wall panels (IMP) used as exterior walls and exterior wall coverings. MP newly defined a factory manufactured panel consisting of metal facings and an insulation core intended for use as a system forming an exterior wall, an exterior wall covering, a roof covering or roof assembly of a building. Provisions vary based upon whether insulating materials are combustible or noncombustible. Although regulated similar to MCMs, they need their own provisions due to variety of insulating materials that are permitted

### 1502.3 **Roof Drainage Scuppers**

Scupper requirements for secondary roof drainage removed from IBC as they are addressed in full by IPC. Previously, IBC was incomplete as it did not contain all applicable provisions set forth in IPC. Retention of Section 1502.2 maintains requirement for secondary roof drains or scuppers, where applicable, with reference to required compliance with Chapter 11 of IPC. Does not require specific adoption of IPC due to application of Section 102.4 recognizing referenced standards as an extension of the IBC.

### 1705.2.6 **Special Inspection—Metal Building Systems**

New special inspection requirement complement new provisions applicable to metal building systems now found in IBC Section 2214. Metal building systems are typically heavily dependent on bracing components to function per the design. Due to a previous lack of special inspection requirements for these components, inspection of the completed installation of these critical components was often overlooked. While individual components are often covered by fabricator special inspections and tests, metal building systems are often unique Approved agency to perform inspections of erected metal building system to verify compliance with approved construction documents.

### 3111.3.5 **Elevated PV Support Structures**

Overhead photovoltaic support structures now regulated where potential exists for people or vehicles in space beneath them. Not applicable where installed over agricultural use,

Where installed over open-grid framing or noncombustible deck: Panels to be tested, listed and labeled with fire type rating per UL 1703, or per UL 61730 1&2. Panels marked “not fire rated” not to be installed on elevated PV support structures. Where installed over roof assembly, panel system to have fire classification in accordance with Section 1505.9

## 2024 IRC Significant Changes

### **Wind loads Section (Structural Loads R301)**

Lateral loads on studs, Fasteners of studs to framing, Sheathing and its fasteners, Gable ~~endwall~~ overhangs, Suction on rafters/purlins, Roof uplift connectors

R302.1 **Exterior Walls** Measurement of fire separation distance when there are multiple dwellings or townhouse buildings on the same lot is added.

R302.3 **Two-family dwellings** Two-family dwellings have updated fire resistance requirements for improved clarity.

R302.3.5 **Stacked Dwelling** Units Details are added for stacked two family dwelling units.

#### **R302.3.6.1 Opening protection**

Openings from a shared accessory room into a sleeping room not be permitted, Other openings equipped with a self-closing or automatic-closing device and: Solid wood doors not less than 1-3/8 inches in thickness, Solid or honeycomb core steel doors not less than 1-3/8 inches thick, Fire door assembly with a 20-minute fire-protection rating.

#### **R302.3.6.2 Duct penetration**

Ducts penetrating the walls or ceilings separating the dwelling from the shared accessory room, Shall not have openings into the shared accessory room, Constructed of a minimum No. 26 gage sheet steel, Other approved material.

#### **R303.1, R303.8 Foam Plastics**

New standards for foam plastic materials and their applications are added.

## Attachment II – Changes from the existing codes

### R310 **Smoke Alarms**

Adds requirement for smoke alarms to meet manufacturers installation instructions, Clarifies locations for smoke alarms.

### R317.6, R317.7 **EV Charging** E

EV charging stations must be installed per NEC, listed and labeled per UL 2202 with supply equipment listed and labeled per UL 2594.

### R318.7.6 **Stair Landings**

Stair landings have all exceptions grouped into one section, Top landings may be on the opposite side of a door. Landings may be up to 7¼ inches below the threshold, No top landing required with less than 3 risers, Exterior stairs to grade must have a bottom landing.

R318.8 **Ramps Handrails** requirements for ramps are deleted and the ramp section is relocated.

### R506.2 **Post-tensioned Slabs**

A referenced standard for posttensioned slabs on ground is added to the IRC.

### R506.2.3 **Vapor Retarder**

The minimum thickness of vapor retarders is changed back to 6 mil.

### Table R602.3(1) **Roof Sheathing Fastener Schedule**

Fastener spacing applies where roof framing  $SG \geq 0.42$ . Where roof framing  $SG \leq 0.35$ , fastening of roof sheathing shall be with RSRS03 (2½" x 0.131" x 0.281" head) nails.



## Attachment II – Changes from the existing codes

### Fuel Gas Ch. 24

G2407.1 Combustion, ventilation and Dilution Air The section on corrosive and flammable products is rewritten to require a mechanical room or direct vented appliances.

### E3704.2 **Feeder Loads** ✱

The feeder load calculation table adds EV cars and other vehicles to the calculation procedure

EV supply equipment (EVSE) load shall be 7200 watts or the nameplate rating of the equipment, whichever is greater.

E3901.4 **Countertop and Work Surface Receptacles** Islands and countertops may no longer have receptacle outlets below the counter.

- Receptacles must be on or above countertops
- Receptacles **prohibited below** countertops
- Receptacles **prohibited flat** on countertops

### E3902.12 **Appliance Outlets – GFCI Protected**

1. Drinking water coolers and bottle fill stations 2. High pressure spray washing machines 3. Sump pumps 4. Dishwashers 5. Electric ranges 6. Wall-mounted ovens 7. Counter-mounted cooking units 8. Clothes dryers 9. Microwave ovens.

### E3902.14 **Outdoor Outlets**

Outdoor outlets must be GFCI protected with a few exceptions

Exceptions: Lighting outlets, Not readily-accessible receptacles dedicated to electric snow melting or deicing, HVAC equipment (expires 9-1-2026)

### E3905.13 **Fastener Penetration**

A new section is added limiting screw fastener penetration into boxes.

**ORDINANCE NO.**

**AN ORDINANCE REPEALING ORDINANCE 14-9 OF THE CITY OF HARLINGEN, AND ADOPTING THE 2024 EDITION INTERNATIONAL CODES, BY THE INTERNATIONAL CODE COUNCIL, INC. TO INCLUDE;**

**INTERNATIONAL BUILDING CODE,**

**INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS,**

**INTERNATIONAL FIRE CODE,**

**INTERNATIONAL WILDLAND URBAN INTERFACE CODE,**

**INTERNATIONAL ENERGY CONSERVATION CODE,**

**INTERNATIONAL MECHANICAL CODE,**

**INTERNATIONAL PLUMBING CODE,**

**INTERNATIONAL FUEL GAS CODE,**

**INTERNATIONAL PRIVATE SEWAGE DISPOSAL CODE,**

**INTERNATIONAL EXISTING BUILDING CODE,**

**INTERNATIONAL SWIMMING POOL AND SPA CODE,**

**INTERNATIONAL PROPERTY MAINTENANCE CODE,**

**ICC PERFORMANCE CODE FOR BUILDINGS AND FACILITIES, INTERNATIONAL GREEN CONSTRUCTION CODE,**

**AND ADOPTING THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 101 LIFE SAFETY CODE, INCLUDING THE ANNEX CHAPTERS,**

**AND ADOPTING THE 2023 EDITION OF THE NATIONAL ELECTRIC CODE (NFPA 70), INCLUDING THE ANNEX CHAPTERS,**

**AND REPEALING ALL CITY ORDINANCES IN CONFLICT HERewith AND ORDAINING OTHER MATTERS RELATING TO THE FOREGOING.**

**BE IT ORDAINED BYTHE CITY COMMISSION OF THE CITY OF HARLINGEN THAT;**

**SECTION 1:** Ordinance 14-9 be repealed by adopting the 2024 Edition International Codes including the Appendix Chapters by the International Code Council, Inc., to include;

International Building Code,

International Residential Code for One and Two Family Dwellings,

International Fire Code,

International Wildland Urban Interface Code,

International Energy Conservation Code,

International Mechanical Code,

International Plumbing Code,

International Fuel Gas Code,

International Private Sewage Disposal Code,

International Existing Building Code,

International Swimming Pool and Spa Code,

International Property Maintenance Code,

ICC Performance Code for Building and Facilities,

International Green Construction Code,

And adopting the National Fire Protection Association (NFPA) 101 Life Safety Code, including the Annex Chapters,

And adopting the 2023 Edition of the National Electric Code (NFPA 70), including the Annex Chapters.

**SECTION 2:** Any person, individual corporation, partnership, or entity of any type violating the provisions of these codes shall be guilty of a misdemeanor and shall be fined not less than \$1.00 or not to exceed \$2,000.00. Each day that a violation occurs or continues to exist it shall be considered a separate offense.

**SECTION 3:** All ordinances or part of ordinances in conflict herewith are hereby repealed.

**SECTION 4:** If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The City of Harlingen hereby declares that it would have passed this ordinance, and each section, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

**SECTION 5:** Nothing in this ordinance or the Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, any rights acquired, or liability incurred, or any cause or causes of action acquired or existing under any actor ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost impaired or affected by this ordinance.



**SECTION 6:** The City Secretary of the City of Harlingen, Texas is hereby authorized and directed to cause a true and correct copy of the caption of this ordinance to be published in a newspaper having circulation in the City of Harlingen, Cameron County, Texas.

**SECTION 7:** The rules, regulations, provisions, requirements, orders and matters established and adopted in this ordinance hereby shall take effect after the six-month anniversary of the passage of this ordinance.

**NOW THEREFORE, BE IT ORDAINED** by the City Commission of the City of Harlingen, Texas that said City Commission wishes to comply with said Ordinance and to provide for enforcement of the requirements set out in the International Codes by the International Code Council, Inc. to safeguard life, health, public welfare and the protection of property within the City of Harlingen, the aforementioned requirements are hereby adopted and shall become effective after the six-month anniversary of the passage of this ordinance.

**FINALLY ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2024 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

**CITY OF HARLINGEN**

\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary

10/4/24

**AGENDA ITEM  
EXECUTIVE  
SUMMARY**

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to approve the surveys for the comprehensive, parks and downtown master plans. Attachment (*Planning & Development*)

Prepared By: Xavier Cervantes, AICP, CPM  
Title: Planning and Development Director

Signature: *Xavier Cervantes*

**Brief Summary:**

Project Timeline

- June 19, 2024 – Freese and Nichols, Inc. was selected as the firm for the preparation of the master plans.
- November 18, 2024 – The community engagement meeting is scheduled at 6:00 p.m.
- November 19, 2024 – The first project steering committee is scheduled at 12:00 noon.
- September 24, 2025 – Consideration of the adoption of the Comprehensive Plan before the Planning and Zoning Commission.
- October 1, 2025 – Consideration of the adoption of the Plans via 1<sup>st</sup> ordinance reading before the City Commission.
- October 15, 2025 - Pending approval of 1<sup>st</sup> ordinance reading, consideration of approval of 2<sup>nd</sup> ordinance reading scheduled before the City Commission.

Summary

- An important component of the master plan projects is to conduct a survey to find out what the Harlingen residents feel and desire for the community.
- Staff is requesting approval of the attached surveys.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full ☒ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends approval of the surveys.

City Manager's approval: *GH* ☒ Yes ☐ No ☐ N/A

**Comments:**

*will be adding Drop Down menus to the forms.*

City Attorney's approval: *[Signature]* ☒ Yes ☐ No ☐ N/A

# Harlingen Comprehensive Plan Community Survey

The purpose of this comprehensive plan survey is to gather input from community members about their vision and priorities for the future development of Harlingen. Your feedback will help shape policies and initiatives that address key issues such as land use, housing, transportation and recreational amenities.

The survey will be open through October XX, 2024. Please note that the survey will not save progress, so you must complete the survey in one sitting. The survey should take approximately 20 minutes to complete.

## City Vision & Priorities

This section asks you to help set the vision and identify future priorities for the City of Harlingen.

01. What is your primary reason for choosing to live in Harlingen?

Select all that apply

| Select all that apply                                       |
|-------------------------------------------------------------|
| <input type="checkbox"/> Born and raised here               |
| <input type="checkbox"/> Employment opportunity             |
| <input type="checkbox"/> Housing selection or affordability |
| <input type="checkbox"/> Lifestyle                          |
| <input type="checkbox"/> Low cost of living (e.g. taxes)    |
| <input type="checkbox"/> Schools/education                  |
| <input type="checkbox"/> I do not live in Harlingen         |
| <input type="checkbox"/> Other                              |
| <input type="text"/>                                        |

02. In your opinion, what are Harlingen's greatest strengths? What differentiates it from any other city?



03. What do you think will be the most critical issues facing Harlingen in the future?

04. What about Harlingen would you like to see change or improve?

05. If you could do one big thing to make Harlingen the best place it could be, what would that be?

06. What have you seen in other cities or towns that you would like to see in Harlingen?

07. In your opinion, what strategies would be most helpful in supporting all Harlingen residents to thrive and prosper in our community?

