



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, OCTOBER 15, 2019**

NOTICE IS HEREBY GIVEN THAT the City Commission of the City of Weslaco, Texas will hold a Regular Meeting in the Legislative Chamber of City Hall, located at 255 South Kansas Avenue, on Tuesday, October 15, 2019 at 5:30 PM for the purpose of discussing the following items:

NOTE: If during the course of the meeting, any discussion of any item on the agenda should be held in executive or closed session, the Weslaco City Commission will convene in such executive or closed session whether or not such item is posted as an executive session item at any time during the meeting when authorized by the provisions of the Texas Open Meetings Act.

I. CALL TO ORDER

- A. Certification of Public Notice.
- B. Invocation.
- C. Pledge of Allegiance.
- D. Mayoral Recognition.
- E. Roll Call.

II. PUBLIC COMMENTS

The Public Comments portion of the meeting promotes a fair and open process for the governance of the City. This portion of the meeting is not intended to be an extended discussion or a debate and is limited to three minutes for each presenter. Due to the Texas Open Meetings Act, the Mayor and City Commissioners do not reply; they listen. Matters under litigation are not to be addressed and comments regarding specific City employees and elected officials may be prohibited.

The Public may comment on anything on the agenda, however if you comment on something not included on the agenda, the Commission cannot take any formal action until it is placed on an agenda and notice of the meeting is properly posted. Registration for Public Comments must be submitted to the City Secretary before the City Commission meeting is called to order. As the Mayor calls upon those who submitted a registration form with the City Secretary, please step to the podium and state your name and address before beginning your presentation.

III. PUBLIC HEARING

- A. To solicit input on behalf of Miguel Angel Vicencio requesting a Conditional Use Permit to obtain a Mixed Beverage Permit and Food and Beverage Certificate at 2708 N. Texas Blvd., also being 0.76 acres S150'-N711'-E220'-W250 out of Farm Tract 107, West Tract Subdivision, Weslaco, Hidalgo County, Texas.

- B. To solicit input on behalf of Joe Olivarez to rezone 710 S. Missouri. Also being Lot 3, 4, 5, 6, and 7, Blk 56, Weslaco Original Townsite, Weslaco, Hidalgo County, Texas from R-1 One-family dwelling district to R-2 Duplex and apartment district.
- C. To solicit input in compliance with the Consolidated Plan for Community Planning and Development (CDBG) Urban County Program Fiscal Year 33 (2020) Needs Assessment Plan. (Staffed by Finance Department.) Attachment

IV. CONSENT AGENDA

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

- A. Approval of the following:
 - 1) Minutes of the Special Meeting on September 10, 2019;
 - 2) Minutes of the Regular Meeting on September 17, 2019; and
 - 3) Minutes of the Special Meeting on September 25, 2019. (Staffed by City Secretary Department.) Attachment.
- B. Approval on agreement with Hidalgo County Elections Department to conduct the City of Weslaco General Election on November 5, 2019 for Mayor, Commissioner District 5 and Commissioner District 6 and authorize the Mayor to execute any related documents. (Staffed by City Secretary Department.) Attachment
- C. Approval to purchase five police units in an amount not to exceed \$174,570 using Fund 415-Fire Eq. Replacement Fund from Lake Country Chevrolet through the GoodBuy Purchasing Cooperative and authorize the Mayor to execute any related documents. (Staffed by Police Department.)
- D. Approval to Terminate a Weslaco Mid Valley Airport Ground Lease Agreement with Tenant Christopher De Leon D/B/A De Leon Aircraft Maintenance Professional for Hanger W5-03 and approval of a Weslaco Mid Valley Ground Lease Agreement with Tenant Gary Wise for Hangar W5-03 authorize the Mayor to execute any related documents. (Staffed by Airport.) Attachment
- E. Authorization to submit an application renewing the ERate 2020-2021 Grant program, accept funds upon award, accept additional funding if awarded during the grant year, and authorize the Mayor to execute any related documents. (Staffed by Library Department.) Attachment

- F. Approval of the annual renewal of a general software subscription services contract for maintenance and support with Tyler Technologies Inc. (Incode system runs internal processes including Utility Billing, Procurement, Human Resources and Financials) in an amount not to exceed \$49,055.79 and authorize the Mayor to execute any related documents. (Staffed by Information Technology Department.) Attachment
- G. Approval of the annual renewal of a general software subscription services contract for maintenance and support with PTS Solutions, Inc (CAD, Jail and Record Management System for Police Department) in an amount not to exceed \$44,801.37 and authorize the Mayor to execute any related documents. (Staffed by Information Technology Department.) Attachment
- H. Approval of the annual request to host the 2019 Mid-Valley Christmas Parade on Saturday, December 7, 2019 along with Santa Dash fun run hosted by Snapix from 7 a.m. to 12 p.m. on Texas Boulevard from Pike Boulevard to Sixth Street, approval of the use of City Hall parking lot to stage 5k participants for start and end of run, request to waive any required fees and authorize the Mayor to execute any related documents as may be required by the Texas Department of Transportation for proposed street closure affecting state right of-way. (Requested by Chamber of Commerce.)
- I. Approval to authorize staff to solicit bids for the proposed IBWC Levee repairs Project and authorize the Mayor to execute any related documents. (Staffed by City Manager's Office.)
- J. Approval to enter into an contractual agreement with the best qualified, most advantageous respondent for RFP on Municipal Audit Services and Engagement Letter and authorize the Mayor to execute any related documents. (Staffed by Finance Department.) Attachment

V. APPOINTMENTS

- A. Discussion and consideration to approve Resolution 2019-71 appointing one member to expired term on the Parks and Recreation Advisory Board and authorize the Mayor to execute any related documents. Possible action. (Staffed by Parks and Recreation Department.) Attachment

VI. OLD BUSINESS

- A. Discussion and consideration to accept, open, award or reject the sole bid received for Flap Gates (RFB No.: 2018-19-18) and alternate bid of Flap Gate Installations and authorize the Mayor to execute any related documents. Possible action. (This item was tabled October 1, 2019; staffed by Engineering Department.)
- B. Discussion and consideration to accept, open, award or reject sole bid received for Fill Dirt Sale (RFB No.: 2018-19-17) and authorize the Mayor to execute any related documents. Possible action. (This item was table October 1, 2019; staffed by Engineering Department.) Attachment
- C. Discussion and consideration to approve Ordinance 2019-41 amending the Master Fee Schedule with respect to Vitals Statistics fees, Fire/EMS fees, Library fees, Planning/building fees and Police fees, and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-41. Possible action. (This item was tabled October 1, 2019; staffed by Finance Department.) Attachment

VII. NEW BUSINESS

- A. Discussion and consideration to approve Ordinance 2019-42 amending Ordinance 2013-22, the City of Weslaco Subdivision Ordinance; and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-42. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment
- B. Discussion and consideration after public hearing on behalf of Miguel Angel Vicencio to approve a Conditional Use Permit to obtain a Mixed Beverage Permit and Food and Beverage Certificate at 2708 N. Texas Blvd., also being 0.76 acres S150'-N711'-E220'-W250 out of Farm Tract 107, West Tract Subdivision, Weslaco, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment
- C. Discussion and consideration after public hearing on behalf of Joe Olivarez to approve Ordinance 2019-43 to rezone 710 S. Missouri. Also being Lots 3, 4, 5, 6, and 7, Blk 56, Weslaco Original Townsite, Weslaco, Hidalgo County, Texas from R-1 One-family dwelling district to R-2 Duplex and apartment district and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-43. Possible Action. (Staffed by Planning and Code Enforcement Department.) Attachment

- D. Discussion and reconsideration for the Final Plat for Citrus 674 Subdivision– being a 8.46 acre tract being a portion of Farm Tract 674, Blk 164, West Adams Tract Subdivision, Weslaco, Hidalgo County, Texas located on the northeast corner of Border Ave. and 18th St., and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.) Attachment
- E. Discussion and consideration for a six month extension of the Final Plat for Rangila Subdivision– being a 1.878 acres out of Farm Tracts 29, West Tract Subdivision Vol. 2, Weslaco, Hidalgo County, Texas located, approximately 1900 ft. north of west frontage road and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment
- F. Discussion and consideration to approve 2019-2020 Inter-local Agreement with County of Hidalgo for the implementation of the Community Development Block Grant (C.D.B.G.) under Grant No. B-19-U.C-48-0501 underlining the activities that will be taken and authorize the Mayor to execute any related documents. The City allotment for this fiscal year is \$285,782.00 Possible action. (Staffed by the Finance Department.) Attachment
- G. Discussion and consideration to approve Ordinance 2019-44 amending Section 12 of Ordinance 397, to fix residential, commercial, and industrial garbage rates; providing an effective date; and ordaining other matters with respect to the subject matter hereof and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-44. Possible action. (Staffed by Finance Department.) Attachment
- H. Discussion and consideration to approve Ordinance 2019-45 a budget amendment in the amount of \$360,000 in revenue and appropriations in the amount of \$387,435 in relation to the Hotel/Motel Tax fund and having a projected ending fund balance of \$597,685 and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-45. Possible action. (Staffed by Finance Department.) Attachment
- I. Discussion and consideration to approve a Professional Services Agreement with Sigler, Winston and Greenwood & Associates (SWG) for Engineering Services for the Pleasantview and 11th Street Drainage Project as negotiated and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.) Attachment

- J. Discussion and consideration to approve a Professional Services Agreement with the Lower Rio Grande Valley Economic Development District for certain project management, reporting and support services in connection with the Economic Development Administration (EDA Project Number 08-79-05334) grant for the construction of Airport Hangars as negotiated and authorize the Mayor to execute any related documents. Possible action. (Staffed by Airport.) Attachment
- K. Discussion and consideration between Economic Development Corporation of Weslaco and City on financial support for the WEDC Lighting Project (underpass of Texas Blvd.) and authorize the Mayor to execute any related documents. Possible action. (Staffed by Weslaco Economic Development Corporation.) Attachment
- L. Discussion and consideration on Resolution 2019-72 for the Multiple Use Agreement between Texas Department of Transportation and the City of Weslaco authorizing participation for the WEDC Lighting Project (underpass at Texas Blvd.) and authorize the Mayor to execute any related documents. Possible action (Staffed by Weslaco Economic Development Corporation.) Attachment
- M. Discussion and consideration to void price agreement for Caliche with Green Dream International due to unresponsiveness and award the second lowest bid to Frontera Materials Inc. in the amount of \$13.00/Ton and authorize the Mayor to execute any related documents. Possible action. (Staffed by Public Works Department.) Attachment
- N. Discussion and consideration to approve an interlocal agreement with Weslaco Independent School District for eight (8) law enforcement officers to serve as school resource security officers (SRO), to be reimbursed in the amount of \$385,000 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Police Department.) Attachment

VIII. EXECUTIVE SESSION

Texas Government Code, Section 551 Open Meetings:

§551.145. Closed Meeting Without Certified Agenda or Tape Recording; Offense; Penalty

(a) A member of a government body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a tape recording of the closed meeting is not being made.

(b) An offense under Subsection (a) is a Class C misdemeanor.

§551.146. Disclosure of Certified Agenda or Tape Recording of Closed Meeting; Offense; Penalty; Civil Liability

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or tape recording. (Added by Acts 1993, 73rd Leg., ch 268, § 1, eff. Sept. 1, 1993.)

NOTE: Any documentation related to the following items will be maintained as part of the certified agenda.

- A. Personnel - Discussion regarding the goals, objectives, and evaluation of the City Manager for the City of Weslaco as authorized by section §551.074 of the Texas Government Code.
- B. Economic Development - Consultation with City Attorney regarding financial offer or other incentives for proposed development of property legally described as the West Tract N-820.04'-Farm Tract 13, Weslaco, Hidalgo County, Texas located on Mile 3 1/2 West, as authorized by section §551.087 of the Texas Local Government Code.
- C. Consultation – Consultation with City Attorney on negotiated agreement relating to the City's rights, duties, privileges, and obligations in connection to the Collective Bargaining Agreement with the Fire Union (IAFF-WFFA Local 3207) as authorized by §551.071 of the Texas Government Code.
- D. Real Property – Consultation with City Attorney on the purchase of real property described as Lots 1-4, Block 43, Weslaco Original Townsite located at 501 S. Kansas as authorized by section §551.072 of the Texas Local Government Code.
- E. Real Property– Consultation with City Attorney on the sale of real property legally described as Lot 4, Block 143, West Tract Subdivision located in the 2400 Block of N. Texas Boulevard as authorized by §551.072 of the Texas Local Government Code.

- F. Legal Consultation - Seek City Attorney opinion relating to the lawsuit with CDM as authorized by §551.071 of the Texas Government Code.

IX. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

X. ADJOURNMENT

I hereby certify this **Notice of a Regular Meeting of the Weslaco City Commission** was posted in accordance with the Open Meetings Act on the outside bulletin board at City Hall of the City of Weslaco, located at the 255 South Kansas Avenue entrance, visible and accessible to the general public during and after regular working hours. This notice was posted on this 11th day of October, 2019 at 4:30 p.m. and will remain so posted continuously for at least 72-hours preceding the scheduled time of this meeting in accordance with Chapter 551 of the Texas Government Code.

/s/ Myra Ayala, City Secretary

NOTE: If any accommodation for a disability is required, please notify the City Secretary's Office at (956) 968-3181, Ext. 3100 prior to the meeting date.

Regular Meetings of the Weslaco City Commission stream live online at <http://www.weslacotx.gov/open-government/open-meetings>. Archived video of some meetings are also available.

Removed from Bulletin Board

Date:

Initials:



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2808	
From:			
Subject: Certification of Public Notice.			
Background: Call to Order, includes the following: A. Certification of Public Notice. B. Invocation. C. Pledge of Allegiance. D. Mayoral Recognition. E. Roll Call			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted:			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega Mike Perez		Created/Initiated Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: A. Mayor will Call to Order and certify Public Notice. B. Pastor Steven Wagenknecht, Abiding Savior Lutheran Church will lead the invocation. C. Mayor will lead Pledge of Allegiance; Mayor Pro-Tem may lead Texas Flag. D. Mayoral Recognition. E. City Secretary will call roll. Four or more Commissioners present constitute a Quorum; otherwise, no action may be taken.			
Attachments, if any: Pledge & Mission updated 2019 election			
Responsibilities upon Approval:			

City of Weslaco

"The City on the Grow"



David Suarez, Mayor
Greg Kerr, Mayor Pro-Tem, District 2
Leo Muñoz, Commissioner, District 1
Jose "J.P." Rodriguez, Commissioner, District 3
Adrian Farias, Commissioner, District 4
Letty Lopez, Commissioner, District 5
Josh Pedraza, Commissioner, District 6

Mike R. Perez, City Manager

The Pledge of Allegiance to the Flag

"I PLEDGE ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA AND TO THE REPUBLIC FOR WHICH IT STANDS, ONE NATION UNDER GOD, INDIVISIBLE, WITH LIBERTY AND JUSTICE FOR ALL."

The Pledge of Allegiance to the State Flag

"Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

**The pledge was amended by House Bill 1034 during the 80th Legislature with the addition of "one state under God." The revised wording became effective on June 15, 2007.*

Preamble to the Constitution of the United States of America

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

STATEMENT OF VISION: AN INTERNATIONAL CENTER OF GROWTH

Friendly people with vision, courage and integrity

STATEMENT OF MISSION: COMMITMENT TO EXCELLENCE IN PUBLIC SERVICE

- *Positive Attitude of Courtesy & Concern
- *Doing it Right the First Time
- *Sensitive to the citizens' needs
- *Friendly Respect for All
- *Service without Hassle



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2846	
From: Rebekah De La Fuente			
Subject: To solicit input on behalf of Miguel Angel Vicencio requesting a Conditional Use Permit to obtain a Mixed Beverage Permit and Food and Beverage Certificate at 2708 N. Texas Blvd., also being 0.76 acres S150'-N711'-E220'-W250 out of Farm Tract 107, West Tract Subdivision, Weslaco, Hidalgo County, Texas.			
Background: The applicant is requesting to obtain a Conditional Use Permit to obtain Mixed Beverage Permit and Food and Beverage Certificate. Notice of the application and the public hearing for the Planning and Zoning Commission and the City Commission. Twenty (20) property owners within 200 feet of the applicant's property were notified by letter on September 20, 2019.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Public Hearing			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners: Notice of the application and the public hearing for the Planning and Zoning Commission and the City Commission in The Monitor on September 16, 2019.			
Advisory Review, if any (name of board/committee, date of action, recommendation): The Planning & Zoning Commission recommended approval of the rezone request on October 2, 2019.			
Kayla Arevalo Rebekah De La Fuente Mike Perez		Created/Initiated Approved Final Approval	
City Manager Comments: Solicit public comments.			
Staff Recommendation: Staff recommend approval.			
Attachments, if any:			
Responsibilities upon Approval: Staff will notify applicant.			



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2848	
From: Rebekah De La Fuente			
Subject: To solicit input on behalf of Joe Olivarez to rezone 710 S. Missouri. Also being Lot 3, 4, 5, 6, and 7, Blk 56, Weslaco Original Townsite, Weslaco, Hidalgo County, Texas from R-1 One-family dwelling district to R-2 Duplex and apartment district.			
Background: The applicant is requesting to rezone property from R-1 One-family dwelling district to R-2 Duplex and apartment district. Thirty-seven (37) property owners within 200 feet of the applicant's property were notified by letter on September 20, 2019.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Public Hearing Ordinance - First Reading Ordinance - Final Reading			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners: Notice of the application and the public hearing for the Planning and Zoning Commission and the City Commission in The Monitor on September 16, 2019.			
Advisory Review, if any (name of board/committee, date of action, recommendation): The Planning & Zoning Commission recommended approval of the rezone request on October 2, 2019.			
Kayla Arevalo Rebekah De La Fuente Mike Perez		Created/Initiated Approved Final Approval	
City Manager Comments: Solicit public comments.			
Staff Recommendation: Staff recommends approval.			
Attachments, if any:			
Responsibilities upon Approval: Staff will notify applicant			



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2853	
From:			
Subject: To solicit input in compliance with the Consolidated Plan for Community Planning and Development (CDBG) Urban County Program Fiscal Year 33 (2020) Needs Assessment Plan. (Staffed by Finance Department.)			
Background: In compliance with the Consolidated Plan for Community Development Block Grant (CDBG), City of Weslaco is conducting a public hearing to solicit input from interest parties on the City needs under the Urban County Program Fiscal Year (33) FY 2020. Primary goals are to enable the City to provide decent housing, to establish and maintain a suitable living environment, and to expand economic opportunities for every citizen, particularly for low income persons.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Public Hearing			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners: Notices were posted at the following locations on October 3, 2019; 255 S. Kansas (City Hall) and 525 S. Kansas (Library).			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Rebekah De La Fuente Vidal Roman Mike Perez		Created/Initiated Approved Final Approval	
City Manager Comments: Solicit public comments.			
Staff Recommendation: Staff recommends to solicit public comments.			
Attachments, if any: UCP 2020 - PH Notice English and Spanish (Pct. 1 cities)			
Responsibilities upon Approval:			

HIDALGO COUNTY - PRECINCT NO. 1 RESIDENTS
PUBLIC HEARING NOTICE
HIDALGO COUNTY - URBAN COUNTY PROGRAM
Publication Date: Wednesday, October 2, 2019

In compliance with the Consolidated Plan for Community Planning & Development (CDBG), the **Cities listed below** will conduct a public hearing to solicit input from interested parties on the **Cities** needs under the **Urban County Program Fiscal Year 33 (2020)**.

The overall goals for the Consolidated Plan are to strengthen partnerships with jurisdiction, to extend and strengthen partnerships among all levels of government and the private sector, including profit and nonprofit organizations, to enable them to provide decent housing, to establish and maintain a suitable living environment, and to expand economic opportunities for every citizen, particularly for very low income persons.

The public hearing for the **City of Alamo** will be held on **Tuesday, October 15, 2019 at 7:00 P.M.** at the following location: **Alamo City Hall located at 420 N. Tower Road, Alamo, Texas 78516**. For more information, please come by our city office or call **(956) 787-0006**. Written comments can be forwarded to: **Mayor Diana Martinez - City of Alamo: 420 N. Tower Road, Alamo, Texas 78516**. Expected allocation is **\$257,604.00**.

The public hearing for the **City of Donna** will be held on **Tuesday, October 15, 2019 at 6:00 P.M.** at the following location: **Donna City Hall located at 307 S. 12th Street, Donna, Texas 78537**. For more information, please come by our city office or call **(956) 464-3314**. Written comments can be forwarded to: **Mayor Ricardo Morales - City of Donna: 307 S. 12th Street, Donna, Texas 78537**. Expected allocation is **\$257,604.00**.

The public hearing for the **City of Edcouch** will be held on **Tuesday, October 15, 2019 at 6:00 P.M.** at the following location: **Edcouch City Hall located at 211 Southern Avenue, Edcouch, Texas 78538**. For more information, please come by our city office or call **(956) 262-2140**. Written comments can be forwarded to: **Mayor Virginio Gonzalez, Jr. - City of Edcouch: P.O. Box 100, Edcouch, Texas 78538**. Expected allocation is **\$257,604.00**.

The public hearing for the **City of Elsa** will be held on **Thursday, October 24, 2019 at 6:30 P.M.** at the following location: **Elsa City Hall located at 102 S. Diana Street, Elsa, Texas 78543**. For more information, please come by our city office or call **(956) 262-2127**. Written comments can be forwarded to: **Mayor Alonzo Perez - City of Elsa: P.O. Box 427, Elsa, Texas 78543**. Expected allocation is **\$257,604.00**.

The public hearing for the **City of La Villa** will be held on **Monday, October 7, 2019 at 6:30 P.M.** at the following location: **La Villa City Hall located at 916 S. Mike Chapa, La Villa, Texas 78562**. For more information, please come by our city office or call **(956) 262-2122**. Written comments can be forwarded to: **Mayor Alma Moron - City of La Villa: P.O. Box 60, La Villa, Texas 78562**. Expected allocation is **\$257,604.00**.

The public hearing for the **City of Mercedes** will be held on **Tuesday, October 15, 2019 at 6:00 P.M.** at the following location: **Mercedes City Hall located at 400 South Ohio Avenue., Mercedes, Texas 78570**. For more information, please come by our city office or call **(956) 565-3114**. Written comments can be forwarded to: **Mayor Henry Hinojosa - City of Mercedes, 400 South Ohio Ave., Mercedes, TX 78570**. Expected allocation is **\$257,604.00**.

The public hearing for the **City of Progreso** will be held on **Monday, October 14, 2019 at 6:00 P.M.** at the following location: **Progreso City Hall located at 300 N. Business FM 1015, Progreso, Texas 78579**. For more information, please come by our city office or call **(956) 565-0241**. Written comments can be forwarded to: **Mayor Gerardo Alanis - City of Progreso, P.O. Box 699, Progreso, TX 78579**. Expected allocation is **\$257,604.00**.

The public hearing for the **City of Weslaco** will be held on **Tuesday, October 15, 2019 at 6:00 P.M.** at the following location: **Weslaco City Hall Legislative Chambers located at 255 S. Kansas Ave., Weslaco, Texas 78596**. For more information, please come by our city office or call **(956) 968-3181**. Written comments can be forwarded to: **Mayor David Suarez, City of Weslaco - 255 S. Kansas Ave., Weslaco, Texas 78596**. Expected allocation is **\$285,782.00**

Listed below is a partial listing of eligible activities.

Public Facilities Needs	Child Care Services
Senior Centers	
Youth Centers	Accessibility
Neighborhood Facilities	
Parks and Recreation Facilities	Economic Development Needs
Health Facilities	Technical Assistance
Child Care Facilities	
Parking Facilities	Lead-Based Paint/Hazard Abatement
Infrastructure Improvement Needs	Code Enforcement
Flood Drain Improvements	
Water Improvements	Emergency Shelter Needs
Sewer Improvements	Housing Needs
Street Improvements	
Public Service Needs	Community Planning
Senior Services	
Handicapped Services	Program Administration
Youth Services	

It is the objective of Hidalgo County to comply with Section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (ADA) of 1990 and the ADA Amendment Act of 2008, the Fair Housing Act, and the Architectural Barriers Act in all respects. Persons with disabilities/handicapped, non-English speaking, or limited English proficiency (LEP) who may require an interpreter shall be provided upon request by calling (956) 787-8127 at least three (3) days in advance. Persons who are deaf, hard-of-hearing, deaf-blind or speech-disabled may use Relay Texas at (800) 735-2989 to call the Hidalgo County Urban County Program (UCP) and request arrangements in order to participate in the citizen participation process. Hidalgo County Urban County Program does not discriminate on the basis of disability status in the admission of, or access to, or treatment in its federally assisted programs or activities.

Diana R. Serna, Director
Hidalgo County – Urban County Program
1916 Tesoro Street,
Pharr, Texas 78577



RESIDENTES DEL CONDADO DE HIDALGO PRECINTO NO. 1
AVISO DE AUDENCIA PUBLICA
PROGRAMA URBANO DEL CONDADO DE HIDALGO
Fecha de publicación: miercoles día 2 de octubre del 2019

En cumplimiento con el Plan Consolidado para la Planificación y Desarrollo Comunitario (CDBG), las ciudades mencionadas debajo llevarán a cabo una audiencias públicas para solicitar la opinión de las partes interesadas en las necesidades de la ciudades bajo el Programa Urbano del Condado de Hidalgo, del año fiscal 32 (2019).

Los objetivos generales del Plan Consolidado son el fortalecimiento de las asociaciones con jurisdicciones a fin de ampliar y fortalecer las alianzas entre todos los niveles del gobierno y el sector privado, incluidas las organizaciones sin fines de lucro y, a fin de que puedan proporcionar una vivienda digna, para establecer y mantener una vida adecuada en el medio ambiente, y para ampliar las oportunidades económicas para todos los ciudadanos, en particular para las personas con ingresos muy bajos.

La audiencia pública para la Ciudad de Alamo se llevará a cabo el **martes 15 de octubre 2019 a las 7:00 P.M.** en la siguiente ubicación: **Municipalidad de la Ciudad de Alamo ubicado en el 420 N. Tower Road, Alamo, Texas 78516.** Para obtener más información, por favor venga a nuestra oficina de la ciudad o llame al **(956) 787-0006.** Los comentarios escritos pueden hacer enviados a: **Alcalde Diana Martinez de la Ciudad de Alamo al 420 N. Tower Road, Alamo, Texas 78516.** Asignación esperada de **\$257,604.00.**

La audiencia pública para la Ciudad de Donna se llevará a cabo el **martes 15 de octubre 2019 a las 6:00 P.M** en la siguiente ubicación: **Municipalidad de la Ciudad de Donna ubicado en el 307 S. 12th Street, Donna, Texas 78537.** Para obtener más información, por favor venga a nuestra oficina de la ciudad o llame al **(956) 464-3314.** Los comentarios escritos pueden hacer enviados a: **Alcalde Ricardo Morales de la Ciudad de Donna al 307 S. 12th Street, Donna, Texas 78537.** Asignación esperada de **\$257,604.00.**

La audiencia pública para la Ciudad de Edcouch se llevará a cabo el **martes 15 de octubre 2019 a las 6:00 P.M** en la siguiente ubicación: **Municipalidad de la Ciudad de Edcouch ubicado en el 211 Southern Avenue, Edcouch, Texas 78538.** Para obtener más información, por favor venga a nuestra oficina de la ciudad o llame al **(956) 262-2140.** Los comentarios escritos pueden hacer enviados a: **Alcalde Virginio Gonzalez, Jr. de la Ciudad de Edcouch al P.O. Box 100, Edcouch, Texas 78538.** Asignación esperada de **\$257,604.00.**

La audiencia pública para la Ciudad de Elsa se llevará a cabo el **jueves 24 de octubre 2019 a las 6:30 P.M** en la siguiente ubicación: **Municipalidad de la Ciudad de Elsa ubicado en el 102 S. Diana Street, Elsa, Texas 78543.** Para obtener más información, por favor venga a nuestra oficina de la ciudad o llame al **(956) 262-2127.** Los comentarios escritos pueden hacer enviados a: **Alcalde Alonzo Perez de la Ciudad de Elsa al P.O. Box 427, Elsa, Texas 78543.** Asignación esperada de **\$257,604.00.**

La audiencia pública para la Ciudad de La Villa se llevará a cabo el **lunes 7 de octubre 2019 a las 6:30 P.M.** en la siguiente ubicación: **Municipalidad de la Ciudad de La Villa ubicado en el 916 S. Mike Chapa, La Villa, Texas 78562.** Para obtener más información, por favor venga a nuestra oficina de la ciudad o llame al **(956) 262-2122.** Los comentarios escritos pueden hacer enviados a: **Alcalde Alma Moron de la Ciudad de La Villa al P.O. Box 60, La Villa, Texas 78562.** Asignación esperada de **\$257,604.00.**

La audiencia pública para la Ciudad de Mercedes se llevará a cabo el **martes 15 de octubre 2019 a las 6:00 P.M.** en la siguiente ubicación: **Municipalidad de la Ciudad de Mercedes ubicado en el 400 South Ohio Ave., Mercedes, Texas 78570.** Para obtener más información, por favor venga a nuestra oficina de la ciudad o llame al **(956) 565-3114.** Los comentarios escritos pueden hacer enviados a: **Alcalde Henry Hinojosa de la Ciudad de Mercedes al 400 South Ohio Ave., Mercedes, Texas 78570.** Asignación esperada de **\$257,604.00.**

La audiencia pública para la Ciudad de Progreso se llevará a cabo el **lunes 14 de octubre 2019 a las 6:00 P.M.** en la siguiente ubicación: **Municipalidad de la Ciudad de Progreso ubicado en el 300 N. Business FM 1015, Progreso, Texas 78579.** Para obtener más información, por favor venga a nuestra oficina de la ciudad o llame al **(956) 565-0241.** Los comentarios escritos pueden hacer enviados a: **Alcalde Gerardo Alanis de la Ciudad de Progreso al P.O. Box 699, Progreso, Texas 78579.** Asignación esperada de **\$257,604.00.**

La audiencia pública para la Ciudad de Weslaco se llevará a cabo el **martes 15 de octubre 2019 a las 6:00 P.M.** en la siguiente ubicación: **Municipalidad de la Ciudad de Weslaco Cámara de Legislatura ubicado en el 255 S. Kansas Ave., Weslaco, Texas 78596.** Para obtener más información, por favor venga a nuestra oficina de la ciudad o llame al **(956) 968-3181.** Los comentarios escritos pueden hacer enviados a: **Alcalde David Suarez de la Ciudad de Weslaco al 255 S. Kansas Ave., Weslaco, Texas 78596.** Asignación esperada de **\$285,782.00.**

A continuación se muestra una lista parcial de las actividades elegibles.

Necesidades de establecimientos públicos	Servicios para discapacitados
Centros para personas de la tercera edad	Servicios para jóvenes
Centros para jóvenes	Servicios de cuidado infantil
Instalaciones del vecindario	
Instalaciones de parques y recreación	Aplicación del código
Instalaciones de salud	
Instalaciones para el cuidado de niños	Necesidades de vivienda de emergencia
Instalaciones de estacionamiento	
	Necesidades de vivienda
Necesidades de mejoras de infraestructura	
Mejoras de drenaje de inundaciones	Planificación de la Comunidad
Mejoras de agua	
Mejoras de alcantarillado	Administración del Programa
Mejoras de calles	
	Necesidades de desarrollo económico
Necesidades de Servicios Públicos	Asistencia Técnica
Servicios para personas de tercera edad	
Pintura con base de plomo / Reducción de Riesgos	

Es el objetivo del Condado de Hidalgo para cumplir con la Sección 504 de la Ley de Rehabilitación de 1973, según enmendada, los Americanos con Discapacidades de la Ley de barreras arquitectónicas (ADA) de 1990 y la Ley ADA Enmienda de 2008, la Ley de Equidad de Vivienda, y Con todo respeto. Las personas con discapacidades / minusválidos, que no hablan inglés o con un dominio limitado del inglés (LEP) que pueden requerir un intérprete se les proporcionarán previa solicitud llamando al (956) 787-8127 por lo menos con tres (3) días de anticipación. Las personas sordas, con problemas de audición, sordo-ciegos o del habla discapacitados pueden utilizar Relay Texas al (800) 735-2989 para llamar al Programa del Condado de Hidalgo Condado Urbano (UCP) y los arreglos de solicitud con el fin de participar en el ciudadano proceso de participación. El Programa Urbano del Condado de Hidalgo no discrimina en base al estado de discapacidad en la admisión, el acceso o el tratamiento en sus programas o actividades con asistencia federal.

Diana R. Serna, Directora
Programa Urbano del Condado de Hidalgo
1916 Tesoro Street, Pharr, Texas 78577





Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2813	
From:			
Subject: Approval of the following: 1) Minutes of the Special Meeting on September 10, 2019; 2) Minutes of the Regular Meeting on September 17, 2019; and 3) Minutes of the Special Meeting on September 25, 2019. (Staffed by City Secretary Department.) Attachment.			
Background: Record of commission action for Special meeting on September 10, Regular meeting on September 17, and Special meeting September 25, 2019.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted:			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega		Created/Initiated	
Aida Vega		Approved	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Approve.			
Attachments, if any: 190910 minutes, 190917 minutes, 190925 minutes			
Responsibilities upon Approval: Execute and retain.			



MINUTES
SPECIAL MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, SEPTEMBER 10, 2019

On Tuesday, September 10, 2019, at 5:30 p.m. the City Commission of the City of Weslaco, Texas convened in a Special Meeting at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue with the following member's present:

PRESENT:	Mayor	David Suarez
	Mayor Pro-Tem	Greg Kerr
	Commissioner	Letty Lopez
	Commissioner	Josh Pedraza
	Commissioner	Adrian Farias
	Commissioner	Leo Muñoz
ABSENT:	Commissioner	J.P. Rodriguez
	City Manager	Mike Perez
	City Secretary	Myra L. Ayala Garza

Also, present: Aida Vega, Deputy City Secretary, Vidal Roman, Finance Director, Omar Rodriguez, Parks and Recreation Director, Juan Salas Information Technology; Ben Worsham, City Engineer/Planning and Code Enforcement Director; Joel Rivera, Police Chief; Antonio Lopez, Fire Chief; Arnold Becho, Library Director, Rosa Huerta, Court Coordinator, Veronica Ramirez, HR Director, and citizens.

I. CALL TO ORDER

A. Certification of Public Notice.

Mayor David Suarez called the meeting to order and certified the public notice of the meeting as properly posted Friday, September 6, 2019.

B. Pledge of Allegiance.

Mayor Suarez led the Pledge of Allegiance and Texas Flag.

C. Roll Call.

Myra L. Ayala Garza, City Secretary, called roll noting the absence of Commissioner Rodriguez and a quorum present.

II. PUBLIC COMMENTS

None.

III. PUBLIC HEARING

Commissioner Lopez seconded by Commissioner Farias moved to open the public hearing at 5:36 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

A. To solicit input from the public regarding the City of Weslaco ad valorem property tax proposed rate of .6967/\$100 valuation, pursuant to the Texas Tax Code Section 26.05(d). (Second public hearing.)

Vidal Roman, Finance Director, stated this was the second public hearing as required by the Texas Tax Code.

No other comments received.

Commissioner Lopez, seconded by Commissioner Muñoz moved to close the public hearing at 5:37 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

IV. CONSENT AGENDA

A. Approval to accept the Office of the Governor's Homeland Security Grants Division Funding (FY2020 Local Border Security Program) grant in an amount not to exceed \$80,000 with NO MATCH REQUIRED to be used to pay for overtime for peace officers and support staff to meet the Local Border Security Program goals and objectives and authorize the Mayor to execute any related documents. (Staffed by the Police Department.)

Commissioner Pedraza seconded by Commissioner Lopez moved to approve consent agenda as presented. The motion carried unanimously; Mayor Suarez was present and voting. Mayor Pro Tem Kerr in attendance.