Select your top 3 priorities

| Select 3 answers                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Provide local transportation alternatives that do not require vehicle ownership          |
| <input type="checkbox"/> Provide more job opportunities within the city                                           |
| <input type="checkbox"/> Provide higher-wage jobs within the city                                                 |
| <input type="checkbox"/> Support local businesses and entrepreneurs                                               |
| <input type="checkbox"/> Workforce training and technical education programs                                      |
| <input type="checkbox"/> Address affordable housing                                                               |
| <input type="checkbox"/> Better/more convenient access to retail, services, and entertainment options in the city |
| <input type="checkbox"/> Enhanced community resources and social programs                                         |
| <input type="checkbox"/> Higher education opportunities                                                           |
| <input type="checkbox"/> Other                                                                                    |
| <input type="text"/>                                                                                              |

08. In the future, Harlingen should focus on housing that:

Rank your priorities

| Select one answer only                                                                                       |
|--------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Attracts young professionals                                                        |
| <input type="checkbox"/> Attracts families                                                                   |
| <input type="checkbox"/> Accommodates older residents who want to remain in the community (e.g., downsizing) |
| <input type="checkbox"/> Accommodates service industry workers and blue-collar employees                     |
| <input type="checkbox"/> Accommodates executives/high-income workers                                         |

09. In the future, residents should be connected to destinations within the City through:

Rank your priorities

| Select one answer only                                              |
|---------------------------------------------------------------------|
| <input type="checkbox"/> A connected sidewalk or off-street network |

|                          |                                                                            |
|--------------------------|----------------------------------------------------------------------------|
| <input type="checkbox"/> | On-street bike lanes                                                       |
| <input type="checkbox"/> | Local streets that accommodate bikes, transit, cars and pedestrians        |
| <input type="checkbox"/> | High-capacity roadways for cars                                            |
| <input type="checkbox"/> | Public transportation that provides an alternative to private vehicles     |
| <input type="checkbox"/> | Innovative transportation strategies (rideshare, van pool, micro mobility) |

10. Infrastructure investments the city should focus on:

Rank your priorities

| Select one answer only   |                                                                       |
|--------------------------|-----------------------------------------------------------------------|
| <input type="checkbox"/> | Providing greater access to natural amenities (e.g., parks, trails)   |
| <input type="checkbox"/> | Providing safer options for walking and bicycling throughout the city |
| <input type="checkbox"/> | Improving the appearance and quality of key road corridors            |
| <input type="checkbox"/> | Reducing traffic                                                      |
| <input type="checkbox"/> | Improving drainage and flood prevention infrastructure                |
| <input type="checkbox"/> | Hardening infrastructure to withstand extreme weather                 |
| <input type="checkbox"/> | Improving communications infrastructure (e.g., internet access)       |
| <input type="checkbox"/> | Updating water and sewer system infrastructure                        |

## Future Land Uses

This section asks you to help identify what types of future land use and development the City of Harlingen needs.

11. How supportive are you of bringing more residential land-uses (e.g., housing, apartments) to Harlingen?

A ranking of zero (0) indicates no support for the land use, while a ranking of five (5) indicates a high level of support.





On a scale between 0 and 5, and in increments of 1, provide your rating below.

12. I would support more of the following housing options in Harlingen:

Select all that apply

| Select one answer only                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------|
| <input type="radio"/> Single-family starter homes at affordable price ranges                                          |
| <input type="radio"/> Traditional, suburban single-family homes                                                       |
| <input type="radio"/> Higher-end luxury housing options (large lot/estate homes)                                      |
| <input type="radio"/> Single-family for rent products                                                                 |
| <input type="radio"/> "Missing middle" housing options such as small-lot single family homes, townhomes, and duplexes |
| <input type="radio"/> Multi-family (apartments/condos) at a range of price points                                     |
| <input type="radio"/> Subsidized affordable housing                                                                   |
| <input type="radio"/> No new housing                                                                                  |

☐ Other

13. How supportive are you of bringing more commercial land-uses (e.g., shops, restaurants, offices) in Harlingen?

A ranking of zero (0) indicates no support for the land use, while a ranking of five (5) indicates a high level of support.



On a scale between 0 and 5, and in increments of 1, provide your rating below.

14. What commercial businesses would you like to see more of in Harlingen?

Select all that apply

| Select all that apply    |                                                                                       |
|--------------------------|---------------------------------------------------------------------------------------|
| <input type="checkbox"/> | Educational Services (e.g., tutoring services, language schools, vocational training) |
| <input type="checkbox"/> | Entertainment (e.g., movie theaters, music venues)                                    |
| <input type="checkbox"/> | Health and Wellness (e.g., fitness centers, yoga studios)                             |
| <input type="checkbox"/> | Healthcare (e.g. clinics, doctors offices, hospitals)                                 |
| <input type="checkbox"/> | Hospitality (e.g., hotels)                                                            |
| <input type="checkbox"/> | Fast, affordable, casual dining restaurants                                           |



|                                                         |
|---------------------------------------------------------|
| <input type="checkbox"/> Fine dining restaurants        |
| <input type="checkbox"/> Retail Stores                  |
| <input type="checkbox"/> Local and small businesses     |
| <input type="checkbox"/> Regional-level retail, big box |
| <input type="checkbox"/> No new commercial              |
| <input type="checkbox"/> Other                          |
| <div></div>                                             |

15. How supportive are you of bringing more mixed-use developments (e.g., areas where residential, commercial and recreational uses are combined) to Harlingen?

A ranking of zero (0) indicates no support for the land use, while a ranking of five (5) indicates a high level of support.



**On a scale between 0 and 5, and in increments of 1, provide your rating below.**

16. What types of mixed-use development would you like to see in Harlingen?



Select all that apply

| Select all that apply                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Small-scale, infill mixed-use (e.g. a single building on a lot with businesses on the ground floor and office or lofts above, up to 3 stories)                                           |
| <input type="checkbox"/> Small-scale mixed-use activity center (e.g. multiple lots and buildings with businesses on the ground floor and office or lofts above, up to 3 stories; creating a "downtown" type feel) |
| <input type="checkbox"/> Regional-scale mixed-use nodes with multiple buildings incorporating retail, office, and housing into a larger planned development (e.g. lifestyle center)                               |
| <input type="checkbox"/> No mixed-use                                                                                                                                                                             |
| <input type="checkbox"/> Other                                                                                                                                                                                    |
| <div></div>                                                                                                                                                                                                       |

17. How supportive are you of bringing more industrial land-uses (e.g., factories, warehousing) to Harlingen?

A ranking of zero (0) indicates no support for the land use, while a ranking of five (5) indicates a high level of support.



On a scale between 0 and 5, and in increments of 1, provide your rating below.

18. What types of industrial development would you like to see more of in Harlingen?

Select all that apply

| Select all that apply                                                                                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Flex Industrial/R&D (e.g. includes office along with "clean" manufacturing and warehouse; often used for tech companies) |
| <input type="checkbox"/> Warehousing, storage and logistics (good for economic development without the level of nuisances of heavy industrial)    |
| <input type="checkbox"/> Heavy Industrial & Production (good for economic development with some nuisances such as traffic, noise and dust)        |
| <input type="checkbox"/> No new industrial                                                                                                        |
| <input type="checkbox"/> Other                                                                                                                    |
| <input type="text"/>                                                                                                                              |

## Demographic Questions

The following questions are **optional**. If you prefer not to answer, you can just skip to the end of the survey and submit it.

19. Which of the below describes you?

Please be aware that not everyone with a Harlingen address is within the City's municipal boundaries. If you receive garbage/recycling services from the City, you live within the municipal boundaries of Harlingen. If you pay a different service for waste collection, you live outside of the municipal boundaries of Harlingen.

| Select between 0 and 3 answers                                                                   |
|--------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> I live in Harlingen                                                     |
| <input type="checkbox"/> I work in Harlingen                                                     |
| <input type="checkbox"/> I own commercial property or business in Harlingen                      |
| <input type="checkbox"/> I do not live or work in Harlingen, but visit often                     |
| <input type="checkbox"/> I do not spend much time in Harlingen, but am interested in it's future |

20. Which area of Harlingen do you live?(\*Map will be added)

| Select one answer only       |
|------------------------------|
| <input type="radio"/> Area 1 |
| <input type="radio"/> Area 2 |
| <input type="radio"/> Area 3 |
| <input type="radio"/> Area 4 |

21. If you live in Harlingen, what best describes your living situation?

| Select one answer only                             |
|----------------------------------------------------|
| <input type="radio"/> Own my home/condo/apartment  |
| <input type="radio"/> Rent my home/condo/apartment |
| <input type="radio"/> Live with family             |
| <input type="radio"/> Other                        |
| <input type="text"/>                               |

22. If you live in Harlingen, how many years have you lived here?

| Select one answer only                   |
|------------------------------------------|
| <input type="radio"/> Less than 1 year   |
| <input type="radio"/> 1-5 years          |
| <input type="radio"/> 6-10 years         |
| <input type="radio"/> More than 10 years |

23. What is your age?

| Select one answer only         |
|--------------------------------|
| <input type="radio"/> Under 14 |
| <input type="radio"/> 14 to 20 |
| <input type="radio"/> 21 to 30 |
| <input type="radio"/> 31 to 50 |
| <input type="radio"/> 51 to 65 |
| <input type="radio"/> Over 65  |

24. What best describes your race/ethnicity?

| Select one answer only                            |
|---------------------------------------------------|
| <input type="radio"/> Hispanic/Latino             |
| <input type="radio"/> White (Non-Hispanic/Latino) |
| <input type="radio"/> African American/Black      |
| <input type="radio"/> American Indian             |
| <input type="radio"/> Asian                       |



|                                            |
|--------------------------------------------|
| <input type="radio"/> Two or More Races    |
| <input type="radio"/> Prefer not to answer |
| <input type="text"/>                       |

25. What is your household income in the last 12 months?

|                                              |
|----------------------------------------------|
| <b>Select one answer only</b>                |
| <input type="radio"/> Less than \$10,000     |
| <input type="radio"/> \$10,000 to \$24,999   |
| <input type="radio"/> \$25,000 to \$49,999   |
| <input type="radio"/> \$50,000 to \$99,999   |
| <input type="radio"/> \$100,00 to \$149,999  |
| <input type="radio"/> \$150,000 to \$199,999 |
| <input type="radio"/> \$200,000 or more      |

# Harlingen Parks Plan Community Survey

The City of Harlingen is updating your Parks Plan and we need your help by filling out this survey! Your input will help guide our park and recreation planning efforts for approximately the next 10 years. Please take a few minutes to complete this important survey.

## General

Help set the vision and identify future priorities for the Parks in Harlingen.

01. How do you find out about parks, recreation facilities and recreation programs in Harlingen?

Select all that apply

| Select all that apply                                            |
|------------------------------------------------------------------|
| <input type="checkbox"/> City of Harlingen website               |
| <input type="checkbox"/> Facebook or Social Media                |
| <input type="checkbox"/> Emails from the City                    |
| <input type="checkbox"/> Youth Sports Associations               |
| <input type="checkbox"/> Park & Recreation Dept. flyers/brochure |
| <input type="checkbox"/> Other                                   |
| <input type="text"/>                                             |

02. What is your favorite park in Harlingen and why?

03. What activities do you typically engage in when visiting parks (e.g., walking, sports, picnicking)?

04. Within the past year, how often have you or someone from your household visited or used the park facilities in Harlingen?

| Select one answer only |
|------------------------|
|------------------------|

|                                            |
|--------------------------------------------|
| <input type="radio"/> At least weekly      |
| <input type="radio"/> At least monthly     |
| <input type="radio"/> At least quarterly   |
| <input type="radio"/> Twice a year or less |
| <input type="radio"/> Never                |

05. Overall, how would you rate the parks and recreational opportunities and open space in the City of Harlingen?

|                                  |
|----------------------------------|
| <b>Select one answer only</b>    |
| <input type="radio"/> Excellent  |
| <input type="radio"/> Good       |
| <input type="radio"/> Fair       |
| <input type="radio"/> Poor       |
| <input type="radio"/> No opinion |

06. If fair or poor, please explain:

|  |
|--|
|  |
|--|

07. What keeps you from getting to parks by another means besides cars (walking, bicycling or skating)?

|                                                         |
|---------------------------------------------------------|
| <b>Select one answer only</b>                           |
| <input type="radio"/> Parks are too far away            |
| <input type="radio"/> Lack of sidewalks/bikelanes       |
| <input type="radio"/> I feel unsafe walking/biking, etc |