V. NEW BUSINESS

A. Discussion and consideration on adoption of Ordinance 2019-35 authorizing the issuance of “City of Weslaco, Texas General Obligation Bonds, Series 2019”; entering into a bond purchase agreement and a paying agent/registrar agreement; and approving all other matters related thereto and authorize the Mayor to execute any related documents. First and final reading of Ordinance 2019-35. Possible action. (Staffed by City Manager’s Office.)

Commissioner Farias abstained from vote and discussion and filed a conflict disclosure statement.

Mike Perez, City Manager, recommended approval stating Ms. Ann Burger Entrekin, Hilltop Securities was in attendance.

Ann Berger Entrekin, Hilltop Securities, introduced Dan Martinez, Bond Counsel for the City; reported on the activity for municipal bonds stating the current rate is 2.9% lower than last year; went over the municipal market data yield curve that outlines benchmark of interest rates based on a city’s rating; the city’s “AA-” rating reflects a strong financial position stating management, liquidity and flexibility with a strong framework of conservative budgeting and expenditures; overviewed projected versus actual issuance; bid from investors was a Premium Bond that will allow total deposit to project of \$10,000,000; true interest cost of 2.69%; call date of February 15, 2028 (one year less than projected) and annual debt service of \$141,654 lower than projected in January. The recommendation was to approve the bid from Frost Bank and Estrada Hinojosa with actual interest of 2.692188% lower than the projected interest rate of 4.01% by 1.32% or 132 basis points a differential in a lower total interest cost by \$459,100.

In response to Commissioner Muñoz, Ms. Entrekin stated the projected interest rate of 4.01 was for the issuance of this bond but was less; the method to pursue the issuance of these bonds their recommendation was a negotiated bond sale versus a competitive bid or direct placement because of the market circumstances a negotiated bond sale was the best interest and value for the City; the commission would have options to lower tax rate in the future as a result of the savings with the actual interest rate and debt service being lower.

Commissioner Pedraza, seconded by Commissioner Lopez moved to approve first and final reading of Ordinance 2019-35 authorizing the issuance of “City of Weslaco, Texas General Obligation Bonds, Series 2019”; entering into a bond purchase agreement and a paying agent/registrar agreement; and approving all other matters related thereto. The motion carried; Commissioner Farias abstained; Mayor Suarez was present and voting.

For the record, following is the ordinance.

ORDINANCE NO. 2019-35

**ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF WESLACO, TEXAS
GENERAL OBLIGATION BONDS, SERIES 2019”; ENTERING INTO A BOND
PURCHASE AGREEMENT AND A PAYING AGENT/REGISTRAR AGREEMENT;
AND APPROVING ALL OTHER MATTERS RELATED THERETO**

ORDINANCE NO. 2019-35

ORDINANCE AUTHORIZING THE ISSUANCE OF "CITY OF WESLACO, TEXAS GENERAL OBLIGATION BONDS, SERIES 2019"; ENTERING INTO A BOND PURCHASE AGREEMENT AND A PAYING AGENT/REGISTRAR AGREEMENT; AND APPROVING ALL OTHER MATTERS RELATED THERETO

WHEREAS, the City of Weslaco, Texas (the "City") has been organized, created, and established pursuant to the laws of the State of Texas as a home-rule city of the State of Texas; and

WHEREAS, at an election duly called and held for and within the City on May 4, 2019 (the "Election"), the duly qualified resident electors of the City authorized the City Commission of the City (the "Commission") to issue bonds in the maximum amount of \$10,000,000 for (i) drainage and flood water improvements and facilities for the removal of, and protection from, harmful excesses of water, whether constant or periodic, any other drainage or stormwater improvements, acquiring equipment, lands, and rights of way necessary thereto, and (ii) payment of contractual obligations for professional services in connection therewith; and

WHEREAS, the City intends to issue \$10,000,000 of the \$10,000,000 in bonds authorized pursuant to the Election for the purposes authorized thereby, leaving \$0 authorized but unissued therefrom.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT:

Section 1. Authorization of the Bonds. There is hereby ordered to be issued, under and by virtue of the laws of the State of Texas, including particularly Chapter 1331, Texas Government Code, as amended, a series of bonds of the City to be known as "CITY OF WESLACO, TEXAS GENERAL OBLIGATION BONDS, SERIES 2019" in the total amount of \$10,000,000 (the "Bonds"), payable from ad valorem taxes as provided in this Ordinance, for the purposes described in the "Form of Bonds" contained in Section 3 hereof.

Section 2. Date, Denominations, Numbers, and Maturities of and Interest on the Bonds. The Bonds shall be dated as of September 15, 2019 (the "Dated Date"), shall be in denominations of \$5,000 or integral multiples thereof, shall be numbered I-1 for the Initial Bond and shall be numbered consecutively from R-1 upward for the definitive Bonds, and shall mature on February 15 in each of the years and in the amounts and bear interest as set forth as follows:

<u>Years of Stated Maturity</u>	<u>Principal Installment (\$)</u>	<u>Interest Rate (%)</u>	<u>Years of Stated Maturity</u>	<u>Principal Installment (\$)</u>	<u>Interest Rate (%)</u>
2020	295,000		2030	525,000	
2021	280,000		2031	540,000	
2022	280,000		2032	555,000	
2023	285,000		2033	575,000	
2024	440,000		2034	590,000	
2025	455,000		2035	610,000	
2026	465,000		2036	625,000	
2027	480,000		2037	645,000	
2028	495,000		2038	665,000	
2029	510,000		2039	685,000	

The Bonds shall bear interest from the Dated Date, at the rates provided above, calculated on the basis of a 360-day year of twelve 30-day months, and interest shall be payable on February 15, 2020 and on each August 15 and February 15 thereafter through the respective maturity date or earlier redemption.

Section 3. General Characteristics and Form of the Bonds. The Bonds shall be issued, shall be payable, may be redeemable prior to their scheduled maturities, shall have the characteristics, and shall be signed and executed (and the Bonds shall be sealed) all as provided and in the manner indicated in the form set forth below. The Form of the Bonds, the Form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be printed and manually endorsed on the Initial Bond, the Form of the Authentication Certificate, and the Form of Assignment, which shall be, respectively, substantially as follows, with necessary and appropriate variations, omissions, and insertions as permitted or required by this Ordinance, and the definitions contained within each such form shall apply solely to such form:

FORM OF BONDS
FORM OF DEFINITIVE BOND

NUMBER
R-1
REGISTERED

DENOMINATION
\$ _____
REGISTERED

United States of America
State of Texas
CITY OF WESLACO, TEXAS
GENERAL OBLIGATION BOND, SERIES 2019

<u>INTEREST RATE</u>	<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>DELIVERY DATE</u>	<u>CUSIP NO.</u>
		September 15, 2019	September 26, 2019	_____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ and NO/100 DOLLARS (\$ _____ .00)

THE CITY OF WESLACO, TEXAS (the "City"), a political subdivision of the State of Texas, promises to pay to the Registered Owner, specified above, or registered assignees (the "Owner") on the Maturity Date, specified above, upon presentation and surrender of this Bond at the designated payment office of Zions Bancorporation, National Association, Houston, Texas, or its successor (the "Paying Agent/Registrar"), the Principal Amount, specified above, in lawful money of the United States of America, and to pay interest thereon at the Interest Rate, specified above, calculated on the basis of a 360-day year of twelve 30-day months, from the later of the Dated Date, specified above, or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this Bond is payable by check on February 15, 2020 and each August 15 and February 15 thereafter, mailed to the Owner of record as shown on the books of registration kept by the Paying Agent/Registrar (the "Register"), as of the date which is the last business day of the month next preceding the interest payment date or in such other manner as may be acceptable to the Owner and the Paying Agent/Registrar. Notwithstanding the above paying procedures, upon written request to the City and the Paying Agent/Registrar, the Owner of at least \$1,000,000 in principal amount may receive all payments of principal and interest hereon by wire transfer on each payment date. CUSIP number identification with appropriate dollar amount of payment pertaining to each CUSIP number (if more than one CUSIP number) must accompany all payments of interest and principal, whether by check or wire transfer. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment thereof have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due payment (the "Special Payment Date", which shall be 15 calendar days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of the Owner appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice. The City covenants with the Owner that no later than each principal installment payment date and interest payment date for this Bond it will make available to the Paying Agent/Registrar the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bond, when due, in the manner set forth in the Ordinance authorizing the issuance of the Bonds adopted by the Commission of the City on September 10, 2019 (the "Ordinance").

IF THE DATE for the payment of the principal of or interest on the Bonds shall be a Saturday, a Sunday, a legal holiday, or a day on which banking institutions in the city where the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding business day; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND is one of a series of Bonds, dated as of September 15, 2019 (the "Bonds") of like designation and tenor, except as to number, interest rate, and principal amount, issued pursuant to the Ordinance, in the original aggregate principal amount of \$10,000,000 for the following purposes: for drainage and flood water improvements and facilities for the removal of, and protection from, harmful excesses of water, whether constant or periodic, any other drainage or stormwater improvements, acquiring equipment, lands, and rights of way necessary thereto, and payment of contractual obligations for professional services in connection therewith, by virtue of the laws of the State of Texas, including particularly Chapter 1331, Texas Government Code.

THE BONDS are issued pursuant to the Ordinance whereunder the City covenants to levy a continuing, direct, annual ad valorem tax on taxable property within the City, within the limitations prescribed by law, for each year while any part of the Bonds are considered outstanding under the provisions of the Ordinance, in a sufficient amount to pay interest on each Bond as it becomes due, to provide for the payment of the principal or maturing amounts, as appropriate, of the Bonds when due and

to pay the expenses of assessing and collecting such tax. Reference is hereby made to the Ordinance for provisions with respect to the custody and application of the City's funds, remedies in the event of a default hereunder or thereunder, and the other rights of the Owner.

THE CITY RESERVES THE RIGHT to redeem the Bonds maturing on or after February 15, 20__, in whole or in part, on February 15, 20__ or on any date thereafter. Such optional redemption shall be at a redemption price of par plus accrued interest on the principal amounts called for redemption to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the particular Bonds to be redeemed shall be selected by the City in denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof within any one maturity. If less than the entire principal amount of a Bond is to be redeemed and such redemption results in the unredeemed portion being in an amount less than an authorized denomination, a Bond in the principal amount equal to the unredeemed portion, but not less than \$5,000, may be issued and shall thereafter be an authorized denomination.

THE BOND maturing on February 15, 20__ (the "Term Bond") shall be subject to mandatory sinking fund redemption, in whole or in part (at a redemption price equal to the principal amount thereof and any accrued interest thereon to the date set for redemption), on February 15 in each of the years and in the amounts set forth below:

<u>Bonds Maturing February 15, 20</u>	
<u>Year</u>	<u>Amount (\$)</u>

*Final Maturity.

At least 30 days prior to the mandatory redemption date for the Term Bond, the Paying Agent/Registrar shall select by lot the numbers of the Term Bond to be redeemed. Any Term Bond not selected for prior redemption shall be paid on the date of final maturity. To the extent, however, that the Term Bond of a maturity which at least 45 days prior to a mandatory redemption date (i) have been previously purchased by the City and delivered to the Paying Agent/Registrar for cancellation or (ii) called for optional redemption in part and other than from a sinking fund redemption payment, the annual sinking fund payments therefore shall be reduced by the amount obtained by multiplying the principal amount of the Term Bond of such maturity so purchased or redeemed by the ratio which each remaining annual sinking fund redemption payment therefore bears to the total sinking fund payments for such maturity, and by rounding each such payment to the nearest \$5,000 integral.

IF A BOND SUBJECT TO REDEMPTION is in a denomination larger than \$5,000, a portion of such Bond may be redeemed, but only in integral multiples of \$5,000. Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar shall authenticate and deliver in exchange therefore a Bond or Bonds of like maturity and interest rate in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered.

NOTICE OF ANY REDEMPTION identifying the Bonds to be redeemed in whole or in part shall be given by the Paying Agent/Registrar upon direction of the City at least 30 days prior to the date fixed for redemption by sending written notice by first class mail to the Owner of each Bond to be redeemed, in whole or in part, at the address shown on the Register. Such notices shall state the

redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and if less than all the Bonds outstanding are to be redeemed, the numbers of the Bonds or portions thereof to be redeemed. Any notice given shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice. By the date fixed for redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the redemption price of the Bonds or portions thereof to be redeemed, plus accrued interest to the date fixed for redemption. When Bonds have been called for redemption in whole or in part and due provision has been made to redeem the same as herein provided, such Bonds or portions thereof so redeemed shall no longer be regarded as outstanding except for the purpose of receiving payment solely from the funds so provided for redemption, and the rights of the Owners to collect interest which would otherwise accrue after the redemption date on any Bond or portion thereof called for redemption shall terminate on the date fixed for redemption.

ALL BONDS OF THIS SERIES are issuable solely as fully registered bonds, without interest coupons, in the denomination of \$5,000 or any integral multiple thereof. As provided in the Ordinance, this Bond, or any unredeemed portion hereof, may, at the request of the Owner, be assigned, transferred, and exchanged for a like aggregate principal amount of fully registered bonds, without interest coupons, payable to the appropriate registered owner, assignee, or assignees, as the case may be, having the same maturity date, and bearing interest at the same rate, in any denomination of \$5,000 or integral multiples in excess thereof as requested in writing by the Owner upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 in excess thereof to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be transferred and registered. The form of Assignment printed or endorsed on this Bond may be executed by the Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Owner. The City shall pay the Paying Agent/Registrar's reasonable standard or customary fees and charges for transferring, converting and exchanging any Bond or portion thereof; provided, however, that any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such transfer, conversion and exchange. In any circumstance, neither the City nor the Paying Agent/ Registrar shall be required to transfer or exchange any Bonds selected for redemption when such redemption is scheduled to occur within 45 calendar days; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

THIS BOND IS TRANSFERABLE OR EXCHANGEABLE only upon presentation and surrender at the designated payment office of the Paying Agent/Registrar. If a Bond is being transferred, it shall be duly endorsed for transfer or accompanied by an assignment duly executed by the Owner, or his authorized representative, subject to the terms and conditions of the Ordinance. If a Bond is being exchanged, it shall be in the principal amount of \$5,000 or any integral multiple of \$5,000 in excess thereof, subject to the terms and conditions of the Ordinance. The Owner of this Bond shall be deemed and treated by the City and the Paying Agent/Registrar as the absolute owner hereof for all purposes, including payment and discharge of liability upon this Bond to the extent of such payment, and the City and the Paying Agent/Registrar shall not be affected by any notice to the contrary.

IN THE EVENT any Paying Agent/Registrar for the Bonds is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Owner.

IT IS HEREBY CERTIFIED, COVENANTED, AND REPRESENTED that all acts, conditions, and things necessary to be done precedent to the issuance of the Bonds in order to render the same legal, valid, and binding obligations of the City have happened and have been accomplished and performed in regular and due time, form, and manner, as required by law; that provision has been made for the payment of the principal of and interest on, or maturing amounts of (as appropriate) the Bonds by the levy of a continuing, direct, annual ad valorem tax upon taxable property within the City; and that issuance of the Bonds does not exceed any constitutional or statutory limitation.

BY BECOMING the Owner of this Bond, the Owner thereby acknowledges all of the terms and provisions of the Ordinance, agrees to be bound by such terms and provisions, and agrees that the terms and provisions of this Bond and the Ordinance constitute a contract between each Owner and the City.

IN WITNESS WHEREOF this Bond has been signed with the manual or facsimile signature of the Mayor of the City and countersigned with the manual or facsimile signature of the City Secretary of the City, and the official seal of the City has been duly impressed, or placed in facsimile, on this Bond.

CITY OF WESLACO, TEXAS

/s/ Myra L. Ayala
City Secretary

/s/ David Suarez
Mayor

B. Discussion and consideration to approve Resolution 2019-66 declaring intention to reimburse certain expenditures with bond proceeds and authorize the Mayor to execute any related documents. Possible action. (Staffed by Finance Department.)

Commissioner Farias abstained from vote and discussion and filed a conflict disclosure statement.

Vidal Roman, Finance Director, recommended approval stating eligible expenditures incurred before the date of issuance of the City of Weslaco, Texas General Obligation Bonds, Series 2019s are reimbursed to the City.

Dan Martinez, Bond Counsel, stated the resolution authorizes eligible expenditures made are reimbursable to the general fund until the bond proceeds are completed.

In response to Mayor Suarez and Commissioner Muñoz; upon passage of the resolution the City may go back sixty-days for reimbursement of eligible expenses and expenditures are those related to the project.

Commissioner Rodriguez seconded by Commissioner Lopez moved to approve Resolution 2019-66 declaring intention to reimburse certain expenditures with bond proceeds. The motion carried Commissioner Farias abstained; Mayor Suarez was present and voting.

For the record, following is the resolution.

RESOLUTION 2019-66

RESOLUTION DECLARING INTENTION TO REIMBURSE CERTAIN EXPENDITURES

WHEREAS, the City of Weslaco, Texas (the “City”) desires to pay expenditures in connection with the design, planning, acquisition, construction, equipping, and/or renovating of the project or facilities described in Exhibit A attached hereto (the ‘Project’);

WHEREAS, Chapter 1201, Texas Government Code (the “Code”) permits the City to use the proceeds of obligations to reimburse the City for costs attributable to the Project paid or incurred before the date of issuance of such obligations; and

WHEREAS, the City finds, considers, and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the objectives of the City's programs and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues obligations to finance the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT:

Section 1. This Resolution declares the intention of the City to reimburse the expenditures for the Project with the proceeds of obligations. The City presently intends to reimburse the expenditure by incurring obligations issued under Texas law, the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1986, as amended.

Section 2. The City reasonably expects to incur debt, in one or more series of obligations, in an aggregate maximum principal amount now estimated to be \$10,000,000.00 for the purpose of paying the costs for the acquisition of certain property and related improvements for the City.

Section 3. The City intends to reimburse the expenditures hereunder not later than 18 months after the date the original expenditure is paid or the date the Project is placed in service or abandoned. However, in no event shall the City reimburse expenditures more than three years after the original expenditure is paid; provided, however, if the Project is a construction project for which the City and a licensed architect or engineer have certified that at least five years are necessary to complete the Project, the maximum reimbursement period shall be five years after the date of the original expenditure.

Section 4. The City intends that this Resolution satisfy the official intent requirement set forth in Section 1.150-2 of the Treasury Regulations and evidences its intentions under Section 1201.042(c) of the Code.

Section 5. This Resolution shall be liberally construed to evidence the intent of the City to comply with state law and federal income tax law in the issuance of tax-exempt obligations for the Project.

Section 6. The Mayor and the City Secretary are hereby authorized and directed to execute the Certificate to which this Resolution is attached on behalf of the Commission and to do any or all things proper and necessary to carry out the intent thereof.

* * *

EXHIBIT A PROJECT DESCRIPTION

Providing for the payment of contractual obligations to be incurred in connection with the design, planning, purchasing, acquisition, construction, equipping, expansion, repair, renovation, and/or rehabilitation of certain City-owned public property, specifically being: (i) drainage and flood water improvements and facilities for the removal of, and protection from, harmful excesses of water, whether constant or periodic, any other drainage or storm water improvements, acquiring equipment, lands, and rights of way necessary thereto, and (ii) payment of contractual obligations for professional services in connection therewith.

C. Discussion and consideration of the City of Weslaco Proposed Budget for Fiscal Year 2019-2020 resulting from workshops and wrap-up presentations. (Staffed by Finance Department.)

Vidal Roman presented changes as discussed during budget workshops and wrap up workshops recommended approval of the proposed budget as presented for commission action at the next meeting.

Mayor Suarez stated discussions during the workshops was the hotel motel tax funding for the Chamber, Weslaco 100 Committee and Museum and has this been approved. The City Manager stated changes included the 2% increase for non-civil service employees and allocation of funds for Chamber, Weslaco 100 and Museum is in the proposed budget until the Hotel Motel Tax Committee can meet for allocation of funds from the hotel/motel tax proceeds. The City Manager recommended approve the proposed budget as presented and/or approve removing the allocation of funds for Hotel Motel Tax and amend the budget as necessary for allocation of funds once the Hotel Motel Tax Committee determines funding for non-profit organizations

Commissioner Pedraza seconded by Commissioner Muñoz moved approve the proposed Budget for Fiscal Year 2019-2020 removing the allocation of funds for Hotel Motel Tax if necessary amend budget for allocation of funds once the Hotel Motel Tax Committee meets. The motion carried unanimously. Mayor Suarez was present and voting.

VI. ADJOURNMENT

Mayor Pro Tem Kerr, seconded by Commissioner Lopez moved to adjourn the special meeting at 6:10 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

Myra L. Ayala Garza, CITY SECRETARY

MAYOR PRO-TEM, Greg Kerr

COMMISSIONER, Leo Muñoz

COMMISSIONER, Adrian Farias

ABSENT
COMMISSIONER, Jose “J.P” Rodriguez

COMMISSIONER, Letty Lopez

COMMISSIONER, Josh Pedraza



MINUTES
REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, SEPTEMBER 17, 2019

On Tuesday, September 17, 2019, at 5:30 p.m. the City Commission of the City of Weslaco, Texas convened in a Regular Meeting at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue with the following members present:

PRESENT:	Mayor	David Suarez
	Mayor Pro Tem	Greg Kerr
	Commissioner	Leo Muñoz
	Commissioner	J.P. Rodriguez
	Commissioner	Adrian Farias
	Commissioner	Letty Lopez
	Commissioner	Josh Pedraza
ABSENT:	None	
STAFF:	City Manager	Mike Perez
	City Secretary	Myra Ayala Garza
	City Attorney	Juan E. Gonzalez

Also present: Andrew Munoz, Asst. City Manager/Airport Director, Aida Vega, Deputy City Secretary; Andrew Munoz, Assistant City Manager/Airport Director/Asst. City Manager, Vidal Roman, Finance Director, Omar Rodriguez, Parks and Recreation Director, Eduardo Gill, Interim Information Technology Director; Ben Worsham, City Engineer/Planning Director; Joel Rivera, Police Chief, Antonio Lopez, Fire Chief, Veronica Ramirez, HR Director; Pete Garcia, Public Works Director; Arnold Becho. Library Director; and other staff members and citizens.

I. CALL TO ORDER

A. Certification of Public Notice.

Mayor Suarez called the meeting to order and certified the public notice of the meeting as properly posted Friday, September 13, 2019.

B. Invocation.

Pastor Tom Murry, First Episcopal Church, led the invocation.

C. Pledge of Allegiance.

Mayor Suarez led the Pledge of Allegiance and Texas Flag.

D. Mayoral Recognition.

None.

E. Roll Call.

Myra Ayala Garza, City Secretary, called the roll, noting at the time of roll call the absence of Commissioner and a quorum present.

II. PUBLIC COMMENTS

None.

III. PUBLIC HEARING

Commissioner Lopez, seconded by Commissioner Muñoz moved to open the public hearing at 5:35 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

A. To solicit input on behalf of MAG Investments RGV LLC requesting a Conditional Use Permit to obtain a Wine and Beer Retailer's Permit at 400 S. Kansas Ave., also being Lot 1-6, Blk 33, Weslaco Original Townsite, Weslaco, Hidalgo County, Texas, approximately 560 ft. South of Bus 83 on Kansas Ave.

None.

B. To solicit input on behalf of Martin Hinojosa requesting a Conditional Use Permit to operate a boarding facility at 1110 S. Airport Dr., also being Lot 6, Ro-Ellen Addition UT. No. 2, Weslaco, Hidalgo County, Texas.

None.

C. To solicit input on behalf of Herman Mendez requesting to rezone 2949 & 2941 N. Texas. Also being Lot C1 & C2, Apostolic Assembly Church Subdivision, Weslaco, Hidalgo County, Texas from R-1 One-family dwelling district to B-2 Secondary highway business district.

None.

Commissioner Lopez, seconded by Commissioner Muñoz moved to close the public hearing at 5:36 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

Mayor Suarez changed the order of the day introducing New Business Item A. There was no objection.

VI. NEW BUSINESS

A. Discussion and consideration to approve Resolution 2019-68 supporting Proposition 8 a constitutional amendment in the upcoming November 2019 statewide elections for the creation of the Flood Infrastructure Fund (Requested by County Commissioner Precinct 1 David Fuentes and Citizens Drainage Advisory Board.)

David Fuentes, Hidalgo County Commissioner Precinct 1, summarized Proposition 8 is a constitutional amendment that would be going to the voters on the November ballot for the creation of the Flood Infrastructure Fund that proposes \$793 million in flood control projects throughout the State of Texas; funds would be for long term projects that would mitigate flood events;

currently no guidelines in place on how funds would be appropriated and used such if grants and/or loans and requested favorable consideration of the resolution.

In response to Commissioner Muñoz, County Commissioner Fuentes stated, the funds would be administered by the Texas Water Development Board; available to the State of Texas; will allow for continued funding that comes from the State Reserves fund there is no tax consequences; will require an application process and eligibility criteria will be determined and stated for the now is unclear how the award of funds would be done.

The City Manager and the David Manchaca, Chairman of the Citizens Drainage Advisory Committee, recommended approval.

Commissioner Pedraza, seconded by Commissioner Lopez, moved to approve Resolution 2019-68 supporting Proposition 8 a constitutional amendment in the upcoming November 2019 statewide elections for the creation of the Flood Infrastructure Fund as presented. The motion carried unanimously; Mayor Suarez was present and voting.

For the record, following is the resolution.

RESOLUTION 2019-68

A RESOLUTION OF THE CITY OF WESLACO SUPPORTING PROPOSITION 8 (HOUSE JOINT RESOLUTION 4)

WHEREAS, chronic flooding has affected the economy and health and safety of the citizens of the State of Texas and City of Weslaco; and

WHEREAS, recognizing the tremendous challenge posed by flooding, our local state legislators led by Senator Juan “Chuy” Hinojosa, Representative Oscar Longoria, and Representative Armando “Mando” Martinez, during the 86th Legislative Session, played a critical role in the passage of House Joint Resolution 4; and

WHEREAS, House Joint Resolution 4 proposes a constitutional amendment, also known as Prop. 8, allowing for the creation of the Flood Infrastructure Fund (FIF) that would authorize \$793 million in flood-control projects in the State of Texas; and

WHEREAS, Hidalgo county is the seventh largest county by population, with a population of approximately one million citizens, and Hidalgo County represents a critical component of the economy of the State of Texas; and

WHEREAS, Hidalgo County, Hidalgo County Drainage District No.1, and City of Weslaco advocate the equitable distribution of the Flood Infrastructure Fund throughout the state, recognizing that project selection should include the projects within Hidalgo County, Hidalgo County Drainage District No. 1 and City of Weslaco; and

WHEREAS, drainage infrastructure projects are critical in providing community resiliency and economic growth as well as in safeguarding the health and safety of citizens; and

WHEREAS, City of Weslaco encourages the citizens of Weslaco to fully support Prop. 8 in the upcoming November of 2019 statewide elections; and

NOW, THEREFORE, BE IT RESOLVED that the City of Weslaco supports Prop. 8 and the equitable distribution of the Flood Infrastructure Fund to include drainage projects in South Texas and particularly Hidalgo County.

PASSED AND APPROVED on this 17th day of September 2019.

CITY OF WESLACO
/s/David Suarez, MAYOR

ATTEST:

/s/Myra L. Ayala Garza, CITY SECRETARY

APPROVED AS TO FORM:

/s/Juan E. Gonzalez, CITY ATTORNEY

Mayor Suarez changed the order of the day introducing New Business Item B. There was no objection

B. Presentation from Hidalgo County Precinct 1 on drainage projects from 2018 Drainage Bond. (Requested by County Commissioner Precinct 1 David Fuentes).

David Fuentes, County Commissioner Precinct 1 and Raul Segin, District General Manager Hidalgo County Drainage District No. 1 summarized the proposed drainage improvement projects for Weslaco from proceeds of the 2018 Referendum Bond Election. Commissioner Fuentes stated channel and culvert improvements to the drainage ditch Project 19-Mid Valley Airport; Project 21- Mile 10 North and Mile 1 West, Project 22-Mile 11 North & FM1015; Project 23-Mile 11 North & Texas Boulevard; Project 24- Mile 9 North & FM1015 and Project 35-Southwest Texas. The public may access the website for Hidalgo Drainage District No. 1 for a complete listing of projects. Mr. Segin stated they are considering permanent pump structures for better movement of water for project 24 to be operational as quickly as possible in joint efforts for manpower with the City and Hidalgo County; projects are within bond proceeds and will look for any cost savings and approach is solicitation for bids for construction of projects to begin as soon as possible.

Mayor Suarez entertained consent agenda with no objection.

IV. CONSENT AGENDA

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

A. Approval of the Minutes:

1) Regular Meeting on August 20, 2019;

2) Special Meeting on August 27, 2019; and (Staffed by City Secretary Department.)

B. Approval on second and final reading of the following:

1) Approval on Ordinance 2019-36 amending Ordinance 2018-21, Section 26-34 Drainage relating to the 50-year storm drainage requirements. (First reading held September 3, 2019; staffed by Engineering Department.)

C. Approval of Mid Valley Airport Hangar Lease Agreement with Coastal Bend Regional Advisory Council and authorize the Mayor to execute any related documents. (Staffed by Airport.)

D. Approval of Mid Valley Airport Hangar Lease Agreement with Clifford Robert Gardner Jr for Hangar W-16 and authorize the Mayor to execute any related documents. (Staffed by Airport.)

E. Approval for application to BJA-2019-16313 Department of Justice Bureau of Justice Assistance Gulf States Regional Law Enforcement Technology Assistance Initiative Grant for technology that enhances information and intelligence sharing between law enforcement agencies to reduce crime in our communities with an amount not to exceed \$80,000 with NO MATCH REQUIREMENT and authorize the Mayor to execute any related documents. (Staffed by Police Department.)

F. Approval for a renewal of an agreement with the Drug Enforcement Administration of State and Local HIDTA Task Force cooperation for Fiscal Year 2019-2020 and authorize Police Chief Joel Rivera to execute any related documents. (Staffed by Police Department.)

G. Approve an Interlocal Agreement with the City of Alamo for Animal Care Services and authorize the Mayor to execute any related documents. (Staffed by Planning and Code Enforcement Department.)

H. Approval on renewal of Interlocal Agreement(s) with the following entities for Animal Care Services:
1) City of Elsa
2) City of Edcouch
3) City of Penitas
4) City of La Villa; and
5) Willacy County
and authorize the Mayor to execute any related documents. (Staffed by Planning and Code Enforcement Department.)

I. Approval of a request by Valley Nature Center to utilize Gibson Park on November 9, 2019 from 7 a.m. - 11 p.m. for Brew in the Woods, and authorize the Mayor to execute any related documents as may be required, and waive any fees that may be associated with the event. (Requested by Valley Nature Center.)

J. Approval on request from the American Cancer Society to host the Mid Valley Relay for Life at Mayor Pablo G. Pena City Park on April 3, 2020 and to waive appropriate ordinances associated with the event and authorize the Mayor to execute any related documents. (Staffed by Parks and Recreation Department.)

K. Approval on renewal of a Facilities Usage Agreement with South Texas College for use of Harlon Block Park (Fields), 1020 W. 18th Street, Weslaco, Texas and Mayor Pablo G. Pena City Park (Fields and/or Tennis Courts), 300 North Airport Drive, from August 26,2019 –

August 7, 2020 and authorize the Mayor to execute any related documents. (Staffed by Parks and Recreation Department.)

L. Approval of a Facility Use Agreement for the Boys & Girls Club Building located at 300 South Airport Drive Suite B between the City of Weslaco and The American Red Cross and authorize the Mayor to execute any documents as required. (Staffed by Parks and Recreation Department.)

M. Approval on renewal of the Interlocal agreement between County of Hidalgo and the City of Weslaco to provide and receive pickup and disposal service of commercial waste for the Sheriff's East Substation and authorize the Mayor to execute any related documents. (Staffed by Public Works Department.)

Commissioner Lopez seconded by Commissioner Muñoz moved to approve consent agenda items A through L withholding item M as presented. The motion carried; Mayor Suarez was present and voting.

M. Approval on renewal of the Interlocal agreement between County of Hidalgo and the City of Weslaco to provide and receive pickup and disposal service of commercial waste for the Sheriff's East Substation and authorize the Mayor to execute any related documents. (Staffed by Public Works Department.)

Mayor Pro Tem Kerr abstained from vote and discussion.

Commissioner Lopez seconded by Commissioner Muñoz moved to approve consent agenda item M as presented. The motion carried; Mayor Pro Tem Kerr abstained; Mayor Suarez was present and voting

For the record, following is the ordinance.

ORDINANCE 2019-36

AN ORDINANCE AMENDING ORDINANCE NUMBER 2018-21, THE CITY OF WESLACO SUBDIVISIONS ORDINANCE; CODIFIED AS APPENDIX B, ARTICLE I OF THE WESLACO CODE OF ORDINANCES, ADOPTING NEW REGULATIONS; AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO TEXAS THAT:

SECTION I.

Ordinance 2018-21 passed and approved on August 21, 2018 as "Subdivisions" and Codified as Article I, Section 26-34 of the Weslaco Code of Ordinances is hereby amended.

SECTION II.

After second and final reading of this Ordinance the amended Subdivisions ordinance sections will be adopted and codified as Appendix B, Article I, Section 26-34 of the Weslaco Code of Ordinances and said Chapter shall read as follows:

APPENDIX B Article I

Sec.26-34 . DRAINAGE.

- (a) *Easement.* Where a subdivision is traversed by a watercourse, drainageway, natural channel, stream or where there is a necessity for such as determined by the planning and zoning commission, there shall be provided an easement or right-of-way conforming substantially to the limit of such watercourse. A 75-foot drainage ditch easement shall be required from the centerline of the drainage ditch, unless the City of Weslaco Master Storm Water Drainage Plan indicates otherwise. A minimum of a ten-foot access roadway for maintenance shall be required on the perimeter of the drainage ditch.
- (b) *Drainage facilities.* Drainage facilities shall be provided and constructed at the expense of the subdivider pursuant to the city drainage policy and as specified and/or recommended by the city engineer and approved by City Commission.
- (c) *Drainage policy.* No subdivision will be approved unless calculations submitted by the project engineer show that the projected runoff for the proposed subdivision, based on a fifty-year flood event, will not be greater than the natural runoff. Any water in excess of natural runoff must be detained on-site and released at existing ten-year flood rate. These flows may be exceeded only if off-site improvements and/or facilities are provided which, in the opinion of the city engineer and the planning and zoning commission and city commission, serve as adequate drainage facilities. Any property must provide an amount of floodwater storage capacity after development, which is not less than the preexisting floodwater storage capacity of such property during the 100-year flood, regardless of whether such preexisting flood storage capacity is due to natural or artificial causes. The project engineer shall provide such information as required by the city to demonstrate compliance with the city drainage policy.

Fifty-year flood detention is required for all new subdivisions except for two cases:

- i. *Small projects.* The table below identifies small projects.

SMALL PROJECT EXCEPTION DESCRIPTION

1.	Construction of a building or parking lot if the proposed construction does not require a variance from a water quality regulation, does not exceed 5,000 square feet of impervious cover and the construction site does not exceed 10,000 square feet (includes construction, clearing, grading, construction equipment access, driveway reconstruction, temporary installations, landscaping and other areas planning director or city engineer determine part of construction site).
2.	Construction of a storm sewer not more than 30 inches in diameter that is entirely on public right-of-way or easement.
3.	Construction of a utility line not more than 8 inches in diameter that is entirely in public right-of-way.
4.	Construction of a left turn lane on a divided arterial street.
5.	Construction of street intersection improvements.
6.	Widening of public street to provide a deceleration lane if additional right-of-way is not required.
7.	Depositing less than two feet of earth fill, if site is not in the 100-year floodplain and the fill is not to be deposited within the dripline of a protected tree.

8.	Minor development that the planning director and/or city engineer determine similar to items described above.
----	---

ii. *Storm water quality.* In an attempt to help reduce the amount of pollutant being discharged into the Arroyo Colorado Watershed, city will consider reducing the amount of storm water detention, if low impact development techniques are used to hold storm runoff. There are many practices that have been used to adhere to these principles such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements. City engineer must approve these techniques and quantities before storm detention requirement is reduced.