08. In which of these programs would you and your household members of any age be MOST INTERESTED in participating?

|                                                        |
|--------------------------------------------------------|
| <b>Select all that apply</b>                           |
| <input type="checkbox"/> Adult Sport Leagues           |
| <input type="checkbox"/> Adult Programs                |
| <input type="checkbox"/> Adaptive Recreation Programs  |
| <input type="checkbox"/> Aquatic programs for all ages |



|                                                         |
|---------------------------------------------------------|
| <input type="checkbox"/> Arts & Crafts events           |
| <input type="checkbox"/> Art/ Music/ Food festivals     |
| <input type="checkbox"/> Badminton                      |
| <input type="checkbox"/> Baseball                       |
| <input type="checkbox"/> Basketball                     |
| <input type="checkbox"/> Biking/Cycling Programs        |
| <input type="checkbox"/> Community gardens              |
| <input type="checkbox"/> Cooking & nutrition classes    |
| <input type="checkbox"/> Climbing Wall                  |
| <input type="checkbox"/> Cricket                        |
| <input type="checkbox"/> Cornhole Tournaments           |
| <input type="checkbox"/> City volunteer opportunities   |
| <input type="checkbox"/> Disc golf                      |
| <input type="checkbox"/> Farmers Market                 |
| <input type="checkbox"/> Fitness Tournaments            |
| <input type="checkbox"/> Fishing Tournaments            |
| <input type="checkbox"/> Football                       |
| <input type="checkbox"/> Family programs                |
| <input type="checkbox"/> Gymnastics                     |
| <input type="checkbox"/> Live Action Role Play (LARP)   |
| <input type="checkbox"/> Music/dance programs           |
| <input type="checkbox"/> Outdoor music events/festivals |
| <input type="checkbox"/> Parent/child programs          |
| <input type="checkbox"/> Pickleball                     |
| <input type="checkbox"/> Preschool/toddler programs     |
| <input type="checkbox"/> Races (5k, 10k)                |
| <input type="checkbox"/> Sand Volley Ball               |
| <input type="checkbox"/> Senior programs                |
| <input type="checkbox"/> Softball                       |
| <input type="checkbox"/> Skateboarding                  |

|                                                |
|------------------------------------------------|
| <input type="checkbox"/> Soccer                |
| <input type="checkbox"/> Tennis                |
| <input type="checkbox"/> Tree planting program |
| <input type="checkbox"/> Teen programs/camps   |
| <input type="checkbox"/> Wrestling             |
| <input type="checkbox"/> Youth programs/camps  |
| <input type="checkbox"/> Yoga                  |
| <input type="checkbox"/> Other                 |

09. Which age groups in your household would be interested in participating in a City of Harlingen recreation or leisure program?

|                                            |
|--------------------------------------------|
| <b>Select one answer only</b>              |
| <input type="radio"/> Under 5 years of age |
| <input type="radio"/> 6 to 10              |
| <input type="radio"/> 11 to 13             |
| <input type="radio"/> 14 to 17             |
| <input type="radio"/> 18 to 29             |
| <input type="radio"/> 30 to 49             |
| <input type="radio"/> 50 to 65             |
| <input type="radio"/> Over 65              |
| <input type="radio"/> None/not interested  |

10. If dissatisfied or very dissatisfied, please explain:

|  |
|--|
|  |
|--|

11. What types of new facilities or amenities would you like to see in the parks?

|  |
|--|
|  |
|--|

12. Which THREE facilities/amenities are the MOST important to you for the Parks and Community Services to focus on within the next five years?

|  |
|--|
|  |
|--|

13. In order to develop and maintain the park and recreation facilities/amenities you have suggested, how strongly would you support the following funding options?

1. Increased user fees (paying a fee to use a facility/program) 2. Sponsorships (private contributions for programs, supplies, equipment, etc.) 3. Voter-approved bond programs 4. Increased park improvement fees for developers 5. Increased property taxes

| Select one answer only                 |
|----------------------------------------|
| <input type="radio"/> Strong support   |
| <input type="radio"/> Somewhat support |
| <input type="radio"/> Somewhat oppose  |
| <input type="radio"/> Strong oppose    |
| <input type="radio"/> No opinion       |

14. How much more per year in additional property taxes would you be willing to pay in order to fund the improvement priorities you have suggested in this survey?

| Select one answer only                     |
|--------------------------------------------|
| <input type="radio"/> More than \$200/year |
| <input type="radio"/> Up to \$200/year     |
| <input type="radio"/> Up to \$100/year     |
| <input type="radio"/> Up to \$75/year      |
| <input type="radio"/> Up to \$50/year      |
| <input type="radio"/> No increase          |

## Demographic Questions

The following questions are **optional**. If you prefer not to answer, you can just skip to the end of the survey and submit it.

15. How old are you?

| Select one answer only             |
|------------------------------------|
| <input type="radio"/> Less than 18 |
| <input type="radio"/> 18-25        |
| <input type="radio"/> 26-35        |



|                             |
|-----------------------------|
| <input type="radio"/> 36-50 |
| <input type="radio"/> 51-65 |
| <input type="radio"/> 66+   |
| <input type="radio"/> Other |
| <input type="text"/>        |

16. How many people live in your household?

|                               |
|-------------------------------|
| <b>Select one answer only</b> |
| <input type="radio"/> 1-2     |
| <input type="radio"/> 3-4     |
| <input type="radio"/> 5-6     |
| <input type="radio"/> 7+      |
| <input type="radio"/> Other   |
| <input type="text"/>          |

17. Which youth age groups are represented in your household?

|                                                |
|------------------------------------------------|
| <b>Select one answer only</b>                  |
| <input type="radio"/> 0-5 years                |
| <input type="radio"/> 6-10 years               |
| <input type="radio"/> 11-13 years              |
| <input type="radio"/> 14-18 years              |
| <input type="radio"/> No children in household |
| <input type="radio"/> Prefer not to answer     |

18. What best describes your race/ethnicity?

|                                                   |
|---------------------------------------------------|
| <b>Select one answer only</b>                     |
| <input type="radio"/> Hispanic/Latino             |
| <input type="radio"/> White (Non-Hispanic/Latino) |
| <input type="radio"/> African American/Black      |
| <input type="radio"/> American Indian             |

|                                            |
|--------------------------------------------|
| <input type="radio"/> Asian                |
| <input type="radio"/> Two or more races    |
| <input type="radio"/> Prefer not to answer |

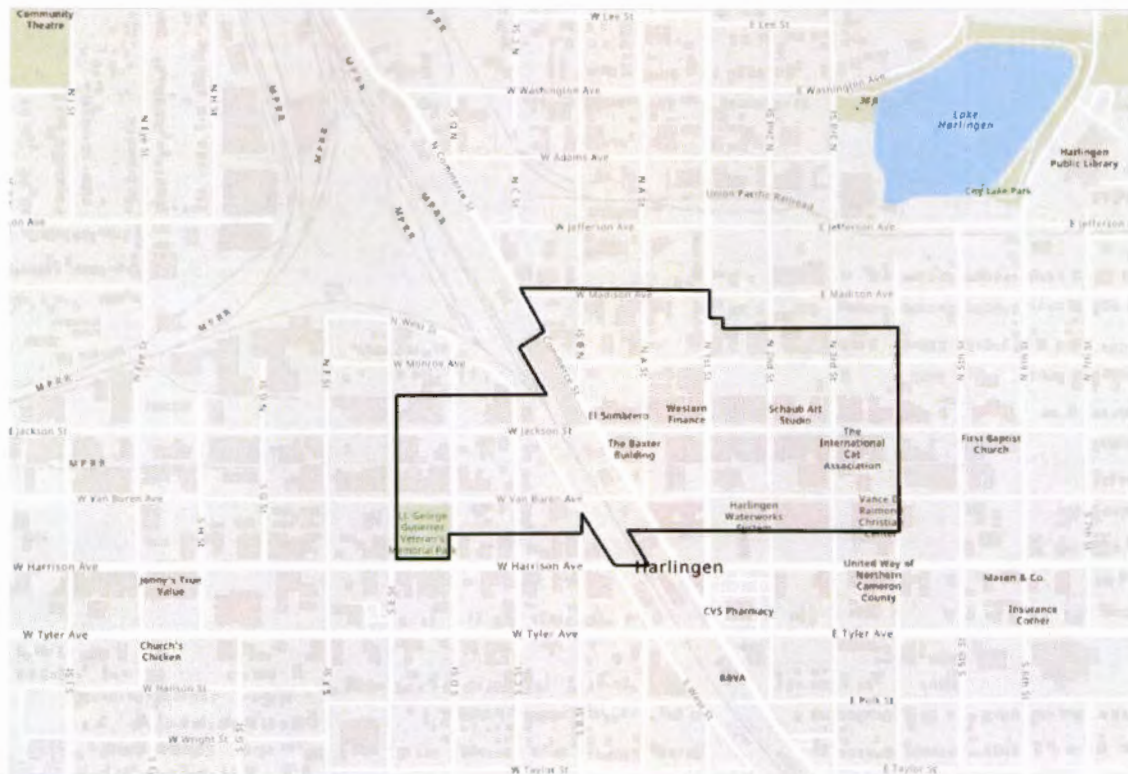
19. What is your household income in the last 12 months?

|                                              |
|----------------------------------------------|
| <b>Select one answer only</b>                |
| <input type="radio"/> Less than \$10,000     |
| <input type="radio"/> \$10,000 to \$24,999   |
| <input type="radio"/> \$25,000 to \$49,999   |
| <input type="radio"/> \$50,000 to \$99,999   |
| <input type="radio"/> \$100,00 to \$149,999  |
| <input type="radio"/> \$150,000 to \$199,999 |
| <input type="radio"/> \$200,000 or more      |

# Harlingen Downtown Plan Community Survey

## Downtown

This section is specific to Downtown Harlingen.



01. How often do you go to Downtown Harlingen?

| Select one answer only                    |
|-------------------------------------------|
| <input type="radio"/> Every day           |
| <input type="radio"/> A few times a week  |
| <input type="radio"/> A few times a month |
| <input type="radio"/> A few times a year  |
| <input type="radio"/> Rarely or never     |

02. When you go to Downtown Harlingen, when are you usually there?

Select all that apply.



Select all that apply

- ☐ Weekdays during the day
- ☐ Weekday evenings
- ☐ Weekends during the day
- ☐ Weekend evenings
- ☐ N/A - I do not go to Downtown

03. What kinds of things do you do when you go to Downtown Harlingen?

Provide your response in the textbox below.

04. What do you love about Downtown Harlingen?

Provide your response in the textbox below.

05. What would you change about Downtown Harlingen?

Provide your response in the textbox below.

06. Is there anything that would make you come to Downtown Harlingen more often?

Provide your response in the textbox below.

07. What should be the priorities in Downtown Harlingen?

Pick your top 3 priorities.

| Select between 0 and 3 answers                                       |
|----------------------------------------------------------------------|
| <input type="checkbox"/> Improve the appearance of buildings         |
| <input type="checkbox"/> Improve the appearance of streets           |
| <input type="checkbox"/> Enhance parks and public spaces             |
| <input type="checkbox"/> Improve pedestrian safety and comfort       |
| <input type="checkbox"/> Better wayfinding and directional signage   |
| <input type="checkbox"/> Historic preservation                       |
| <input type="checkbox"/> Improve traffic flow and parking            |
| <input type="checkbox"/> More housing options and affordable housing |
| <input type="checkbox"/> More entertainment and nightlife            |
| <input type="checkbox"/> More events and festivals                   |
| <input type="checkbox"/> Public restrooms                            |
| <input type="checkbox"/> Other (describe)                            |
| <div></div>                                                          |

## Demographics

Demographics help the planning team to understand what parts of the community responded to this survey, all questions are optional.

08. Which of the below describes you?

Check all that apply.

| Select all that apply                        |
|----------------------------------------------|
| <input type="checkbox"/> I live in Harlingen |
| <input type="checkbox"/> I work in Harlingen |

|                                                                                                 |
|-------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> I own commercial property or business in Harlingen                     |
| <input type="checkbox"/> I do not live or work in Harlingen, but visit often                    |
| <input type="checkbox"/> I do not spend much time in Harlingen, but am interested in its future |

09. What is your household income in the last 12 months?

| Select one answer only                       |
|----------------------------------------------|
| <input type="radio"/> Less than \$10,000     |
| <input type="radio"/> \$10,000 to \$24,999   |
| <input type="radio"/> \$25,000 to \$49,999   |
| <input type="radio"/> \$50,000 to \$99,999   |
| <input type="radio"/> \$100,000 to \$149,999 |
| <input type="radio"/> \$150,000 to \$199,999 |
| <input type="radio"/> \$200,000 or more      |

10. If you live in Harlingen, what best describes your living situation?

| Select one answer only                             |
|----------------------------------------------------|
| <input type="radio"/> Own my home/condo/apartment  |
| <input type="radio"/> Rent my home/condo/apartment |
| <input type="radio"/> Live with family             |
| <input type="radio"/> Other (describe)             |
| <input type="text"/>                               |

11. If you live in Harlingen, how many years have you lived here?

| Select one answer only                   |
|------------------------------------------|
| <input type="radio"/> Less than 1 year   |
| <input type="radio"/> 1 – 5 years        |
| <input type="radio"/> 6 – 10 years       |
| <input type="radio"/> 11 – 20 years      |
| <input type="radio"/> More than 20 years |

12. What is your age?



| Select one answer only         |
|--------------------------------|
| <input type="radio"/> Under 14 |
| <input type="radio"/> 14 to 20 |
| <input type="radio"/> 21 to 30 |
| <input type="radio"/> 31 to 50 |
| <input type="radio"/> 51 to 65 |
| <input type="radio"/> Over 65  |

13. Which best describes your race/ethnicity?

| Select one answer only                            |
|---------------------------------------------------|
| <input type="radio"/> Hispanic/Latino             |
| <input type="radio"/> White (Non-Hispanic/Latino) |
| <input type="radio"/> African American/Black      |
| <input type="radio"/> American Indian             |
| <input type="radio"/> Asian                       |
| <input type="radio"/> Two or more races           |
| <input type="radio"/> Prefer not to answer        |

10/9)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration and possible action to approve the Harlingen Animal Shelter to close on Sundays to the public.