(d) *Lot grading:* All lots shall be graded so that storm water run-off is directed to the street fronting the lot. If a lot has double frontage, the city engineer and/or planning director may allow for the drainage of the lot to be split such that a portion of the run-off is directed to the street in front of the lot with the remainder of the run-off directed to the street at the rear of the lot.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this this 3rd day of September 2019

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 17th day of September 2019.

CITY OF WESLACO
/s/David Suarez, MAYOR

ATTEST:
/s/Myra L. Ayala Garza, CITY SECRETARY

APPROVED AS TO FORM:
/s/Juan E. Gonzalez, CITY ATTORNEY

V. APPOINTMENTS

A. Discussion and consideration to approve Resolution 2019-67 appointing three members to expired terms on the Parks and Recreation Advisory Board and authorize the Mayor to execute any related documents. Possible action. (Staffed by Parks and Recreation Department.)

Omar Rodriguez, Parks and Recreation Director, stated terms for three members are set to expire for Nina Lee Torkelson, Johnny Cavazos and Oscar Caballero and all wish to be considered for re-appointment.

Mayor Pro Tem Kerr, seconded by Commissioner Lopez moved to approve Resolution 2019-67 appointing Nina Lee Torkelson, Johnny Cavazos and Oscar Caballero to the Parks and Recreation Advisory Board as presented. The motion carried unanimously; Mayor Suarez was present and voting.

RESOLUTION NO. 2019-67

A RESOLUTION OF THE CITY OF WESLACO APPOINTING ONE MEMBER TO THE PARKS & RECREATION BOARD.

WHEREAS, the City of Weslaco has established the Parks & Recreation Board pursuant to Section 98-83 of the

Weslaco Municipal Code of Ordinances; and

WHEREAS, the terms of the members of this board are for three years; however, following the restructuring of this Board to consist of seven members, certain terms shall be assigned for two years so that terms are staggered such that no quorum of members expires simultaneously; and

WHEREAS, the Parks & Recreation Board members shall serve without compensation; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS the following individuals are appointed to serve expired terms on the Parks & Recreation Board.

<u>NAME</u>	<u>TERM ENDING</u>
Oscar Caballero	10/09/2022
Johnny Cavazos	10/16/2022
Nina Lee Torkelson	10/22/2022

PASSED AND APPROVED on this 17th day of September 2019.

CITY OF WESLACO
/s/David Suarez, MAYOR

ATTEST:
/s/Myra L. Ayala Garza, CITY SECRETARY

APPROVED AS TO FORM:
/s/Juan E. Gonzalez, CITY ATTORNEY

VI. NEW BUSINESS

See page for items A and B.

C. Discussion and consideration after public hearing on behalf of MAG Investments RGV LLC to approve a Conditional Use Permit to obtain a Wine and Beer Retailer's Permit at 400 S. Kansas Ave., also being Lot 1-6, Blk 33, Weslaco Original Townsite, Weslaco, Hidalgo County, Texas, approximately 560 ft. South of Bus 83 on Kansas Ave. Possible action. (Staffed by Planning and Code Enforcement Department.)

Rebekah de la Fuente, Assistant Planning Director, stated twenty-one property owners were notified with no objection received. The Planning and Zoning Commission and staff recommended approval.

Commissioner Rodriguez seconded by Commissioner Lopez moved to approve a Conditional Use Permit to obtain a Wine and Beer Retailer's Permit at 400 S. Kansas Ave. as presented. The motion carried unanimously; Mayor Suarez was present and voting.

D. Discussion and consideration after public hearing on behalf of Martin Hinojosa to approve a Conditional Use Permit to operate a boarding facility at 1110 S. Airport Dr., Also being Lot 6, Ro-Ellen Addition UT. No. 2, Weslaco, Hidalgo County, Texas. Possible action. (Staffed by Planning and Code Enforcement Department.)

Rebekah de la Fuente stated nineteen property owners were notified with no objection received. The Planning and Zoning Commission and staff recommended approval.

Mayor Pro Tem Kerr, seconded by Commissioner Lopez moved to approve a Conditional Use Permit to operate a boarding facility at 1110 S. Airport Dr. as presented. The motion carried unanimously; Mayor Suarez was present and voting.

E. Discussion and consideration after public hearing on behalf of Herman Mendez to approve Ordinance 2019-37 to rezone 2949 & 2941 N. Texas also being Lot C1& C2, Apostolic Assembly Church Subdivision, Weslaco, Hidalgo County, Texas from R-1 One-family dwelling district to B-2 Secondary highway business district and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-37. Possible Action. (Staffed by Planning and Code Enforcement Department.)

Rebekah de la Fuente stated twenty-five property owners were notified with no objection received. The Planning and Zoning Commission and staff recommended approval and the rezone conforms with the land use plan.

Commissioner Rodriguez seconded by Commissioner Pedraza moved to approve first reading of Ordinance 2019-37 to rezone 2949 & 2941 N. Texas as presented. The motion carried unanimously; Mayor Suarez was present and voting.

F. Discussion and consideration on the Final Plat for San Jacinto Estates No. 10 – being a 42.25-acre tract of land being all of Farm Tract 87 and 2.25 acres out of Farm Tract 94, West and Adams Tract Subdivision, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.)

Mayor Pro Tem Kerr, seconded by Commissioner Lopez moved to approve.

Rebekah de la Fuente stated this was a proposed one hundred forty-four (144) lot subdivision; outside the City limits; serviced with water by North Alamo Water Supply Company through an 8” waterline and sewer by the city through a 12” sewer line; owner is requesting an off-site drainage variance and annexation variance. The Planning and Zoning Commission approved final plat and variance for off-site drainage and denial of the annexation variance. Staff recommended approval of the final plat and compliance with the zoning ordinance for the variances.

Juan E. Gonzalez, City Attorney, stated new legislation enacted brings into question on the city’s Ordinance mandating any development connecting to city’s utilities request voluntary annexation; is formulating an opinion on the legislation enacted to ensure the city ordinance is following any state statutes. He requested authority to revise the ordinance for compliance of state statute and case laws and leaves at their discretion to proceed or wait until opinion is completed.

Mayor Suarez commented action can be taken for final plat approval and consideration of the variance for drainage as the question was the City ordinance mandating voluntary annexation. Staff stated the city has no authority in inspecting development occurring outside of city limits.

Alfonso Quintanilla, on behalf of the developer, stated they had would have no objection in allowing the City to inspect any construction done in connecting to any city owned utilities and are prepared to pay any charges that would be incurred for this.

In response to Commissioner Muñoz and Mayor Pro Tem Kerr, the City Manager stated to address the authority of allowing the City to inspect development outside city limits connecting to city utilities an agreement be formulated that allows the partnership with the developer and the City will inspect for acceptance of construction and usage then becomes billable.

Mayor Pro Tem Kerr rescinded the original motion.

Mayor Pro Tem Kerr, seconded by Commissioner Lopez moved to approve Final Plat for San Jacinto Estates No. 10 with variance contingent to an agreement with developer authorizing City to inspect and accept work done in connecting to city owned utilities and authorize the City Attorney to review and amend Ordinance related to voluntary annexation for compliance with any state and case law as presented. The motion carried unanimously; Mayor Suarez was present and voting.

G. Discussion and consideration on the Final Plat for Tejas Cuatro Phase II Subdivision – being a 21.21 acre tract of land out of Farm Tract 172, West and Adams Tract Subdivision, , Weslaco, Hidalgo County, Texas located approximately 2000 ft North of the intersection of W. Sugar Cane Dr. & Mile 5 ½ West and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.)

Rebekah de la Fuente, stated this was a proposed sixty-four (64) lot subdivision; outside City limits; serviced with water and sewer by the City through an 8” line; owner requested a variance for off-site drainage. The Planning and Zoning Commission recommended approval of the final plat with variance; staff recommended approval of the final plat and compliance with the zoning ordinances for the variance.

Mayor Pro Tem Kerr, seconded by Commissioner Lopez moved to approve Final Plat for Tejas Cuatro Phase II Subdivision with variance as presented. The motion carried unanimously; Mayor Suarez was present and voting.

H. Discussion and consideration on the Final Plat for Garcia Oak Estates Subdivision – being a 2.15-acre tract of land out of Farm Tract 646, West Tract Subdivision, Weslaco, Hidalgo County, Texas located approximately 3055 ft South of Bus 83 along Milanos Rd and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.)

Rebekah de la Fuente stated this was a proposed five (5) lot subdivision; outside city limits; serviced with water and sewer by the city through a 12” water and sewer line. The Planning and Zoning Commission and staff recommended approval.

Commissioner Lopez seconded by Commissioner Pedraza moved to approve final plat for Garcia Oak Estates Subdivision as presented. The motion carried unanimously; Mayor Suarez was present and voting.

I. Discussion and consideration on the Final Plat for Westwood Gardens Subdivision - being 29 acres out of Farm Tract No. 655, West Tract Subdivision out of Llano Grande Grant, Weslaco, Hidalgo County, Texas located on the Southwest corner of Mile 6 ½ West Road and

Mile 7 North and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.)

Rebekah de la Fuente stated this was a proposed one hundred seven (107) lot subdivision; inside the city limits and being serviced with water and sewer by the city. The Planning and Zoning Commission and staff recommended approval.

Commissioner Lopez seconded by Commissioner Rodriguez moved to approve final plat for Westwood Gardens Subdivision as presented. The motion carried unanimously; Mayor Suarez was present and voting.

J. Discussion and consideration on Ordinance 2019-38 for the Voluntary Annexation of Garcia Oak Estates Subdivision – being a 2.15-acre tract of land out of Farm Tract 646, West Tract Subdivision, Weslaco, Hidalgo County, Texas located approximately 3055 ft South of Bus 83 along Milanos Rd and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-38. Possible action. (Staffed by Planning and Code Enforcement Department.)

Rebekah de la Fuente recommended to table and allow staff time to confer with developer if he wishes to pursue voluntary annexation.

Mayor Pro Tem Kerr, seconded by Commissioner Pedraza moved to table. The motion carried unanimously; Mayor Suarez was present and voting.

K. Discussion and consideration for a six-month extension of the Final Plat for Ramos Commercial Plaza – being a 2.042 acre out of Farm Tract 124, Block 162, West Tract Addition, Weslaco, Hidalgo County, Texas located, approximately 600 feet North of W Expressway 83 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.)

Rebekah de la Fuente stated this was a proposed one (1) lot subdivision; inside the city limits and serviced with water and sewer by the city. Developer is in the final stages of development and needs more time. The Planning and Zoning Commission and staff recommended approval.

Mayor Pro Tem Kerr, seconded by Commissioner Lopez moved to approve a six-month extension of the Final Plat for Ramos Commercial Plaza as presented. The motion carried unanimously; Mayor Suarez was present and voting.

L. Discussion and consideration to approve the FY 2019-2020 Proposed Street Improvement Projects and authorize the Mayor to execute any related documents. Possible action. (Staffed by Public Works Department.)

The City Manager proposed the commission do a site tour of the proposed FY2019-20 street improvements and submit to staff any recommendations to add or delete streets before final prioritization and approval. The City Manager requested to table until the next meeting.

Pete Garcia went over the projected list for street improvements and requested the commission consider authorizing staff to do improvements to the commercial alleys in the downtown corridor

of the city from Texas Blvd, West 2nd, 4th, 5th and 6th Streets and Texas Blvd, East 2nd-6th Street in an effort to address the concerns from the business merchants of water entering their businesses.

In response to Mayor Suarez and Commission; improvements to the alley would be reconstruction; EDC will be improving the alley behind Wells; no improvements done for streets and are over 20 years old; stripping is only done to major streets; budgeted amount is \$500,000. Commissioner Lopez recommended to proceed with improvements to the commercial alleys in preparation of the Weslaco 100 Celebration festivities.

Commissioner Farias seconded by Commissioner Lopez moved to approve the commercial alley improvements begin as presented no action on FY2019-20 inventory list until the next regular meeting. The motion carried unanimously; Mayor Suarez was present and voting.

M. Discussion and consideration on notice received from the Texas Lottery Commission to approve continued share of bingo prize fees as set forth in House Bill 914 and authorize the Mayor to execute any related documents. Possible action. (Staffed by the City Manager's Office.)

The City Manager stated notice was received from the Texas Lottery Commission stating the local government approve its continued intent to receive bingo prize fees collected after January 2020. The City Manager recommended approval as a new bingo hall is locating in Weslaco.

Mayor Pro Tem Kerr, seconded by Commissioner Lopez moved to approve continued share of bingo prize fees from the Texas Lottery Commission as presented. The motion carried unanimously; Mayor Suarez was present and voting.

N. Discussion and consideration to renew the Commercial Package and Employer's Liability Insurance with Texas Municipal League Intergovernmental Risk Pool (TMLIRP) and authorize the Mayor to execute any related documents. Possible action. (Staffed by Human Resources Department.)

Veronica Ramirez, Human Resources Director, recommended approval to renew Texas Municipal League Intergovernmental Risk Pool stating there was a 4% decrease for a total savings to the city of \$14,493 stating the commission can solicit bids next year.

Mayor Pro Tem Kerr, seconded by Commissioner Lopez moved to approve Commercial Package and Employer's Liability Insurance with Texas Municipal League Intergovernmental Risk Pool (TMLIRP) as presented. The motion carried unanimously; Mayor Suarez was present and voting.

O. Discussion and consideration to approve Ordinance 2019-39 adopting the City of Weslaco's budget appropriation for the fiscal year October 1, 2019 to September 30, 2020 and authorize the Mayor to execute any related documents. First Reading of Ordinance 2019-39. ROLL CALL VOTE REQUIRED. Possible action. (Staffed by Finance Department.)

Vidal Roman, recommended approval of the ordinance adopting and appropriating funds for next fiscal year public hearings.

In response to Mayor Suarez, funding allocation for the Hotel/Motel Funds were not appropriated at this time and would come back to the commission as budget amendment.

Mayor Pro Tem Kerr, seconded by Commissioner Lopez moved to approve on first reading Ordinance 2019-39 adopting the City of Weslaco's budget appropriation for the fiscal year October 1, 2019 to September 30, 2020 as presented. By roll call vote the motion carried unanimously; Mayor Suarez was present and voting.

P. Discussion and consideration to approve Ordinance 2019-40 adopting and levying ad valorem tax rate for the 2019-2020 fiscal year and authorize the Mayor to execute any related documents. First Reading of Ordinance 2019-40. ROLL CALL VOTE REQUIRED. Possible action. (Staffed by Finance Department.)

Vidal Roman recommended approval on first reading the ordinance adopting \$.6967/100.00 as the ad valorem tax rate, with \$0.5109/\$100 for Maintenance & Operations and \$0.1858/\$100 for the payment of principal and interest.

Commissioner Lopez seconded by Mayor Pro Tem Kerr moved to approve on first reading Ordinance 2019-40 adopting and levying ad valorem tax rate for the 2019-2020 fiscal year as presented. By roll call vote the motion carried unanimously; Mayor Suarez was present and voting.

Q. Discussion and consideration to approve the Economic Development Corporation of Weslaco annual budget and work plan for fiscal year 2019-2020. Possible action. (Requested by Weslaco Economic Development Corporation.)

Stephen Charlton, Weslaco Economic Development Corporation Treasurer, presented the 2019-2020 work plan highlighted on sources of income totaling \$4,231,072; operating expenses of \$5,000,000 with carry over funds totaling \$5,976,851.17 that resolve the deficiency of expenditures.

In response to the City Manager, appropriations for the purchase of table and chairs for the Visitors Business Event Center will be considered at the board's next meeting and would come out of the Opportunity Fund.

Mayor Pro Tem Kerr, seconded by Lopez moved to approve the Economic Development Corporation of Weslaco annual budget and work plan for fiscal year 2019-2020 as presented. The motion carried unanimously; Mayor Suarez was present and voting.

VII. EXECUTIVE SESSION

At 6:53 p.m. Commissioner Farias, seconded by Commissioner Lopez moved to convene the regular meeting in Executive Session. The motion carried unanimously; Mayor Suarez was present and voting.

At 7:54 p.m. Mayor Suarez stated the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

VIII. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

A. Personnel - Discussion regarding the goals, objectives, and evaluation of the City Manager for the City of Weslaco as authorized by section §551.074 of the Texas Government Code.

No action.

B. Personnel - Discussion regarding the evaluation, reassignment, duties, discipline or dismissal of a police officer for the City of Weslaco as authorized by section §551.074 of the Texas Government Code.

No action.

C. Real Property – Consultation with City Attorney on the purchase of real property located at the corner of Witmer Street and South Bridge Avenue as authorized by section §551.072 of the Texas Local Government Code.

Commissioner Muñoz, seconded by Commissioner Lopez moved to authorize the purchase as discussed in executive session. The motion carried unanimously; Mayor Suarez was present and voting.

D. Pending Litigation – Consultation with City Attorney regarding Cause No. CL-19-4777-B Eli Joshua Lopez v. City of Weslaco as authorized by section §551.071 of The Texas Government Code

No action.

E. Economic Development - Consultation with City Attorney regarding financial offer or other incentives for proposed development of property legally described as the West Tract N-820.04'-Farm Tract 13, Weslaco, Hidalgo County, Texas located on Mile 3 1/2 West, as authorized by section §551.087 of the Texas Local Government Code.

No action.

IX. ADJOURNMENT

Commissioner Pedraza, seconded by Commissioner Lopez, moved to adjourn the meeting at 7:55 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

Myra L. Ayala Garza, CITY SECRETARY

MAYOR PRO-TEM, Greg Kerr

COMMISSIONER, Leo Muñoz

COMMISSIONER, Jose “J.P.” Rodriguez

COMMISSIONER, Adrian Farias

COMMISSIONER, Letty Lopez

COMMISSIONER, Josh Pedraza



MINUTES
SPECIAL MEETING
OF THE WESLACO CITY COMMISSION
WEDNESDAY, SEPTEMBER 25, 2019

On Wednesday, September 25, 2019, at 5:33 p.m. the City Commission of the City of Weslaco, Texas convened in a Special Meeting at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue with the following member's present:

PRESENT:	Mayor	David Suarez
	Mayor Pro-Tem	Greg Kerr
	Commissioner	Adrian Farias
	Commissioner	J.P. Rodriguez
	Commissioner	Leo Muñoz
ABSENT:	Commissioner	Letty Lopez
	Commissioner	Josh Pedraza
	City Manager	Mike Perez
	City Secretary	Myra L. Ayala Garza

Also, present: Aida Vega, Deputy City Secretary, Vidal Roman, Finance Director, Omar Rodriguez, Parks and Recreation Director, Juan Salas Information Technology; Ben Worsham, City Engineer/Planning and Code Enforcement Director; Joel Rivera, Police Chief; Antonio Lopez, Fire Chief; Arnold Becho, Library Director, Rosa Huerta, Court Coordinator, and citizens.

I. CALL TO ORDER

A. Certification of Public Notice.

Mayor David Suarez called the meeting to order and certified the public notice of the meeting as properly posted Friday, September 20, 2019.

B. Pledge of Allegiance.

Mayor Suarez led the Pledge of Allegiance and Texas Flag.

C. Roll Call.

Myra L. Ayala Garza, City Secretary, called roll noting the absence of Commissioner Lopez and Commissioner Pedraza and a quorum present.

II. PUBLIC COMMENTS

None.

III. CONSENT AGENDA

A. Approval to accept a grant award from the US Department of Justice, Office on Violence Against Women in the amount of \$14,377.50 and authorize the Mayor to execute any related documents. (Staffed by Police Department.)

Commissioner Muñoz, seconded by Commissioner Rodriguez moved to approve the consent agenda as presented. The motion carried unanimously; Mayor Suarez was present and voting.

IV. OLD BUSINESS

A. Discussion and consideration to approve Ordinance 2019-39 adopting the City of Weslaco's budget appropriation for the fiscal year October 1, 2019 to September 30, 2020 and authorize the Mayor to execute any related documents. ROLL CALL VOTE REQUIRED. Possible action. (First Reading held September 17, 2019; staffed by Finance Department.)

Vidal Roman, Finance Director, stated this was second reading of the ordinance adopting the FY 2019-2020 recommending approval and roll call vote required.

Commissioner Muñoz, seconded by Commissioner Rodriguez moved to approve Ordinance 2019-39 adopting the City of Weslaco's budget appropriation for the fiscal year October 1, 2019 to September 30, 2020 and authorized the Mayor to execute any related documents. By roll call vote the motion carried unanimously; Mayor Suarez was present and voting.

For the record, following is the ordinance.

ORDINANCE NO. 2019-39

AN ORDINANCE MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF WESLACO FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020; APPROPRIATING MONEY TO A SINKING FUND TO PAY INTEREST AND PRINCIPAL ON THE CITY'S INDEBTEDNESS; AND ADOPTING THE ANNUAL BUDGET FOR THE CITY OF WESLACO, TEXAS, FOR THE 2019-2020 FISCAL YEAR.

WHEREAS, the budget appended here as Exhibit A, for the fiscal year beginning October 1, 2019, and ending September 30, 2020, was duly presented to the City Commission by the City Manager, that due and timely public notice that a Public Hearing on such budget would be held on September 03, 2019, was given and made in accordance with state law and within the time limits set forth by law; that such Public Hearing was held in accordance with the law on September 03, 2019; now therefore,

BE IT ORDAINED BY CITY OF WESLACO, TEXAS:

SECTION 1. That the appropriations for the fiscal year beginning October 1, 2019, and ending September 30, 2020, for the support of the general government of the City of Weslaco, Texas be fixed and determined for said terms in accordance with the expenditures shown in the City's Fiscal Year 2019-2020 Budget, a copy of which is appended hereto as Exhibit A;

SECTION 2. That the Budget, as shown in words and figures in Exhibit A, is hereby approved in all respects and adopted as the City's Budget for the fiscal year beginning October 1, 2019 and ending September 30, 2020.

SECTION 3. That there is hereby appropriated the amount shown in said budget necessary to provide for a sinking fund for the payment of the principal and interest and the retirement of the bonded debt requirements of Fiscal 2019-2020 of the City of Weslaco.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 17th day of September 2019.

PASSED AND APPROVED on second reading at a special meeting of the City Commission this 25th day of September 2019.

CITY OF WESLACO
/s/David Suarez, MAYOR

ATTEST:
/s/Myra L. Ayala Garza, CITY SECRETARY

APPROVED AS TO FORM:
/s/Juan E. Gonzalez, CITY ATTORNEY

B. Discussion and consideration to approve Ordinance 2019-40 adopting and levying ad valorem tax rate for the 2019-2020 fiscal year and authorize the Mayor to execute any related documents. ROLL CALL VOTE REQUIRED Possible action. (First reading was held September 17, 2019; staffed by Finance Department.)

Vidal Roman, Finance Director, stated this was second reading of the ordinance adopting the FY 2019-2020 ad valorem tax rate of \$0.6967 on each \$100 valuation of property recommending approval and roll call vote required.

Mayor Pro Tem Kerr, seconded by Commissioner Muñoz moved to approve Ordinance 2019-40 adopting the ad valorem tax rate for the fiscal year 2019 -2020 as presented and authorized the Mayor to execute any related documents. By roll call vote the motion carried unanimously; Mayor Suarez was present and voting.

For the record, following is the ordinance.

ORDINANCE NO. 2019-40

AN ORDINANCE LEVYING AN AD VALOREM TAX ON ALL TAXABLE PROPERTY WITHIN THE CITY OF WESLACO, TEXAS FOR THE TAX YEAR 2019, FIXING THE TAX RATE FOR THE USE AND SUPPORT OF THE GENERAL GOVERNMENT AND FOR THE INTEREST AND SINKING FUND FOR THE REDEMPTION OF BONDS AND OTHER INDEBTEDNESS OF THE CITY OF WESLACO, TEXAS, AND FIXING A LIEN ON ALL TAXABLE PROPERTY.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS:

THAT, there is hereby levied and there shall be collected for the use and support of the municipal government of the City of Weslaco for the 2019-2020 fiscal year, upon all property, real, personal and mixed, within the corporate limits of said City subject to taxation, a tax of \$0.6967 on each \$100 valuation of property, said tax being so levied and apportioned to the specific purposes here set forth:

- a. Maintenance and operation of the General Government (General Fund) for fiscal year 2019-2020, \$0.5109 on each \$100 valuation of property.
- b. Interest and sinking fund for debt service payments for fiscal year 2019-2020, \$0.1858 on each \$100 valuation of property for the purpose of paying interest on and providing a sinking fund for the redemption of outstanding indebtedness of the City of Weslaco.

II.

THAT there is hereby fixed on each and every item of taxable property a lien for the purpose of securing the payment of the taxes assessed thereon, and said lien shall continue to exist against any item of property against which a tax is assessed here under until such tax, together with all interest shall be paid.

III.

IF, any person shall neglect or refuse to pay the taxes herein imposed on him or his property, on or before January 31, 2020 the tax collector shall apply the following schedule of penalty and interest rates for use in calculating the total amount due on delinquent tax bills:

February 2019	7.0%
March 2019	9.0%
April 2019	11.0%
May 2019	13.0%
June 2019	15.0%
July 2019	18.0%

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 17th day of September 2019.

PASSED AND APPROVED on second reading at a special meeting of the City Commission this 25th day of September 2019.

CITY OF WESLACO
/s/David Suarez, MAYOR

ATTEST:
/s/Myra L. Ayala Garza, CITY SECRETARY

APPROVED AS TO FORM:
/s/Juan E. Gonzalez, CITY ATTORNEY

V. NEW BUSINESS

A. Discussion and consideration to contract Waukesha-Pearce Industries, LLC., BuyBoard vendor contract No. 577-18, for a Generac Diesel Generator for the North Side Fire Station, in an amount not to exceed \$47,437.11 and authorize the Mayor to execute any related items. Possible Action. (Staffed by Airport.)

Commissioner Farias abstained from vote and discussion and filed a conflict disclosure statement.

Andrew Muñoz, Asst. City Manager/Airport Director, stated the generator was for the North Side Fire Station; meets all design specifications; generator will power HVAC, refrigeration, kitchen areas, control access operating doors and life safety lighting; vendor will provide final connections and testing of equipment with city staff and/or contractor (Tri-Gen) doing the installation of the genset and transfer switch.

Mayor Pro Tem Kerr, seconded by Commissioner Rodriguez, moved to approve Waukesha-Pearce Industries, LLC., BuyBoard vendor contract No. 577-18, for a Generac Diesel Generator for the

North Side Fire Station, in an amount not to exceed \$47,437.11 as presented. The motion carried; Commissioner Farias abstained; Mayor Suarez was present and voting.

B. Interviews of shortlist for the selection of the Engineering design firm for the Pleasantview & 11th Street Drainage Project (Project #6 of Weslaco's Master Drainage Plan, RFQ #2018-19-16. Possible action. (Staffed by Engineering Department.)

Commissioner Muñoz seconded by Rodriguez moved to discuss.

The City Manager stated six firms would be interviewed, staff prepared a ranking matrix based on operation, experience and solution/impact for the project; advised 15 minutes allocated for presentation with 5 minutes for questions and answers; firms were given the questions. The City Manager instructed the Commission to rank each of the firms for consideration at the next regular meeting. Those firms not presenting left the Legislative Chambers until called as a professional courtesy.

Guzman Munoz, Cruz Hogan, B2Z, SWG, R Gutierrez and ICE each in turn presented their firms profile and qualifications, past and present project experience, team expertise, commitment to quality of service and cost control of the project.

In response to questions; each presenter stated alternative solutions would be recommended for cost savings; positive in remaining within project budget; labor force strong will allow competitive construction costs and firms time line completion.

VI. ADJOURNMENT

Mayor Pro Tem Kerr, seconded by Commissioner Muñoz moved to adjourn the special meeting at 7:53 p.m. The motion carried unanimously; Mayor Suarez was present and voting.

CITY OF WESLACO

MAYOR, David Suarez

ATTEST:

Myra L. Ayala Garza, CITY SECRETARY

MAYOR PRO-TEM, Greg Kerr

COMMISSIONER, Leo Muñoz

COMMISSIONER, Adrian Farias

COMMISSIONER, Jose “J.P” Rodriguez

ABSENT

COMMISSIONER, Letty Lopez

ABSENT

COMMISSIONER, Josh Pedraza



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2781
From:		
Subject: Approval on agreement with Hidalgo County Elections Department to conduct the City of Weslaco General Election on November 5, 2019 for Mayor, Commissioner District 5 and Commissioner District 6 and authorize the Mayor to execute any related documents. (Staffed by City Secretary Department.)		
Background: This allows the Hidalgo County Elections Department to conduct the City of Weslaco General Election on November 5, 2019, which includes managing the polling locations during early voting and election day and providing equipment and workers. The local ballot includes the Mayor, Commissioner Districts 5 and 6.		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted: Mayor's Signature		
If item previously considered, provide date and action by Commission:		
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:		
Advisory Review, if any (name of board/committee, date of action, recommendation):		
Aida Vega	Created/Initiated	
Aida Vega	Approved	
Mike Perez	Final Approval	
City Manager Comments: Approve.		
Staff Recommendation: Approve.		
Attachments, if any: 9-4-19 City of Weslaco Contract November 5, 2019		
Responsibilities upon Approval:		



ELECTIONS DEPARTMENT County of Hidalgo

YVONNE RAMÓN
Elections Administrator

October 1, 2019

City of Weslaco
275 S. Kansas Ave.
Weslaco, Texas 78596

Attn: David Suarez, Mayor

Attached please find the Elections Contract and Estimate for election services between Hidalgo County and City of Weslaco for the November 5, 2019 General Election.

Please sign two copies of this contract if you wish to have an executed original returned to you, as the Elections Office must retain an original for its' files.

Hidalgo County Elections Department
Attn: Yvonne Ramon, Elections Administrator
101 S. 10th Ave.
Edinburg, TX 78539

Once the contract is executed, an original contract will be sent to you.

Should you need additional information, please do not hesitate to contact me.

Respectfully,

Norma G. Cantu
Administrative Assistant
Hidalgo County Elections Department
(956) 318-2931
norma.cantu@co.hidalgo.tx.us

THE STATE OF TEXAS §
 § CONTRACT FOR ELECTION SERVICES
COUNTY OF HIDALGO §

This Contract is entered into by and between the **HIDALGO COUNTY ELECTIONS ADMINISTRATOR**, Yvonne Ramón, hereinafter referred to as “**ADMINISTRATOR**”, on behalf of Hidalgo County, a political subdivision of the State of Texas, and the **CITY OF WESLACO**, hereinafter referred to as the “**ENTITY**”, pursuant to Texas Election Code Section 31.092.

RECITALS

WHEREAS, the ENTITY, by appropriate action of its governing body acting in accordance with all applicable laws, has called their General Election to be held on **NOVEMBER 5, 2019**.

WHEREAS, pursuant to Section 31.092(a) of the Texas Election Code, the County Election Officer may contract with the governing body of a political subdivision situated wholly or partly in the county served by the officer to perform election services in any one or more elections ordered by an authority of the political subdivision; and

WHEREAS, pursuant to Section 31.091(1) of the Texas Election Code, the County Election Officer means the Elections Administrator for Hidalgo County; and

WHEREAS, the ENTITY is a political subdivision in Hidalgo County that desires the County to conduct and supervise the **NOVEMBER 5, 2019** election of the ENTITY (the “Election”); and

WHEREAS, the ENTITY and the COUNTY, through the ADMINISTRATOR, desire to enter into a contract setting out the respective responsibilities of the parties; and

WHEREAS, the COUNTY agrees to perform election services for the ENTITY; and

WHEREAS, pursuant to Section 271.002(a) of the Texas Election Code that authorizes, if applicable two or more political subdivisions to enter into an agreement to hold elections jointly in the election precincts that can be served by common polling places; and

WHEREAS, pursuant to Section 271.003 (a) & (b) the location of a common polling place may be a regular county polling place used in a joint election, where the voters of a particular election precinct or political subdivision may be served in a joint election by common polling places located outside the boundary of the election precinct or political subdivision if the location can adequately and conveniently serve the affected voters and if it will facilitate the orderly conduct of the election; and

WHEREAS, pursuant to Section 43.007 of the Texas Election Code, the COUNTY has approved participation in a countywide polling place program, which allows the commissioners court to eliminate county election precinct polling places and establish countywide polling places for the election held on **NOVEMBER 5, 2019** and **any resulting runoff**; and

WHEREAS, pursuant to Section 43.007(e), each countywide polling place must allow a voter to vote in the same elections in which the voter would be entitled to vote in the county election precinct in which the voter resides; and

WHEREAS, the ADMINISTRATOR has provided costs for election services to be rendered by ADMINISTRATOR'S office pursuant to the terms of this Contract, which costs are set out in Article VI hereof; and

NOW, THEREFORE, the COUNTY, through the ADMINISTRATOR, and the ENTITY for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, do hereby agree to hold contract, covenant and agree as follows:

ARTICLE I PURPOSE

- 1.01. The parties hereto have entered into this Contract for election services described in Article II to be provided to the ENTITY for its election to be held on **NOVEMBER 5, 2019**, and **any Runoff**, if applicable.

ARTICLE II SERVICES

- 2.01. The COUNTY, through the ADMINISTRATOR, agrees to provide to the ENTITY the following:

- (A) Procure, provide, code and distribute Direct Recording Electronic (DREs) voting systems and necessary election equipment, as well as an ADA voting system, and transport equipment to and from the polling locations, including Early Voting and Election Day polling locations, for the ENTITY;
- (B) Prepare and provide Direct Recording Electronic device training for election workers;
- (C) Prepare and provide Logic and Accuracy testing on ENTITY's election ballot for every Verity Touch voting machine to be utilized by ENTITY during Early Voting and Election Day;
- (D) Procure, provide, prepare and code Electronic Poll Book(s) per polling locations with the Voter Registration Database. To include laptop(s), training for poll book, insurance, and delivery fee, as well as supplies such as, but not limited to labels and printer;
- (E) Provide and prepare all mail-in ballot supplies, including applications, paper ballots, envelopes and postage;
- (F) Provide training for Judges/Clerks;
- (G) Procure, provide, prepare, and distribute all necessary election supplies, including:
 - 1. Ballots (print and distribution only);
 - 2. Election kits and election paperwork;
 - 3. Ballot boxes and voting booths;

- (H) Provide cages and covers, cage kit, to include, but not limited to surge protectors, tape, printer, headphones and scanner as well as supplies such as bags, aprons, clipboards, pens, pencils, rulers, magnifiers, inkpads, screen cloths, sanitizers and badges;
- (I) Provide signage to be placed at each polling location that shows Texas Penal Code Section 46.03(a)(2) as it relates to the prohibition of firearms on the premises of a polling place;
- (J) Procure Early Voting polling places and Election Day polling places, as ordered by the Entity;
- (K) Prepare Writ of Election to election officers and notice of appointment to Presiding and Alternate judges, as required by law;
- (L) Prepare, distribute, and publicize notice of election (Texas Election Code Section 4.003(a)(1) and Early Voting and Election Day schedules in newspaper;
- (M) Notify the election judges of the date, time and place of the election;
- (N) Procure and pay election judges and clerks for Early Voting and Election Day voting;
- (O) Provide general supervision during the contracted Election period. Advisory services in connection with the decisions to be made and the actions to be taken by the ENTITY may be provided on an as needed basis;
- (P) Procure and pay Ballot Board members;
- (Q) Provide information for election officers;
- (R) Provide such incidental related services as may be necessary to conduct the election;
- (S) Serve as the Early Voting Clerk;
- (T) Establish a Central Counting Station for the purpose of tabulating ballots; and
- (U) Tabulate election results in preparation for ENTITY's canvassing.
- (V) Preserve locked ballot boxes containing voted ballots securely in a locked room for 60 days as required by Texas Election Code Section 66.058, at which time, the records will be retained by the Hidalgo County Elections Administrator to serve as custodian for the remainder of the twenty two month preservation period.
- (W) The ADMINISTRATOR shall be the agent of the ENTITY for the purposes of contracting with third parties with respect to the election expenses within the scope of the County Elections Administrator's duties;
- (X) The COUNTY shall file copies of this Contract with the County Treasurer and the County Auditor; and
- (Y) In accordance with Section 31.100(b) of the Texas Election Code, only actual expenses directly attributable to this Contract may be paid. The ADMINISTRATOR shall submit the actual costs for items contracted pursuant to the Contract with the ENTITY as soon as all invoices from third party vendors are received;

- (Z) If applicable, the COUNTY agrees to provide the election services described herein for a Runoff election.
- i. The County may combine polling locations in accordance with section 42.0051 of the Election Code, in order to properly supervise and conduct a Runoff election.
 - ii. If a Runoff election is required, the ENTITY hereby agrees to the combining of polling locations, in accordance with section 42.0051 of the Election Code.
 - iii. The COUNTY, through the ADMINISTRATOR, agrees to provide to the ENTITY the costs for any Runoff election services to be rendered by the ADMINISTRATOR'S office pursuant to the terms of this Contract as soon as practicable, once a Runoff is determined necessary.
 - iv. In accordance with Section 31.100(b) of the Texas Election Code, only actual expenses directly attributable to this Contract may be paid. The ADMINISTRATOR shall submit the actual costs for items contracted pursuant to the Contract with the ENTITY as soon as all invoices from third party vendors are received regarding the Runoff.

2.02 The ENTITY shall be responsible for performing the following:

- (A) Payment of all necessary election supplies as required by the COUNTY, including but not limited to ballots, election kits, mail-in ballot supplies, laptop rental, labels and combination forms;
- (B) Pay the proportionate cost of judges and election workers for hourly pay submitted by the County Elections Administrator at the rate of \$14.00 per hour for Election Judges and \$12.00 per hour for Alternate Judges and Early Voting Clerks for both Early Voting and Election Day and pay the proportionate cost for training of Judges and Clerks at the rate of \$10.00 per hour per person.*(additional cost for Early Voting extended hours requested by ENTITY will be paid proportionately by ENTITY when or if applicable).*
- (C) Reimburse the COUNTY for the cost for liability insurance coverage for election workers employed for both Early Voting and Election Day;
- (D) Canvass the Election Results for the ENTITY'S governing body;
- (E) As stated in Section 31.096 of the Texas Election Code, this Contract may not change:
 - (1) the authority with whom applications of candidates for a place on a ballot are filed; and
 - (2) the authority with whom documents are filed under Title 15. Under this Contract, the Hidalgo County Elections Administrator shall be the custodian of voted ballots for 60 days after the date of the election, as required by Texas Election Code 66.058, at which time, the records will be retained by the Hidalgo County Elections Administrator to serve as custodian for the remainder of the twenty two month preservation period.
- (F) Reimburse the COUNTY for any and all costs associated with recounts and/or election contests associated with the election;
- (G) Confirm and/or correct the boundaries of the political subdivision holding the election on a map provided by the County. Once confirmed and/or corrected, Entity certifies the veracity of the boundaries and geographical area that represents the Entity and the area subject to the election.

- (H) If applicable, in consideration for the services provided for a Runoff Election by the COUNTY, the ENTITY agrees to pay ADMINISTRATOR for the costs of services for a Runoff election.
- (I) Create the appropriate ballot style and candidate placement for the Entity's election. Once confirmed and/or corrected Entity shall verify the appropriateness of their ballot under the law.

ARTICLE III SCHEDULE FOR PERFORMANCE OF SERVICES

- 3.01. Specific services to be provided related to the general services identified in Article II shall be performed in accordance with the time requirements set out in the Texas Election Code.

ARTICLE IV SERVICES NOT PROVIDED BY COUNTY

- 4.01. ADMINISTRATOR shall have no responsibility for ensuring the passage of the appropriate Election Order by the ENTITY, publishing and (or) posting the Election Order as required by the Texas Election Code section 3.004(3), or Texas Election Code 67.002(2) which is canvassing election results. In addition, ADMINISTRATOR shall have no responsibility for creating the appropriate ballot and candidate placement for the Entity's election.

ARTICLE V TERM

- 5.01. Except as hereinafter set out, the term of this Contract shall be from the time of execution until all items with respect to this Contract and the election held hereunder have been completed.

ARTICLE VI COST OF SERVICE AND BILLING

In consideration for the services provided hereunder by ADMINISTRATOR, the ENTITY agrees to pay ADMINISTRATOR for the following costs of services:

6.01 Verity Touch Voting Machines:

- (A) One base charge of \$475.00 for Coding Verity Touch ballot for voting machines, a \$25.00 additional charge per additional ballot styles and a minimum of a \$10.00 charge for requested changes on Coded Ballot;
- (B) A \$10.00 recording fee for Audio Files;
- (C) Cost of creating election media, such as but limited to V-drives, Verity Keys; etc. at \$100.00 per location.
- (D) The amount of \$186.00 leasing fee for each Verity Controller, a \$186.00 leasing fee for each Verity Touch Voting Machine and a \$210.00 leasing fee for each Verity Touch Access Voting Machine;
- (E) Cost of delivery and pick-up of Verity Touch Voting Equipment for Each Voting and Election Day to include fuel charge and mileage at COUNTY's cost;
- (F) The above described fees shall be additionally charged for any Runoff Election.

- 6.02 Electronic Poll Book:
- (A) Database access at \$100.00 per day;
 - (B) To include but not limited to the Early Voting and Election Day laptop rentals at \$150.00 per location;
 - (C) Printer label fee of \$.03 per label (price subject to change);
 - (D) Creation of separate Username and password for each polling location at \$20.00 per location;
- 6.03 Fee for Early Voting and Election Day Combination forms, maps, election kits, Verity Access Thermal code paper and 'I VOTED' stickers. One-hundred sample ballots at no charge with additional sample ballots at twenty cents per copy; No charge for provisional bags, table tops if necessary, ballot box (es), custom signs and flags;
- 6.04 Reimbursement of ballot supplies, including applications, paper ballots, correspondence, envelopes and postage at COUNTY's cost;
- 6.05 Reimbursement fee for publications of all notices and newspaper advertisements, (if applicable)
- 6.06 Reimbursement rental fees incurred for early voting polling places and Election Day polling places, as ordered;
- 6.07 (A) Cost of judges and election workers for time worked to be submitted to the ENTITY by the ADMINISTRATOR. The ENTITY shall reimburse the COUNTY for a the cost of payroll for election workers at \$14.00 per hour for Election Judge, \$12.00 per hour for Alternate Judge and Clerk(s); includes cost of payroll for training of Election Judge, Alternate Judge and Clerk(s) at \$10.00 per hour per person;
- (B) Reimburse the County for the cost of payroll overtime incurred by County for regular full time County employees who work during the contracted election (cost to be shared with each contracted entity);
- 6.08 Pay for the cost of the Ballot Board judge at \$14.00 per hour and Ballot Board clerks at \$12.00 per hour;
- 6.09 One copy of canvass report provided to ENTITY at no charge; each additional canvass report requested to be reimbursed by the ENTITY at COUNTY's cost;
- 6.10 Reimbursement to the COUNTY for the cost of liability insurance coverage as set by the County for all election workers employed for the elections;
- 6.11 Reimbursement to the COUNTY for the cost of the use of wireless cell phones at polling locations with the rate set by the wireless vendor at the time of usage which includes an additional per minute fee as charged by the vendor, a service charge of \$10.00 per phone line and a vendor base fee of \$4.99 per phone line;
- 6.12 Billing:
- (A) The form of the invoice to be used in the final billing by the COUNTY, includes a good faith estimate of costs and is attached hereto as Exhibit A.
 - (B) After the election and as soon as practicable, upon receiving final invoice from third party vendors,

the ADMINISTRATOR shall prepare and will send to the ENTITY, a final itemized invoice with the actual costs of the Election and will include the 10% Administrative Fee of the actual costs as set forth by Texas Election Code Sec. 31.100 (d).

(C) Full payment of the remaining balance, if any, shall be made by the ENTITY within thirty (30) days of receipt of the invoice.

(D) Payment shall be made by check payable to the Hidalgo County Elections Department.

(E) Notice. Except as may be otherwise specifically provided in this contract, all notices, demands, requests or communication required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

Yvonne Ramón
Elections Administrator
Hidalgo County Elections Department
101 S. 10th Ave
Edinburg, Texas 78540

David Suarez
Mayor
275 S. Kansas Ave.
Weslaco, Texas 78596

(F) Any balances, if any remain after the payment of all costs of election bills, shall be the property of the ENTITY and returned to it.

ARTICLE VII

7.01 IF ANY OF THE ELECTION EQUIPMENT IS LOST, STOLEN, DESTROYED, OR DAMAGED, THE CITY, SCHOOL DISTRICT OR ENTITY WHO LEASED THE EQUIPMENT IS LIABLE FOR THE DAMAGE AND AGREES TO PAY THE ADMINISTRATOR THE COST OF THE REPLACEMENT OR REPAIR OF THE ELECTION EQUIPMENT SO LOST, STOLEN, DESTROYED OR DAMAGED.

ARTICLE VIII GENERAL PROVISIONS

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

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

- 8.03. This Contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreement between the parties respecting the written subject matter.
- 8.04. No amendment, modification, or alteration of the term hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

SIGNED this _____ day of _____, 2019

APPROVAL COUNTY OF HIDALGO:

CITY OF WESLACO
ENTITY

BY: _____
RICHARD F. CORTEZ
COUNTY JUDGE

BY: _____
PRINT: DAVID SUAREZ
TITLE: MAYOR

ATTEST:

ATTEST:

BY: _____
ARTURO GUAJARDO JR.
COUNTY CLERK

BY: _____

PRINT: _____

TITLE: _____

BY: _____
YVONNE RAMÓN
ELECTIONS ADMINISTRATOR

APPROVED AS TO LEGAL FORM:

OFFICE OF CRIMINAL DISTRICT ATTORNEY
RICARDO RODRIGUEZ, JR.

BY: _____
JOSEPHINE RAMIREZ SOLIS,
Assistant District Attorney



2019 Hidalgo County Elections Contract Estimate

EXHIBIT A

PLEASE NOTE THAT THIS TOOL IS FOR ESTIMATION PURPOSES ONLY.
PRICES ARE SUBJECT TO CHANGE AS DETERMINED BY FINAL INVOICE.

ELECTION: City of Weslaco Mayor, District 5 & 6		DATE: November 5, 2019			
6.01	Coding Services for HART	Price	Quantity	Total	
A	Base Charge: Ballot Coding	\$475.00	1	\$475.00	
C	Ballot Audio Files	\$10.00	7	\$70.00	
F	Election Media per Polling Location(s)	\$100.00	2	\$200.00	
G	*Verity Controller(s)	\$186.00	2	\$186.00	
G	*Touch Voting Machine(s)	\$186.00	6	\$558.00	
G	*Touch Access Voting Machine(s)	\$210.00	2	\$210.00	
H	*Delivery/ Pick-up Fee (includes Mileage)	\$950.00	1	\$950.00	
Total iVotronic Coding Charges				\$2,649.00	
6.02	Electronic Poll Book (VoteSafe)	Price	Quantity	Total	
A	*Voter Registration Database Access (Per Day)	\$100.00	13	\$650.00	
B	*EV/ ED Laptop Rental (includes Bar Code Scanner/ Brother Printer)	\$150.00	2	\$150.00	
C	Printer Labels (20, 387 per vote)	\$0.03	40,774	\$1,223.22	
D	Username/Password - Per Polling Location	\$20.00	2	\$40.00	
Total Electronic Poll Book Charges				\$2,063.22	
6.03	Supplies	Price	Quantity	Total	
	Early Voting Combination Forms	\$0.55	425	\$233.75	
	Election Day Combination Forms	\$0.55	425	\$233.75	
	*Election Judge Kit for Early Voting	\$35.00	1	\$17.50	
	*Election Judge Kit for Election Day	\$35.00	1	\$17.50	
	Verity Access Thermal Code paper (per vote)	\$0.10	20,387	\$2,038.70	
	I VOTED stickers (per vote)	\$0.01	20,387	\$203.87	
	Polling Location Map(s)	\$17.00	2	\$34.00	
	100 Sample ballots provided. Additional Copies of Sample Ballots @ \$0.20 each.	\$0.20	200	\$40.00	
Total Supplies Charges				\$2,819.07	
6.04	Mail & Ballot Service	Price	Quantity	Total	
	Mail-in-Ballot Applications	\$0.25	100	\$25.00	
	Paper Ballots for Mail-in-Ballots and Provisionals	\$0.40	300	\$120.00	
	Mail-in-Ballots Kit(s) per request	\$2.00	100	\$200.00	
	Postage Mail-in-Ballots (per request)	\$0.61	100	\$61.00	
	Correspondence Postage	\$0.49	1	\$0.49	
Total Mail & Ballot Service Charges				\$406.49	
6.05	Advertisements/Notices	Price	Quantity	Total	
	L&A	\$350.00	1	\$350.00	
	Local newspaper	\$1,800.00	0	\$1,800.00	
Total Advertisement/Notice Charges				\$2,150.00	
6.07	*Payroll for Training and Election Poll Workers	Price	Total		
(A)	Payroll for Early Voting Employees	\$14,670.00	\$7,335.00		
	Payroll for Election Day Employees	\$1,383.00	\$691.50		
Total Payroll Charges				\$8,026.50	
6.07	*Payroll for Staff Overtime	Price	Total		
(B)	Payroll for Early Voting and Eleciton Day Staff Employees	\$3,328.45	\$3,328.45		
Total Payroll Charges				\$3,328.45	
6.08	*Payroll for Ballot Board	Price	Quantity	Total	
	Ballot Board	\$250.00	1	\$250.00	
Total Ballot Board Charges				\$250.00	
6.10	Insurance	Hourly rate	Hours wk	%	Total
	Liability insurance for Early Voting Supervisors (1)	\$ 14.00	170	0.0021	\$5.00
	(hourly rate X hrs worked X .0021)				
	Liability insurance for Early Voting Clerks (6)	\$ 12.00	1020	0.0021	\$25.70
	(hourly rate X hrs worked X .0021)				
	Liability insurance for Election Day Presiding Judges (1)	\$ 14.00	15.5	0.0021	\$0.46
	(hourly rate X hrs worked X .0021)				
	Liability insurance for Election Day Alternate/Clerks (6)	\$ 12.00	93	0.0021	\$2.34
	(hourly rate X hrs worked X .0021)				
Total Insurance Charges				\$33.50	
6.11	*Cell Phones	Price	Quantity	Total	
	Verizon Wireless phone (subject to change with out notice) (2)	\$45.00	4	\$180.00	
Total Cell Phone Charges				\$180.00	
6.12	Subtotal			\$21,906.23	
	Administrative Fees (10%)			\$2,190.62	
	ESTIMATED GRAND TOTAL			\$24,096.85	



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2838	
From: Joel Rivera			
Subject: Approval to purchase five police units in an amount not to exceed \$174,570 using Fund 415-Fire Eq. Replacement Fund from Lake Country Chevrolet through the GoodBuy Purchasing Cooperative and authorize the Mayor to execute any related documents. (Staffed by Police Department.)			
Background: City Manger approved the purchase of five police units in an amount not to exceed \$174,570 using Fund 415-Fire Eq. Replacement Fund. Three CID Unit and two patrols unit will be purchased.			
Funding Source (budget code, if applicable): 415-Fire Eq. Replacement Fund			
Amount: \$174,570.00	Term of Impact: 12	Identified in Current Budget: Yes	
Additional Action Prompted:			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Robert Lopez		Created/Initiated	
Robert Lopez		Approved	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation:			
Attachments, if any:			
Responsibilities upon Approval:			



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2018-1874
From:		
Subject: Approval to Terminate a Weslaco Mid Valley Airport Ground Lease Agreement with Tenant Chistopher De Leon D/B/A De Leon Aircraft Maintenance Professional for Hanger W5-03 and approval of a Weslaco Mid Valley Ground Lease Agreement with Tenant Gary Wise for Hangar W5-03 authorize the Mayor to execute any related documents. (Staffed by Airport.)		
Background: Under the terms of an agreement between Mr. Wise and Mr. De Leon, Mr. De Leon has defaulted and Mr. Wise desire to enter an agreement for a land lease agreement with the city. The proposed ground lease agreement is for seven (7) years with a capped three (3%) percent CPI review every three years. The hangar is located on the west side of the airport and offers no extensions or renewals.		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted: Mayor's Signature		
If item previously considered, provide date and action by Commission:		
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:		
Advisory Review, if any (name of board/committee, date of action, recommendation): The Airport Advisory Board does not approve revenue agreements/contracts. The Board did approve the ground lease agreement template.		
Andrew Muñoz	Created/Initiated	
Andrew Muñoz	Approved	
Mike Perez	Final Approval	
City Manager Comments: Approve.		
Staff Recommendation: Staff recommends approval.		
Attachments, if any: W5-03 Wise, Gary N.		
Responsibilities upon Approval:		

Lease Agreement

STATE OF TEXAS)
CITY OF WESLACO) **KNOW ALL PERSONS BY THESE PRESENTS:**
HIDALGO COUNTY)

This lease is entered into this ____ day of _____, 2019, between the City of Weslaco, a home ruled municipal corporation with its principal place of business at 255 S. Kansas Avenue, Weslaco, Hidalgo County, Texas, hereinafter referred to as the "Lessor" and the owner of the Weslaco Mid Valley Airport, hereinafter referred to as "Airport" and Gary N. Wise, hereinafter referred to as "Lessee" who covenant and agree as follows:

WHEREAS, Lessor owns and operates the Airport and all grounds within the area designated as the Weslaco Mid Valley Airport for aeronautical and non-aeronautical purposes to include landings, takeoffs, storage of aircraft and sales of fuel; and

WHEREAS, Lessor and Lessee are committed to the proper operation, improvement, and continued development of the Airport; and

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

NOW THEREFORE, in consideration of the terms, premises, and mutual covenants contained herein and other good and valuable considerations, the sufficiency of which is hereby acknowledged, Lessor and Lessee covenant and agree as follows:

Section 1. Lease Premises

- A) Lessor does hereby lease to Lessee approximately **5,150 sq. ft.** (W5-03) of land more particularly described as set forth in Exhibit "A" which is attached and incorporated by reference, hereinafter referred to as the lease premises.

Section 2. Term

- A) This lease shall be for the term of **7 years**. Thereafter, this lease may not be renewed or extended.
- B) **Surrender and Holding Over.** Upon the expiration or termination of this Lease, Lessee shall quit and surrender the Premises and Improvements in good and serviceable condition, reasonable wear and tear excepted. Thereafter, the Lessor shall have the right to enter and take possession of the Premises and Improvements, with or without process of law and without liability for trespass. Holding over or failure to vacate the Premises at the end of


Lessee Initials

the Initial Term or the Extended Term shall not be construed to be the granting or exercise of any additional term.

Any Improvements erected or constructed on the Premises shall be permanently and inseparably attached to the Premises and shall not be removed without prior written approval of the Lessor. Upon termination or expiration of this Lease, title to the Premises and Improvements shall vest in the Lessor; provided, however, that the Lessor shall have the option to require Lessee to remove any Improvement (or a portion thereof) and restore the Premises and surrounding areas to the condition existing immediately prior to the construction of such Improvement.

Section 3. Consideration

- A) In consideration for the lease of the Land/Hangar/Building/Office referenced herein Lessee hereby agrees to pay yearly the sum of **\$ 1,133.00**. The first year's payment is to be made at lease execution. Thereafter, all future payments shall be made on or before the first working day of the /year due for the term of this contract plus any extensions thereto.

Lessee agrees that the lease payment listed herein shall be subject to review and adjustment by Lessor at three (3) year intervals throughout the term of the lease and prior to any extensions granted. Any adjustment to the lease payment shall be based on the U.S. Department of Commerce's Consumer Price Index (CPI). The adjusted lease fee shall be calculated on the third (3rd) year anniversary of this lease and recalculated at subsequent three (3) year intervals. Such increase in the lease payment shall begin immediately upon request from Lessor and continue at that rate until the next three-year anniversary. Upon review, if the CPI shall have decreased as compared to the previous review date, the lease fee for the subject Land/Hangar/Building/Office shall not be decreased, but shall remain at the same level as was charged during the preceding three (3) year period.

- B) All lease fees shall be paid as the same becomes due, without demand, in lawful currency of the United States made payable to the City of Weslaco, Hidalgo County, Texas by mail or delivery as specified in Section 13. Notice Requirements of this agreement.
- C) In the event Lessee fails to remit any payments when the same are due, interest at the rate of 10 % shall be charged by Lessor beginning on the tenth (10) day after the date the payment is due and such interest shall continue to accrue against such delinquent payment until the payment plus interest is received by Lessor. In the event Lessee shall become delinquent for more than thirty (30) days, this lease may be terminated by Lessor.
- D) Lessee shall be liable for all taxes and fees owed on or by his personal business or himself. Under no circumstances shall Lessor be liable for or be required to pay any tax or fee owed by Lessee. Lessor shall provide insurance for all Lessor owned real property located at the Airport under Lessor's policy which shall be for the sole benefit and


Lessee Initials

protection of Lessor. Lessee should provide his own insurance coverage for any personal property located in or on the Land/Hangar/Building/Office and is required herein to provide business liability insurance in an amount of \$1,000,000.00 per occurrence. Certificates of such required insurance shall be furnished by Lessee to Lessor and certificates presently then in effect shall be on file at all times and Lessor shall be listed as an additional insured with the condition that said insurance shall provide Lessor notice of any cancellation of said insurance. Any changes in those certificates must have prior written approval of Lessor.

- E) Any sum that Lessee is obligated to pay to Lessor arising from or relating to this agreement or Lessee's use, occupancy or operations at the Airport constitutes additional rent, which may include, but is not limited to, fees, fuel flowage fees for self-fueling activities (at the rate and on the terms imposed by Lessor), fines, civil penalties, damages, claims, interest, charges and utility charges.
- F) Lessee shall pay all taxes, fees, assessments, and levies that relate to Lessee's use, occupancy, or operation at the lease premises or the Airport and all other obligations for which a lien may be created relating thereto. Within thirty (30) days Lessee shall remove any such lien that may be created or commence a protest of such lien by depositing with Lessor cash or other security acceptable to Lessor in an amount sufficient to cover the cost of removing such lien. When contracting for any work in connection with the lease premises, Lessee shall include in such contract a provision prohibiting the contractor or any subcontractor or supplier from filing a lien or asserting a claim against Lessor's real property or any interest therein.

Section 4. Use of Lease Premises

- A) Lessee and Lessee's associates shall comply at all times, at Lessee's sole cost, with any and all laws and regulation that are applicable to Lessee's use, occupancy, or operations at the lease premises or the Airport, which include, but are not limited to, all laws, statutes, ordinances, regulations, rules, orders, writs, judgments, decrees, injunctions, directives, rulings, guidelines, standards, codes, policies, common law and other pronouncements of any kind having the effect of law including, but not limited, to the Airport Rules and Regulations, City of Weslaco master plans and zoning codes, and all laws and regulations pertaining to the environment, any and all plans and programs developed in compliance with such requirements and all lawful, reasonable, and nondiscriminatory airport policies and other requirements.
- B) Lessee agrees that the leased Land/Hangar/Building/Office may be used for any noncommercial aeronautical activity which must be made known to and agreed upon by Lessor and for no other purposes.
- C) Lessee may park his and/or his passenger's privately owned automobile(s) inside the Hangar, but only while on a flight which originated at the Airport.
- D) Lessee may store containers of aviation oil, in accordance with the Airport Rules and Regulations, inside the Hangar for aircraft use so long, and only so long, as such oil is


Lessee Initials

contained in marked, approved containers. Such storage will be at the discretion of and with written approval from the local fire marshal if such storage is allowed under local fire codes.

- E) Lessee agrees that he will at all times keep the premises of the Land/Hangar/Building/Office, including the inside and the outside of the Hangar/Building/Office, clean and free of trash, litter, tall grass, weeds, junked automobiles, and scrap aircraft parts. Lessee shall abide by all applicable rules and regulations of the Environmental Protection Agency, the Texas Commission on Environmental Quality, the Texas Department of Agriculture, the Texas Department of Transportation, and any other public agency concerning the use, storage, and disposal of hazardous chemicals, fuel, and/or oil. Lessee further agrees to abide by the manufacturer's directions in regards to the use, storage, and disposal of all pesticides, herbicides, and other chemicals plus their containers used at the airport. Should Lessee fail to keep the leased Land/Hangar/Building/Office clean and free of hazards, Lessor may, after thirty (30) days written notice, arrange for the cleanup of the littered or hazardous area. Such cleanup shall be charged to Lessee and payable on demand. Failure to render proper payment for such cleanup and/or general disregard for the considerations and restrictions listed in this lease agreement are grounds for Lessor to terminate this lease.
- F) Lessee agrees that the usage of the Land/Hangar plus any associated apron shall be limited to the parking/hangaring of his personal/company owned aircraft. No automobile, bus, truck, or other transportation mode may be permanently or habitually parked or stored on/in the Land/Hangar except in approved automobile parking areas and as agreed upon by Lessor.
- G) Lessee agrees that he will not conduct any commercial activity such as pilot instruction, aerial spraying, charter flights, air taxi, sight-seeing, aerial photography, aircraft engine or airframe repair, avionics repair, or any other at the Airport without the written consent of Lessor. Any such approved commercial operation must be in accordance with a separate contract agreement with Lessor.
- H) Lessee agrees that he will not store or permit the storage of any fuel or hazardous, volatile, and/or dangerous chemicals on/inside the Land/Hangar/Building/Office except as authorized in this agreement without the written consent of Lessor.
- I) Lessee agrees not to fuel or defuel any aircraft parked inside the Hangar.
- J) Lessee agrees to have a sufficient number of fire extinguishers of acceptable size as determined by the local fire marshal inside the Hangar/Building/Office. Such fire extinguisher(s) shall be readily accessible in the event of a fire.
- K) Lessee agrees that he will not operate any non-aviation related business or activity on/in the Land/Hangar/Building/Office without the expressed written consent of



Lessee Initials

Lessor. Any such non-aviation related business or activity must be so established by a separate contract.

- L) Lessee agrees that none of the leased premises shall be used for residential purposes or any other purpose prohibited by any federal, state or municipal law, statute, regulation or ordinance

Section 5. Sublease, Assignment, or Sale

- A) The Lessee shall not sublease, assign, sell, or transfer this contract agreement or any right hereunder to any person, corporation, or association. Any such sublease, assignment, sale, or transfer shall be grounds, at the option of the Lessor, to immediately terminate this lease agreement. Lessor shall have the right, in Lessor's sole discretion, to assign any of its rights under this agreement and upon any such assignment, Lessee agrees that Lessee shall perform its obligations under this agreement in favor of such assignee.

Section 6. Termination

- A) This contract agreement may be prematurely terminated by Lessor or Lessee if either fails to abide by the terms and conditions expressed herein and due the complainant and so decreed by a court of competent jurisdiction. Lessee shall have no more than fifteen (15) days upon notification to resolve said violation(s). Should Lessee be declared bankrupt or incompetent, this contract agreement shall immediately terminate. In the event Lessee fails to make timely payments of all taxes or fees, fails to provide proof of required insurance, uses the Airport property or permits the Airport property to be used for any illegal or unauthorized purpose, files bankruptcy, abandons or leaves the property vacant or unoccupied for thirty (30) consecutive days, or violates any of the terms and conditions of this contract agreement, Lessor has the right to terminate this contract agreement and retake possession of any Airport property leased to or under the control of Lessee.
- B) Lessee agrees and understands that Lessor reserves the right to further expand, develop, or improve the airport, including the termination of this lease agreement, in such instance that the continued leasing of the Land/Hangar/Building/Office would have a negative impact on any proposed development or improvements at the Airport. This contract agreement may be terminated regardless of the desires, wishes, or views of Lessee and without interference or hindrance from Lessee, but only so long as such expansion, development, or improvements are shown on a Texas Department of Transportation and/or FAA approved Airport Layout Plan or Master Plan.
- C) This contract may be prematurely terminated by mutual agreement and consent of both parties in writing. Such termination by mutual agreement shall cause both Lessor and Lessee to be free of any and all requirements of this contract hereunder, and neither Lessor nor Lessee shall have any derogatory remarks or entries made upon their resumes or upon any public or private records which would indicate failure to


Lessee Initials

successfully fulfill the conditions of this contract.

- D) At the termination of this contract agreement, either by normal expiration, premature termination, or mutual agreement, Lessee shall peaceably vacate the premises. Should Lessee be in default of any monies owed to Lessor, Lessor may take possession of any personal property owned by Lessee and located at the Airport and hold until the monetary default is settled. In such case that Lessee cannot or will not settle any claims against him owed to Lessor, Lessor may liquidate any personal property seized, subject to the disposition of a court of competent jurisdiction. Lessee shall be liable for any and all expenses incurred by Lessor in such action.
- E) Upon any expiration or termination of this Agreement, Lessee, at Lessee's sole cost, shall (i) promptly and peaceably surrender to Lessor the lease premises "broom clean", free of debris, and in good order and condition; (ii) repair in a good and workmanlike manner any damage to the lease premises or the Airport that arises from or relates to Lessee's use, occupancy, or operations under this Agreement (iii) deliver to Lessor all keys and access credentials relating to the Airport (iv) perform Lessee's environmental obligations as provided in this Agreement; and (v) remove all movable personal property and trade fixtures that are not owned by Lessor. All property that Lessee leaves on the lease premises shall conclusively be deemed to have been abandoned and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Lessor without notice to and without any obligation to account to Lessee or any other person. Lessee shall pay to Lessor all expenses incurred in connection with the disposition of such property in excess of any amount received by Lessor from such disposition. Lessee shall not be released from Lessee's obligations under this Agreement in connection with surrender of the lease premises until lessor has inspected the lease premises and delivered to Lessee a written acceptance of such surrender.

Section 7. Hold Harmless

- A) Lessee agrees to save and hold harmless Lessor and its agents, servants, and employees of and from any and all liabilities, expenses, causes of action, damages, and/or attorney's fees resulting from or as a result of any of Lessee's businesses, operation, occupancy, or use of the Airport or from any act or omission of Lessee's agents, servants, or employees.

Section 8. Maintenance of Landing Area

- A) Lessee understands and agrees that Lessor reserves the right, but not the obligation, to maintain the Airport to at least the minimum standards as recommended by the FAA and/or the Texas Department of Transportation. Such right includes the right to maintain and keep in repair all public use areas at the Airport and the right to direct and control all activities as necessary at the Airport.


Lessee Initials

Section 9. Non-Discrimination

- A) Lessee for itself, successors in interest, and assigns (to the extent successors and assigns are permitted by this Agreement), as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a U.S. Department of Transportation program or activity is extended, or for another purpose involving the provision of similar services or benefits, Tenant/Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.
- B) Lessee for itself, successors in interest, and assigns (to the extent successors and assigns are permitted by this Agreement), as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, creed, color, national origin, sex, age, or handicap shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities or any activity conducted with or benefiting from Federal assistance, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as said regulations may be amended, and other applicable Laws and Regulations, and shall obtain such compliance from any sub-leases or other parties holding lower tier agreements (to the extent the same are permitted by this Agreement).

Section 10. Exclusions

- A) Nothing in this Agreement shall be construed to grant to Lessee any exclusive right or privilege for the conduct of any activity on the Airport (except to lease the Premises for Lessee's exclusive use as provided herein).
- B) This Agreement shall be interpreted to preserve Lessor's rights and powers to comply with Lessor's Federal and other governmental obligations.
- C) This Agreement is subordinate to the provisions of any agreement between Lessor and the United States or other governmental authority (regardless of when made) that affects the Airport, including, but not limited to, agreements governing the expenditure of Federal funds for Airport improvements. In the event that the Federal Aviation Administration or other governmental authority requires any modification to this Agreement as a condition of Lessor entering any agreement or participating in any


Lessee Initials

program applicable to the Airport (including, but not limited to, those providing funding), Lessee agrees to consent to any such modification. If a governmental authority determines that any act or omission of Lessee or Lessee's Associates has caused or will cause Lessor to be noncompliant with any of Lessor's government commitments (including, but not limited to, any assurances or covenants required of Lessor or obligations imposed by law), Lessee shall immediately take all actions that may be necessary to preserve Lessor's compliance with the same. Without liability to Lessor, Lessor shall have the right to terminate this Agreement and reenter and repossess any portion of the Premises if the U.S. Department of Transportation or other governmental authority having jurisdiction expressly requires any such action, subject to any review that may be afforded to Lessee by such authority.

Section 11. Force Majeure

- A) No act or event, whether foreseen or unforeseen, shall operate to excuse Lessee from the prompt payment of rent or any other amounts required to be paid under this Agreement. If Lessor (or Lessee in connection with obligations other than payment obligations) is delayed or hindered in any performance under this Agreement by a force majeure event, such performance shall be excused to the extent so delayed or hindered during the time when such force majeure event is in effect, and such performance shall promptly occur or resume thereafter at the expense of the party so delayed or hindered. A "force majeure event" is an act or event, whether foreseen or unforeseen, that prevents a party in whole or in part from performing as provided in this Agreement, that is beyond the reasonable control of and not the fault of such party, and that such party has been unable to avoid or overcome by exercising due diligence, and may include, but is not limited to, acts of nature, war, riots, strikes, accidents, fire, and changes in law.

Section 12. Rights and Remedies

- A) Except as expressly set forth in this Agreement, the rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently exist.

Section 13. Notice Requirements

- A) This Agreement has specific and strict notice requirements. All payments by Lessee are to be made to Lessor through the Aviation Director at Weslaco Mid-Valley Airport, 1909 Joe Stephens, Weslaco, TX 78596.**

All notices between the Lessor and Lessee shall be sent to the following addresses for Lessor in paragraph B and for Lessee in paragraph C. All notices shall be sent regular mail and certified mail return receipt



Lessee Initials

requested. No other form of payment or notice will be accepted. Notice by email is not accepted.

B) Notice to Lessor is to be sent to:

Aviation Director
Weslaco Mid-Valley Airport
1909 Joe Stephens
Weslaco, TX 78596

with a required, simultaneous copy to:

City Attorney
255 South Kansas Street
Weslaco, TX 78596


Lessee Initials

C) Notice to Lessee to be sent to:

Lessee Name: Gary N. Wise
Address: 722 S. H. St.
McAllen, TX 78501


Lessee Initials

D) Either Lessor or Lessee may change its notice address by giving written notice (as provided herein) of such change to the other party. Any notice, demand, or written consent or communication shall be deemed to have been given, and shall be effective, upon compliance with this Section and delivery to the notice address then in effect for the party to which the notice is directed; provided, however, that such delivery shall not be defeated or delayed by any refusal to accept delivery or an inability to effect delivery because of an address change that was not properly communicated.

Section 14. Miscellaneous

A) This Agreement and the respective rights and obligations of the parties shall be governed by, interpreted, and enforced in accordance with the laws of the State of Texas. Venue for any action arising out of or related to this Agreement or actions contemplated hereby may be brought in the District Court for the State of Texas sitting in Hidalgo County, Texas so long as one of such courts shall have subject matter jurisdiction over such action or proceeding, and each of the parties hereby irrevocably consents to the jurisdiction of the same and of the appropriate appellate courts there


Lessee Initials

from. Process in any such action may be served on any party anywhere in the world. LESSOR AND LESSEE EACH KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER OF THEM AGAINST THE OTHER FOR ALL MATTERS ARISING OUT OF OR RELATING TO THIS LEASE OR ANY USE, OCCUPANCY, OR OPERATIONS AT THE PREMISES OR THE AIRPORT. The provisions of this agreement shall survive any expiration or termination of this Agreement.