Prepared By (Print Name): Shannon Harvill  
Title: Environmental Health Director

Signature: 

**Brief Summary:**

The City of Harlingen Health Department is requesting for the Animal Shelter to be closed to the public on Sunday's. This will give the ability to the shelter staff to be able to deep clean and get prepared for the upcoming week and allow for Rescues to pick up. The shelter will continue to open their doors between 1:00pm to 6:00pm, Monday thru Saturday to the public. Staff recommends approval.

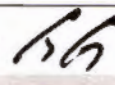
**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount ☐ Yes ☐ No\*

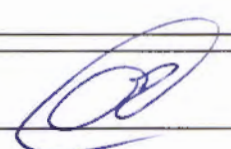
\*If no, specify source of funding and amount requested:

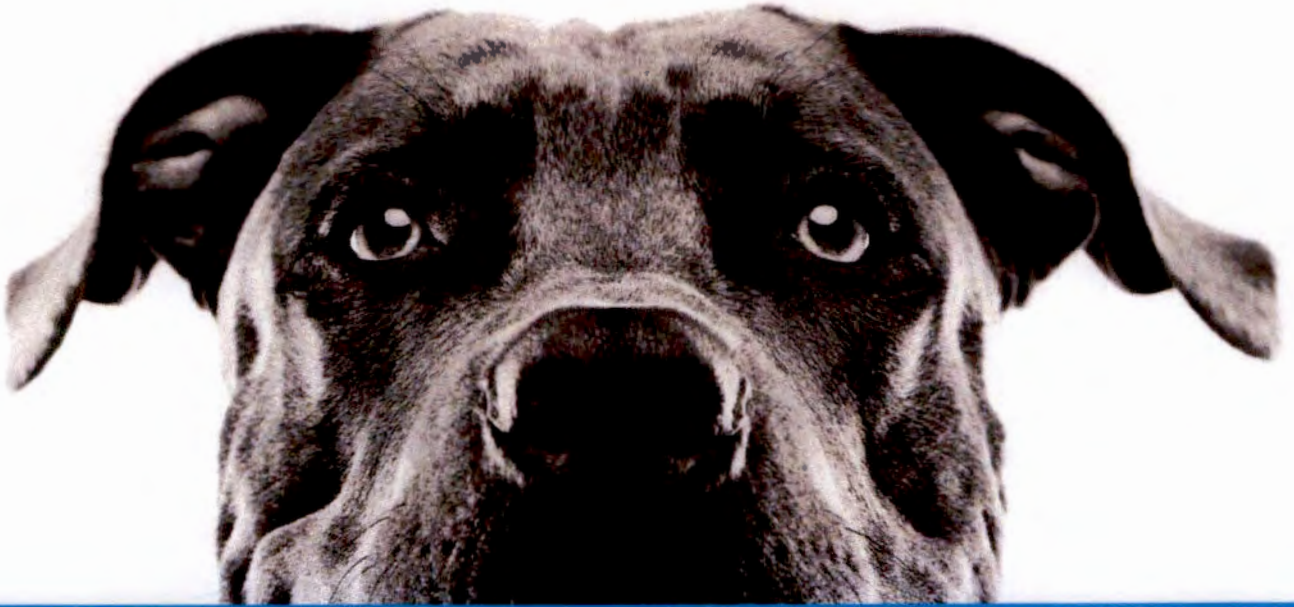
Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

City Manager's approval:  ☒ Yes ☐ No ☐ N/A

**Comments:**

City Attorney's approval:  ☒ Yes ☐ No ☐ N/A



# NEW SHELTER SCHEDULE

Effective as of October 6, 2024 Harlingen Animal Shelter will be having a new  
schedule

**New Hours of Operation**  
**Monday-Saturday**  
**1:00PM-6:00PM**  
**Sundays**  
**Closed**



### Adoptions by days of the week

Mondays – Feb-Oct = 28 total

Tuesdays – Feb-Oct = 34 total

Wednesdays – Feb-Oct = 42 total

Thursdays – Feb-Oct = 38 total

Fridays – Feb-Oct = 39 total

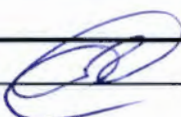
Saturdays – Feb-Oct = 71 total

Sundays – Feb-Oct = 35 total

10(h)

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 21, 2024**

|                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Agenda Item:</b>                                                                                                                                                     |
| Presentation by Maricela Alvarado and Adrian Galvan and consideration to purchase Challenge Coin to present to City Veteran Employees. <i>(Veterans Advisory Board)</i> |
| Prepared By:                                                                                                                                                            |
| <b>Brief Summary:</b>                                                                                                                                                   |
|                                                                                                                                                                         |
| <b>Funding (if applicable):</b>                                                                                                                                         |
| Are funds specifically designated in the current budget for the full amount (Yes/No):<br>*If no, specify source of funding and amount requested:                        |
| Finance Director's approval (Yes/No/NA):                                                                                                                                |
| <b>Staff Recommendation:</b>                                                                                                                                            |
|                                                                                                                                                                         |
| City Manager approval:                                                                                                                                                  |
| <b>Comments:</b>                                                                                                                                                        |
|                                                                                                                                                                         |
| City Attorney's approval:                                                              |

FRONT VIEW



BACK VIEW





**COLOMBIAN SPECIALTIES BY RAKI LLC**

**QUOTE 2024100**



To:  
Maricela Alvarado  
City of Harlingen  
g5sm1r3@gmail.com  
Date: September 20, 2024

From:  
Adriana Montoya  
956-293-9685  
503 Bravo Dr. Donna, TX 78537

| DESCRIPTION                                                                                                                           | QUANTITY   | PRICE                |
|---------------------------------------------------------------------------------------------------------------------------------------|------------|----------------------|
| Challenge coin 2D/2D full color 4mm                                                                                                   | 100        | \$6.50/unit \$650    |
| Challenge coin 2D/2D full color 4mm                                                                                                   | 200        | \$5.50/ unit \$1,100 |
|                                                                                                                                       |            |                      |
|                                                                                                                                       |            |                      |
|                                                                                                                                       |            |                      |
| Taxes                                                                                                                                 | 8.25%      |                      |
| <b>GRAND TOTAL</b>                                                                                                                    | <b>N/A</b> |                      |
| The grand total includes: Artwork, Molding and Shipping to your destination.                                                          |            |                      |
| Please review the attached design revision per your request. If you find this revision satisfactory, please reply with your approval. |            |                      |



Payment is required within 20 business days of invoice date.  
Please send remittance to colombianspecialtiesbyraki@gmail.com  
We receive payments: Paypal, VENMO, CASHAPP (RAKILLC)  
Thank you for your business.



## QUOTE

3130 Winterfield Road  
Midlothian, VA 23113-6320  
Phone: (240) 994-0465  
Email: [jodi@thesimplelaugh.com](mailto:jodi@thesimplelaugh.com)  
Website: [www.thesimplelaugh.com](http://www.thesimplelaugh.com)

**DATE:** September 25, 2024  
**QUOTE #:** 09252024Harlingen-coins



**BILL TO:** City of Harlingen  
118 East Tyler Avenue  
Harlingen, TX 78550

SHIP TO: City of Harlingen  
118 East Tyler Avenue  
Harlingen, TX 78550

| SOLD BY | CHECK | VENMO   ZELLE | CREDIT CARD*** | TERMS                 |
|---------|-------|---------------|----------------|-----------------------|
| Jodi    |       |               |                | Due when rec'd & QC'd |

| QTY | ITEM NO. | DESCRIPTION                                                    | UNIT PRICE | AMOUNT |
|-----|----------|----------------------------------------------------------------|------------|--------|
|     |          | 1.75" Diameter Challenge Coin with Antique Silver Metal Finish |            | \$0.00 |
|     |          | Qty: 100-199 @ \$5.19 each                                     |            | \$0.00 |
|     |          | Qty: 200-299 @ \$4.44 each                                     |            | \$0.00 |
|     |          | Pricing includes a total of 9 colors on both sides.            |            | \$0.00 |
|     |          | Individually Polybagged.                                       |            | \$0.00 |
|     |          |                                                                |            | \$0.00 |
|     |          | Plate Die Charge Side 1: \$47.50 < my net cost for you!        |            | \$0.00 |
|     |          | Plate Die Charge Side 2 3D: \$95.00 < my net cost for you!     |            | \$0.00 |
|     |          |                                                                |            | \$0.00 |
|     |          |                                                                |            | \$0.00 |
|     |          | Tax Exempt                                                     |            | \$0.00 |

|                                          |                                                                                     |                                                                                     |              |               |
|------------------------------------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|--------------|---------------|
| <b>Special Instructions:</b> See mockup! |  |  | SUBTOTAL     | \$0.00        |
|                                          |                                                                                     |                                                                                     | TAX RATE     | 0.00%         |
|                                          |                                                                                     |                                                                                     | SALES TAX    | \$0.00        |
|                                          |                                                                                     |                                                                                     | SHIPPING     | TBD           |
|                                          |                                                                                     |                                                                                     | <b>TOTAL</b> | <b>\$0.00</b> |

If paying by check, please make check payable to: **Jodi Stiefvater/The Simple Laugh**

\*\*\* Please note: If paying by credit card, a 3% processing fee will be added to your total.

If you have any questions concerning this invoice, contact : Jodi Stiefvater (240) 994-0465 - [jodi@thesimplelaugh.com](mailto:jodi@thesimplelaugh.com)

**THANK YOU FOR SUPPORTING MY SMALL WOMAN-OWNED & VETERAN-OWNED BUSINESS!**

**AGENDA ITEM  
EXECUTIVE SUMMARY**

10(1)

Meeting Date: **October 21, 2024**

**Agenda Item:**

Consideration of a discussion regarding the possible future adoption of a zoning ordinance amendment that would establish a minimum 2-mile distance requirement for proposed new car washes from existing car washes due to drought conditions. Applicant: City of Harlingen. Attachment (**Mayor**)

Prepared By: **Xavier Cervantes, AICP, CPM**  
Title: **Planning and Development Director**

Signature: *Xavier Cervantes*

**Brief Summary:**

Summary

- Harlingen Waterworks System is in the voluntary conservation stage as per the adopted Water Conservation Plan. If the drought gets worse the next phase of the Plan may need to be implemented. To assist with the water conservation efforts, city staff proposes establishing a spatial distance requirement for proposed new car washes or any related use.
- The proposed ordinance, modeled after the city of Edinburg's recently adopted ordinance, would place a 2-mile minimum distance requirement from an existing car wash. In addition, any proposed new car wash that meets the 2-mile minimum separation, would be required to install a water reclamation and recycling system as a part of its operations model.
- A water consumption study was conducted by Harlingen Waterworks System for the existing car washes within the city. A table showing their gallons of consumption for the latest fiscal year and a pie chart can be found in **Attachment I**.
- A map showing the different types of existing car washes within the city can be found in **Attachment II**.
- A map depicting a 2-mile radius circle around each existing and under construction car wash can be found in **Attachment III**.
- The proposed zoning ordinance amendment can be found in **Attachment IV**. Since staff is proposing to amend the zoning ordinance, public hearings would need to be scheduled and could go before the City Commission for adoption on first reading on November 20, 2024.



**Funding (if applicable):**

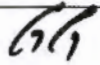
Are funds specifically designated in the current budget for the full ☐ Yes ☐ No\*

\*If no, specify source of funding and amount requested:

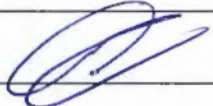
Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

Staff recommends having a discussion.