- B) No amendment to this Agreement shall be binding on Lessor or Lessee unless reduced to writing and signed by both parties. No provision of this Agreement may be waived, except pursuant to a writing executed by the party against whom the waiver is sought to be enforced.
- C) If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect if both the economic and legal substance of the transactions that this Agreement contemplates is not affected in any manner materially adverse to any party. If any provision of this Agreement is held invalid, illegal, or unenforceable, the parties shall negotiate in good faith to modify this Agreement to fulfill as closely as possible the original intents and purposes of this Agreement.
- D) This Agreement constitutes the final, complete, and exclusive agreement between the parties on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. In entering into this Agreement, neither party has relied on any statement, representation, warranty, nor agreement of the other party except for those expressly contained in this Agreement.
- E) Lessee acknowledges that Lessor is subject to legal requirements regarding the public disclosure of records. Lessee shall comply with such laws in connection with making any request that Lessor maintain a record confidentially, and if Lessee complies with the same Lessee shall have the right to defend any such request for confidentiality at Lessee's expense.
- F) This Agreement does not create any partnership, joint venture, employment, or agency relationship between the parties. Nothing in this Agreement shall confer upon any other person or entity any right, benefit, or remedy of any nature.
- G) Each party shall execute any document or take any action that may be necessary or desirable to consummate and make effective a performance that is required under this Agreement.
- H) The headings in this Agreement are provided for convenience only and do not affect this Agreement's construction or interpretation. All references to Sections are to


Lessee Initials

Sections in this Agreement. Each provision to be performed by Lessee shall be construed as both a covenant and a condition. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the drafting party. If Lessee consists of more than one individual or entity, the obligations of all such individuals and entities shall be joint and several. References in this Agreement to any period of days shall mean calendar days unless specifically stated otherwise.

- I) Lessee is not authorized to install or operate any signage outside of enclosed structures on the lease premises or at the Airport, except with the prior written approval of Lessor, which may be given or withheld in Lessor's sole discretion. Any approved signage shall be at Lessee's expense and shall comply with local, state or federal laws and regulation. Lessee shall not advertise or permit other to advertise at the Airport by any means, whether or not such advertising is for profit.
- J) Lessor and its associates, agents or employees reserve the right to enter the lease premises at any time and the same does not constitute a trespass on the lease premises or a violation of any of Lessee's rights.
- K) Lessee warrants and represents that it has the right, power, and legal capacity to enter into and perform its obligations under this agreement as a legal, valid, and binding obligation of Lessee.
- L) Time is of the essence of this Agreement.


Lessee Initials

EXECUTED this _____ day of _____, 2019.

City of Weslaco, Hidalgo County, Texas

Mayor

Approved as to Form:

City Attorney

Attest: _____
City Secretary

Randy N. Wino
Lessee

RW
Lessee Initials

“EXHIBIT A”

HANGAR W5-03
50' x '103





Lessee Initials



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2844	
From: Arnold Becho			
Subject: Authorization to submit an application renewing the ERate 2020-2021 Grant program, accept funds upon award, accept additional funding if awarded during the grant year, and authorize the Mayor to execute any related documents. (Staffed by Library Department.)			
Background: The Schools and Libraries Program of the Universal Service Fund (ERate) makes discounts available to eligible schools and libraries for internet access, maintenance, and equipment. The program is intended to ensure that schools and libraries have access to affordable bandwidth and computing infrastructure. The program provides up to a 80% discount and has saved the city hundreds of thousands of dollars in years past. The library would like to continue participation and seeks permission to do so.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature			
If item previously considered, provide date and action by Commission: NA			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners: NA			
Advisory Review, if any (name of board/committee, date of action, recommendation): None at this time.			
Martin Mata Arnold Becho Eddie Gil Sonia Flores Vidal Roman Mike Perez		Created/Initiated Approved Approved New	
City Manager Comments: Approve.			
Staff Recommendation: Staff recommends approval.			
Attachments, if any: Erate Overview, Memo - ERate Approval 2020-2021			

Responsibilities upon Approval:

The Library will begin the application process and return for Commission approval of other measures as required by the grant and City protocol.

What is E-rate

The E-rate program provides discounts on certain services and products that are essential for classrooms and libraries to receive voice, video, and data communications. The amount of the discount depends on the level of poverty and location of the school or library receiving service. The discount ranges from 20% to 90% of the cost of eligible services.

To be eligible to receive discounts, a school or library must meet certain eligibility criteria. In general elementary and secondary schools are eligible to receive discounts--including many private schools and religious schools. Public libraries and library systems can receive E-rate discounts, provided they meet the eligibility requirements of libraries.

The E-rate process

Develop a Technology Plan - applicant develops a plan for technology implementation.

Procure Services - based on the technology plan, the applicant files the FCC Form 470 to announce that they are seeking E-rate support to purchase eligible goods and services. When the Form 470 is posted to the SLD's website, a 28-day period begins in which interested service providers may submit proposals and bids to provide service to the applicant. After the 28 day posting period, the applicant reviews the bids and proposals, selects a service provider, and signs a contract or service agreement.

Apply For Funding - the applicant submits the FCC Form 471 which tells the SLD which service provider was selected, the goods and services for which the applicant will be requesting E-rate support, and the costs of those goods and services.

Application Review - SLD will review the application to substantiate that the requests are for eligible services that will be delivered to eligible locations and students/patrons.

Receive Services - applicants receive services during the "Funding Year" (July 1 - June 30). They submit the Form 486 to the SLD to signify that the approved services are being delivered.

Realizing Discounts - the applicant has two means of realizing the benefit of the E-rate program. The first, is to receive discounted billing from the approved service provider (the service provider then bills the SLD for the committed portion of the delivered services. The second is to pay the service provider in full and then apply for reimbursement directly to the SLD.

City of Weslaco

"The City on the Grow"



David Suarez, Mayor
Greg Kerr, Mayor Pro-Tem, District 2
Leo Muñoz, Commissioner, District 1
Jose "J.P." Rodriguez, Commissioner, District 3
Adrian Farias, Commissioner, District 4
Letty Lopez, Commissioner, District 5
Josh Pedraza, Commissioner, District 6

Mike R. Perez, City Manager

September 27, 2019

To: David Suarez, Mayor; Gregory Kerr, Mayor Pro-Tem; Letty Lopez, Commissioner; Leo Muñoz, Commissioner; Jose "JP" Rodriguez, Commissioner; Josh Pedraza, Commissioner; Adrian Farias, Commissioner; Mike Perez, City Manager
CC: Martin J. Mata, Vidal Roman, Sonia Flores, Eduardo Gil
Fr: Arnoldo Becho, Library Director
Re: Request to approve application to the ERate 2020-2021 program

The Library would like to continue participation within the Schools and Libraries (E-rate) Program and is requesting for permission to apply to the next fiscal year of program funding. The library has participated in ERate for greater than 10 years and the program has provided millions of dollars in savings to the city.

The ERate program provides discounts on computing infrastructure, computer maintenance, internet access, and other services. ERate allows the library to maintain its computer infrastructure and access the internet at a discounted price. The amount of the discount depends on the level of poverty and location receiving service. Recently, the library has qualified from 80% to 90% discount.

This agenda item has been budgeted within the 2019-2020 fiscal year. The library is not able to provide information regarding total funding and the city's matching responsibility at this point because those numbers are calculated later during the ERate process. Any funding granted and matching responsibility required will be brought to commission at a later time. There will be an opportunity to review and accept or deny those amounts at that time. From past experience, a rough estimate of \$75,000 in granted funds and \$15,000 of matching funds is logical, but it is very likely that both of those numbers change significantly. This year the library is requesting an upgrade of computing infrastructure, thus an increase in granted funding and matching funding has been requested. Currently \$35,000 has been approved for the next fiscal year.

Library staff strongly supports the request as it provides necessary services and equipment and a much lower than market cost. Please feel free to contact me with any questions, I will be happy to provide additional information. Thank you for the time.

Arnoldo Becho
Library Director, City of Weslaco
Phone: 956.973.3144
Email: abecho@weslacopl.us



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2856	
From:			
Subject: Approval of the annual renewal of a general software subscription services contract for maintenance and support with Tyler Technologies Inc. (Incode system runs internal processes including Utility Billing, Procurement, Human Resources and Financials) in an amount not to exceed \$49,055.79 and authorize the Mayor to execute any related documents. (Staffed by Information Technology Department.)			
Background: The Tyler Technologies, Inc Incode software system is the City's ERP (Electronic Resource Planning) system used by all City Departments and Staff. The software is used to run many of the City's internal processes including Utility Billing, Procurement, Human Resources and Financials. The original agreement between Tyler Technologies, Inc and the City of Weslaco was signed on November 13, 2012 for a three year term. Since November 2015, the City of Weslaco has continued to renew the agreement on an annual basis as approved by City Commission.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega		Created/Initiated	
Eddie Gil		Approved	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Approve.			
Attachments, if any: TylerAgreement, TylerIncodeMaint Oct 2019			
Responsibilities upon Approval:			



Systems Agreement

Local Government Division

Agreement between:

Tyler Technologies, Inc

5519 53rd Street
Lubbock, Texas 79414
(800) 646-2633
(806) 797-4849 Fax

And

City of Weslaco

255 South Kansas Ave
Weslaco, TX 78596
(956) 973-3146

Issued date:

October 9, 2012



AGREEMENT

This agreement is entered into by and between Tyler Technologies, Inc., hereinafter referred to as COMPANY, located at 5519 53rd Street, Lubbock, Texas 79414; and: hereinafter referred to as CLIENT on, 11-13-, 2012.

City of Weslaco

COMPANY and CLIENT agree as follows:

1. COMPANY shall furnish the products and services as described in this Agreement, and CLIENT shall pay the prices set forth in this Agreement.
2. This Agreement consists of this Cover and the following Attachments and Exhibits:
Section A Investment Summary (A-D)
Section B COMPANY Agreement Terms and Conditions
3. The License Fees set forth in the Investment Summary are based on defined category levels. Placement within a category is based on the size of the organization serviced and measured by such factors as operating budget, number of employees, number of utility accounts, number of sworn officers, population of the entity, etc.

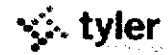
IN WITNESS WHEREOF, persons having been duly authorized and empowered to enter into this Agreement hereunto executed this Agreement effective as of the date last set forth below.

Client: City of Weslaco
By: 
Signature
Leonardo Olivares
Printed Name
City Manager
Title
Nov. 13, 2012
Date
3-00000-2300-9
Sales Tax Certificate Number

Tyler Technologies, Inc.:
By: 
Signature
S. Brett Cate
Printed Name
President, L&D
Title
11/14/12
Issue Date

Investment Summary

Rey Garcia
City of Weslaco

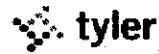


Prepared for:	City of Weslaco	Contract ID # :	2012-0231
Contact Person:	Rey Garcia	Issue Date:	10/9/12
Address:	255 South Kansas Ave Weslaco, TX 78596 (956) 973-3146	Salesman:	DK Robertson
Phone:	-	Tax Exempt:	Yes / No
Fax:	-		
Email:	rgarcia@weslacity.gov		

		Initial Fees	Annual Fee
Total Annual Services		Waived	9,900
Internet Services and Products			
**Please note this is an Annual agreement, the fees listed herein are annual fees			
Totals			9,900

Hosted Applications

Ray Garcia
City of Weslaco
October 9, 2012



Service	QTY	Charges	Initial Year	Annual Fee
Citizen Portal				
One Time Setup Fee	1	800	800	
- Hardware Configuration				
- DNS registration				
Setup Fee Discount	1		-800	
Monthly fee to support and host Web site		100 /month	1,200	1,200
Hosting Discount			-600	-600
INCODE Utility Billing On-Line Component				
Utility Billing Online (4 cents per bill, per month)	10,000	0.04 /month	4,800	4,800
- Data extraction and storage				
- Display of:				
• Current status (late, out off etc)				
• Action needed to avoid penalty				
• Current Balance				
• Deposits on file (optional)				
• Last payment date				
• Last payment amount				
• Payment arrangements on file				
• Last bill amount				
• Last bill date				
• Bill due date				
• Contracts on file and status				
• Transaction history				
- Address information including				
• Mapping				
• Legal description*				
• Precinct*				
• School district*				
• Services at address				
* - Subject to data availability				
- Consumption history by service, including graphs				
- Request for service (optional)				
- Information change request (optional)				
- Security - SSL (Secure Socket Layer)				
- Online Payments				
• Payment packet is created to be imported to Utility System				
NOTE: Customer pays \$1.25 fee per transaction for payment on-line.				
INCODE Court Online Component				
Monthly support/maintenance fee	100	/month	1,200	1,200
- Display of citation/citations for payment				
- Display of Payment Plans				
- Payment Options				
• Drivers Safety Course				
• Deferred Disposition				
• Make Payment				
- Collects plea from defendant				
- Security -- SSL (Secure Socket Layer)				
- Payment Processing - Credit Card				
• Payment packet is created to be imported to Court System				
NOTE: Defendant pays \$2.50 - \$3.50 fee per transaction for payment on-line.				
Court Online Discount			-300	-300
INCODE Building Projects Online Component				
Monthly support/maintenance fee	100	/month	1,200	1,200
- Display of project status				
- Display of projects for payment				
- Schedule/Re-Schedule inspections				
- Security -- SSL (Secure Socket Layer)				
- Payment Processing - Credit Card				
• Payment packet is created to be imported to Building Project System				
NOTE: Customer pays \$1.25 fee per transaction for payment on-line.				
Building Project Online Discount			-300	-300
INCODE Business License Online Component				
Monthly support/maintenance fee	100	/month	1,200	1,200
- Display of license status				
- Display of license for payment				
- Security -- SSL (Secure Socket Layer)				
- Payment Processing - Credit Card				
• Payment packet is created to be imported to Business License System				
NOTE: Customer pays \$1.25 fee per transaction for payment on-line.				
Business License Online Discount			-300	-300
INCODE Accounts Receivable Online Component				
Monthly support/maintenance fee	100	/month	1,200	1,200
- Display of account status				
- Display of accounts for payment				
- Security -- SSL (Secure Socket Layer)				
- Payment Processing - Credit Card				
• Payment packet is created to be imported to Accounts Receivable System				
NOTE: Customer pays \$1.25 fee per transaction for payment on-line.				
Accounts Receivable Online Discount			-300	-300
INCODE Call Center Online Component				
Monthly support/maintenance fee	100	/month	1,200	1,200
- Create code enforcement complaints online				
- View complaints (open, closed)				
- Security -- SSL (Secure Socket Layer)				
Call Center Online Discount			-300	-300
Hosted Applications Total			9,900	9,900

COMPANY WEB SERVICES - INTERNET BASED PRODUCTS SUBSCRIPTION AGREEMENT TERMS AND CONDITIONS

THIS AGREEMENT is effective as of the date of acceptance set forth at the end hereof, and is by and between Tyler Technologies, Inc., hereinafter referred to as COMPANY and the party signing this agreement as the "SUBSCRIBER".

DEFINITIONS

COMPANY Web Services COMPANY Web Services are designed to enable SUBSCRIBER to easily establish a presence on the Internet. COMPANY Web Hosting and Design is composed of the COMPANY Web Hosting and Design Publishing Component and other miscellaneous components. These components may be used independently or in conjunction with each other.

COMPANY Utility Billing On-Line The COMPANY Utility Billing On-Line Component allows the SUBSCRIBER to make available certain information from their COMPANY Utility Billing System to citizens with Internet access. This information is posted to SUBSCRIBER's web site, which is hosted on COMPANY's web server. With the proper security clearance, citizens with Internet access have access to the data which can include: Consumption information, service level information, requests for service, accounting information and the opportunity to pay their Utility Bill over the Internet using a credit card.

COMPANY Court On-Line The COMPANY Court On-Line Component provides the ability for municipal court fines to be paid by credit card via the Internet. Since it was designed by COMPANY, this system interfaces seamlessly with COMPANY's InCourt Municipal Court System.

COMPANY Building Projects On-Line The COMPANY Building Projects On-Line Component allows the SUBSCRIBER to make available certain information from their COMPANY Building Projects System to citizens with Internet access. This information is posted to SUBSCRIBER's web site, which is hosted on COMPANY's web server. With the proper security clearance, citizens with Internet access have access to the data which can include: Building project status, inspection results, inspection scheduling and the opportunity to pay their Building Projects over the Internet using a credit card.

COMPANY Business License On-Line The COMPANY Business License On-Line Component allows the SUBSCRIBER to make available certain information from their COMPANY Business License System to citizens with Internet access. This information is posted to SUBSCRIBER's web site, which is hosted on COMPANY's web server. With the proper security clearance, citizens with Internet access have access to the data which can include: Business License status, business license renewal and the opportunity to pay their Business License over the Internet using a credit card.

COMPANY Accounts Receivable On-Line The COMPANY Accounts Receivable On-Line Component allows the SUBSCRIBER to make available certain information from their COMPANY Accounts Receivable System to citizens with Internet access. This information is posted to SUBSCRIBER's web site, which is hosted on COMPANY's web server. With the proper security clearance, citizens with Internet access have access to the data which can include: Current balance, contract status, and the opportunity to pay the Accounts Receivable over the Internet using a credit card.

COMPANY Call Center On-Line The COMPANY Call Center On-Line Component allows the SUBSCRIBER to make available certain information from their COMPANY Call Center System to citizens with Internet access. This information is posted to SUBSCRIBER's web site, which is hosted on COMPANY's web server. With the proper security clearance, citizens with Internet access have access to the data which can include: current and past incidents, create a new incident and view status of incident.

AGREEMENTS

1) TERM. SUBSCRIBER must return an executed copy of this Agreement to COMPANY within 90 days from the issue date. Thereafter, the Agreement will be voided and is subject to change. Subject to the limitations of this Section 1, and unless otherwise provided for in this Agreement, the term of this Agreement shall commence as of the effective date and shall continue for three (3) years. The term shall thereafter be automatically extended in separate consecutive periods of twelve (12) months duration unless either party gives written notice to terminate. Notice to terminate must provide at least sixty (60) days notice of said intent. In the event that the SUBSCRIBER fails to pay any amount payable to COMPANY hereunder, when due, or fails to comply with any other provision of this Agreement, COMPANY may terminate the SUBSCRIBER's rights by written notice to that effect to the SUBSCRIBER. COMPANY may, by written notice to the SUBSCRIBER, terminate its obligations under this Agreement in the event that COMPANY, for whatever reason, ceases to host SUBSCRIBER's Web Site. A termination of the SUBSCRIBER's rights under this Agreement shall not terminate any of the parties' rights under this Agreement to receive or hold amounts rightfully owing to the respective party pursuant to the terms of this agreement or to enforce the intellectual and proprietary rights in the COMPANY concept, web site, software, and technology. Upon termination or non-renewal of this agreement, the parties shall each promptly account for all due but unpaid amounts hereunder. If SUBSCRIBER wishes to terminate before the stated term expires, SUBSCRIBER must give sixty (60) days written notice in order not to incur termination costs of \$3,000.00. Please also see section entitled "**TERMINATION**" in this Agreement.

COMPANY WEB SERVICES - INTERNET BASED PRODUCTS SUBSCRIPTION AGREEMENT TERMS AND CONDITIONS

2) **NATURE OF WEB SITE.** COMPANY shall maintain a web site accessible over the Internet, for SUBSCRIBER. This web site shall contain both static information pages, non-static interactive pages as well as payment function pages. The web site shall allow a citizen with Internet access to view relevant data provided by SUBSCRIBER. This data may include certain data elements from SUBSCRIBER's Tyler Software System. This web site shall be equipped to accept payment of amounts owed to SUBSCRIBER, via Secured Socket Layer (SSL) encryption and credit card or debit card charge.

3) **DATA PROCUREMENT.** COMPANY must host the components and services listed in the Investment Summary of this Agreement. The SUBSCRIBER will be required to setup a merchant account with Electronic Transaction System Corporation or authorized.net for the sole use of COMPANY Web Service transactions. The merchant account must be setup to fund to the SUBSCRIBER bank account. All fees for the merchant account will be paid by SUBSCRIBER.

SUBSCRIBER will be required to install and run Tyler Web Services in order for the COMPANY On-Line application to access and transfer the necessary data from the SUBSCRIBER's primary software system, to COMPANY's web server. The transfer will occur on a real time basis. Additionally, certain information, such as payment information, must be conveyed to SUBSCRIBER. COMPANY will assume responsibility for transferring such information back to SUBSCRIBER on a regular basis. Tyler Web Services requires a dedicated IP address. Assignment of dedicated IP address is the sole responsibility of SUBSCRIBER.

4) **LICENSED SOFTWARE OWNERSHIP.** SUBSCRIBER agrees that COMPANY possesses exclusive title to and ownership of the COMPANY Software.

- a. SUBSCRIBER agrees that SUBSCRIBER acquires neither ownership nor any other interest in the COMPANY Software, except for the right to use and possess the COMPANY Software in accordance with the terms and conditions of this Agreement.
- b. All rights not expressly granted to SUBSCRIBER in this Agreement are retained by COMPANY.
- c. SUBSCRIBER agrees that COMPANY Software including, but not limited to, systems designs, programs in source and/or object code format, applications, techniques, ideas, and/or know-how utilized and/or developed by COMPANY are and shall remain the exclusive property of COMPANY. SUBSCRIBER agrees that the COMPANY Software consists of COMPANY's trade secrets. COMPANY shall retain all copyrights in the COMPANY Software, whether published or unpublished.
- d. COMPANY agrees that all data provided to COMPANY for the purposes of generating the web site shall remain the property of SUBSCRIBER. Should SUBSCRIBER terminate the Internet Services in good standing and in accordance with the termination provisions of this Agreement, COMPANY agrees to return to SUBSCRIBER, all graphics, text documents, and data files held by COMPANY.

5) **SUBSCRIBER MEMBERSHIP FEES.** For establishing new COMPANY Web Services, the SUBSCRIBER shall pay to COMPANY the amounts as stated in the Investment Summary.

6) **INSITE FEES.** COMPANY may increase the INSITE per-transaction fee for online payment no more than once per year with prior written notice.

7) **NOT ASSIGNABLE.** The rights of the SUBSCRIBER under this Agreement are not assignable without the prior written consent of COMPANY. Any attempt to sublicense, assign, encumber or transfer any of the rights, duties or obligations under this Agreement by the SUBSCRIBER is void. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted assigns and successors.

8) **SOFTWARE MAINTENANCE.** This SUBSCRIPTION AGREEMENT includes unlimited telephone support, support by communication modem, and all software upgrades, enhancements and new releases. COMPANY reserves the right to change the functionality of future releases of its software and SUBSCRIBER understands that COMPANY is not obligated to include specific functionality in future releases unless provided for herein.

9) **PARTIAL INVALIDITY.** Should any provision or clause of this Agreement be held to be invalid, such invalidity shall not affect any other provision or clause hereof, which can be given effect without such invalid provision or clause.

10) **RESPONSIBILITY OF DATA.** COMPANY will assume responsibility for all data transfer, but not responsible for data accuracy.

11) **SITE REQUIREMENTS.**

- a. SUBSCRIBER shall maintain a high speed internet connection (1.5mbps download AND 512kbps upload) with a static IP address and must be able to provide COMPANY with IP connection to SUBSCRIBER's network through Citrix GotoAssist, VPN, Citrix, or Microsoft Terminal Services. COMPANY shall use the connection to assist with problem diagnosis and resolution. COMPANY is not responsible for purchase of VPN client software license or configuration of SUBSCRIBER's firewall settings. **No wireless Internet connections allowed.**

COMPANY WEB SERVICES - INTERNET BASED PRODUCTS SUBSCRIPTION AGREEMENT TERMS AND CONDITIONS

- b. COMPANY shall provide SUBSCRIBER with remote support through the use of secure connection over the Internet connection via Citrix GotoAssist. If SUBSCRIBER will not allow access through GotoAssist, COMPANY cannot guarantee support standards will be met.

12) PROPRIETARY INFORMATION.

- a. Distribution of COMPANY Software. SUBSCRIBER may not sell, assign, transfer, disclose, or otherwise make available, either directly or indirectly, any object code, documentation or other material relating to the Software, in whole or in part, or any copy of the same in any form, to any other person or entity.
- b. Software as Trade Secret. SUBSCRIBER shall maintain the confidentiality of the Software and unless specifically authorized by COMPANY or except for ordinary and necessary backup purposes, SUBSCRIBER may not make or have made any copies of the Software or any part thereof. SUBSCRIBER shall include COMPANY's proprietary notice or other legend on any copies made by SUBSCRIBER as permitted hereunder.

13) WARRANTY, DISCLAIMER, LIMITATION ON LIABILITY.

COMPANY warrants that the Software will substantially conform to current specifications delivered by COMPANY to SUBSCRIBER pursuant to this Agreement, including COMPANY's response to the Request for Proposal for six (6) months following installation; provided, however, that COMPANY's warranty hereunder shall not cover or apply to any software or part thereof that is not developed or designed by COMPANY. In the event that the Software is found to be defective in such respect and SUBSCRIBER notifies COMPANY in writing within six (6) months after its receipt of the Software of any substantial non-conformity of the Software with such specifications, COMPANY's sole obligation under this warranty is to remedy such defect within a reasonable time. THE FOREGOING WARRANTY IS EXCLUSIVE AND IS MADE IN LIEU OF ALL OTHER WARRANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY SHALL IN NO EVENT BE LIABLE FOR DAMAGES THAT EXCEED THE AMOUNT OF THE CHARGES PAID BY SUBSCRIBER HEREUNDER FOR THE DEVELOPMENT AND LICENSE OF THE SOFTWARE. IN NO EVENT SHALL COMPANY BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES OR FOR LOSS OF PROFITS, REVENUES OR DATA, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

14) HOLD HARMLESS.

SUBSCRIBER agrees that it will hold COMPANY harmless against any claims, damages, liabilities, costs and expenses, including reasonable attorneys' fees, arising out of or relating to

- a. SUBSCRIBER's failure to implement any corrections, improvements and new releases relating to the Software, or any part thereof,
- b. SUBSCRIBER's unauthorized alterations to or use of the Software, or
- c. SUBSCRIBER's breach of any of its obligations to maintain the confidentiality of the Software or SUBSCRIBER's unauthorized copying thereof.

15) TERMINATION.

This Agreement or any license referenced hereunder may be terminated by COMPANY upon written notice to SUBSCRIBER if SUBSCRIBER performs any breach of the terms of this Agreement. At the date of termination of this Agreement, SUBSCRIBER shall promptly return to COMPANY any Software, related documentation, materials and other property of COMPANY then in its possession, and any copies thereof wherever located. Notwithstanding the foregoing, all provisions hereof relating to confidentiality of the Software shall survive the termination of this Agreement.

16) GENERAL.

- a. This Agreement shall be governed by the laws of SUBSCRIBER's state of domicile and constitutes the entire Agreement between the parties hereto with respect to the Software described herein, and shall supersede all previous or contemporaneous negotiations, commitments and writings with respect to the matters set forth herein.
- b. All acceptances by COMPANY of purchase orders and all sales by COMPANY are expressly limited to and made on the basis of the terms and conditions set forth herein, notwithstanding receipt or acknowledgment of SUBSCRIBER's order forms or specifications containing additional or different provisions, or conflicting oral representations by an agent, representative or employee of COMPANY. Any such additional or different terms are hereby objected to. All acceptances by COMPANY are expressly conditional on SUBSCRIBER's assent to the additional or different terms and conditions set forth in this Agreement. If these terms and conditions are not acceptable, SUBSCRIBER should notify COMPANY at once.



Remittance:
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice

Invoice No	Date	Page
025-269849	09/01/2019	1 of 2

Questions:
Tyler Technologies - Local Government
Phone: 1-800-772-2260 Press 2, then 2
Email: ar@tylertech.com



Bill To: City of Weslaco
255 S. Kansas
Weslaco, TX 78596

Ship To: City of Weslaco
255 S. Kansas
Weslaco, TX 78596

Cust No.-BillTo-ShipTo	Ord No	PO Number	Currency	Terms	Due Date
45019 - MAIN - MAIN	113664		USD	NET30	10/01/2019

Date	Description	Units	Rate	Extended Price
Contract No.: Weslaco, City of				
	Badger Utility Handheld Meter-Reader Interface	1	988.51	988.51
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Utility Payment Import	1	897.51	897.51
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Accounts Payable	1	2,791.94	2,791.94
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Accounts Receivable	1	2,019.83	2,019.83
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Business License	1	1,365.04	1,365.04
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Central Cash Collection	1	2,730.03	2,730.03
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Fixed Assets	1	1,163.03	1,163.03
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	General Ledger	1	4,069.00	4,069.00
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Payroll/Personnel	1	3,725.27	3,725.27
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Permits & Inspections	1	1,997.04	1,997.04
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Purchase Orders	1	2,791.94	2,791.94
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Utility CIS System	1	6,303.82	6,303.82
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Service Order Management	1	2,521.51	2,521.51
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Project Accounting	1	2,519.90	2,519.90
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	AcuCorp AcuServer	1	636.95	636.95
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Secure Signatures	1	749.30	749.30
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	HR Base Package	1	2,429.39	2,429.39
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Position Control/Budgeting	1	1,796.68	1,796.68
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			



Remittance:
Tyler Technologies, Inc.
(FEIN 75-2303920)
P.O. Box 203556
Dallas, TX 75320-3556

Invoice

Invoice No	Date	Page
025-269849	09/01/2019	2 of 2

Questions:

Tyler Technologies - Local Government
Phone: 1-800-772-2260 Press 2, then 2
Email: ar@tylertech.com

Bill To: City of Weslaco
255 S. Kansas
Weslaco, TX 78596

Ship To: City of Weslaco
255 S. Kansas
Weslaco, TX 78596

Cust No.-BillTo-ShipTo	Ord No	PO Number	Currency	Terms	Due Date
45019 - MAIN - MAIN	113664		USD	NET30	10/01/2019

Date	Description	Units	Rate	Extended Price
	GASB Module	1	4,128.10	4,128.10
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	21 Combining Statements - Maintenance	1	581.75	581.75
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	One Time Charge Import Utility	1	1,226.54	1,226.54
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Collection Agency Export Interface	1	1,120.67	1,120.67
	Maintenance: Start: 01/Oct/2019, End: 30/Sep/2020			
	Incode Personnel Management Suite - Payroll - Electronic Time Clock Import Maintenance	1	502.04	502.04
	Maintenance Start: 01/Oct/2019, End: 30/Sep/2020			
	Easy Pay - Online Component v10	1	0.00	0.00
	Maintenance Start: 01/Oct/2019, End: 30/Sep/2020			

RECEIVED

SEP 8 2019

ACCOUNTS PAYABLE
CITY OF WESLACO

ATTENTION

Order your checks and forms from
Tyler Business Forms at 877-749-2090 or
tylerbusinessforms.com to guarantee
100% compliance with your software.

Subtotal	49,055.79
Sales Tax	0.00
Invoice Total	49,055.79



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2857
From:		
Subject: Approval of the annual renewal of a general software subscription services contract for maintenance and support with PTS Solutions, Inc (CAD, Jail and Record Management System for Police Department) in an amount not to exceed \$44,801.37 and authorize the Mayor to execute any related documents. (Staffed by Information Technology Department.)		
Background: The PTS Solutions, Inc software system is used by the Weslaco Police Department for the purpose of department operations consisting of CAD, AVL, NCIC, Incident, Jail, Case Management and SQL Database. The City of Weslaco has continued to renew the agreement on an annual basis as approved by City Commission.		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted: Mayor's Signature		
If item previously considered, provide date and action by Commission:		
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:		
Advisory Review, if any (name of board/committee, date of action, recommendation):		
Aida Vega	Created/Initiated	
Eddie Gil	Approved	
Mike Perez	Final Approval	
City Manager Comments: Approve.		
Staff Recommendation: Approve.		
Attachments, if any: PTS Renewal Oct 2019, Weslaco TX MtnC Agreement 2019		
Responsibilities upon Approval:		

Invoice

PTS Solutions, Inc.
PO Box 469
Harrisonburg, LA 71340
1-888-831-5151

Date	Invoice #
8/26/2019	2019018-M

CITY OF WESLACO
ACCOUNTING DEPARTMENT
255 SOUTH KANSAS AVENUE
WESLACO, TX 78596-6158

P.O. No.

Terms

Maintenance

Net 30

Description	Qty	Rate	Amount
Annual Software Maintenance; Includes Updates and 24 hrs. a day, 7 days a week Telephone Support from October 1, 2019 to October 1, 2020 Covers CAD, Mapping, Mobile, AVL, ANI/ALI, NCIC, Incident, Jail, Fire, Case Management, SQL, GoGlobal, Field Reporting, Firehouse Interface, CopLogic Interface, E-Citations, and Evidence Management	1	44,801.37	44,801.37
Payments/Credits		\$0.00	
Balance Due		\$44,801.37	



ANNUAL MAINTENANCE SERVICES

Client: City of Weslaco
255 South Kansas Avenue
Weslaco, TX 78596-6158

Maintenance Term: October 1, 2019 - October 1, 2020

Maintenance Cost: \$44,801.37 (adding additional licenses will increase maintenance cost)

Modules Covered: CAD, Mapping, Mobile, AVL, ANI/ALI, NCIC, Incident, Jail, Fire, Case Management, SQL, GoGlobal, Field Reporting, Firehouse Interface, CopLogic Interface, E-Citations, and Evidence Management

Included Services: Upon remittance of the maintenance cost, Client receives, for the Maintenance Term above, the following services:

- 24/7 telephone technical support. PTS technicians will make every effort to respond within 2 hours of a Client call. Clients experiencing a system down condition will receive priority attention;
- Remote support. PTS provides web based remote support for questions and technical issues, as well as first call questions for hardware and operating systems. Requires broadband internet and connectivity; and
- Module updates/upgrades. Client receives software module updates/upgrades at no additional software cost. Conversion from PTS Legacy to PTS Platinum is not included. Services related to an update/upgrade which exceed usual and customary work may be billed separately, at a mutually negotiated rate.

Services Not Included: PTS provides additional services which are **not included** in the maintenance cost and are subject to separate quote and billing:

- Migration from PTS Legacy to PTS Platinum;
- Offsite backup services;
- IT related services (on-site or remote);
- Custom development services; and
- Third party software licensing.

PTS no longer supports Windows 98, Windows 2000, Windows XP, Microsoft SQL Server 2000/2005, or any product that is not supported by the original manufacturer.

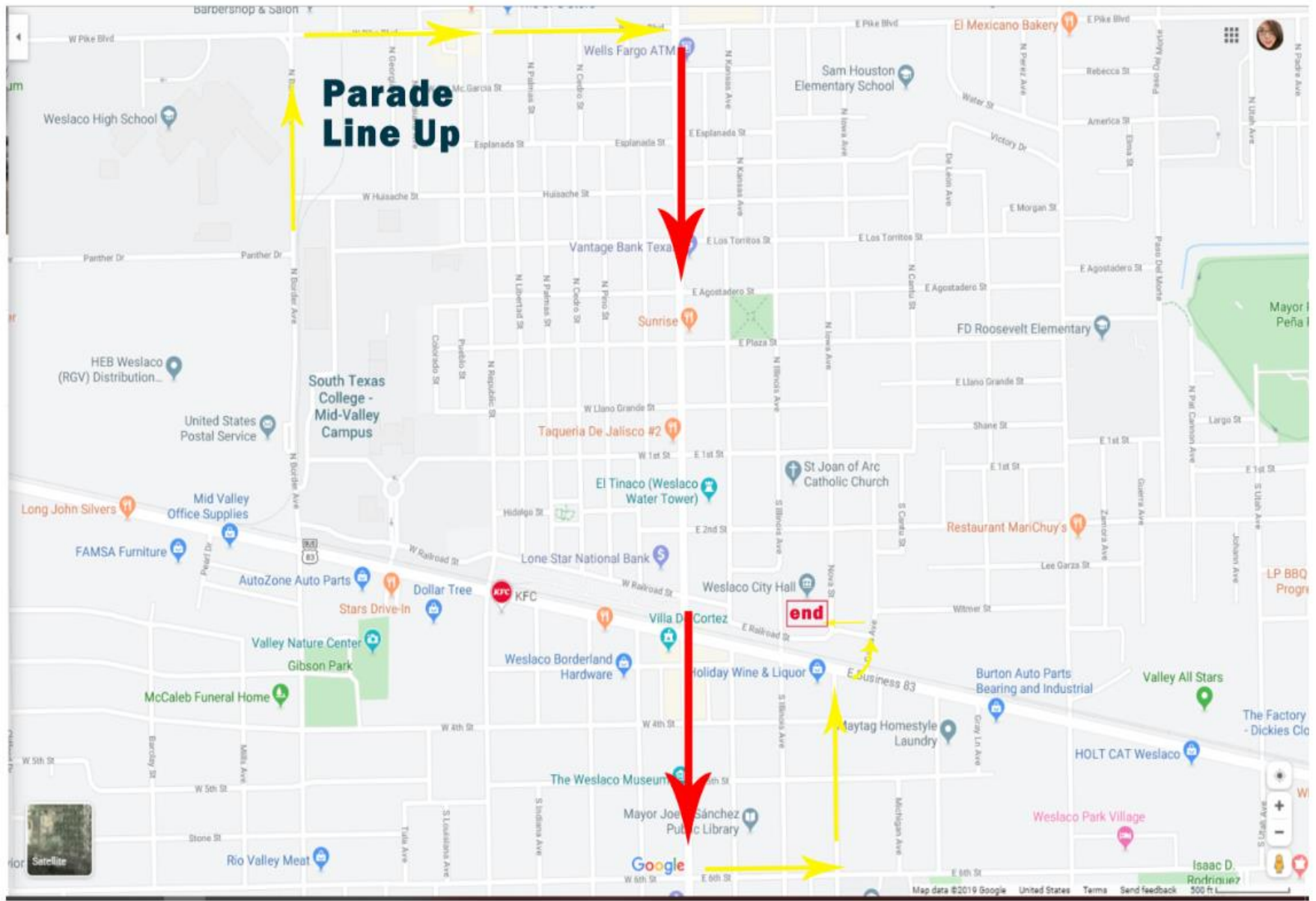
Warranty for hardware purchased through PTS is strictly limited to manufacturer's warranty only.

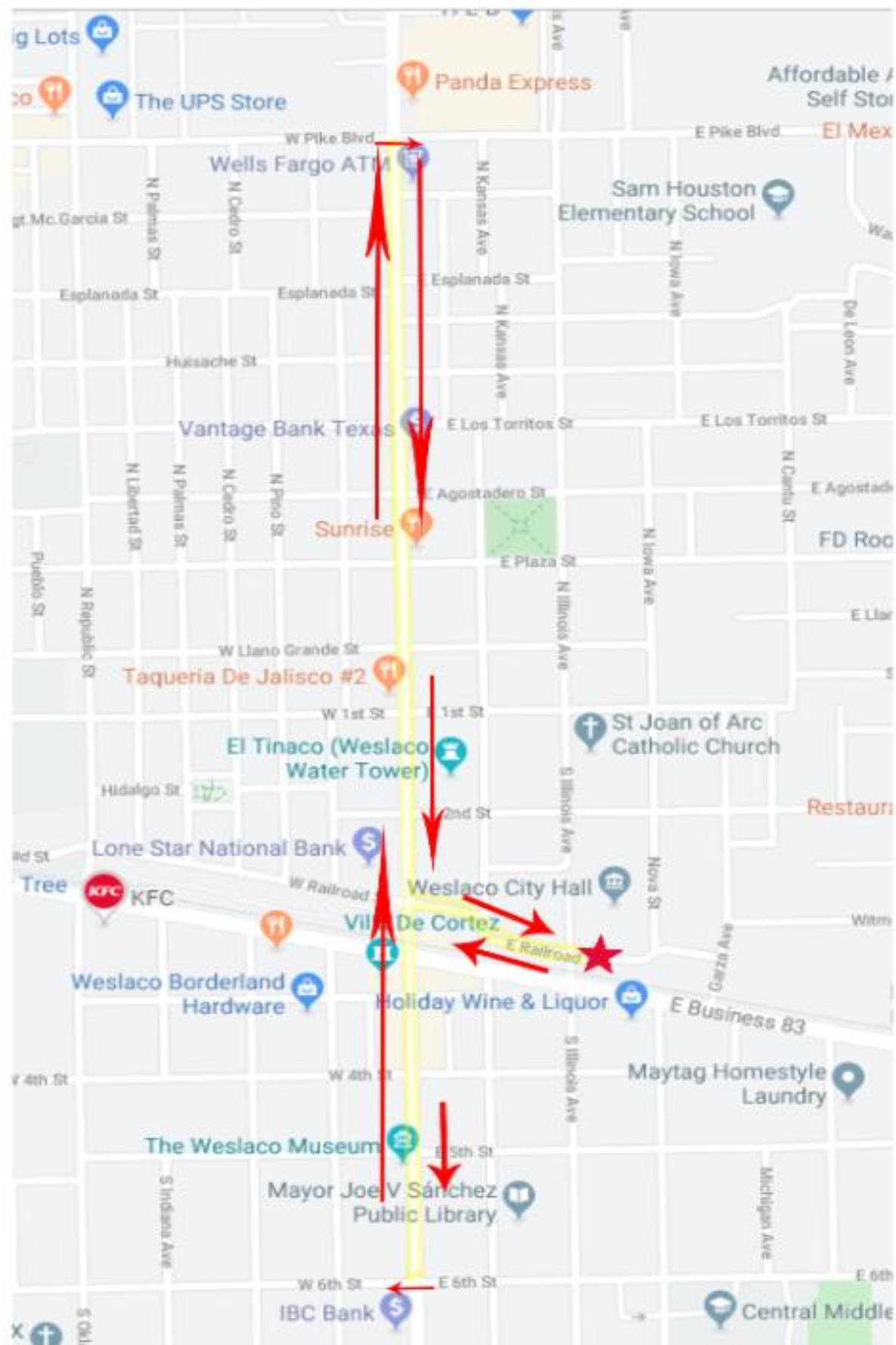
Sums paid toward the maintenance cost are not subject to refund in the event of Client cancellation.



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2860	
From:			
Subject: Approval of the annual request to host the 2019 Mid-Valley Christmas Parade on Saturday, December 7, 2019 along with Santa Dash fun run hosted by Snapix from 7 a.m. to 12 p.m. on Texas Boulevard from Pike Boulevard to Sixth Street, approval of the use of City Hall parking lot to stage 5k participants for start and end of run, request to waive any required fees and authorize the Mayor to execute any related documents as may be required by the Texas Department of Transportation for proposed street closure affecting state right of-way. (Requested by Chamber of Commerce.)			
Background:			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted:			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega Mike Perez		Created/Initiated Final Approval	
City Manager Comments: Approve.			
Staff Recommendation:			
Attachments, if any: Parade Map, 5K Map			
Responsibilities upon Approval:			







Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2863	
From:			
Subject: Approval to authorize staff to solicit bids for the proposed IBWC Levee repairs Project and authorize the Mayor to execute any related documents. (Staffed by City Manager's Office.)			
Background:			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted:			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega Mike Perez		Created	
City Manager Comments: Approve.			
Staff Recommendation:			
Attachments, if any:			
Responsibilities upon Approval:			



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2869	
From:			
Subject: Approval to enter into an contractual agreement with the best qualified, most advantageous respondent for RFP on Municipal Audit Services and Engagement Letter and authorize the Mayor to execute any related documents. (Staffed by Finance Department.)			
Background: The City recommended to enter into an agreement for Municipal Audit Services in their regular scheduled meeting of October 1, and hereby consent to execute a letter of engagement and contractual agreement for auditing services for the next three fiscal years commencing Fiscal Year 2019.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Vidal Roman		Created/Initiated	
Vidal Roman		Approved	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Staff recommends approval			
Attachments, if any: CRI Engagemen Letter, Professional Services Contract Agreement			
Responsibilities upon Approval:			

October 7, 2019

To Honorable Mayor and City Commission
City of Weslaco, Texas
255 S Kansas Avenue
Weslaco, Texas 78596

We are pleased to confirm our understanding of the services we are to provide City of Weslaco for the year ended September 30, 2019. We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of City of Weslaco as of and for the year ended September 30, 2019. We will make reference to component auditors' audit of Weslaco Economic Development Corporation as of and for the year ended September 30, 2019 which is a discretely presented component unit for the City of Weslaco, Texas in our report. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement City of Weslaco's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to City of Weslaco's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by U.S. generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis.
2. Schedule of Revenues, Expenditures and Changes in Fund Balance – Budget and Actual – General Fund
3. Schedule of Changes in Net Pension Liability and Related Ratios – Texas Municipal Retirement System
4. Schedule of Changes in Net Pension Liability and Related Ratios – Firemen's Pension
5. Schedule of Contributions for Texas Municipal Retirement System Pension Plan and Firemen's Pension Plan
6. Schedule of Changes in Total OPEB Liability and Related Ratios – Texas Municipal Retirement System – Supplemental Death Benefit Fund
7. Schedule of Changes in Total OPEB Liability and Related Ratios – Firefighter Retiree Health Care Plan
8. Notes to Schedule of Contributions for Texas Municipal Retirement System Pension Plan and Firemen's Pension Plan.
9. Notes to Required Supplementary Information

We have also been engaged to report on supplementary information other than RSI that accompanies City of Weslaco's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements.

1. Schedule of expenditures of federal awards
2. Combining non-major fund financial statements
3. Comparative fund financial statements
4. Schedule of Revenues, Expenditures and Changes in Fund Balance – Budget and Actual for Funds with legally adopted budgets
5. Schedule of taxes receivable
6. Analysis of tax collections, adjustments and allocations to funds
7. Bonded debt requirements

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information:

1. Statistical Data
2. Introductory Section

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on—

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major program(s) in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of our single audit. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a single audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of City of Weslaco's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal statutes, regulations, and the terms and conditions of federal awards applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the OMB *Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of City of Weslaco's major programs. The purpose of these procedures will be to express an opinion on City of Weslaco's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Other Services

We will also assist in preparing the financial statements, schedule of expenditures of federal awards, related notes, and necessary sections of the data collection form of City of Weslaco in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with *Government Auditing Standards*. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal awards, related notes, and data collection form as previously defined, and any other appropriate non-attest services as deemed necessary. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; (2) following laws and regulations; (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements; and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan. The summary schedule of prior audit findings should be available for our review at the time we begin our fieldwork.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal awards, related notes, data collection form, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal awards, related notes, and data collection form, and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, related notes, and data collection form prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services we provide by designating an individual, Vidal Roman, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

Dispute Resolution

In the event of a dispute between the parties which arises out of or relates to this contract or engagement letter, the breach thereof or the services provided or to be provided hereunder, if the dispute cannot be settled through negotiation, the parties agree that before initiating arbitration, litigation or other dispute resolution procedure, they will first try, in good faith, to resolve the dispute through non-binding mediation. All parties agree that an alternative form of dispute resolution shall not be undertaken by either party until the expiration of fifteen (15) calendar days following notice being provided to the other party indicating that the dispute cannot be settled through mediation. The mediation will be administered by the American Arbitration Association under its *Dispute Resolution Rules for Professional Accounting and Related Services Disputes*. The costs of any mediation proceedings shall be shared equally by all parties.

Limitation of Liability

Except as provided in this agreement, CRI shall not be liable for incidental, consequential, exemplary, special, punitive or ancillary damages of any kind alleged as a result of any cause of action from this agreement, whether arising out of breach of contract, tort or otherwise. Unless otherwise stated in this agreement, both CRI and you agree that the total cumulative liability of CRI (including its employees, directors, officers or agents), shall not exceed the amount of fees earned by CRI related to this engagement during the twelve months preceding the event giving rise to the claim, as such amount shall serve as a reasonable prospective estimate of any damages which you may suffer through any breach by CRI of the terms of this agreement, as such damages may be speculative or impossible to calculate. If there are unpaid fees owed to CRI, this cumulative liability will be reduced by the value of the unpaid fees with no additional interest or charges, as CRI retains the right to offset any sums claimed as due and owed by you, by any sums to which it is legally entitled. This limitation shall apply whether or not further damages are foreseeable, or whether either party (or its employees, agents, officers or directors) have been advised of the possibility of such damages.

Governing Law; Venue

This agreement and performance hereunder shall be governed by the laws of the State of Alabama, without reference to any conflict of laws rules or principles. Any action or proceeding arising from or relating to this agreement must be brought in a state or federal court having jurisdiction in Coffee County, Alabama, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding and agrees to waive any defenses to venue and jurisdiction including *forum non conveniens*.

Statute of Limitations

The parties agree that there shall be a one-year statute of limitation (from the delivery of the service or termination of the contract) for the filing of any requests for arbitration, lawsuit, or proceeding related to this agreement. If such a claim is filed more than one year, or the minimum durational period having been determined as permissible by applicable statutory law or by a court of competent jurisdiction, subsequent to the delivery of the service or termination of the contract, whichever occurs first in time, then it shall be precluded by this provision, regardless of whether or not the claim has accrued at that time.

Electronic Data Communication and Storage and Use of Third Party Service Provider

In the interest of facilitating our services to your company, we may send data over the Internet, securely store electronic data via computer software applications hosted remotely on the Internet, or allow access to data through third-party vendors' secured portals or clouds. Electronic data that is confidential to your company may be transmitted or stored using these methods. We may use third-party service providers to store or transmit this data, such as, but not limited to, providers of tax return preparation software. In using these data communication and storage methods, our firm employs measures designed to maintain data security. We use reasonable efforts to keep such communications and data access secure in accordance with our obligations under applicable laws and professional standards. We also require our third-party vendors to do the same.

You recognize and accept that we have no control over, and shall not be responsible for, the unauthorized interception or breach of any communications or data once it has been sent or has been subject to unauthorized access, notwithstanding all reasonable security measures employed by us or our third-party vendors. You consent to our use of these electronic devices and applications and submission of confidential client information to third-party service providers during this engagement.

To enhance our services to you, we will use a combination of remote access, secure file transfer, virtual private network or other collaborative, virtual workspace or other online tools or environments. Access through any combination of these tools allows for on-demand and/or real-time collaboration across geographic boundaries and time zones and allows CRI and you to share data, engagement information, knowledge, and deliverables in a protected environment. In order to use certain of these tools and in addition to execution of this acknowledgement and engagement letter, you may be required to execute a separate client acknowledgement or agreement and agree to be bound by the terms, conditions and limitations of such agreement. You agree that CRI has no responsibility for the activities of its third-party vendors supplying these tools and agree to indemnify and hold CRI harmless with respect to any and all claims arising from or related to the operation of these tools. While we may back up your files to facilitate our services, you are solely responsible for the backup of your files and records; therefore, we recommend that you also maintain your own backup files of these records. In the event you suffer a loss of any files or records due to accident, inadvertent mistake, or Act of God, copies of which you have provided to us pursuant to this agreement, we shall not be responsible or obligated to provide you a copy of any such file or record which we may retain in our possession.

Engagement Administration, Fees, and Other

We may, from time to time and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditor's reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of 30 calendar days after receipt of the auditors' reports or nine months after the end of the audit period.

We will provide copies of our reports to the Honorable Mayor, and members of the City Commission; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Carr, Riggs & Ingram, LLC and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to Oversight Agency or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Carr, Riggs & Ingram, LLC personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of seven years after the report release date or for any additional period requested by the City. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the parties contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit on approximately December 2019 and to issue our reports thereafter. Quentin Anderson is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, will not exceed \$ 56,000, plus out-of-pocket expenses for the Comprehensive Annual Financial Report and \$5,500 per major program for the Single Audit Report. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We appreciate the opportunity to be of service to City of Weslaco and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

Carr, Riggs & Ingram, L.L.C.

Carr, Riggs & Ingram, LLC

RESPONSE:

This letter correctly sets forth the understanding of City of Weslaco.

Management Signature: _____

Title: _____

Date: _____

Board Signature: _____

Title: _____

Date: _____

City of Weslaco, Texas
Professional Services Contract Agreement
For Municipal Audit Services

THIS AGREEMENT is made this 15th day of October, 2019, by and between the City of Weslaco, a municipal corporation existing under and by virtue of the laws of the State of Texas ("City"), and Carr, Riggs & Ingram, LLC, ("Auditor") having a business address at 402 East Tvler, Harlingen, Texas 78550.

RECITALS

WHEREAS, the City desires to engage the Auditor in the performance of providing Municipal Audit Services. Auditor's Services are more fully described in Auditor's Proposals/Scope of Services/Fee Estimate dated September 26, 2019, attached hereto and incorporated herein by reference. (Hereinafter referenced to as "Project").

WHEREAS, Auditor is a qualified, independent professional firm of certified public accountants, who is not employed by the City, bears responsibility for their own taxes and expenses, and is not subject to the City's direction and control.

WHEREAS, Auditor is in good standing in the State of Texas, the Texas State Board of Public Accountancy, and all auditing and accounting regulatory agencies, and as such, is qualified to perform the Proposal under the terms and conditions set forth herein.

WHEREAS, Auditor desires to perform the Project under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of these recitals and the promises set forth in this Agreement, the parties agree as follows:

1. **Term.** This Agreement shall become effective upon contact execution and will continue in effect until the Project is completed unless earlier terminated as provided herein. Auditor will audit the City's financial statements for the fiscal years ending September 30, 2019, 2020, and 2021.
2. **Time Devoted to Work.**
 - 2.1 In performing the services contemplated under this Agreement, the services and the hours Auditor is to work on any given day will be on a mutually agreed upon basis, except for attendance at scheduled meetings, and City will rely upon Auditor to put in such number of hours as is reasonably necessary to fulfill the spirit and purpose of this Agreement.
 - 2.2 City understands that Auditor is engaged in the same or similar activities for others and that City may not be Auditor's sole client or customer. However, Auditor represents and neither warrants that it is under no obligation or restriction, nor will it assume any such obligation or restriction, that would in any way interfere or be inconsistent with the services to be performed under this Agreement.

3. Program Services

- 3.1 Auditor will supply all equipment, tools, materials and supplies necessary to perform the services under this Agreement, the full scope of which are set forth in the Project.
- 3.2 Auditor will have the right to direct the manner and the order in which it provides the services contemplated under this Agreement.
- 3.3 Auditor represents and warrants that Auditor is engaged in an independent calling and has complied and will continue to comply with all local, state and federal laws regarding business permits and licenses that may be required to carry out the independent calling and to perform the services under this Agreement.

4. No Unfair Employment Practices or Illegal Harassment

- 4.1 In connection with the performance of work under this Agreement, Auditor agrees not to discriminate against any employee or applicant because of race, creed, color, national origin, sex, sexual orientation or age. Such agreement shall include, but not be limited to, the following: recruitment or recruitment advertising, rates or pay or other forms of compensation, and selection.
- 4.2 Any violation of these provisions by Auditor shall constitute a material breach of contract.

5. Payment for Project Services

- 5.1 As full consideration for the Services to be performed by Auditor, City agrees to pay Auditor as set forth in accordance with the Fee Schedule set forth in the proposal and not to exceed fees of \$56,000, \$57,000 and \$60,000 dollars for services plus reimbursables and \$5,500 per major program for the Single Audit Report. The City will not hire or directly compensate the Auditor's employees, assistants or subcontractors, if any.
- 5.2 It is expressly understood and agreed that all work done by Auditor shall be subject to review as to its result by the City at the City's discretion. Payment of any invoice shall not be taken to mean that the City is satisfied with Auditor's services to the date of payment and shall not forfeit City's right to require the correction of any service deficiencies.

6. Status of Auditor

- 6.1 It is the intent of the parties that Auditor shall be considered an independent contractor and that Auditor, and anyone else for whom it is legally liable, shall not be considered employees, servants or agents of the City for any purpose. Furthermore, this Agreement shall not be construed to be a partnership or joint venture.
- 6.2 Neither Auditor nor any of its employees or contractors shall be eligible to participate in City's industrial insurance, unemployment, disability, medical, dental, life or other insurance programs, or any other benefit or program that is sponsored, financed or provided by City for its employees.
- 6.3 Auditor agrees that it shall be Auditor's exclusive responsibility to pay all federal, state or local payroll, social security, disability, industrial insurance, self-employment insurance, income and other taxes and assessments related to this Agreement. Neither FICA (Social Security), FUTA (Federal Employment), nor local, state or federal income taxes will be withheld from payments to Auditor. Auditor shall at Auditor's expense pay and be fully liable and responsible for, and indemnify and hold harmless City from, any assessments, fines or penalties relating to Auditor's failure to uphold any of these responsibilities.

7. City Ownership of Proprietary Information. All reports, drawings, plans, specifications, and other documents prepared by Auditor as products of service under this Agreement shall be the exclusive property of the City and all such materials shall be remitted to the City by Auditor in a timely manner upon completion, termination or cancellation of this Agreement. The audit documentation for this engagement is the property of Carr, Riggs & Ingram, LLC and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to any cognizant or oversight agency for audit or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Carr, Riggs, & Ingram, LLC personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies. Auditor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Auditor's obligations under this Agreement without the prior written consent of the City.
8. Public Records. Auditor understands that City is subject to the provisions of Texas Government Code, Chapter 552. As such, the City may have the duty to disclose the Auditor's reports or recommendations unless a particular record is made confidential by law or a common law balancing of interests.
9. Insurance.
 - 9.1 The Auditor shall take out and keep in force during the period of the Contract, at its own expense, a General Liability Insurance Policy with a Minimum Limit of \$1,000,000 Combined Single Limit (BI/PO) to protect it from claims for damages and personal injury, including death, which may arise from operation under this Contract, whether such operations be by Auditor or by any subcontractor or anyone directly or indirectly employed by either of them. There shall be no exclusions of coverage for premises-operations, products-completed operations, blanket contractual, broad form property, independent contractors, personal injury, explosion and underground collapse hazard. Auditor shall maintain auto liability insurance of \$1,000,000 liability insurance including owned, non-owned and hired vehicles coverage requirements.

The Auditor shall file a Certificate of Insurance followed by an Additional Insured Endorsement to the Policy, naming the City of Weslaco as an additional insured as it relates to the specific project or program. The insurance shall be subject to approval for adequacy of protection prior to commencing work. The Auditor shall pay for and maintain such insurance at his sole cost and expense. The Auditor shall reimburse the City for any premiums paid in behalf of the Auditor by deducting said amount from compensation due the Contractor.
 - 9.2 Auditor assumes the risk of damage to its own supplies and equipment.
10. Indemnification. Auditor shall indemnify, defend and hold harmless the City from any and all costs, liabilities, damages, reasonable attorneys' fees or expenses of any kind that arise out of, or are in any way related to, the negligence or misconduct, or acts or omissions, of Auditor while performing or failing to perform Auditor's duties under this Agreement.

II. Termination.

- 11.1 Unless otherwise provided in this Agreement, this Agreement may only be terminated by either party upon ten (10) days written notice specifying the reason for termination. Such notice shall be delivered in accordance with paragraph 13.
- 11.2 If either party terminates the Agreement for breach of contract, the notice must specify which contractual provisions were breached and how they were breached. If the City terminates the Auditor for breach of contract, the City will pay Auditor all reasonable charges for work performed prior to the time City gives notice and for demobilization by Auditor through the tenth (10th) day after the City has given notice minus any amount the Auditor may owe the City in damages.
- 11.3 Notwithstanding the preceding paragraph, the City may immediately terminate the Agreement, and Auditor waives any and all claim(s) for damages, upon the Auditor's receipt of notice under the following conditions:
- (a) If funding is not obtained, continued, or budgeted at levels sufficient to allow for purchase of the services contemplated under this Agreement;
 - (b) If any federal, state or local law, including by not limited to, statutes, regulations, ordinances and resolutions, is interpreted by a third party judicial, legislative or administrative authority in such a way that the services contemplated under this Agreement are no longer authorized for purchase or appropriate for City financial participation;
 - (c) If Auditor fails to comply with any local, state or federal law regarding business permits and licenses required to perform the services to be performed under this Agreement;
 - (d) If it is found that any quid pro quo or gratuities were offered or given by the Auditor to any officer or employee of the City with a view towards securing favorable treatment with respect to awarding, extending, amending or making any determination with respect to the performance of this Agreement.
- 11.4 The indemnity and conflict resolution obligations of this Agreement shall survive the termination of this Agreement and shall be binding upon the parties' and the parties' legal representatives, heirs, successors and assigns.

12. General Provisions.

- 12.1 Drafting Presumption. The parties acknowledge that this Agreement has been agreed to by both parties, that both parties have consulted or have had the opportunity to consult with attorneys with respect to the terms, and that no presumption shall be created against the City as the drafter of the Agreement.
- 12.2 Governing Law. The laws of the State of Texas shall govern this Agreement without regard to conflicts of law principles.
- 12.3 Jurisdiction: Venue. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement must be brought against either of the parties in the courts of the State of Texas, County of Hidalgo. Each of the parties consents to the jurisdiction of the court (and of the appropriate appellate court) in any such action or proceeding and waives any objection to venue laid therein.

12. Due Authorization. Each party represents that all required authorizations have been obtained to execute this grant and for the compliance with each and every term hereof. Each person signing this agreement warrants and represents to the other party that he or she has actual authority to execute this agreement on behalf of the party for whom he or she is signing.
13. Notice. Except as otherwise specified, all notices under this Agreement shall be in writing.

Notice to Auditor shall be addressed to:

Quentin Anderson, CPA, Partner
Carr, Riggs & Ingram, LLC
402 East Tyler
Harlingen, Texas 78550

Notice to City shall be addressed to:

Attn: Director of Finance
City of Weslaco
255 S. Kansas Avenue
Weslaco, Texas 78596

IN WITNESS WHEREOF, the parties hereto have dully executed this agreement as of the date first above written.

AUDITORS:

Carr, Riggs & Ingram,
LLC
402 East Tyler
Harlingen, Texas 78550

CITY OF WESLACO:

255 S. Kansas Ave.
Weslaco, Texas 78596

Signature

By: David Suarez
Mayor

Print Name of Signer

APPROVED AS TO FORM:

By: Juan E. Gonzalez
City Attorney



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2834	
From:			
Subject: Discussion and consideration to approve Resolution 2019-71 appointing one member to expired term on the Parks and Recreation Advisory Board and authorize the Mayor to execute any related documents. Possible action. (Staffed by Parks and Recreation Department.)			
Background:			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature Resolution			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega Omar Rodriguez Mike Perez		Created/Initiated New	
City Manager Comments: Approve.			
Staff Recommendation:			
Attachments, if any: Parks & Recreation Advisory Board as of 92019, Parks & Rec applicants as of 101019 mv, R2019-71 Parks and Rec expired term			
Responsibilities upon Approval: Execute, retain and notify appointee.			

PARKS & RECREATION ADVISORY BOARD

FIRST NAME	LAST NAME	TERM EXPIRES
Nina	Torkelson	10/22/2022
Joe	Vidales	9/20/2020
Lupe	Garcia	9/20/2020
Ismael	Quiroz	3/5/2021
Johnny	Cavazos	10/16/2022
Enrique "Rick"	Rodriguez	11/18/2019
Oscar	Caballero	10/9/2022

Revised 100319 mv

Applicants for Parks & Recreation Board

FIRST NAME	LAST NAME	APPLICATION DATE
Edward	Mejia	09/16/2019
Belinda	Ibarra	09/16/2019
Javier	Villa	10/10/2019

revised 101019 mv

RESOLUTION NO. 2019-71

**A RESOLUTION OF THE CITY OF WESLACO APPOINTING
ONE MEMBER TO THE PARKS & RECREATION BOARD.**

WHEREAS, the City of Weslaco has established the Parks & Recreation Board pursuant to Section 98-83 of the Weslaco Municipal Code of Ordinances; and

WHEREAS, the terms of the members of this board are for three years; however, following the restructuring of this Board to consist of seven members, certain terms shall be assigned for two years so that terms are staggered such that no quorum of members expires simultaneously; and

WHEREAS, the Parks & Recreation Board members shall serve without compensation; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS that _____ is appointed to serve on the Parks & Recreation Board with a term ending _____ day of November 2022.

PASSED AND APPROVED on this 15th day of October 2019.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Myra L. Ayala, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**



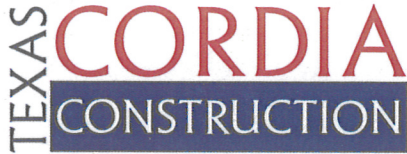
Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2836
From:		
Subject: Discussion and consideration to accept, open, award or reject the sole bid received for Flap Gates (RFB No.: 2018-19-18) and alternate bid of Flap Gate Installations and authorize the Mayor to execute any related documents. Possible action. (This item was tabled October 1, 2019; staffed by Engineering Department.)		
Background:		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted:		
If item previously considered, provide date and action by Commission:		
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:		
Advisory Review, if any (name of board/committee, date of action, recommendation):		
Aida Vega Rebekah De La Fuente Mike Perez		Created/Initiated New
City Manager Comments: Staff is researching.		
Staff Recommendation: Staff recommends acceptance if under budgeted amount.		
Attachments, if any:		
Responsibilities upon Approval:		



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2837	
From:			
Subject: Discussion and consideration to accept, open, award or reject sole bid received for Fill Dirt Sale (RFB No.: 2018-19-17) and authorize the Mayor to execute any related documents. Possible action. (This item was table October 1, 2019; staffed by Engineering Department.)			
Background: Item is for the sale of the soil removed for the construction of the regional detention facility located on the west side of S. Texas Boulevard (FM88). The facility is Project 8 of Weslaco's Master Drainage Plan.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted:			
If item previously considered, provide date and action by Commission: Sole Bid was opened at the Regular City Commission Meeting of October 1, 2019.			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega		Created/Initiated	
Rebekah De La Fuente		Approved	
Mike Perez		Final Approval	
City Manager Comments: Reject.			
Staff Recommendation: Staff recommends to reject the bid due to misunderstanding by vendor.			
Attachments, if any: COWeslaco_withdrawal			
Responsibilities upon Approval: Staff will advise company.			



3149-A Center Pointe Drive
Edinburg, TX 78539
O: 956-627-6181
F: 956-386-0289

October 8, 2019

Homer Rhodes
City of Weslaco
Purchasing Department
225 S. Kansas Avenue
Weslaco, TX 78596

Re: RFB No. 2018-19-17
"SALE and REMOVAL OF FILL DIRT / RFB No: 2018-19-17"

Dear Mr. Rhodes,

On September 19, 2019, Texas Cordia Construction submitted the only bid for RFB No. 2018-19-17. It is with great regret that Texas Cordia Construction discovered that a bidding error was made on the project noted above and respectfully requests our bid to be withdrawn.

The error was discovered upon our conversation; TCC understood a service was being provided to the City of Weslaco, particularly the removal of fill dirt. However, as per our discussion, the City of Weslaco is "*Selling*" the dirt to be removed.

Please note that the unit price for removal surpasses any expected price for sell of dirt. Our mistake is obvious and apparent.

Texas Cordia Construction apologizes for any inconvenience and appreciates in advance your understanding to this matter. If you have any questions please feel free to contact our office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Yara M. Corbitt".