City Manager's approval:  ☒ Yes ☐ No ☐ N/A

**Comments:**

City Attorney's approval:  ☒ Yes ☐ No ☐ N/A

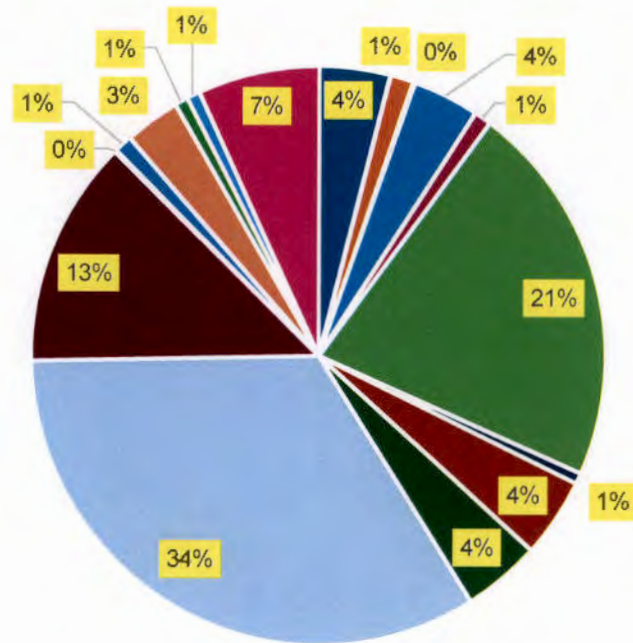
# Attachment I – Water Consumption Table

|                                | Year 24   |           |           |           |           |           |           |           |           |           |           |           |            |     |
|--------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------------|-----|
|                                | 23-Sep    | 23-Oct    | 23-Nov    | 23-Dec    | 24-Jan    | 24-Feb    | 24-Mar    | 24-Apr    | 24-May    | 24-Jun    | 24-Jul    | 24-Aug    | Total      |     |
| EZ Clean 1521 N 77             | 49000     | 63200     | 67200     | 106800    | 103500    | 120200    | 159400    | 190800    | 139700    | 132600    | 62200     | 117100    | 1311700    | 4%  |
| 7-11 Inc. 2423 E Tyler         | 26300     | 35100     | 32000     | 45400     | 50000     | 33400     | 51500     | 42100     | 35500     | 26200     | 25300     | 16200     | 419800     | 1%  |
| Maldonado CW 314 W Harrison    | 0         | 0         | 0         | 0         | 0         | 1800      | 8100      | 8800      | 7300      | 7500      | 5000      | 6400      | 44900      | 0%  |
| Central Park 1805 W Filmore    | 104500    | 74400     | 90000     | 96700     | 106500    | 93300     | 103500    | 135500    | 107200    | 133600    | 83900     | 97700     | 1227000    | 4%  |
| Lasd Brisas CW 820 W Harrison  | 0         | 0         | 0         | 37600     | 38900     | 35900     | 30500     | 42700     | 30600     | 40000     | 32800     | 31700     | 320700     | 1%  |
| Go Car Wash 505 Ed Carey       | 560100    | 383600    | 469700    | 573200    | 654900    | 574700    | 610500    | 704400    | 661600    | 725900    | 605300    | 531700    | 7055600    | 21% |
| J Flores 423 W Harrison        | 16400     | 11600     | 16000     | 18700     | 21100     | 17300     | 16900     | 21700     | 17500     | 17100     | 11200     | 15400     | 200900     | 1%  |
| S Thraillkill 1515 S 77 SS     | 178400    | 125500    | 229000    | 145300    | 162300    | 124700    | 134800    | 144900    | 128900    | 75100     | 5500      | 4200      | 1458600    | 4%  |
| EZ Clean 1022 Morgan           | 97000     | 94800     | 89100     | 106900    | 114100    | 109000    | 134700    | 182900    | 169100    | 163700    | 72400     | 99800     | 1433100    | 4%  |
| Blue Wave 1921 W Tyler         | 1076500   | 1020300   | 1110400   | 1025700   | 942000    | 864000    | 1081000   | 1084100   | 1001500   | 682900    | 497500    | 653200    | 11039100   | 34% |
| Quick Quack RGV LLC 617 N EXPW | 0         | 0         | 200       | 0         | 383500    | 615600    | 555100    | 603100    | 477200    | 601600    | 459400    | 474100    | 4169800    | 13% |
| Club CW 1821 W Tyler           | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 31400     | 31400      | 0%  |
| Super Clean 402 Orange Heights | 21700     | 24000     | 31400     | 20300     | 16400     | 23600     | 23300     | 24200     | 23900     | 69800     | 22000     | 31600     | 332400     | 1%  |
| EZ Clean 1025 S Commerce       | 81500     | 57900     | 69900     | 88200     | 72200     | 72200     | 123100    | 110600    | 109700    | 70700     | 63200     | 104100    | 1023300    | 3%  |
| MOVE IT Storage 2202S. F St    | 21000     | 16100     | 26000     | 47200     | 41500     | 15200     | 12700     | 11500     | 14800     | 17800     | 10400     | 11300     | 245500     | 1%  |
| Leo2 CarWash 1222 N 77 SS      | 19400     | 18600     | 18800     | 18100     | 22900     | 20300     | 27300     | 25600     | 21400     | 22800     | 12100     | 18700     | 246000     | 1%  |
| WMK Robinson & Sons 113 Al Con | 156300    | 146600    | 126700    | 175100    | 167900    | 158000    | 245000    | 256800    | 290400    | 183100    | 130200    | 223600    | 2259700    | 7%  |
| Total Consumption              | 2408100   | 2071700   | 2376400   | 2505200   | 2898500   | 2879400   | 3317400   | 3589300   | 3236300   | 2970600   | 2098400   | 2468200   | 32819500   | 2%  |
| Total Commercial               | 177102600 | 164903209 | 151063353 | 130207197 | 120098300 | 122991833 | 119437100 | 121745500 | 131908799 | 147607568 | 145022099 | 128193456 | 1660261014 |     |

|                                | Year 25   |           |           |           |           |           |           |           |           |           |           |           |        |
|--------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|--------|
|                                | 23-Sep    | 23-Oct    | 23-Nov    | 23-Dec    | 24-Jan    | 24-Feb    | 24-Mar    | 24-Apr    | 24-May    | 24-Jun    | 24-Jul    | 24-Aug    |        |
| EZ Clean 1521 N 77             | 49000     | 63200     | 67200     | 106800    | 103500    | 120200    | 159400    | 190800    | 139700    | 132600    | 62200     | 117100    | 474%   |
| 7-11 Inc. 2423 E Tyler         | 26300     | 35100     | 32000     | 45400     | 50000     | 33400     | 51500     | 42100     | 35500     | 26200     | 25300     | 16200     | 0.66%  |
| Maldonado CW 314 W Harrison    | 0         | 0         | 0         | 0         | 0         | 1800      | 8100      | 8800      | 7300      | 7500      | 5000      | 6400      | 0.26%  |
| Central Park 1805 W Filmore    | 104500    | 74400     | 90000     | 96700     | 106500    | 93300     | 103500    | 135500    | 107200    | 133600    | 83900     | 97700     | 3.96%  |
| Lasd Brisas CW 820 W Harrison  | 0         | 0         | 0         | 37600     | 38900     | 35900     | 30500     | 42700     | 30600     | 40000     | 32800     | 31700     | 1.28%  |
| Go Car Wash 505 Ed Carey       | 560100    | 383600    | 469700    | 573200    | 654900    | 574700    | 610500    | 704400    | 661600    | 725900    | 605300    | 531700    | 21.54% |
| J Flores 423 W Harrison        | 16400     | 11600     | 16000     | 18700     | 21100     | 17300     | 16900     | 21700     | 17500     | 17100     | 11200     | 15400     | 0.62%  |
| S Thraillkill 1515 S 77 SS     | 178400    | 125500    | 229000    | 145300    | 162300    | 124700    | 134800    | 144900    | 128900    | 75100     | 5500      | 4200      | 0.17%  |
| EZ Clean 1022 Morgan           | 97000     | 94800     | 89100     | 106900    | 114100    | 109000    | 134700    | 182900    | 169100    | 163700    | 72400     | 99800     | 4.04%  |
| Blue Wave 1921 W Tyler         | 1076500   | 1020300   | 1110400   | 1025700   | 942000    | 864000    | 1081000   | 1084100   | 1001500   | 682900    | 497500    | 653200    | 26.46% |
| Quick Quack RGV LLC 617 N EXPW | 0         | 0         | 200       | 0         | 383500    | 615600    | 555100    | 603100    | 477200    | 601600    | 459400    | 474100    | 19.21% |
| Club CW 1821 W Tyler           | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 0         | 31400     | 1.27%  |
| Super Clean 402 Orange Heights | 21700     | 24000     | 31400     | 20300     | 16400     | 23600     | 23300     | 24200     | 23900     | 69800     | 22000     | 31600     | 1.28%  |
| EZ Clean 1025 S Commerce       | 81500     | 57900     | 69900     | 88200     | 72200     | 72200     | 123100    | 110600    | 109700    | 70700     | 63200     | 104100    | 4.22%  |
| MOVE IT Storage 2202S. F St    | 21000     | 16100     | 26000     | 47200     | 41500     | 15200     | 12700     | 11500     | 14800     | 17800     | 10400     | 11300     | 0.49%  |
| Leo2 CarWash 1222 N 77 SS      | 19400     | 18600     | 18800     | 18100     | 22900     | 20300     | 27300     | 25600     | 21400     | 22800     | 12100     | 18700     | 0.78%  |
| WMK Robinson & Sons 113 Al Con | 156300    | 146600    | 126700    | 175100    | 167900    | 158000    | 245000    | 256800    | 290400    | 183100    | 130200    | 223600    | 9.05%  |
| Total Consumption              | 2408100   | 2071700   | 2376400   | 2505200   | 2898500   | 2879400   | 3317400   | 3589300   | 3236300   | 2970600   | 2098400   | 2468200   | 159%   |
| Total Commercial               | 177102600 | 164903209 | 151063353 | 130207197 | 120098300 | 122991833 | 119437100 | 121745500 | 131908799 | 147607568 | 145022099 | 128193456 |        |

## Attachment I – Water Consumption Pie Chart

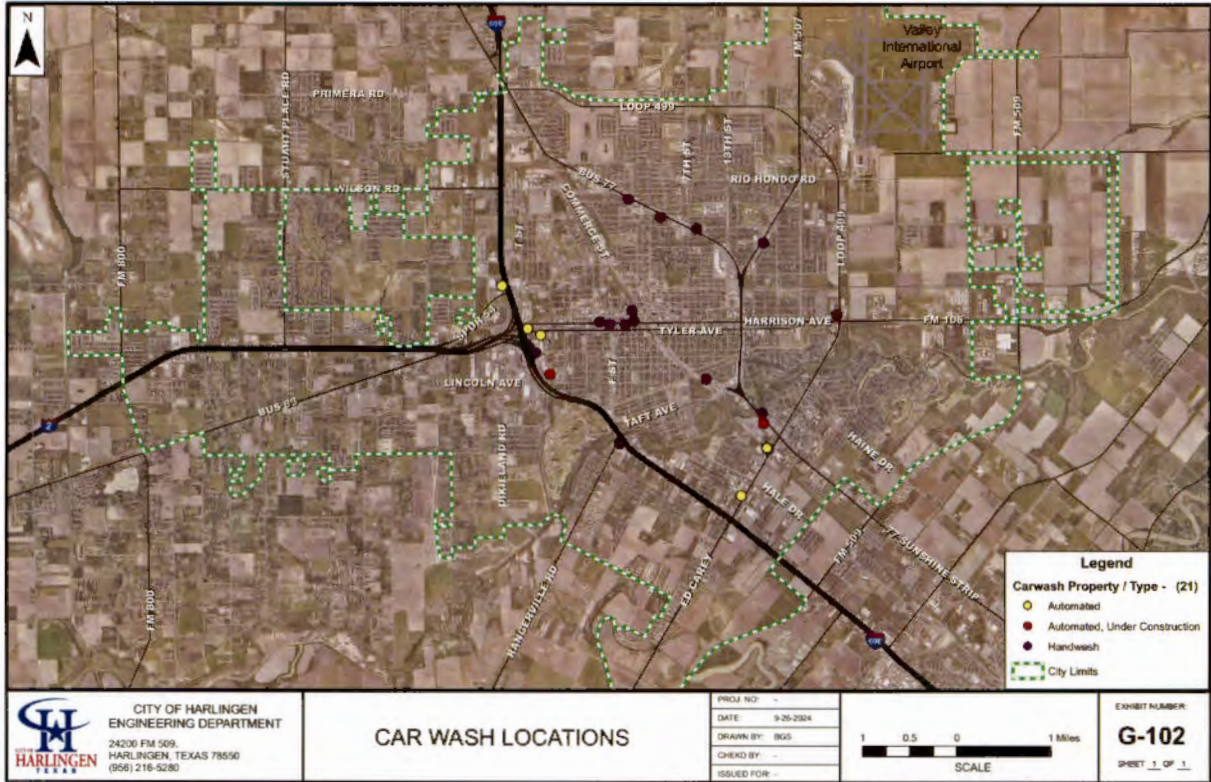
Car Wash Consumption Sep 23 - Aug 24



- EZ Clean 1521 N 77
- Maldonado CW 314 W Harrison
- Lasd Brisas CW 820 W Harrison
- J Flores 423 W Harrison
- EZ Clean 1022 Morgan
- Quick Quack RGV LLC 617 N EXPW
- Super Clean 402 Orange Heights
- MOVE IT Storage 2202 S. F St.
- WMK Robinson & Sons 113 Al Conway
- 7-11 Inc. 2423 E Tyler
- Central Park 1805 W Filmore
- Go Car Wash 505 Ed Carey
- S Thrailkill 1515 S 77 SS
- Blue Wave 1921 W Tyler
- Club CW 1821 W Tyler
- EZ Clean 1025 S Commerce
- Leo2 CarWash 1222 N 77 SS