Yara M. Corbitt, P.E., CEO



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2798	
From:			
Subject: Discussion and consideration to approve Ordinance 2019-41 amending the Master Fee Schedule with respect to Vitals Statistics fees, Fire/EMS fees, Library fees, Planning/building fees and Police fees, and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-41. Possible action. (This item was tabled October 1, 2019; staffed by Finance Department.)			
Background: Each year the Finance department revisits the Master Fee Schedule to make sure that the City is covering the costs of providing services to our citizens. This the following department submitted changes/increases/deletions: Vitals Statistics/City Secretary's, Fire/EMS, Library, Planning and Police. See attached.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature Ordinance - First Reading			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega Vidal Roman Mike Perez		Created/Initiated New	
City Manager Comments: Approve.			
Staff Recommendation: Staff Recommends Approval			
Attachments, if any: Proposed Master Fee Schedule FY 2020, O2019-41 amend Master Fee schedule			
Responsibilities upon Approval:			



Master Fee Schedule

Fiscal Year 2019-2020

CITY SECRETARY'S OFFICE	Fee Amount	Unit
Sound truck permit	\$25	for (3) three days
Parades and processions	\$50.00	
Premises license:		
First year	\$25.00	
Every year thereafter	\$20.00	
Notary public services:		
All notorial acts	\$6.00	
Certified copies	\$10.00	
Standard paper copy	\$0.10	per page
Oversize paper copy (e.g.: 11 inches by 17 inches, greenbar, bluebar, not including maps and photographs using specialty paper)	\$0.50	
Specialty paper (e.g.: Mylar, blueprint, blueline, map, photographic)		actual cost
Diskette	\$3.00	
Magnetic tape		actual cost
Data cartridge		actual cost
Tape cartridge		actual cost
Rewritable DC (DC-RW)	\$1.00	
Non-rewritable DC (CD-R)	\$1.00	
Digital video disc (DVD)	\$3.00	
Jaz drive		actual cost
Other electronic media		actual cost
VHS video cassette	\$2.50	
Audio cassette	\$1.00	
Labor Charge		
For programming	\$28.50	per hour
For locating, compiling, and reproducing	\$15.00	per hour
Overhead charge	20% of labor charge	
Microfiche or microfilm charge:		
Paper copy	\$0.10	per page
Fiche or film copy		actual cost
Remote document retrieval charge		actual cost
Computer resource charge		
Mainframe	\$10.00	per CPU minute
Midsized	\$1.50	per CPU minute
Client/server system	\$2.20	per clock hour
PC or LAN	\$1.00	per clock hour
Miscellaneous supplies		actual cost
Postage and shipping charges		actual cost
Photographs		actual cost
Maps		actual cost
Other		actual cost
Outsourced/contracted services		actual cost

CITY SECRETARY'S OFFICE - Continue**Fee Amount****Unit****Vital statistics:****Birth certificates:**

Wallet-sized certificate	\$23.00	
Full-sized certified copy	\$23.00	
Pouches-Vital Records	\$2.00	
Remote system issue	\$23.00	

Death certificates:

First copy	\$21.00	
Each additional copy of same certificate	\$4.00	
Plastic pouch for wallet-sized certificates	\$1.00	
Plastic pouch for full-sized certificates	\$2.00	
Searching fee for birth record	\$23.00	
Searching fee for death record	\$21.00	
Burial Transit Permit - Outside City Hall hours	\$25.00	
Burial Transit Permit - tardiness penalty	\$25.00	per additional half hour waiting

Map fees:

Black and White 11 × 17	\$5.00	
Black and White 17 × 24	\$7.00	
Black and White 24 × 36	\$10.00	
Black and White 28 × 40	\$12.00	
Black and White 36 × 48	\$15.00	
Color 8½ × 11	\$4.00	
Color 11 × 17	\$10.00	
Color 17 × 24	\$12.00	
Color 24 × 36	\$14.00	
Color 28 × 40	\$16.00	
Color 36 × 48	\$20.00	

Street use:

Permit		
Plus \$20.00 per office, per hour (minimum two hours)	\$25.00	

Street closure:

Permit	\$50.00	
Barricade deposit	\$100.00	

Game permit:

Coin-operated machine permit, per machine, per year	\$15.00	
Premises license, yearly	\$50.00	

FINANCE	Fee Amount	Unit
Returned check fee (Applies to all departments)	\$35.00	
Check Reissuance Fee (includes stop payment charges)	\$20.00	

UTILITY BILLING	Fee Amount	Unit
Reconnection Fee	\$15.00	
Meter Tested	1 free/year; \$10.00 each thereafter	
Re-read	\$10.00	3rd request
Profile	\$0.10	per page
After Hours	\$10.00	

INFORMATION TECHNOLOGY	Fee Amount	Unit
Badge Replacement	\$7.00	

HUMAN RESOURCES	Fee Amount	Unit
Safety and Accident Prevention Manual (Lost/Stolen/Damage)	\$20.00	

MUNICIPAL COURT (Judicial Record):	Fee Amount	Unit
Warrant service fee	\$50.00	
Standard paper copy	\$0.10	per page
Diskette	\$1.00	
Magnetic tape		actual cost
Data cartridge		actual cost
Tape cartridge		actual cost
Rewritable DC (DC-RW)	\$1.00	
Non-rewritable DC (CD-R)	\$1.00	
Digital video disc (DVD)	\$3.00	
Jaz drive		actual cost
Other electronic media		actual cost
VHS video cassette	\$2.50	
Audio cassette	\$1.00	
Oversize paper copy (not on specialty paper such as mylar, blueprint, blueline, map or photograh)	\$0.50	
Specialty paper		actual cost
Labor Charge		
For programming	\$28.50	per hour
For locating, compiling, and reproducing	\$15.00	per hour
Overhead charge	20% of labor charge	
Certified copy	\$2.00	first page
Non-certified copy	\$1.00	first page
each additional page (certified/non-certified)	\$0.25	

FIRE/EMS	Fee Amount	Unit
Annual ambulance permit fee	\$375.00	per company
per inspection	\$25.00	per inspection
ALS1	\$850.00	
ALS2	\$1,050.00	
Mileage (per mile)	\$12.00	
ALS3	\$0.00	
ALS4	\$850.00	
BLS1	\$650.00	
BLS2	\$650.00	
EXT1	\$150.00	
EXT2	\$150.00	
EXT3	\$150.00	
EXTU	\$150.00	
MONI	\$150.00	
NOTR	\$30.00	
	EMS \$50.00 ½ hour	
WAIT	Fire Engine \$150.00 per ½ hour	
Haz-mat response:		
Base rate per incident	\$1,500.00	base rate
Equipment replacement cost	20 percent plus	
Per each firefighter	\$100.00 plus/per firefighter	
Fire prevention:		
Adult day care center, annual/facility	\$75.00	
Child day care center, annual/facility	\$75.00	
Annual health care/nursing home/hospital inspection	\$150.00	
Plan reviews/inspections after normal working hours, per hour, two-hour minimum	\$37.50	
Control burning permit	\$75.00	
Underground/aboveground storage tank inspection:		
Acceptance test 10,000 gallons or less, per tank	\$75.00	
More than 10,000 gallons, per tank	\$112.50	
Aboveground flammable liquid tank permit:		
Temporary A, 90 days	\$75.00	
Temporary B, 180 days	\$112.50	
Temporary C, 1 year	\$187.50	
Automatic hood fire extinguisher test	\$75.00	
New sprinkler system plan review:		
1—200 heads	\$150.00	
201 or more, per head	\$0.75	
over 3,000 heads, maximum	\$2,250.00	
Hydrostatic test on underground/aboveground for sprinkler system, per hour, two-hour minimum	\$75.00	
Fire alarm system test	\$75.00	
Fire alarm modify, per device	\$7.50	
False alarm (after second call/monthly base):		
Commercial	\$300.00	
Residential	\$75.00	
Bonfires	\$300.00	
Fireworks displays	\$300.00	

EMS									
Code ID	Billing Description	HCP	CS	Default System ID	Min Qty	Max Qty	Unit Price	As of date	Unit Price
BAND	BANDAGING & SUPPLIES	A0382	Extra Charges		1	1	20.00		\$ 20.00
BLSR	BLS Supplies - Routine Disp	A0382	Extra Charges		0	20	20.30		\$ 30.00
CCOL	C COLLAR	A0382	Miscellaneous Services		1	99	10.00		\$ 10.00
COLD	COLD PACK	A0382	Extra Charges		1	99	10.00		\$ 10.00
HEAD	HEAD BLOCKS	A0382	Miscellaneous Services		1	100	10.00		\$ 10.00
POIS	POISON KIT	A0382	Extra Charges		1	99	10.00		\$ 16.00
SUCT	SUCTION SUPPLIES, procedure	A0382	Extra Charges		1	99	15.00		\$ 50.00
BLSD	BLS Supplies - Defib Pads	A0384	Extra Charges		1	99	50.00	11/12/1999	\$ 50.00
ALSD	ALS Supplies - Defib Pads	A0392	Extra Charges		1	1	50.00	11/12/1999	\$ 50.00
ALIA	ALS SUPPLIES - IV ATTEMPTS	A0394	IV Supply Charge		1	3	15.00		\$ 15.00
EKGE	EKG ELECTRODES, DISPOSABLE	A0394	Extra Charges		4	12	5.00		\$ 10.00
IV	ALS Supplies - I V Therapy	A0394	IV Supply Charge		1	4	15.00		\$ 15.00
ALSA	ALS Supplies - Airway Mgmt	A0396	Advanced Airway Charge		1	1	50.00		\$ 75.00
GLOV	Gloves for infection control	A0398	Extra Charges		4	20	2.50		\$ 2.50
MTDR	MULTI TRAUMA DRESSING, DISP	A0398	Extra Charges		1	99	10.00		\$ 10.00
OBST	OBSTETRICAL KIT	A0398	Extra Charges		1	99	20.00		\$ 25.00
SILV	SILVER SWADLER, DISPOSABLE	A0398	Extra Charges		1	99	10.00		\$ 12.00
WAIT	Waiting Time*, PER 1/2HR	A0420	Waiting Time Charge		1	99	40.00	10/1/2004	\$ 50.00
OXYG	ALS/BLS Oxygen & Supplies	A0422	Oxygen Charge		1	1	15.00		\$ 20.00
CPR	Extra Crew, CPR/Intubation	A0424	Extra Attendant Charge		0	99	50.00	10/1/2004	\$ 150.00
EXT2	Extra Crew, 300+ LB Patient	A0424	Extra Attendant Charge		0	99	50.00	10/1/2004	\$ 150.00
EXT3	Extra Crew, Long Stairs	A0424	Extra Attendant Charge		0	99	50.00	10/1/2004	\$ 150.00
EXTU	Extra Crew*, Unspecified	A0424	Extra Attendant Charge		0	99	50.00	10/1/2004	\$ 150.00
INTU	INTUBATION	A0424	Extra Attendant Charge		0	99	50.00	10/1/2004	\$ 75.00
SUC	Suctioning	A0424	Extra Attendant Charge		0	99	50.00	10/1/2004	\$ 75.00
AMIE	ALS Emer Mileage, \$7.50/MI	A0425	Mileage Charge		0.1	100	7.50	11/12/1999	\$ 12.00
AMIN	ALS Non-Emer Mileage, \$7.50/MI	A0425	Mileage Charge		0.1	100	7.50		\$ 12.00
BMIE	BLS Emer Mileage, \$7.50/MI	A0425	Mileage Charge		0.1	100	7.50	11/12/1999	\$ 12.00
BMIN	BLS Non-Emer Mileage, \$7.50/MI	A0425	Mileage Charge		0.1	100	7.50		\$ 12.00
NCAMIE	NON CARE ALS EMER MILEAGE	A0425	Mileage Charge		0.1	100	7.50	11/12/1999	\$ 12.00
NCAMIN	NON CARE ALS NON-EMER MILEAGE	A0425	Mileage Charge		0.1	100	7.50		\$ 12.00
NCBMIE	NON CARE BLS EMER MILEAGE	A0425	Mileage Charge		0.1	100	7.50	11/12/1999	\$ 12.00
NCBMIN	NON CARE BMIN	A0425	Mileage Charge		0.1	100	7.50		\$ 12.00
ALS4	ALS Non-Emer Base Rate	A0426	Base Charge		1	1	500.00	1/1/2007	\$ 850.00
ALSN	ALS Non-Emer Base Rate W/Spec	A0426	Base Charge		1	1	500.00	10/1/2004	\$ 850.00
ALS1	ALS Emer Base Rate W/Spec	A0427	Base Charge		1	1	500.00	10/1/2004	\$ 850.00
BLSN	BLS Non-Emer Base Rate	A0428	Base Charge		0	1	500.00	1/1/2007	\$ 650.00
BLS1	BLS Emer Base Rate	A0429	Base Charge		0	1	500.00	10/1/2004	\$ 650.00
blsm	BLS MEDICAID	A0429	Base Charge		0	0	300.00	9/1/2004	\$ 650.00
ALS2	ALS Emer Base Rate	A0433	Base Charge		1	1	500.00	10/1/2004	\$ 1,050.00
ENON	Non-Covered Emer Mileage	A0888	Mileage Charge		0	99	7.50		\$ 12.00
NNON	Non-Covered Non-Emer Mileage	A0888	Mileage Charge		0	99	-		\$ 12.00
NOTR	NO TRANSPORT/TREATMENT	A0998	Miscellaneous Services		0	100	50.00	10/1/2004	\$ 50.00
AMMO	AMMONIA INHALENT	A0999	Extra Charges		1	99	3.00		\$ 3.00
DISP	UNUSUAL DISPOSABLE*	A0999	Miscellaneous Services		0	99	-		\$ 20.00
EML	EMERGENCY MED LIEN	A0999	Miscellaneous Services		0	0	50.00	1/1/2005	\$ 50.00
MASK	MASKS FOR INFECTION CONTROL	A0999	Extra Charges		1	99	15.00		\$ 20.00
MONI	ALS CARDIAC EKG MONITORING	A0999	Miscellaneous Services		1	1	50.00	10/1/2004	\$ 150.00
SPIN	Spinal Immobilization	A0999	Miscellaneous Services		1	99	50.00		\$ 50.00
SPLI	ALS/BLS SPLINTING	A0999	Miscellaneous Services		1	99	20.00		\$ 20.00
TRAC	ALS/BLS TRACTION SPLINT	A0999	Miscellaneous Services		1	99	10.00		\$ 20.00
ADEN	Adenosine, 6mg	J0153	Miscellaneous Medication		0	100	35.00	11/12/1999	\$ 40.00
EPIN	Epinephrine, 1ml	J0171	Miscellaneous Medication		1	100	7.00	11/12/1999	\$ 10.00
EPIN2	DRUG-Epinephrine 1:10000	J0171	Miscellaneous Medication		1	100	7.00	11/12/1999	\$ 15.00
CORD	CORDARONE	J0282	Miscellaneous Medication		1	100	159.00		\$ 50.00
ANEC	DRUG-ANECTINE INJ VIAL	J0330	Miscellaneous Medication		1	100	1.80		\$ 50.00
ATRO	ATROPINE SULFATE 1 MG	J0461	Miscellaneous Medication		1	99	10.00	11/12/1999	\$ 20.00
CAL.GLUC	DRUG-CALCIUM GLUCONATE	J0610	Miscellaneous Medication		0	0	1.30		\$ 20.00
BENA	Benadryl, 50mg	J1200	Miscellaneous Medication		0	99	7.00	11/12/1999	\$ 10.00
DIPHEN	DIPHENHYDRAMINE	J1200	Miscellaneous Medication		0	99	7.00	11/12/1999	\$ 10.00
FURO	Furosemide, 20mg	J1940	Miscellaneous Medication		0	99	3.00	11/12/1999	\$ 20.00
LIDO	Lidocaine HCL, 2%	J2001	Miscellaneous Medication		0	99	15.00	11/12/1999	\$ 15.00
SOLM	SOLU-MEDROL 1000MG	J2250	Miscellaneous Medication		0	0	20.96		\$ 75.00

EMS

Code ID	Billing Description	HCPCS	Default System ID	Min Qty	Max Qty	Unit Price	As of date	Unit Price
VERSED	VERSED 5MG/2ML	J2250	Miscellaneous Medication	1	100	10.00		\$ 10.00
MORP	Morphine Sulfate, 10mg	J2270	Miscellaneous Medication	0	99	10.00	11/12/1999	\$ 10.00
NALX	NALOXONE HCL, 1mg, IV	J2310	Miscellaneous Medication	2	99	7.50		\$ 75.00
PROM	Promethazine HCL, 25MG/ML	J2550	Miscellaneous Medication	1	99	2.49		\$ 10.00
DIAZ	Diazepam, 10mg	J3360	Miscellaneous Medication	0	99	5.00	11/12/1999	\$ 50.00
VALM	Valium, 10MG/2ML	J3360	Miscellaneous Medication	0	99	5.00		\$ 50.00
ACTC	ACTIVATED CHARCOAL, 20cc, PO	J3490	Miscellaneous Medication	4	99	3.75		\$ 16.00
ALBU	ALBUTEROL SULFATE .5%	J3490	Miscellaneous Medication	1	99	1.00	11/12/1999	\$ 3.00
ASPI	ASPIRIN 325 MG PO	J3490	Miscellaneous Medication	1	99	1.00	11/12/1999	\$ 2.50
D50W	D50W, 50cc, IV	J3490	Miscellaneous Medication	1	99	17.00		\$ 20.00
	D25W, 10cc IV	J3490		1		8.00		\$ 15.00
DILT	DRUGSDILTIAZEM 25MG (CARDIZEM)	J3490	Miscellaneous Medication	1	100	4.30		\$ 5.00
DOPA	DOPAMINE 40mg IV	J3490	Miscellaneous Medication	1	99	35.00	11/12/1999	\$ 35.00
GLUC	INSTAGLUCOSE 31MG PO	J3490	Miscellaneous Medication	1	99	7.50		\$ 10.00
LIDODRIP	Lidocaine 2G Drip	J3490	Miscellaneous Medication	1	99	35.00	11/12/1999	\$ 35.00
NITR	Nitroglycerin, .4mg, SL	J3490	Miscellaneous Medication	1	99	4.00	11/12/1999	\$ 5.00
NORC	NORCURON 10MG/VIAL	J3490	Miscellaneous Medication	1	100	23.93		\$ 24.00
ROCU	DRUG- ROCURONIUM BROMIDE	J3490	Miscellaneous Medication	1	100	23.93		\$ 24.00
SH20	STERILE H20/SALINE, 2500ml	J3490	Miscellaneous Medication	1	99	15.00		\$ 15.00
SOBI	SODIUM BICARBONATE 50MEQ	J3490	Miscellaneous Medication	1	99	3.00	11/12/1999	\$ 20.00
THIA	THIAMINE, 100mg, IV	J3490	Miscellaneous Medication	1	99	15.00		\$ 15.00
TYLE	TYLENOL CHILDREN PO	J3490	Miscellaneous Medication	1	99	1.00	11/12/1999	\$ 2.50
VERA	DRUG-VERAPAMIL	J3490	Miscellaneous Medication	0	0	5.00		\$ 30.00
SAL1	NORMAL SALINE, 500cc	J7040	IV Supply Charge	1	99	10.00		\$ 10.00
SAL4	STERILE SALINE / FLUSH, 5 cc	J7051	Miscellaneous Medication	1	99	1.00		\$ 1.00
D5W2	D5W, 500cc	J7060	Miscellaneous Medication	1	99	10.00		\$ 15.00
RING	RINGERS LACTATE, 1000cc	J7120	IV Supply Charge	1	99	10.00		\$ 10.00
	EMS / Medical Records			1	1	-		\$ 25.00

Reductions:

Reductions of up to 25% may be provided for prompt payment or for payors in collection with approval by EMS Coordinator and Finance Director

NSF Returned Check Fee - See Finance Section

LIBRARY**Fee Amount****Unit****Late or Lost fees:**

Adult books	\$0.10	per day (\$3 maximum per item)
Children's books	\$0.10	per day (\$3 maximum per item)
Videos/DVD's	\$1.00	per day (\$3 maximum per item)
Cassettes/CD's	\$0.25	per day (\$3 maximum per item)
Audio books	\$0.25	per day (\$3 maximum per item)
Computer or Tablet	\$4.00	per day (\$20 maximum per item)
Hotspot or any other equipment not specified herein	\$4.00	per day (\$20 maximum per item)

\$300 maximum fee, not to exceed
original cost of the item

Lost or stolen tablet/computer/other piece of equipment

Hotspot Replacement fee

\$70.00

Lost card replacement—First time

\$2.00

Lost card replacement—Second time

\$3.00

Lost card replacement—Third time and after

\$5.00

Maximum fine per item

Cost of item plus \$15.00 processing

Interlibrary loan fee—Print (\$15.00 maximum)

\$0.25

per day

Interlibrary loan fee—DVD and Other (\$15.00 maximum)

\$1.00

per day

Lost ILL book or item

Lending library costs plus \$20.00 processing

Black and white printing

\$0.10

per page

Color printing

\$0.50

per page

Black and white copying

\$0.10

per page

Color copying

\$0.50

per page

Document scanning

\$0.25

per page

Local document faxing

\$1.00

per page

Long distance document faxing

\$1.00

per page

3D printing

\$0.10

per gram

\$1.00 late fee. Item will become property of the
Library if not picked up within 14 days.

3D printing late fee

Damage fees:

General Collection Adult Books and A/V Material

Cost of item plus \$15.00 processing

Special Collection Adult Books and A/V Material

Cost of item plus \$25.00 processing

Inter Library Loan Materials

Lending library costs plus \$20.00 processing

Damaged Tablet

Dependent on damage; \$300 maximum fee

Damage to Laptops

Dependent on damage; \$300 maximum fee

Damage to any Equipment not mentioned here in

Dependent on damage; \$200 maximum fee

Damage to Hotspot

Dependent on damage; \$70 maximum fee

Auditorium and meeting room rental fees for the Mayor Eugene A. Braught Memorial Theater:

Auditorium	\$200.00
Auditorium Half Day	\$100.00
Auditorium after hours use	\$300.00
Meeting room	\$100.00
Meeting Room Half Day	\$25.00
Meeting room after hours use	\$200.00
Auditorium/meeting room late cancellation fee	\$50.00
Auditorium or meeting room deposit for damage and overtime (refundable)	\$100.00

PARKS & RECREATION**Current Fees*****Weslaco Service Center:***

	<i>Resident</i>	<i>Non-resident</i>
(Monday—Thursday)	\$200.00	\$250.00
(Friday)	\$500.00	\$600.00
(Saturday or Sunday)	\$600.00	\$650.00
(Sunday partial day 12pm-3pm, 4pm-7pm)	\$200.00	\$250.00

Weslaco Swimming Pool rentals:

	<i>Resident</i>	<i>Non-resident</i>
Rental of two hours	\$225.00	\$250.00
Rental of three hours	\$275.00	\$300.00
Over 50 people: one extra life quart for every 25 people	\$10.00 per hr.	\$10.00 per hr.

Pool classes: Gus and Goldie:

	<i>Resident</i>	<i>Non-resident</i>
Registration of first child	\$25.00	\$30.00
Registration of second child	\$20.00	\$25.00
Family Night/Daily Pool Entrance	\$20.00	\$25.00

Weslaco parks rentals:

	<i>Resident</i>	<i>Non-resident</i>
Pavilions with electricity	\$50.00	\$65.00
Shelters without electricity	\$30.00	\$35.00
Picnic areas no shelter/electricity	\$20.00	\$30.00
Athletic fields without lights	\$75.00	\$90.00
Athletic field with lights	\$100.00	\$135.00
Concession stand	\$60.00	\$75.00
Baseball/Softball field marking per field	\$15.00	\$20.00
Soccer/Football fields w/lights (practice only) 2 hours	\$35.00	\$45.00
Softball/Baseball w/lights (practice only) 2 hours	\$25.00	\$40.00
Soccer/Football fields no lights (practice only) 2 hours	\$20.00	\$40.00
Soccer/Football fields no lights for games	\$150.00	\$200.00
Soccer Field Rental Marking fee per field	\$100.00	\$150.00
Football Field Rental Marking fee per field	\$150.00	\$200.00
Open Space at Pablo G. Peña Park	\$100.00	\$150.00
Open Space at Isaac Rodriguez Park	\$100.00	\$150.00
Open Space at Harlon Block Park	\$100.00	\$150.00
Host 5k at Harlon Block Park	\$100.00	\$150.00

Cemetery:

	<i>Resident</i>	<i>Nonresident</i>
Plots	\$1,000.00	\$1,500.00
Recording fees	\$95.00	\$95.00
Opening/closing (8:00 a.m.—3:00 p.m.)	\$400.00	\$500.00
(after 4:00 p.m. on weekends)	\$600.00	\$700.00
(holidays)	\$600.00	\$700.00
Headstone—Single	\$40.00	\$60.00
Headstone—Double	\$60.00	\$80.00
Cremation	\$200.00	\$250.00

PLANNING & ZONING		Fee Amount	Unit
Processing Fee (tech) for Building Permits, Planning Applications & Health Permits		\$5.00	
Taxicab application each driver		\$25.00	
1st Taxicab license		\$100.00	
Each additional taxicab License		\$50.00	
		\$350.00 + (2%) two percent inspection fee, (3%) three percent material testing	
Subdivision platting			
Subdivision review		\$50.00	
Park Fees		\$400.00	per residential lot
		\$250.00	per apartment unit
Subdivision variance fee		\$50.00	per variance
Conditional use permit		\$300.00	
Rezoning		\$300.00	
Board of adjustments		\$250	Plus \$20.00 for each additional variance
Code Enforcement:			
Cleaning of vacant lots		\$0.0125	per square foot
Tree trimming		\$50.00	per home
Building permit fee schedule:			
Facility Inspection		\$25.00	
<u>Commercial construction fees based on Total Valuation:</u>			
\$1000.00 and less		\$25.00	
		\$15.00 for the first \$1,000.00 plus \$5.00 for each additional thousand of fraction thereof, to and including \$50,000.00	
\$1001.00 to \$50,000.00			
		\$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand of fraction thereof, to and including \$100,000.00	
\$50,001.00 to \$100,000.00			
		\$460.00 for the first \$100,000.00 plus \$3.00 for each additional thosudand of fraction thereof, to and including \$500,000.00	
\$100,001.00 to \$500,000.00			
		\$1,660.00 for the first \$500,000.00 plus \$2.00 for each additional thosudand of fraction thereof	
\$500,001.00 and up			
<u>Residencial construction fees minimum fee based on square footage:</u>			
Single family dwelling, Multi-family,Townhouse, Duplex, residential alterations, additions, storage, and accessory uses attached and detached including decks and balconies, flat work		Permit- \$0.20 per square foot of all floor area under roof. Fee includes 1 drive approach	
Fences new or replacement		Permit\$0.20 per linear foot	
		Permit \$0.10 per square foot, fee is per structure or building	
Residential reroofing and roofing overlay			
Demolition fees:			
Commercial		\$100.00	
Residential		\$50.00	
Accessory structures		\$15.00	
Moving:			
Residential compliance inspection		\$100.00	
Commercial compliance inspection		\$100.00	

PLANNING & ZONING - Continue**Fee Amount****Unit****Special event permit:**

Type I or Type II \$50.00

Electric permit fees:

Electrical building permit \$50.00

Electrical service re-connect fee \$30.00

New Service \$20.00

Temporary Service Pole \$10.00

Temporary Working Clearance \$25.00

Upgrade Service \$10.00

First 42 Circuits \$1.00 each

Next 42 Circuits \$0.50 each

All Circuits above 84 \$0.25 each

Generator \$100.00

Plumbing, fuel/gas permit fees:

Plumbing, fuel/gas permit \$50.00

Small fixtures

(bathtub, drinking fountain, floor sink, floor drain, sink, lavatory, shower, urinal back-flow device assembly, water heater, water treatment, water closet, etc.) \$3.00 each (kitchen sink and disp. slop sink, waste interceptor, backflow preventer, dish washer, laundry tray, clothes washer, vacuum breaker)

Large fixtures

(grease trap, waste interceptor, sewer line, water line, gas line, etc.) \$20.00 Water heater

\$100.00 Sewer connection

\$20.00 Water piping

\$50.00 Gas test

\$100.00 Sewer tap

\$30.00 Sprinkler system

\$15.00 Water meter permit fee

\$100.00 Grease trap

Mechanical permit fees:

Mechanical permit \$50.00

Heating & cooling

\$10.00 for the first \$1,000.00 & \$2.00 for each additional \$1,000.00

Tent permit fees:

Temporary tents \$100.00

General fees:

Re-inspection or failed inspection \$45.00

Emergency inspections:

Requested with less than ½ day's notice \$27.00

Overtime \$42.00 per hour

Inspection requested for after 4:30 p.m.
(two-hour minimum plus emergency inspection fee) \$80.00 for two hours

Penalties, work commencing prior to permit issued:

First violation Double permit fee

Second and subsequent violations Four times the permit fee

Other violations (ex. No inspection, concealing work, occupancy without a final, license or registration violation, other code violations as adopted. Each fee is per occurrence or incidence, per day until corrected.

Where work for which permit is required by this Code is started or proceeded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of

PLANNING & ZONING - Continue**Fee Amount****Unit*****Penalties, work commencing prior to permit issued:***

First violation	\$200.00
Second violation	\$250.00
Third violation	\$500.00
Fourth violation	\$750.00

Permit extensions:

First extension	\$25.00
Subsequent extension	\$50.00
Permit extension prior to permit expiration date	50% of permit fee

Registration:

Contractor initial fee	\$100.00
Contractor annual renewal fee	\$30.00

Health:

Food service establishment permit	\$150.00	
Seafood markets	\$150.00	
Meat markets	\$150.00	
Meat Packers	\$150.00	
Tortillerias	\$150.00	
Bakeries	\$150.00	
Special events	\$100.00	
Beer and wine on premises (BG)	\$87.50	
Beer and wine off premises (BQ)	\$30.00	
Liquor store (package store) (P)	\$250.00	
Liquor mixed beverage (lounge) (MB) at 3rd year	\$375.00	
City registration	\$10.00	
Delicatessen	\$150.00	
Food handlers	\$10.00	
Food manager's license	\$15.00	
Fruit and vegetable	\$100.00	
Garage sale permit	\$10.00	
Health permit	\$100.00	
Heimlich poster	\$5.00	
Produce	\$75.00	
Public cafeteria	\$150.00	
Reinspection fee	\$25.00	
Retail food establishment	\$150.00	
Temporary permit	\$20.00	per day
Vendor application fee	\$75.00	

Small Cell Network Provider

First Five (5) Network Nodes	\$500.00
Each Additional Node	\$250.00
Per Pole	\$1,000.00

Refunds:

*Refunds must meet the following criteria:

1. No work has started,
2. The permit has not expired,
3. All Refunds must be approved by the Code Enforcement Supervisor
4. Request must be made in writing

*Refunds are refunded at 90 percent of original permit fee less \$25.00 and review and applicable trip charges. Refunds are processed by the City of Weslaco Finance Department only. No cash refunds will be allowed for any purpose.

POLICE	Fee Amount	Unit
Fingerprints	\$10.00	
Wrecker permits, annually	\$15.00	
Funeral escort	\$150.00	
Bank escort	\$50.00	
Alarm permits (annual)	\$25.00	
Accident report	\$6.00	
Local police background check	\$10.00	
Certified copy	\$2.00	
Underage drinking; imposing criminal and civil penalties and response cost; providing for codification; severability clause and effective date.		
	1st Offense	\$500.00
	2nd Offense	\$750.00
	3rd Offense	\$1,000.00
Vehicle Abandonment Fee	\$10.00	

PUBLIC WORKS	Fee Amount	Unit
Urban development		
Traffic safety signs:		
30 inches, stop with post	\$200.00	
24 inches, stop with post	\$175.00	
9 × 30 extruded street name with post	\$200.00	
9 × 24 extruded street name with post	\$175.00	
9 × 18 extruded street name with post	\$175.00	
Fire hydrants, blue payment marker	\$75.00	
24" × 30" speed limit sign with post	\$175.00	
18" × 24" "We Love Our Children" sign with post	\$175.00	
<i>Customer service inspection for existing structures:</i>		
Commercial fixtures 1 to 20	\$32.00	
Commercial fixtures 21 to 50	\$42.00	
Commercial fixtures 51 and up	\$120.00	
Residential	\$32.00	

AIRPORT		Fee Amount	Unit
<i>Oil</i>			
Aeroshell W/100 Ashless		\$9.00	
Castrol Aviator AD100 Ashless		\$9.00	
<i>Airport Access Cards</i>			
Access Card		\$10.00	
Replacement Card		\$50.00	
<i>Miscellaneous</i>			
Call out fee		\$50.00	first hour
		\$30.00	every hour after
Call out fee-Customs		\$350.00	first hour
		\$120.00	every hour after
Tug		\$15.00	
GPU/A/C Unit		\$50.00	if less than 150 gallons purchased
Courtesy car (Customer may use car maximum of two hours in the U.S.)		\$35.00	if no fuel is purchased
Tie Down Fees		\$1.00	per night
Hangar Replacement Keys		\$50.00	

ORDINANCE 2019-41

AN ORDINANCE AMENDING ORDINANCE 2018-26, THE MASTER FEE SCHEDULE, TO REVISE EXISTING FEES AND ESTABLISH NEW FEES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE, AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT:

SECTION 1. APPROVAL. Ordinance 2018-26 passed and approved on September 4, 2018 as "The Master Fee Schedule Ordinance" and Codified as Section 2-190 of The Weslaco Code of Ordinances is hereby amended so that after final reading it shall read as follows:

ARTICLE VI. MASTER FEE SCHEDULE

Section 2-190. Scheduled established.

The fee schedule attached as an Exhibit to this Ordinance is hereby adopted as if fully forth herein. The City Commission may hereafter amend or replace this fee schedule at any time.

SECTION 2. All other provisions of Ordinance 2018-26 shall remain in full force and effect.

SECTION 3. SEVERABILITY CLAUSE. It is the intent of the City Commission that each sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be deemed severable and, should any such sentence, paragraph, subdivision, clause, phrase or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of the Ordinance left standing.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect upon final reading.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 15th day of October 2019.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this ____ day of _____ 2019.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Myra L. Ayala, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2845
From: Rebekah De La Fuente		
Subject: Discussion and consideration to approve Ordinance 2019-42 amending Ordinance 2013-22, the City of Weslaco Subdivision Ordinance; and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-42. Possible action. (Staffed by Planning & Code Enforcement Department.)		
Background: Based on the Legal Opinion from the City Attorney and the changes to the Texas Local Government Code Section 43.022 and Chapter 212 the City's Subdivision Section 23-32 (e) has been deemed a taking. The amended ordinance will require developer with our ETJ and connecting to a City utility to enter into a development agreement for the inspection of the City line.		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted: Mayor's Signature Ordinance - First Reading		
If item previously considered, provide date and action by Commission:		
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:		
Advisory Review, if any (name of board/committee, date of action, recommendation):		
Rebekah De La Fuente Rebekah De La Fuente Mike Perez		Created/Initiated Approved Pending
City Manager Comments: Approve.		
Staff Recommendation: Staff recommends approval.		
Attachments, if any: Annexation-Taking, O2019-42 Subdivision- Annexation Requirement		
Responsibilities upon Approval: Staff will enforce the amended ordinance		



LAW OFFICE OF
JUAN E. GONZALEZ

3110 E. Bus. Hwy 83, Weslaco, Texas 78596
TEL: (956) 447-5585
Fax: (956) 447-8637
email: juanegonzalez@jeglaw.net

September 19, 2019

Mayor David Suarez
City of Weslaco
Weslaco, Texas 78596

Re: Annexation-Taking

Dear Mayor:

This opinion is being prepared pursuant to a request from yourself and the City Manager as to whether Section 26-32 of the City of Weslaco Subdivision Regulations and Policies constitute a “taking” under the constitution of the United States and Texas. In preparing this opinion I have reviewed extensive state and federal case law, Chapter 43 of the Texas Local Government Code, Chapter 212 of the Texas Local Government Code and the City of Weslaco Subdivision Regulations and Policies.

Section 26-32 (e) of the City of Weslaco Subdivision Regulations and Policies states as follows:

“All subdivisions within the city’s extraterritorial jurisdiction and connected to one of more of the city utilities, must request annexation to the city prior to the approval of the final subdivision plat.”

Section 43.022 of the Texas Local Government Code now requires an election and voter approval for any non-voluntary annexation within its extraterritorial jurisdiction. I saw nothing in my extensive review of this statute that would allow a municipality to “require” a developer to voluntarily annex a subdivision in order to have his plat approved.

Chapter 212 of the Texas Local Government Code has two sections that bear on this issue. Section 212.002 states that “after a public hearing on the matter, the governing body of a municipality may adopt rules governing plats and subdivisions of land within the municipality’s jurisdiction to promote the *health, safety, morals, or general welfare of the municipality and the safe orderly, and healthful development of the municipality.*” At first blush, requiring voluntary annexation to connect to City utilities appears to promote the health and general welfare of citizens. However, the developer

can always connect to another utility provided with a certificate of convenience and necessity in its area. Therefore, after closer analysis, this ordinance does not necessarily further this objective.

In addition, Section 212.010 states that a municipality *shall* approve a plat if it conforms to the general plan of the municipality and for the extension of the municipality and its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction. In my opinion, the use of the term “shall” means a municipality does not have discretion to deny a plat so long as it conforms to the city’s general plan for its roadways and public utility facilities.

The next issue to consider is whether this statutory requirement constitutes a taking under state and federal law. Article 1 Section 7 of the Texas Constitution provides that “no person’s property shall be taken, damaged or destroyed or applied to public use without adequate compensation being made.” Case law has long held that a restriction in the permissible uses of property or a diminution in its value resulting from regulatory action within the government’s police power, may or may not be a compensable taking. An act short of physical invasion, appropriation, or occupation can amount to a compensable taking when a governmental agency imposes restrictions that constitute an unreasonable interference with the landowner’s right to use and enjoy the property. Taub v. City of Deer Park, 882 S.W.2d 824, 826 (Tex. 1994). However, all property is held subject to the valid exercise of the police power and thus not every regulation is a compensable taking. City of College Station v. Turtle Rock Corp., 680 S.W. 2d 802, 804 (Tex. 1994).

The United States Supreme Court has ruled that the factors to be considered in this situation are: (1) “the economic impact of the regulation on the claimant”; (2) “the extent to which the regulation has interfered with distinct investment backed expectations”; and (3) “the character of the governmental action.” Penn Cent. Transp. Co. v. City of New York, 438 U.S. at 124, 98 S. Ct. 2646. The Supreme Court and other state courts have held that this analysis necessarily requires a weighing of private and public interests and a careful examination and weighing of all the relevant circumstances in applying a fact-sensitive test of reasonableness.

As mentioned before Section 26-32 of our Subdivision Regulations and Policies states that if a developer wishes to connect to city utilities they must voluntarily annex into the City to get their plat approved. In order to determine if this ordinance constitutes a taking under case law I will apply the facts of this situation to each factor of the three prong test described above.

The first factor is the economic impact of the regulation on developers. It is obvious that the economic impact would be significant. Annexation would result in higher property taxes on the developer. While this cost is eventually passed on to the property owner, the initial cost is high, especially if it takes time for the developer to sell all his lots. This factor would obviously not benefit the City in any future litigation.

The next factor is whether the regulation interferes with investment backed expectations. Using the same analysis as in the first factor it is quite clear this factor would also not benefit the City.

The third factor is the character of the governmental action. In this situation the purpose of the regulation is not easy to determine. However, after consulting with staff I was informed the purpose of this provision was a desire by a previous Commission to

increase the size of the City. However, we must take into account Section 43.022 of the Texas Local Government Code where the Legislature saw this type of action as contrary to the best interest of citizens and now requires an election for a non-voluntary annexation. It is obvious the character of this governmental action runs contrary to the stated statutory objective of the Texas Legislature in enacting Section 43.022.

It is my opinion that Section 26-32 of the City of Weslaco Subdivision Regulations and Policies violates the spirit and intent of Chapter 212 and 43 of the Texas Local Government Code and constitutes an unjustified taking under state and federal case law. Failure to amend this Ordinance presents a significant danger of litigation for the City and significant exposure in terms of legal expenses and time expended by City staff and employees involved in litigation. If you feel it is necessary, place this item on the agenda of our next Commission meeting in executive session so I can explain this in detail to the Commission and answer any questions they may have.

If you have any questions or need additional information feel free to contact me at the email address listed in my letterhead.

Sincerely,

/s/ Juan E. Gonzalez

Juan E. Gonzalez

ORDINANCE 2019-42

AN ORDINANCE AMENDING ORDINANCE NUMBER 2013-22, THE CITY OF WESLACO SUBDIVISION ORDINANCE; CODIFIED AS APPENDIX B, ARTICLE I, OF THE WESLACO CODE OF ORDINANCES, ADOPTING NEW REGULATIONS; AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO TEXAS THAT:

SECTION I.

Ordinance Number 2013-22 passed and approved on October 15, 2013 as "Subdivision Ordinance" and Codified as Appendix B, Article I, of the Weslaco Code of Ordinances is hereby amended.

SECTION II.