# Attachment II- Existing car washes



**Legend**

- Automated
- Automated, Under Construction
- Handwash
- Carwash Location 2 Mile Radius
- City Limits



**CITY OF HARLINGEN  
ENGINEERING DEPARTMENT**  
24200 FM 509.  
HARLINGEN, TEXAS 78550  
(956) 216-5280

|             |           |
|-------------|-----------|
| PROJ. NO:   | -         |
| DATE:       | 9-26-2024 |
| DRAWN BY:   | BGS       |
| CHECK BY:   | -         |
| ISSUED FOR: | -         |

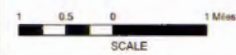


EXHIBIT NUMBER:  
**G-101**  
SHEET 1 OF 1

**ORDINANCE NO. 24-\_\_\_\_\_**

**AN ORDINANCE AMENDING THE CITY OF HARLINGEN CODE OF ORDINANCES CHAPTER 111, ZONING, ARTICLE XII, SPECIAL USE REGULATIONS AND RESTRICTIONS, TO ESTABLISH SECTION 111-336 CAR WASH ESTABLISHMENTS, BY ESTABLISHING A 2-MILE RADIUS AND DISTANCE REQUIREMENT, ENSURING NO NEW CAR WASH BUSINESS BE ESTABLISHED WITHIN A 2-MILE RADIUS OF AN EXISTING CAR WASH; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING**

**WHEREAS**, The City of Harlingen is a home-rule municipality possessing the full power of local self-government pursuant to Article XI, Section 5 of the Texas Constitution; and

**WHEREAS**, Pursuant to the laws of the State of Texas, including Section 51.001 of the Texas Local Government Code, the Commission has the authority to adopt an ordinance that, among other things, is for good government peace, or order of Harlingen; and

**WHEREAS**, The amendments are also consistent with the goals of the One Vision One Harlingen Comprehensive Plan, of streamlining the development policies to promote Harlingen as an attractive and development option; and

**WHEREAS**, The car wash use is a prevalent business model in the City of Harlingen; and

**WHEREAS**, The car wash use is a business model that requires the consumption of large volumes of water; and

**WHEREAS**, This amendment will promote the conservation of water by requiring the installation of a water reclamation and recycling system as part of its operations model; and

**WHEREAS**, The Planning and Zoning Commission has reviewed the proposed amendment and has recommended approval; and

**WHEREAS**, The City Commission of the City of Harlingen finds that it is in the best interests of the citizens of Harlingen to amend the Code of Ordinances as set forth below;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF HARLINGEN, TEXAS, THAT:**



**SECTION I:** That the City of Harlingen Code of Ordinances, Chapter 111, Zoning, Article XII, Special Use Regulations and Restrictions is hereby amended by adding the language underlined (added) to read in full as follows.

**Sec. 111-336- Car Wash Establishments**

**Car Wash**

A facility or area for the cleaning or steam cleaning, washing, polishing, or waxing of passenger vehicles, such as, but not limited to automobiles, passenger vans, small passenger shuttles, small recreational vehicles, boats, and/or water-sports equipment by machine or hand-operated facilities. A car wash may be:

- a. A single unit type that has a single bay or a group of single bays with each bay to accommodate one vehicle only; or
- b. A tunnel type that allows the washing of multiple vehicles in a tandem arrangement while moving through the structure.

Car washes shall not be located within 2-mile radius of another existing car wash. Car washes permitted under the Code of Ordinances shall be designed to employ a water recycling system as the primary source of water supply necessary to operate the business.

**SECTION II:** That the City Secretary of the City of Harlingen, Texas is hereby authorized and directed to cause a true copy of the caption of this ordinance to be published in a newspaper having general circulations in the City of Harlingen, Cameron County, Texas.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

**FINALLY ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024, at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

**CITY OF HARLINGEN**

\_\_\_\_\_  
Norma Sepulveda, Mayor

**ATTEST:**

\_\_\_\_\_  
Amanda C. Elizondo, City Secretary

1065

**AGENDA ITEM  
EXECUTIVE SUMMARY**

Meeting Date: **October 21, 2024**

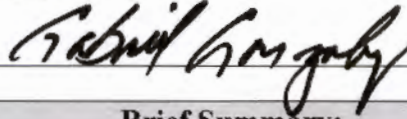
**Agenda Item:**

Consideration and possible action to allocate \$1,000,000 from the HOT Fund Balance for the Casa Del Sol Renovation Project. Attachment (*This Item was tabled at the Regular City Commission Meeting of September 18, 2024. (City Manager)*)

Prepared By (Print Name): Gabriel Gonzalez

Title: City Manager

Signature:



**Brief Summary:**

As you know, the Casa del Sol had pieces of the ceiling detach and fall onto the floor. As a result, all rentals for the facility through the rest of this calendar year and continuing through June 2025 have been cancelled. The very preliminary cost to have the facility renovated are approximately \$3,000,000. The Hotel Occupancy Tax Fund Balance has \$3,111,418 in reserve, and I am asking to take \$1,000,000 from the fund balance to begin work on the design and reconstruction of the facility. We would still need to identify where the remaining funds would be taken from.

During Scott Joslove's visit to Harlingen, he did indicate HOT funds could be used for the renovation of the Casa del Sol. Attached are copies of the Interim Financial Statements for the Hotel Occupancy Tax Fund and preliminary cost estimates for the renovation of the Casa del Sol.

**Funding (if applicable):**

Are funds specifically designated in the current budget for the full amount ☐ Yes ☐ No\*

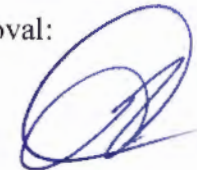
\*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

**Staff Recommendation:**

City Manager's approval  ☒ Yes ☐ No ☐ N/A

**Comments:**

City Attorney's approval:  ☒ Yes ☐ No ☐ N/A

**City of Harlingen - Hotel / Motel Fund**

**Interim Financial Statements**

**As of August 31, 2024**



**City of Harlingen - Hotel / Motel Fund**  
**BALANCE SHEET**  
**As of August 31, 2024**

**ASSETS**

|                                   |                            |
|-----------------------------------|----------------------------|
| Texpool                           | \$ 3,039,150               |
| Accounts Receivable/Miscellaneous | <u>72,268</u>              |
| <b>TOTAL ASSETS</b>               | <u><b>\$ 3,111,418</b></u> |

**LIABILITIES AND FUND BALANCE**

|                                           |                            |
|-------------------------------------------|----------------------------|
| Liabilities                               | \$ 57,268                  |
| Fund Balance                              | <u>3,054,150</u>           |
| <b>TOTAL LIABILITIES AND FUND BALANCE</b> | <u><b>\$ 3,111,418</b></u> |

**City of Harlingen - Hotel / Motel Fund**  
**STATEMENT OF REVENUES, EXPENDITURES**  
**AND CHANGES IN FUND BALANCE**  
**For the Eleven Months Ending August 31, 2024**

|                                   | Current<br>Month | Current<br>Year to Date | Encumbrances | FY 23-24<br>Annual Budget | Unrealized<br>Balance | 92%<br>of Budget |
|-----------------------------------|------------------|-------------------------|--------------|---------------------------|-----------------------|------------------|
| <u>Revenues</u>                   |                  |                         |              |                           |                       |                  |
| Hotel/Motel Taxes                 | \$ 160,837       | \$ 1,478,009            | \$ -         | \$ 760,000                | \$ (718,006)          | 194%             |
| Investment Earnings               | 14,068           | 137,365                 | -            | 1,000                     | (136,365)             | 13737%           |
| Total Revenues                    | \$ 174,925       | \$ 1,615,374            | \$ -         | \$ 761,000                | \$ (854,374)          | 13930.97%        |
| <u>Expenditures</u>               |                  |                         |              |                           |                       |                  |
| <u>CHAMBER OF COMMERCE</u>        |                  |                         |              |                           |                       |                  |
| Services & Charges - Misc         | \$ -             | \$ 92,000               | \$ -         | \$ 111,500                | \$ 19,500             | 83%              |
| <u>CULTURE &amp; RECREATIONS</u>  |                  |                         |              |                           |                       |                  |
| Services & Charges - Misc         | -                | 189,780                 | -            | 204,780                   | 15,000                | 93%              |
| <u>TRANSFERS TO OTHER FUNDS</u>   |                  |                         |              |                           |                       |                  |
| Convention/Visitors Bureau        | 40,000           | 440,000                 | -            | 480,000                   | 40,000                | 92%              |
| Harlingen Downtown                | 2,667            | 29,337                  | -            | 32,000                    | 2,663                 | 92%              |
| Debt Service Fund                 | 19,333           | 212,663                 | -            | 232,000                   |                       |                  |
| Municipal Auditorium              | 4,167            | 53,729                  | -            | 50,000                    | (3,729)               | 107%             |
| Harlingen Arts Museum             | 7,000            | 81,946                  | -            | 84,000                    | 2,054                 | 98%              |
| Total Expenditures                | \$ 73,167        | \$ 1,099,455            | \$ -         | \$ 1,194,280              | \$ 94,825             | 92%              |
| Excess Revenues over Expenditures | \$ 101,758       | \$ 515,919              |              | \$ (433,280)              | \$ (949,199)          |                  |
| Fund Balance, Beginning of year   |                  | 2,538,231               |              |                           |                       |                  |
| Fund Balance, Year to Date        |                  | \$ 3,054,150            |              |                           |                       |                  |

PREPARED 09/12/2024, 09:30:13  
PROGRAM: GM270L  
CITY OF HARLINGEN

DETAIL TRIAL BALANCE  
AS OF 08/31/2024

PAGE 1

ACCOUNTING PERIOD 11/2024

FUND 105 Hotel/Motel

| ACCOUNT        | DESCRIPTION                                           | DEBIT<br>BALANCE | CREDIT<br>BALANCE |
|----------------|-------------------------------------------------------|------------------|-------------------|
| 0000-102.01-00 | Demand / Unrestricted                                 | 3,039,150.81     |                   |
| 0000-112.99-00 | Accounts Receivable / Miscellaneous Receivables       | 72,268.24        |                   |
| 0000-211.99-00 | Deferred/Unearned Revenue / Miscellaneous             |                  | 57,268.24         |
| 0000-271.00-00 | Fund Balance / Unreserved                             |                  | 2,538,231.27      |
| 0000-304.03-00 | Taxes - Other / Hotel/Motel                           |                  | 1,451,009.31      |
| 0000-304.04-00 | Taxes - Other / Penalty & Interest - H/M              |                  | 27,000.00         |
| 0000-361.06-00 | Interest - Investments / TexPool                      |                  | 137,303.12        |
| 0000-361.11-00 | Interest - Investments / NOW                          |                  | 62.11             |
| 6060-803.30-01 | Srvcs & Chrgs - General / Utilities/Communications    | 15,000.00        |                   |
| 6101-834.39-35 | Srvcs & Chrgs - Misc / Birding Festival               | 61,000.00        |                   |
| 6101-834.39-36 | Srvcs & Chrgs - Misc / Birding Festival Expenses      | 16,000.00        |                   |
| 6199-834.39-33 | Srvcs & Chrgs - Misc / Harl Performing Art Theat      | 189,780.00       |                   |
| 9999-991.91-09 | Other Finan Uses-Transfer / To Convention/Visitors Bu | 440,000.00       |                   |
| 9999-991.91-17 | Other Finan Uses-Transfer / To Harlingen Downtown Ed. | 29,337.00        |                   |
| 9999-991.91-21 | Other Finan Uses-Transfer / Debt Service Fund         | 212,663.00       |                   |
| 9999-991.91-41 | Other Finan Uses-Transfer / To Municipal Audi. Fund   | 53,729.00        |                   |
| 9999-991.91-43 | Other Finan Uses-Transfer / To Harl Arts Museum Fund  | 81,946.00        |                   |
| FUND TOTALS    |                                                       | 4,210,874.05     | 4,210,874.05      |

FUND IS IN BALANCE



PREPARED 09/12/2024, 9:49:33  
PROGRAM: GM259L

CITY OF HARLINGEN  
REVENUE REPORT  
92% OF YEAR LAPSED

PAGE 1  
ACCOUNTING PERIOD 11/2024

CITY OF HARLINGEN

| FUND 105 Hotel/Motel   |                             | ***** CURRENT ***** |            |      | ***** YEAR-TO-DATE ***** |              |      | ANNUAL    | UNREALIZED |
|------------------------|-----------------------------|---------------------|------------|------|--------------------------|--------------|------|-----------|------------|
| ACCOUNT                | ACCOUNT DESCRIPTION         | ESTIMATED           | ACTUAL     | %REV | ESTIMATED                | ACTUAL       | %REV | ESTIMATE  | BALANCE    |
| 300                    | Taxes                       |                     |            |      |                          |              |      |           |            |
| 304                    | Taxes - Other               |                     |            |      |                          |              |      |           |            |
| 03 00                  | Hotel/Motel                 | 133,333             | 157,837.39 | 118  | 1,466,663                | 1,451,009.31 | 99   | 1,600,000 | 148,990.69 |
| 04 00                  | Penalty & Interest - H/M    | 291                 | 3,000.00   | 1031 | 3,201                    | 27,000.00    | 844  | 3,500     | 23,500.00- |
| 05 00                  | Hotel/Motel Tax Refund      | 0                   | .00        |      | 0                        | .00          |      | 0         | .00        |
| 08 00                  | Delinquent Taxes            | 6,250               | .00        |      | 68,750                   | .00          |      | 75,000    | 75,000.00  |
| 09 00                  | Short-term Rental (STR)     | 0                   | .00        |      | 0                        | .00          |      | 0         | .00        |
| 304                    | ** Taxes - Other            | 139,874             | 160,837.39 | 115  | 1,538,614                | 1,478,009.31 | 96   | 1,678,500 | 200,490.69 |
| 300                    | *** Taxes                   | 139,874             | 160,837.39 |      | 1,538,614                | 1,478,009.31 |      | 1,678,500 | 200,490.69 |
| 360                    | Interest                    |                     |            |      |                          |              |      |           |            |
| 361                    | Interest - Investments      |                     |            |      |                          |              |      |           |            |
| 01 00                  | CD's                        | 0                   | .00        |      | 0                        | .00          |      | 0         | .00        |
| 06 00                  | TexPool                     | 5,366               | 14,087.90  | 263  | 59,026                   | 137,303.12   | 233  | 64,400    | 72,903.12- |
| 11 00                  | NOW                         | 148                 | .00        |      | 1,628                    | 62.11        | 4    | 1,780     | 1,717.89   |
| 361                    | ** Interest - Investments   | 5,514               | 14,087.90  | 256  | 60,654                   | 137,365.23   | 227  | 66,180    | 71,185.23- |
| 360                    | *** Interest                | 5,514               | 14,087.90  |      | 60,654                   | 137,365.23   |      | 66,180    | 71,185.23- |
| 390                    | Other Financing Sources     |                     |            |      |                          |              |      |           |            |
| 391                    | Transfer In From            |                     |            |      |                          |              |      |           |            |
| 49 00                  | Grants Fund                 | 0                   | .00        |      | 0                        | .00          |      | 0         | .00        |
| 391                    | ** Transfer In From         | 0                   | .00        |      | 0                        | .00          |      | 0         | .00        |
| 390                    | *** Other Financing Sources | 0                   | .00        |      | 0                        | .00          |      | 0         | .00        |
| FUND TOTAL Hotel/Motel |                             | 145,388             | 174,925.29 |      | 1,599,268                | 1,615,374.54 |      | 1,744,680 | 129,305.46 |
| GRAND TOTAL            |                             | 145,388             | 174,925.29 |      | 1,599,268                | 1,615,374.54 |      | 1,744,680 | 129,305.46 |

PREPARED 09/12/2024, 09:03  
PROGRAM: GM267L  
CITY OF HARLINGEN

DETAIL BUDGET REPORT  
92% OF YEAR :ARSED

PAGE 1  
ACCOUNTING PERIOD 11/2024

-----  
REPORT SELECTIONS

Fiscal year . . . . . : 2024  
Fund . . . . . : 105  
All Departments  
All Divisions  
Suppress accounts with zero balances . . . . : N  
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CITY OF HARLINGEN

DETAIL BUDGET REPORT  
92% OF YEAR LAPSED

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ACCOUNTING PERIOD 11/2024

| FUND 105 Hotel/Motel |       | DIV/DEPT 6060 Park & Recreation/Tourism Recreation |         |                   |      |        |                        |      |          |        |           |      |
|----------------------|-------|----------------------------------------------------|---------|-------------------|------|--------|------------------------|------|----------|--------|-----------|------|
| BA                   | ELE   | OBJ                                                | ACCOUNT | *****CURRENT***** |      |        | *****YEAR-TO-DATE***** |      |          | ANNUAL | UNENCUMB. | %    |
| SUB                  | SUB   | DESCRIPTION                                        | BUDGET  | ACTUAL            | %EXP | BUDGET | ACTUAL                 | %EXP | ENCUMBR. | BUDGET | BALANCE   | BDGT |
| 80                   |       | Public Services                                    |         |                   |      |        |                        |      |          |        |           |      |
| 803                  |       | Recreation                                         |         |                   |      |        |                        |      |          |        |           |      |
|                      | 30    | Srvcs & Chrgs - General                            |         |                   |      |        |                        |      |          |        |           |      |
|                      | 30 01 | Utilities/Communications                           | 0       | .00               | 0    | 0      | 15000.00               | 0    | .00      | 0      | 15000.00- | 0    |
|                      | 30 60 | Contract Labor                                     | 0       | .00               | 0    | 0      | .00                    | 0    | .00      | 0      | .00       | 0    |
|                      | 30 ** | Srvcs & Chrgs - General                            | 0       | .00               | 0    | 0      | 15000.00               | 0    | .00      | 0      | 15000.00- | 0    |
| 803 **               | **    | Recreation                                         | 0       | .00               | 0    | 0      | 15000.00               | 0    | .00      | 0      | 15000.00- | 0    |
| 80 **                | **    | Public Services                                    | 0       | .00               | 0    | 0      | 15000.00               | 0    | .00      | 0      | 15000.00- | 0    |
| DEPT 6060            |       | TOTAL *****                                        |         |                   |      |        |                        |      |          |        |           |      |
|                      |       | Tourism Recreation                                 | 0       | .00               | 0    | 0      | 15000.00               | 0    | .00      | 0      | 15000.00- | 0    |
| DIV                  | 60    | TOTAL *****                                        |         |                   |      |        |                        |      |          |        |           |      |
|                      |       | Park & Recreation                                  | 0       | .00               | 0    | 0      | 15000.00               | 0    | .00      | 0      | 15000.00- | 0    |



| FUND 105 Hotel/Motel |         | DIV/DEPT 6101 Hotel/Motel/Tourism |        |        |      |        |          |                        |          |        |           |      |
|----------------------|---------|-----------------------------------|--------|--------|------|--------|----------|------------------------|----------|--------|-----------|------|
| BA ELE OBJ           | ACCOUNT | *****CURRENT*****                 |        |        |      |        |          | *****YEAR-TO-DATE***** |          | ANNUAL | UNENCUMB. | %    |
| SUB                  | SUB     | DESCRIPTION                       | BUDGET | ACTUAL | %EXP | BUDGET | ACTUAL   | %EXP                   | ENCUMBR. | BUDGET | BALANCE   | BDGT |
| 83                   |         | Culture & Recreation              |        |        |      |        |          |                        |          |        |           |      |
| 834                  |         | Special Activities                |        |        |      |        |          |                        |          |        |           |      |
|                      | 30      | Srvcs & Chrgs - General           |        |        |      |        |          |                        |          |        |           |      |
|                      | 30 18   | Advertising                       | 0      | .00    | 0    | 0      | .00      | 0                      | .00      | 0      | .00       | 0    |
|                      | 30 30   | Dues,Memberships & Subscr         | 875    | .00    | 0    | 9625   | .00      | 0                      | .00      | 10500  | 10500.00  | 0    |
|                      | 30 **   | Srvcs & Chrgs - General           | 875    | .00    | 0    | 9625   | .00      | 0                      | .00      | 10500  | 10500.00  | 0    |
|                      | 39      | Srvcs & Chrgs - Misc              |        |        |      |        |          |                        |          |        |           |      |
|                      | 39 35   | Birding Festival                  | 5083   | .00    | 0    | 55913  | 61000.00 | 109                    | .00      | 61000  | .00       | 100  |
|                      | 39 36   | Birding Festival Expenses         | 3333   | .00    | 0    | 36663  | 16000.00 | 44                     | .00      | 40000  | 24000.00  | 40   |
|                      | 39 **   | Srvcs & Chrgs - Misc              | 8416   | .00    | 0    | 92576  | 77000.00 | 83                     | .00      | 101000 | 24000.00  | 76   |
| 834                  | ** **   | Special Activities                | 9291   | .00    | 0    | 102201 | 77000.00 | 75                     | .00      | 111500 | 34500.00  | 69   |
| 83                   | ** **   | Culture & Recreation              | 9291   | .00    | 0    | 102201 | 77000.00 | 75                     | .00      | 111500 | 34500.00  | 69   |
| DEPT 6101            |         | TOTAL *****                       |        |        |      |        |          |                        |          |        |           |      |
|                      |         | Tourism                           | 9291   | .00    | 0    | 102201 | 77000.00 | 75                     | .00      | 111500 | 34500.00  | 69   |

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| FUND 105 Hotel/Motel |       |     | DIV/DEPT 6199 Hotel/Motel/Miscellaneous |                   |        |      |                        |           |      |          |        |           |      |
|----------------------|-------|-----|-----------------------------------------|-------------------|--------|------|------------------------|-----------|------|----------|--------|-----------|------|
| BA                   | ELE   | OBJ | ACCOUNT                                 | *****CURRENT***** |        |      | *****YEAR-TO-DATE***** |           |      | ENCUMBR. | ANNUAL | UNENCUMB. | %    |
| SUB                  | SUB   |     | DESCRIPTION                             | BUDGET            | ACTUAL | %EXP | BUDGET                 | ACTUAL    | %EXP |          | BUDGET | BALANCE   | BDGT |
| -----                |       |     |                                         |                   |        |      |                        |           |      |          |        |           |      |
| 83                   |       |     | Culture & Recreation                    |                   |        |      |                        |           |      |          |        |           |      |
| 834                  |       |     | Special Activities                      |                   |        |      |                        |           |      |          |        |           |      |
|                      | 39    |     | Srvcs & Chrgs - Misc                    |                   |        |      |                        |           |      |          |        |           |      |
|                      | 39 13 |     | Iwo Jima                                | 1250              | .00    | 0    | 13750                  | .00       | 0    | .00      | 15000  | 15000.00  | 0    |
|                      | 39 14 |     | MMA                                     | 0                 | .00    | 0    | 0                      | .00       | 0    | .00      | 0      | .00       | 0    |
|                      | 39 33 |     | Harl Performing Art Theat               | 25683             | .00    | 0    | 164098                 | 189780.00 | 116  | .00      | 189780 | .00       | 100  |
|                      | 39 ** |     | Srvcs & Chrgs - Misc                    | 26933             | .00    | 0    | 177848                 | 189780.00 | 107  | .00      | 204780 | 15000.00  | 93   |
| 834                  | **    | **  | Special Activities                      | 26933             | .00    | 0    | 177848                 | 189780.00 | 107  | .00      | 204780 | 15000.00  | 93   |
| 83                   | **    | **  | Culture & Recreation                    | 26933             | .00    | 0    | 177848                 | 189780.00 | 107  | .00      | 204780 | 15000.00  | 93   |
| DEPT                 | 6199  |     | TOTAL *****                             |                   |        |      |                        |           |      |          |        |           |      |
|                      |       |     | Miscellaneous                           | 26933             | .00    | 0    | 177848                 | 189780.00 | 107  | .00      | 204780 | 15000.00  | 93   |
| DIV                  | 61    |     | TOTAL *****                             |                   |        |      |                        |           |      |          |        |           |      |
|                      |       |     | Hotel/Motel                             | 36224             | .00    | 0    | 280049                 | 266780.00 | 95   | .00      | 316280 | 49500.00  | 84   |

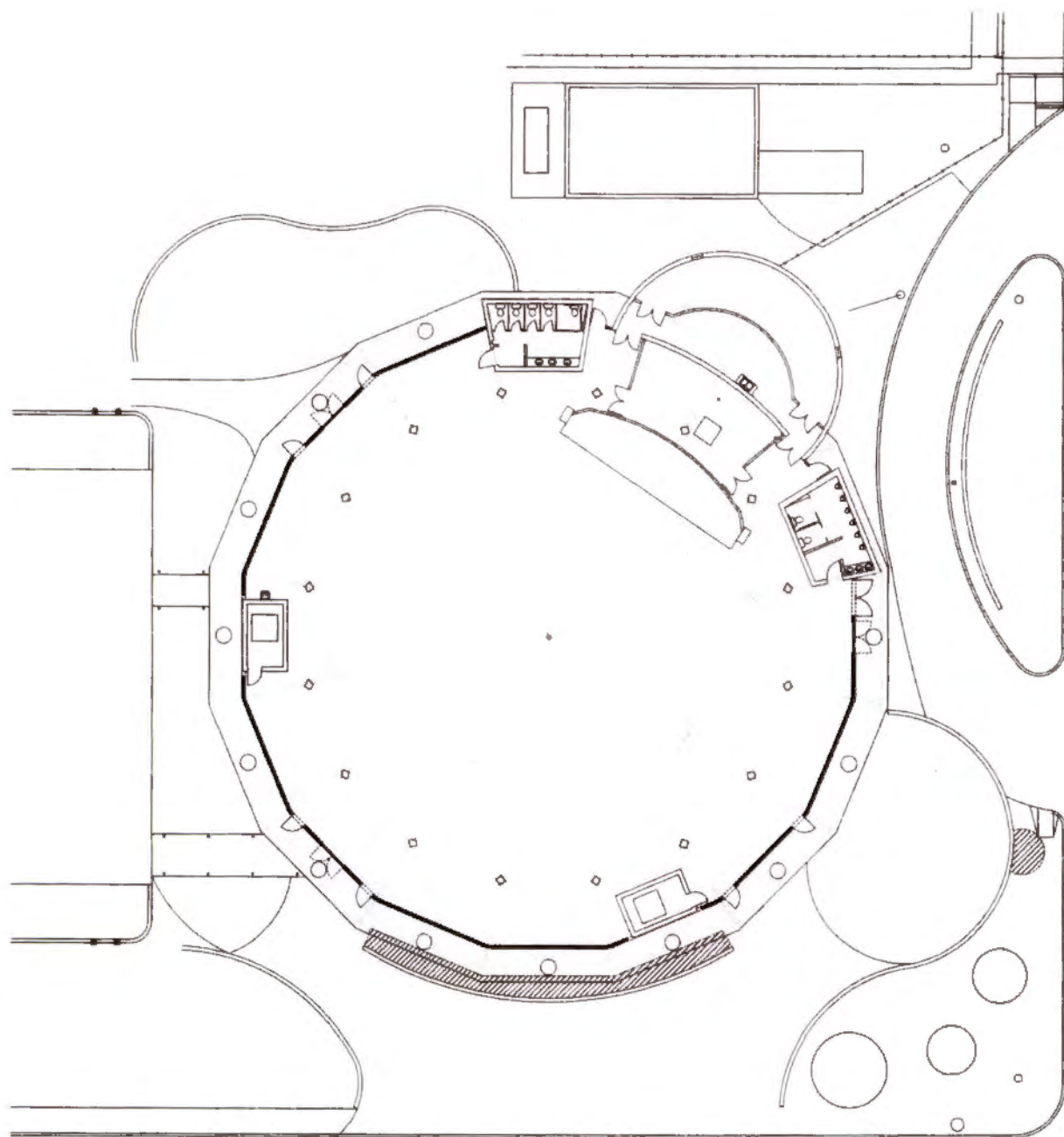
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ACCOUNTING PERIOD 11/2024

| FUND 105 Hotel/Motel |     |     | DIV/DEPT 9999 Non-Departmental/Transfers to Other Funds |                   |          |      |                        |            |      |          |           |          |      |
|----------------------|-----|-----|---------------------------------------------------------|-------------------|----------|------|------------------------|------------|------|----------|-----------|----------|------|
| BA                   | ELE | OBJ | ACCOUNT                                                 | *****CURRENT***** |          |      | *****YEAR-TO-DATE***** |            |      | ANNUAL   | UNENCUMB. | %        |      |
| SUB                  | SUB |     | DESCRIPTION                                             | BUDGET            | ACTUAL   | %EXP | BUDGET                 | ACTUAL     | %EXP | ENCUMBR. | BUDGET    | BALANCE  | BDGT |
| -----                |     |     |                                                         |                   |          |      |                        |            |      |          |           |          |      |
| 99                   |     |     | Transfers                                               |                   |          |      |                        |            |      |          |           |          |      |
| 991                  |     |     | Other Finan Uses-Transfer                               |                   |          |      |                        |            |      |          |           |          |      |
| 91                   |     |     | Other Finan Uses-Transfer                               |                   |          |      |                        |            |      |          |           |          |      |
| 91 09                |     |     | To Convention/Visitors Bu                               | 40000             | 40000.00 | 100  | 440000                 | 440000.00  | 100  | .00      | 480000    | 40000.00 | 92   |
| 91 17                |     |     | To Harlingen Downtown Pd.                               | 2666              | 2667.00  | 100  | 29326                  | 29337.00   | 100  | .00      | 32000     | 2663.00  | 92   |
| 91 21                |     |     | Debt Service Fund                                       | 19333             | 19333.00 | 100  | 212663                 | 212663.00  | 100  | .00      | 232000    | 19337.00 | 92   |
| 91 41                |     |     | To Municipal Audi. Fund                                 | 4166              | 4167.00  | 100  | 45826                  | 53729.00   | 117  | .00      | 50000     | 3729.00  | 108  |
| 91 43                |     |     | To Harl Arts Museum Fund                                | 7000              | 7000.00  | 100  | 77000                  | 81946.00   | 106  | .00      | 84000     | 2054.00  | 98   |
| 91 **                |     |     | Other Finan Uses-Transfer                               | 73165             | 73167.00 | 100  | 804815                 | 817675.00  | 102  | .00      | 878000    | 60325.00 | 93   |
| 991 ** **            |     |     | Other Finan Uses-Transfer                               | 73165             | 73167.00 | 100  | 804815                 | 817675.00  | 102  | .00      | 878000    | 60325.00 | 93   |
| 99 ** **             |     |     | Transfers                                               | 73165             | 73167.00 | 100  | 804815                 | 817675.00  | 102  | .00      | 878000    | 60325.00 | 93   |
| DEPT 9999            |     |     | TOTAL *****                                             |                   |          |      |                        |            |      |          |           |          |      |
|                      |     |     | Transfers to Other Funds                                | 73165             | 73167.00 | 100  | 804815                 | 817675.00  | 102  | .00      | 878000    | 60325.00 | 93   |
| DIV 99               |     |     | TOTAL *****                                             |                   |          |      |                        |            |      |          |           |          |      |
|                      |     |     | Non-Departmental                                        | 73165             | 73167.00 | 100  | 804815                 | 817675.00  | 102  | .00      | 878000    | 60325.00 | 93   |
| FUND 105             |     |     | TOTAL *****                                             |                   |          |      |                        |            |      |          |           |          |      |
|                      |     |     | Hotel/Motel                                             | 109389            | 73167.00 | 67   | 1084864                | 1099455.00 | 101  | .00      | 1194280   | 94825.00 | 92   |
| GRAND                |     |     | TOTAL *****                                             | 109389            | 73167.00 | 67   | 1084864                | 1099455.00 | 101  | .00      | 1194280   | 94825.00 | 92   |





# CASA DEL SOL RENOVATION

## BUDGET ESTIMATE

2024.08.12

| No                                                          | System/Component                                         | Qty       | Unit | Cost<br>Per UNIT | Subtotal            |
|-------------------------------------------------------------|----------------------------------------------------------|-----------|------|------------------|---------------------|
| <b>GENERAL CONSTRUCTION</b>                                 |                                                          |           |      |                  |                     |
| 1.1                                                         | PERMIT                                                   | LUMP SUM  |      | \$               | 3,500.00            |
| 1.2                                                         | RE-ROOFING (COMPLETE REMOVAL & REPLACEMENT)              | 15,000.00 | S.F  | \$40.00          | \$ 600,000.00       |
| 1.3                                                         | SELECTIVE DEMOLITION                                     | LUMP SUM  |      | \$               | 75,000.00           |
| 1.4                                                         | MISCELLANEOUS PAVING REPAIR (ACCESSIBLE ROUTE)           | 6,000.00  | S.F  | \$8.00           | \$ 48,000.00        |
| 1.5                                                         | MISCELLANEOUS FRAMING MODIFICATIONS                      | LUMP SUM  |      | \$               | 25,000.00           |
| 1.6                                                         | CONCRETE DECK REPAIR                                     | LUMP SUM  |      | \$               | 50,000.00           |
| 1.7                                                         | DUMPSTER ENCLOSURE                                       | LUMP SUM  |      | \$               | 15,000.00           |
| 1.8                                                         | LANDSCAPE   IRRIGATION                                   | LUMP SUM  |      | \$               | 75,000.00           |
| 1.9                                                         | FENCING UPGRADES                                         | 250.00    | L.F  | \$75.00          | \$ 18,750.00        |
| 1.1                                                         | ROOF DRAINS (CONNECT TO SITE DRAINAGE)                   | 16.00     | EA   | \$1,000.00       | \$ 16,000.00        |
| 1.11                                                        | REPAIR SPALLING CONCRETE                                 | LUMP SUM  |      | \$               | 40,000.00           |
| 1.12                                                        | NEW GLAZED WALLS                                         | 3,000.00  | S.F  | \$135.00         | \$ 405,000.00       |
| 1.13                                                        | MASONRY WALL REPAIR                                      | 60.00     | S.F  | \$25.00          | \$ 1,500.00         |
| 1.14                                                        | NEW EXTERIOR DOORS                                       | 7.00      | EA   | \$3,000.00       | \$ 21,000.00        |
| 1.15                                                        | RESTROOM UPGRADES (FIXTURES, ETC.)                       | 500.00    | S.F  | \$150.00         | \$ 75,000.00        |
| 1.16                                                        | KITCHEN UPGRADES                                         | 800.00    | S.F  | \$30.00          | \$ 24,000.00        |
| 1.17                                                        | MISCELLANEOUS FINISHES (WALLS ETC                        | LUMP SUM  |      | \$               | 85,000.00           |
| 1.18                                                        | TERRAZZO REPAIR                                          | 10,000.00 | S.F  | \$7.50           | \$ 75,000.00        |
| 1.19                                                        | PAINTING                                                 | 12,000.00 | S.F  | \$3.50           | \$ 42,000.00        |
| 1.20                                                        | MISCELLANEOUS MECHANICAL UPGRADES (TBD)                  | LUMP SUM  |      | \$               | 120,000.00          |
| 1.21                                                        | MISCELLANEOUS ELECT   LIGHTING UPGRADES                  | LUMP SUM  |      | \$               | 200,000.00          |
| 1.22                                                        | CONTINGENCY                                              | LUMP SUM  |      | \$               | 35,000.00           |
|                                                             | CONSTRUCTION SUBTOTAL                                    |           |      | \$               | 2,049,750.00        |
| <b>CONTRACTOR FEE</b>                                       |                                                          |           |      |                  |                     |
| 2.1                                                         | CONTRACTOR'S FEE OF CONSTRUCTION SUBTOTAL                | 18%       |      | \$               | 368,955.00          |
|                                                             | <b>TOTAL CONSTRUCTION CONTRACT AMOUNT (COST OF WORK)</b> |           |      | \$               | <b>2,418,705.00</b> |
| <b>FURNITURE, FIXTURES, AND EQUIPMENT (OWNER FURNISHED)</b> |                                                          |           |      |                  |                     |
| 3.1                                                         | ARCHITECTURE & ENGINEERING                               | 8%        |      | \$               | 193,496.40          |
| 3.2                                                         | FURNITURE, FIXTURES, EQUIPMENT                           | LUMP SUM  |      | \$               | 50,000.00           |
| 3.3                                                         | AUDIO VISUAL SYSTEM UPGRADES                             | LUMP SUM  |      | \$               | 50,000.00           |
| 3.4                                                         | HAZARDOUS MATERIAL TESTING   ABATEMENT                   | ESTIMATE  |      | \$               | 35,000.00           |
|                                                             | <b>SUBTOTAL</b>                                          |           |      | \$               | <b>328,496.40</b>   |
|                                                             | <b>TOTAL PROJECT COST</b>                                |           |      | \$               | <b>2,747,201.40</b> |

IN PROVIDING OPINIONS OF PROBABLE CONSTRUCTION COST OR PROFESSIONAL FEES, THE CLIENT UNDERSTANDS THAT THE ARCHITECT HAS NO CONTROL OVER COSTS OR THE PRICE OF LABOR, EQUIPMENT, MATERIALS, OR THE CONTRACTOR'S METHOD OF PRICING. THE OPINIONS OF PROBABLE CONSTRUCTION COSTS PROVIDED HEREIN ARE MADE ON THE BASIS OF THE ARCHITECT'S QUALIFICATIONS, EXPERIENCE AND RESEARCH. THE ARCHITECT MAKES NO WARRANTY, EXPRESSED OR IMPLIED, AS TO THE ACCURACY OF SUCH OPINIONS AS COMPARED TO BID OR ACTUAL COSTS.