After second and final reading of this Ordinance the new Subdivision ordinance will be adopted and codified as Appendix B, Article I of the Weslaco Code of Ordinances and said Chapter shall read as follows:

APPENDIX B- SUBDIVISION ORDINANCE ARTICLE I

Section. 26-32. - Utility lines.

- (a) All utility lines that pass under any area to be paved shall be installed prior to the area being paved. When it is necessary that utility lines pass under a paved area, they shall be extended to a point at least three feet beyond the edge of the pavement. All utility lines shall be located in an area dedicated to the public.
- (b) Utility lines crossing under roadways classified as collector and above must be encased per city standards.
- (c) Utility trenches in unpaved areas must be compacted to 98 percent standard proctor.
- (d) At such time that a new development is attempting to tie into an existing utility line that is deemed in poor condition (e.g. cast iron or clay) by the director of public utilities and/or the city engineer, that section of line that adjoins the new development shall be replaced at the expense of the developer.
- (e) All subdivisions located within the city's extraterritorial jurisdiction connecting to one or more of the city utilities and not requesting voluntary annexation, shall enter into a development agreement with the city granting the city the authority to inspect and oversee the construction and

installation of the utility line. The developer shall pay all related material testing and inspection fees. Once developed, all subsequent property owners must obtain all necessary plumbing permits for sewer connections and sewer tapping and request necessary inspections from the city. The property owners shall pay all related permit fees at 50% times the standard fees, said development agreement must be approved and accepted prior to the approval of the final subdivision plat.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 15th day of October 2019.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this ____ day of ____ 2019.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Myra L. Ayala, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**

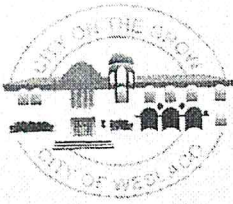


Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2847
From: Rebekah De La Fuente		
Subject: Discussion and consideration after public hearing on behalf of Miguel Angel Vicencio to approve a Conditional Use Permit to obtain a Mixed Beverage Permit and Food and Beverage Certificate at 2708 N. Texas Blvd., also being 0.76 acres S150'-N711'-E220'-W250 out of Farm Tract 107, West Tract Subdivision, Weslaco, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.)		
Background: The applicant is requesting to obtain a Conditional Use Permit to obtain Mixed Beverage Permit and Food and Beverage Certificate. Twenty (20) property owners within 200 feet of the applicant's property were notified by letter on September 20, 2019.		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted: Mayor's Signature		
If item previously considered, provide date and action by Commission:		
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners: Notice of the application and the public hearing for the Planning and Zoning Commission and the City Commission. Notice appeared in The Monitor on September 16, 2019.		
Advisory Review, if any (name of board/committee, date of action, recommendation): The Planning & Zoning Commission recommended approval of the rezone request on October 2, 2019.		
Kayla Arevalo Rebekah De La Fuente Mike Perez		Created/Initiated Approved Final Approval
City Manager Comments: Approve.		
Staff Recommendation: Staff recommend approval.		
Attachments, if any: 2708 N TEXAS - ATTACHMENTS, 2708 N Texas- Aerial		

Responsibilities upon Approval:

Staff will notify applicant.



APPLICATION FOR CONDITIONAL USE PERMIT

The Planning & Zoning Commission meets every 1st Wednesday of each month at 5:30 pm.

The City Commission meets every 1st and 3rd Tuesday of each month at 5:30 pm

FILE NO. CUP19.00015

PROPOSED PROJECT

Legal Description of Property for which Conditional Use Permit is requested:

Lot N/A Block N/A
Subdivision Name West Tract - S150' - N711' - E220' - W250' FE 107 0.76 AC NET
Street Address 2708 N. Texas Blvd., Weslaco, TX 78599
Existing Zoning B-2 Secondary & Hwy Bus Existing Land Use Restaurants
Purpose for the Conditional Use Permit Request Mixed Beverage Permit, Food & Beverage Certificate

What, if anything, is planned to minimize the impact on the surrounding land uses: _____

_____ \$300.00 non-refundable filing fee.

_____ Detailed dimensioned site plan/map must be submitted with this request.

_____ Survey and metes and bounds if the legal description is a portion of a lot.

_____ City and school tax receipts attached.

_____ I have received a copy of "CUP Application Instructions"

APPLICANT

Name Miguel Angel Vicencio Phone 956 532 3004
Address 9200 Vista Ridge Fax: _____
City Aliso State TX Zip Code 78543 E-Mail: _____

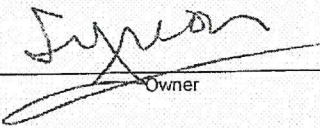
OWNER

Name Licon Almada Family Limited Partnership Phone 956-585-0832
Address 1800 E. Bus. 83 Fax: _____
City Missouri State TX Zip Code 78572 E-Mail: _____

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc., which would prevent the utilization of the property in the manner indicated?

Yes ✓ No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent or I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature  Date 8-23-2019
Owner

Signature _____ Date _____
Applicant

Signature _____ Date _____
Authorized Agent

STAFF USE ONLY

Accepted By _____ Payment Received By _____ Date Paid _____

Notice of Public Hearing Sent to Property Owners Within 200' of Proposed Site Date _____

P & Z Notice of Public Hearing Published in Newspaper Date _____

City Commission Notice of Public Hearing Published in Newspaper Date _____

Presented to P & Z Commission Date _____
Approved _____ Disapproved _____ Tabled _____

Presented to City Commission Date _____
Approved _____ Disapproved _____ Tabled _____

Hidalgo CAD

Property Search > 324424 LICON ALMADA FAMILY LIMITED PARTNERSHIP for Year 2019

Tax Year: 2019

Property

Account

Property ID:	324424	Legal Description:	WEST TRACT-S150'- N711'-E220'-W250' FT 107 0.76AC NET
Geographic ID:	W3800-00-107-0000-00	Zoning:	CO
Type:	Real	Agent Code:	
Property Use Code:	23.01e		
Property Use Description:	ARB METHOD ONE YEAR		

Location

Address:	2708 N TEXAS BLVD WESLACO, TX	Mapco:	
Neighborhood:	WEST TRACT	Map ID:	CWL
Neighborhood CD:	W380000		

Owner

Name:	LICON ALMADA FAMILY LIMITED PARTNERSHIP	Owner ID:	623762
Mailing Address:	3530 PLAZAS DEL LAGO DR EDINBURG, TX 78539-7700	% Ownership:	100.000000000000%
		Exemptions:	

Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$97,844	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$165,525	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	-	\$0	\$0
(=) Market Value:	=	\$263,369	
(-) Ag or Timber Use Value Reduction:	-	\$0	
(=) Appraised Value:	=	\$263,369	
(-) HS Cap:	-	\$0	
(=) Assessed Value:	=	\$263,369	

Taxing Jurisdiction

Owner: LICON ALMADA FAMILY LIMITED PARTNERSHIP

% Ownership: 100.000000000000%

Total Value: \$263,369

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	0.000000	\$263,369	\$263,369	\$0.00
CWL	CITY OF WESLACO	0.666700	\$263,369	\$263,369	\$1,755.88
DR1	DRAINAGE DISTRICT #1	0.095100	\$263,369	\$263,369	\$250.46
GHD	HIDALGO COUNTY	0.580000	\$263,369	\$263,369	\$1,527.54
JCC	SOUTH TEXAS COLLEGE	0.178000	\$263,369	\$263,369	\$468.80
RO2	ROAD DIST 02	0.000000	\$263,369	\$263,369	\$0.00
SST	SOUTH TEXAS SCHOOL	0.049200	\$263,369	\$263,369	\$129.58
SWL	WESLACO ISD	1.159700	\$263,369	\$263,369	\$3,054.29
Total Tax Rate:		2.728700			
Taxes w/Current Exemptions:					\$7,186.55
Taxes w/o Exemptions:					\$7,186.55

Improvement / Building

Improvement #1: COMMERCIAL State Code: F1 Living Area: 5796.0 sqft Value: \$97,844

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
RST	RESTAURANT	61 - DAV	STU	1980	5796.0
CAN	CANOPY	*		1980	24.0
CON3	CONCRETE 3	* - DAV		1994	22445.0
CDRF	CEDAR FENCE	* - DAV		1994	414.0

Improvement #2: COMMERCIAL State Code: F1 Living Area: 1942.0 sqft Value: \$0

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
BAR2	BAR/LOUNGE/TAVERN 2ND FL	46 - DAV	DSTU	1994	1942.0
BAL	BALCONY	*		0	187.5
BAL	BALCONY	*		0	24.0
HC	HIGH CEILING	*		1994	80.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.7600	33105.00	0.00	0.00	\$165,525	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2019	\$97,844	\$165,525	0	263,369	\$0	\$263,369
2018	\$146,748	\$165,525	0	312,273	\$0	\$312,273
2017	\$157,230	\$165,525	0	322,755	\$0	\$322,755
2016	\$160,317	\$165,525	0	325,842	\$0	\$325,842
2015	\$179,173	\$165,525	0	344,698	\$0	\$344,698
2014	\$179,173	\$165,525	0	344,698	\$0	\$344,698
2013	\$254,181	\$69,292	0	323,473	\$0	\$323,473

2012	\$298,667	\$69,292	0	367,959	\$0	\$367,959
2011	\$298,667	\$69,292	0	367,959	\$0	\$367,959
2010	\$178,655	\$56,279	0	234,934	\$0	\$234,934
2009	\$178,656	\$56,279	0	234,935	\$0	\$234,935
2008	\$178,656	\$56,279	0	234,935	\$0	\$234,935
2007	\$178,656	\$56,279	0	234,935	\$0	\$234,935
2006	\$177,336	\$56,279	0	233,615	\$0	\$233,615
2005	\$206,580	\$44,692	0	251,272	\$0	\$251,272

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	1/24/2006	SWD	SPEC. W/D	LICON SERGIO & SANDRA A	LICON ALMADA FAMILY LIMITED PARTNERSHIP			1570086
2	4/4/1997	AWD	ASSUMP W/D	ARREOLA GABRIEL	LICON SERGIO & SANDRA A			588822
3	6/16/1994	CONV	CONVERSION	COMBS JOHN W	ARREOLA GABRIEL			392449

Tax Due

Property Tax Information as of 08/04/2019

Amount Due if Paid on: 

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due
------	------------------------	------------------	-------------	-----------------------	--------------------	-------------------------------------	------------------	---------------

NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

Questions Please Call (956) 381-8466



71,764
ON-PREMISE PREQUALIFICATION PACKET

L-ON
(12/2017)

Submit this packet to the proper governmental entities to obtain certification for the type of license/permit for which you are applying as required by Sections 11.37, 11.39, 11.46(b), 61.37, 61.38, 61.42 and Rule §33.13

Contact your local TABC office to verify requirements of Sections 11.391 and 61.381 as you may be required to post a sign at your proposed location 60-days prior to the issuance of your license/permit.

All statutory and rule references mentioned in this application refer to and can be found in the Texas Alcoholic Beverage Code or Rules located on our website. www.tabc.texas.gov/laws/code_and_rules.asp

LOCATION INFORMATION

1. Application for: ☒ Original ☐ Add Late Hours Only License/Permit Number

☐ Reinstatement License/Permit Number

☐ Change of Licensed Location License/Permit Number

2. Type of On-Premise License/Permit

- | | |
|--|--|
| ☐ BG Wine and Beer Retailer's Permit | ☐ LB Mixed Beverage Late Hours Permit |
| ☐ BE Beer Retail Dealer's On-Premise License | ☐ MI Minibar Permit |
| ☐ BL Retail Dealer's On-Premise Late Hours License | ☐ CB Caterer's Permit |
| ☐ BP Brewpub License | ☒ FB Food and Beverage Certificate |
| ☐ V Wine & Beer Retailer's Permit for Excursion Boats | ☐ PE Beverage Cartage Permit |
| ☐ Y Wine & Beer Retailer's Permit for Railway Dining Car | ☐ RM Mixed Beverage Restaurant Permit with FB |
| ☒ MB Mixed Beverage Permit | |
| ☐ O Private Carrier's Permit – For Brewpubs (BP) with a BG only | |

3. Indicate Primary Business at this Location

- | | | |
|--|--|--|
| ☒ Restaurant | ☐ Sporting Arena, Civic Center, Hotel | ☐ Bar |
| ☐ Grocery/Market | ☐ Sexually Oriented | ☐ Miscellaneous _____ |

4. Trade Name of Location

Don Pedro

5. Location Address

2708 N. Texas Blvd

City

Weslaco

County

Hidalgo

State

TX

Zip Code

78596

6. Mailing Address

9200 Vista Ridge Dr

City

Weslaco

State

TX

Zip Code

78596

7. Business Phone No.

956-532-3004

Alternate Phone No.

E-mail Address

OWNER INFORMATION

8. Type of Owner

- | | | |
|--|---|---|
| ☐ Individual | ☐ Corporation | ☐ City/County/University |
| ☐ Partnership | ☒ Limited Liability Company | ☐ Other _____ |
| ☐ Limited Partnership | ☐ Joint Venture | |
| ☐ Limited Liability Partnership | ☐ Trust | |

9. Business Owner/Applicant

Miguel Vicencio

10. Are you, the applicant a veteran-owned business? ☐ Yes ☒ No

11. Are you, the applicant a Historically Underutilized Business (HUB)? ☐ Yes ☒ No

12. As indicated on the chart, enter the individuals that pertain to your business type: (For additional space, use Form L-OIC)			
Individual/Individual Owner		Limited Liability Company/All Officers or Managers	
Partnership/All Partners		Joint Venture/Venturers	
Limited Partnership/All General Partners		Trust/Trustee(s)	
Corporation/All Officers		City, County, University/Official	
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title
Last Name	First Name	MI	Title

MEASUREMENT INFORMATION

Section 109.31 et seq.

13. Will your business be located within 300 feet of a church or public hospital? ☐ Yes ☒ No

NOTE: For churches or public hospitals measure from front door to front door, along the property lines of the street fronts and in a direct line across intersections.

14. Will your business be located within 300 feet of any private/public school, day care center or child care facility? ☐ Yes ☒ No

If "YES," are the facilities located on different floors or stories of the building? ☐ Yes ☐ No

NOTE: For private/public schools, day care centers and child care facilities measure in a direct line from the nearest property line of the school, day care center or child care facility to the nearest property line of the place of business, and in a direct line across intersections.

NOTE: For multistory building: businesses may be within 300 feet of a day care center or child care facility as long as the facilities are located on different floors of the building.

NOTE: If located on or above the fifth story of a multistory building: measure in a direct line from the property line of the private/public school to property line of your place of business in a direct line across intersections vertically up the building at the property line to the base of the floor on which your business is located.

15. Will your business be located within 1,000 feet of a private school? ☐ Yes ☒ No

16. Will your business be located within 1,000 feet of a public school? ☐ Yes ☒ No

60-DAY SIGN

17. As required under Section 11.391 and 61.381, enter the exact date the 60-Day sign was posted at your location.

Exact Date (MM/DD/YYYY)

ALL APPLICANTS

18. IF YOUR LOCATION IS NOT WITHIN THE CITY LIMITS, CHECK HERE ☐

I, the applicant, have confirmed I am not located in the city limits of any city and therefore all city certificates are not required.

WARNING AND SIGNATURE

IF APPLICANT IS SHOWN AS:

Proprietorship
Partnership
Corporation
Limited Partnership
Limited Liability Partnership
Limited Liability Company

WHO MUST SIGN:

Individual Owner
Partner
Officer
General Partner
General Partner
Officer/Manager

WARNING: Section 101.69 of the Texas Alcoholic Beverage Code states: "...a person who makes a false statement or false representation in an application for a permit or license or in a statement, report, or other instrument to be filed with the Commission and required to be sworn commits an offense punishable by imprisonment in the Texas Department of Criminal Justice for not less than 2 nor more than 10 years."

I, UNDER PENALTY OF LAW, HEREBY SWEAR THAT I HAVE READ ALL THE INFORMATION PROVIDED IN THE APPLICATION AND ANY ATTACHMENTS AND THE INFORMATION IS TRUE AND CORRECT. I ALSO UNDERSTAND ANY FALSE STATEMENT OR REPRESENTATION IN THIS APPLICATION CAN RESULT IN MY APPLICATION BEING DENIED AND/OR CRIMINAL CHARGES FILED AGAINST ME. I ALSO AUTHORIZE THE TEXAS ALCOHOLIC BEVERAGE COMMISSION TO USE ALL LEGAL MEANS TO VERIFY THE INFORMATION PROVIDED.

PRINT
NAME

Miguel Angel Vicencio

SIGN
HERE

Miguel

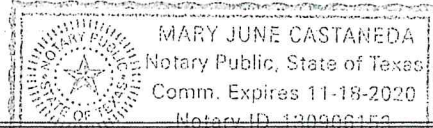
TITLE

Owner

Before me, the undersigned authority, on this 20th day of August, 2019, the person whose name is signed to the foregoing application personally appeared and, duly sworn by me, states under oath that he or she has read the said application and that all the facts therein set forth are true and correct.

SIGN
HERE

Mary June Castaneda
NOTARY PUBLIC



SEAL

CERTIFICATE OF CITY SECRETARY (FOR MB, RM, V & Y)

Section 11.37

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

SIGN
HERE

City Secretary/Clerk

City

_____, TEXAS

SEAL

CERTIFICATE OF CITY SECRETARY (FOR BG & BE)

Section 11.37 & 61.37

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

Election for given location was held for:

- ☐ legal sale of all alcoholic beverages
☐ legal sale of all alcoholic beverages except mixed beverages
☐ legal sale of all alcoholic beverages including mixed beverages
☐ legal sale of beer/wine (17%) on-premise **AFTER** Sept. 1, 1999
☐ legal sale of beer/wine (14%) on-premise **BEFORE** Sept. 1, 1999

OR IF ABOVE DOES NOT APPLY:

Be advised the location must have had two election passages per Section 25.14 or Section 69.17 of the TABC Code. One for beer and wine off-premise and one for mixed beverage.

- ☐ legal sale of beer and wine for off-premise consumption only

AND EITHER:

- ☐ legal sale of mixed beverages

OR

- ☐ legal sale of mixed beverages in restaurants by food and beverage certificate holders
(applicant must apply for FB with BG or BE)

SIGN
HERE

City Secretary/Clerk

City

_____, TEXAS

SEAL

**CERTIFICATE OF CITY SECRETARY FOR LATE HOURS LICENSE/PERMIT
(LB & BL)**

Chapters 29 & 70 et seq.

I hereby certify on this _____ day of _____, 20____, that one of the below is correct:

- ☐ The governing body of this city has by ordinance authorized the sale of **mixed beverages** between midnight and 2:00 A.M.; or
- ☐ The governing body of this city has by ordinance authorized the sale of **beer** between midnight and _____ A.M.; or
- ☐ The population of the city or county where premises are located was 500,000 or more according to the 22nd Decennial Census of the United States as released by the Bureau of the Census on March 12, 2001; or
- ☐ The population of the city or county where premises are located was 800,000 or more according to the last Federal Census (2010).

SIGN

HERE

City Secretary/Clerk

City

_____, TEXAS

SEAL

CERTIFICATE OF COUNTY CLERK (FOR MB, RM, V & Y)

Section 11.37

I hereby certify on this 21 day of August, 2019, that the location for which the license/permit is sought is in a "wet" area for such license/permit, and is not prohibited by any valid order of the Commissioner's Court.

SIGN

HERE

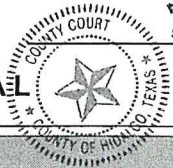
ARTURO GUAJARDO, JR.

County Clerk

Hidalgo

COUNTY

SEAL



CERTIFICATE OF COUNTY CLERK (FOR BG & BE)

Section 11.37 & 61.37

I hereby certify on this _____ day of _____, 20____, that the location for which the license/permit is sought is in a "wet" area and is not prohibited by any valid order of the Commissioner's Court.

Election for given location was held for:

- ☐ legal sale of all alcoholic beverages
- ☐ legal sale of all alcoholic beverages except mixed beverages
- ☐ legal sale of all alcoholic beverages including mixed beverages
- ☐ legal sale of beer/wine (17%) on-premise **AFTER** Sept. 1, 1999
- ☐ legal sale of beer/wine (14%) on-premise **BEFORE** Sept. 1, 1999

OR IF ABOVE DOES NOT APPLY:

Be advised the location must have had two election passages per 25.14 or 69.17 of the TAB Code. One for beer and wine off-premise and one for mixed beverage.

- ☐ legal sale of beer and wine for off-premise consumption only

AND EITHER:

- ☐ legal sale of mixed beverages

OR

- ☐ legal sale of mixed beverages in restaurants by food and beverage certificate holders
(applicant must apply for FB with BG or BE)

SIGN

HERE

County Clerk

COUNTY

SEAL

CERTIFICATE OF COUNTY CLERK FOR LATE HOURS LICENSE/PERMIT (LB & BL)

Chapters 29 & 70 et seq

- I hereby certify on this _____ day of _____, 20____, that one of the below are correct:
- ☐ The Commissioner's Court of the county has by order authorized the sale of **mixed beverages** between midnight and 2:00 A.M.; or
- ☐ The Commissioner's Court of the county has by order authorized the sale of **beer** between midnight and _____ A.M.; or
- ☐ The population of the city or county where premises are located was 500,000 or more according to the 22nd Decennial Census of the United States as released by the Bureau of the Census on March 12, 2001; or
- ☐ The population of the city or county where premises are located was 800,000 or more according to the last Federal Census (2010).

SIGN
HERE _____ COUNTY

County Clerk

SEAL**COMPTROLLER OF PUBLIC ACCOUNTS CERTIFICATE**

Section 11.46 (b) & 61.42 (b)

This is to certify on this _____ day of _____, 20____, the applicant holds or has applied for _____ and satisfies all legal requirements for the issuance of a Sales Tax Permit under the Limited Sales, Excise and Use Tax Act or the applicant as of this date is not required to hold a Sales Tax Permit.

Sales Tax Permit Number _____ Outlet Number _____

Print Name of Comptroller Employee _____

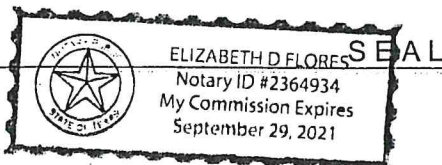
Print Title of Comptroller Employee _____

SIGN
HERE _____ FIELD OFFICE _____

SEAL**PUBLISHER'S AFFIDAVIT (FOR MB, LB, RM, BP, BG, BE, BL, V & Y)**

Section 11.39 and 61.38

Name of newspaper	<i>The Monitor</i>
City, County	<i>McAllen, Hidalgo</i>
Dates notice published in daily/weekly newspaper (MM/DD/YYYY)	<i>8/20/19 + 8/21/19</i>
<i>Publisher or designee certifies attached notice was published in newspaper stated on dates shown.</i>	
Signature of publisher or designee	<i>V. Quaza</i>
Sworn to and subscribed before me on this date (MM/DD/YYYY)	<i>8/21/2019</i>
Signature of Notary Public	<i>[Signature]</i>



LEGAL NOTICE
APPLICATION HAS BEEN
MADE WITH THE TEXAS
ALCOHOLIC BEVERAGE
COMMISSION FOR A
MIXED BEVERAGE
PERMIT AND FOOD AND
BEVERAGE CERTIFICATE
BY MAVF INVESTMENTS,
LLC DOING BUSINESS
AS DON PEDRO,
TO BE LOCATED
AT 2708 N. TEXAS
BLVD., WESLACO,
HIDALGO COUNTY,
TEXAS. OWNER OF
SAID CORPORATION
IS MIGUEL VICENCIO,
OWNER.

City of Weslaco

"The City on the Grow"



David Suarez, Mayor
Greg Kerr, Mayor Pro-Tem, District 2
Leo Muñoz, Commissioner, District 1
Jose "J.P." Rodriguez, Commissioner, District 3
Adrian Farias, Commissioner, District 4
Letty Lopez, Commissioner, District 5
Josh Pedraza, Commissioner, District 6

Mike R. Perez, City Manager

PLANNING DEPARTMENT

September 20, 2019

Legal Notice

Dear Occupant:

The Weslaco Planning and Zoning Commission will hold a public hearing on Wednesday, October 2, 2019, for the Planning and Zoning Commission and on or before October 15, 2019 at 5:30 p.m. at the City Hall Legislative Chambers located at 255 South Kansas Avenue to consider the following request:

CONDITIONAL USE PERMIT REQUEST:

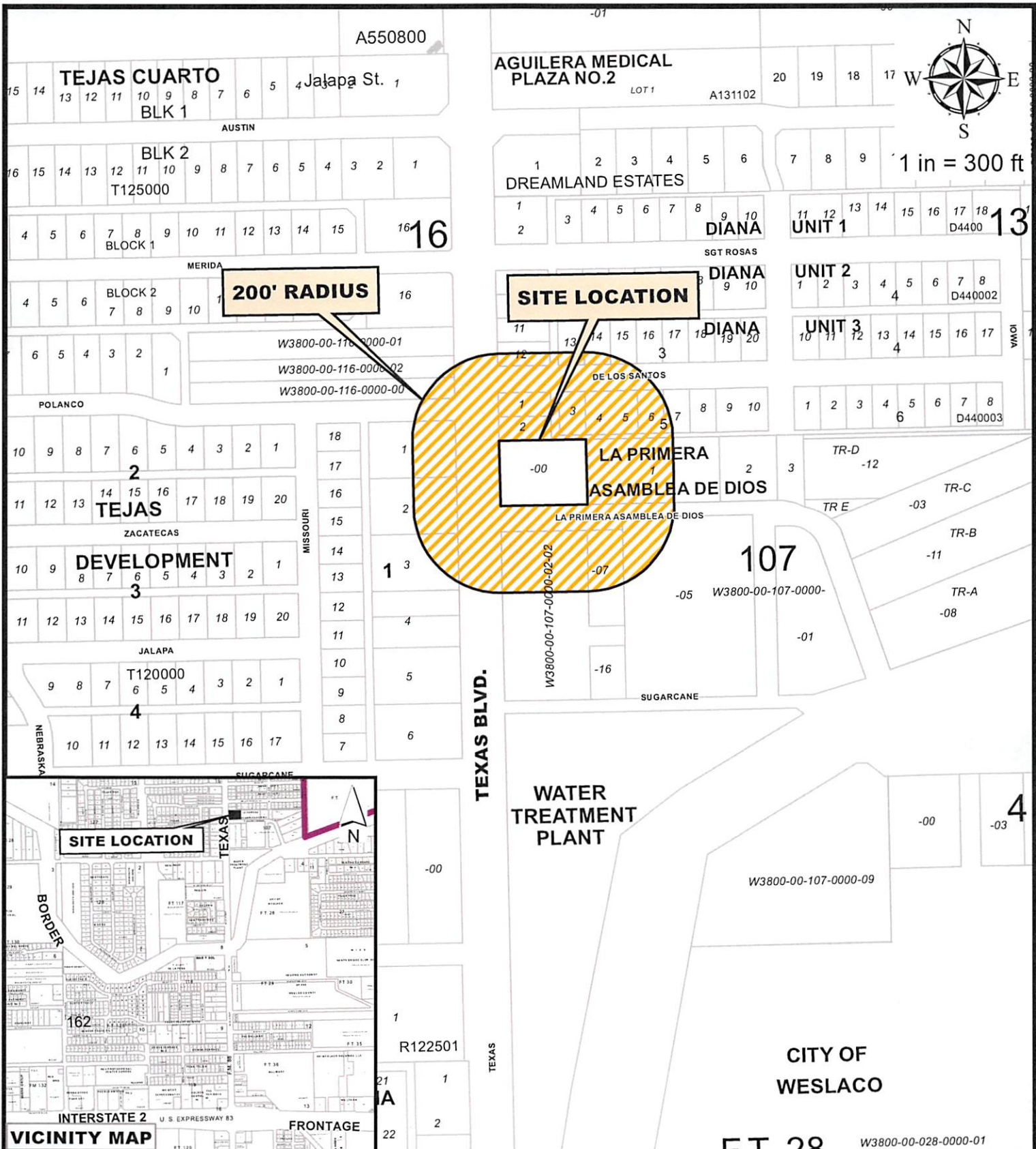
Miguel Angel Vicencio is requesting a Conditional Use Permit to obtain a Mixed Beverage Permit and Food and Beverage Certificate at 2708 N. Texas Blvd., also being 0.76 acres S150'-N711'-E220'-W250 out of Farm Tract 107, West Tract Subdivision, Weslaco, Hidalgo County, Texas.

The public is hereby invited to attend and express their support or opposition to the request. You may also file a written notice supporting or protesting this action. For more information please call the Planning Department at (956) 447-3403.

Si desea información en español, por favor llame al departamento de Planeación de la ciudad de Weslaco, (956) 447-3403.

Sincerely,

Rebekah de la Fuente, CFM
Assistant Planning Director



Miguel Angel Vicencio
2708 North Texas Blvd.
West Tract-150'-N711'-E220'-W250' FT
107 0.7 AC Net

Purpose for the Conditional Use Permit request
Existing zoning: B-2 - Secondary & Highway District
Existing land use: Restaurant
CUP request: Mixed Beverage Permit
 Food and Beverage Certificate



SEP 16, 2019

RODRIGUEZ VERONCIA 504 W MERIDA ST WESLACO TX 78599-3858	D4400-03-003-0012-00 DIANA UT NO. 3 BLK 3 LOT 12	L: 33000 B: 0
JIMENEZ EUGENE 1921 BUNTING LN MISSION TX 78572-4986	D4400-03-003-0013-00 DIANA UT NO. 3 BLK 3 LOT 13	L: 11400 B: 20908
FLORES SANTOS G & MARIA B 201 E 2ND ST SAN JUAN TX 78589-3009	D4400-03-003-0014-00 DIANA UT NO. 3 BLK 3 LOT 14 121 DE LOS SANTOS ST	L: 11400 B: 20033
REYES RAMIRO 125 DE LOS SANTOS AVE WESLACO TX 78599-4024	D4400-03-003-0015-00 DIANA UT NO. 3 BLK 3 LOT 15 216 DE LOS SANTOS ST	L: 11400 B: 22030
ROMO AURORA 125 S GUERRA AVE WESLACO TX 78596-6327	D4400-03-005-0001-00 DIANA UT NO. 3 BLK 5 LOT 1	L: 45000 B: 25605
ROMO AURORA 125 S GUERRA AVE WESLACO TX 78596-6327	D4400-03-005-0002-00 DIANA UT NO. 3 BLK 5 LOT 2	L: 33000 B: 0
SALAZAR, PABLO, JR 118 DE LOS SANTOS AVE WESLACO TX 78596-4025	D4400-03-005-0003-00 DIANA UT NO. 3 BLK 5 LOT 3	L: 11514 B: 12868
AMADOR, RAMON & HERLINDA 122 DE LOS SANTOS AVE WESLACO TX 78596-4025	D4400-03-005-0004-00 DIANA UT NO. 3 BLK 5 LOTS 4 & 5 122 DE LOS SANTOS ST	L: 27270 B: 32207
REYES DOLORES 125 DE LOS SANTOS AVE WESLACO TX 78599-4024	D4400-03-005-0006-00 DIANA UT NO. 3 BLK 5 LOT 6 125 DE LOS SANTOS ST	L: 13635 B: 11637
RODRIGUEZ HERMAN 210 DE LOS SANTOS AVE WESLACO TX 78599-4023	D4400-03-005-0007-00 DIANA UT NO. 3 BLK 5 LOT 7 210 DE LOS SANTOS ST	L: 11514 B: 13099
FIRST SPANISH ASSM OF GOD 606 ELMA ST WESLACO TX 78596-4932	L1750-00-001-0001-00 LA PRIMERA ASAMBLEA DE DIOS LOT 1 BLK 1 0 SUGARCANE DR	L: 82620 B: 211169
TEJAS BUILDING & DEV INC 2623 N TEXAS BLVD WESLACO TX 78599-4039	T1200-00-001-0001-00 TEJAS DEVELOPMENT LOT 1 BLK 1 2707 N TEXAS BLVD	L: 130000 B: 91698

SEP 16, 2019

TEJAS DEVELOPMENT 2623 N TEXAS BLVD WESLACO TX 78599-4039	T1200-00-001-0002-00 TEJAS DEVELOPMENT LOT 2 BLK 1 2623 N TEXAS BLVD	L: 120292 B: 56499
S-U-NIK HOME BUILDERS LLC 105 E MILE 11 N RD WESLACO TX 78599-5559	T1200-00-001-0003-00 TEJAS DEVELOPMENT LOT 3 BLK 1 2611 N TEXAS BLVD	L: 130000 B: 544558
LICON ALMADA FAMILY LIMITED 3530 PLAZAS DEL LAGO DR EDINBURG TX 78539-7700	W3800-00-107-0000-00 WEST TRACT-S150'-N711'-E220'-W25 0' FT 107 0.76AC NET 2708 N TEXAS BLVD	L: 165525 B: 146748
GUERRA FUNERAL HOME OF PO BOX 72 WESLACO TX 78599-0072	W3800-00-107-0000-02 WEST TRACT S389'-W268.80' FT 107 2.40AC GR 1.90AC NET 201 WATER ST	L: 413820 B: 282005
CITY OF WESLACO 255 S KANSAS AVE WESLACO TX 78596-6158	W3800-00-107-0000-05 WEST TRACT E2.885-SW5.425AC FT 1 07 2.885AC NET	L: 223232 B: 31484
GUERRA GEORGE & YOLANDA 202 E SUGAR CANE DR WESLACO TX 78599-4028	W3800-00-107-0000-07 WEST TRACT E81.20'-W299.20'-N220 .40'-S389' FT 107 0.41AC NET 0	L: 31568 B: 110930
SALINAS DANIELLE R & MAYRA A PO BOX 164 WESLACO TX 78599-0164	W3800-00-116-0000-00 WEST TRACT S0.75-NE1.50-S30AC FT 116 2713 N TEXAS BLVD	L: 88209 B: 15445
SAN MIGUEL JUAN A & YOLANDA G 820 W MILE 10 N WESLACO TX 78599-3095	W3800-00-116-0000-02 WEST TRACT S49.5'-N413.5'-E660' FT 116 0.75AC GR 0.70AC NT 2715 N TEXAS BLVD	L: 152460 B: 15403

2708 N Texas Blvd

Conditional Use Permit

Legend

 2708 N Texas

Google Earth

© 2018 Google

© 2018 INEGI





Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2849	
From: Rebekah De La Fuente			
Subject: Discussion and consideration after public hearing on behalf of Joe Olivarez to approve Ordinance 2019-43 to rezone 710 S. Missouri. Also being Lots 3, 4, 5, 6, and 7, Blk 56, Weslaco Original Townsite, Weslaco, Hidalgo County, Texas from R-1 One-family dwelling district to R-2 Duplex and apartment district and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-43. Possible Action. (Staffed by Planning and Code Enforcement Department.)			
Background: The applicant is requesting to rezone property from R-1 One-family dwelling district to R-2 Duplex and apartment district. Thirty-seven (37) property owners within 200 feet of the applicant's property were notified by letter on September 20, 2019.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature Ordinance - First Reading			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners: Notice of the application and the Public Hearing for the Planning and Zoning Commission and City Commission appeared in The Monitor on September 16, 2019.			
Advisory Review, if any (name of board/committee, date of action, recommendation): The Planning & Zoning Commission recommended approval of the rezone request on October 2, 2019.			
Kayla Arevalo Rebekah De La Fuente Mike Perez		Created/Initiated Approved Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Staff recommends approval.			
Attachments, if any: 710 S MISSOURI - ATTACHMENTS, 710 S Missouri- Aerial, O2019-43 rezone 710 S Missouri			
Responsibilities upon Approval:			

Staff will notify applicant



APPLICATION FOR REZONING

RECEIVED

SEP 10 2019

Planning &
Code Enforcement Dept.

The Planning & Zoning Commission meets every 1st Wednesday of each month at 5:30 pm.

The City Commission meets every 1st and 3rd Tuesday of each month at 5:30 pm

FILE NO. REZ-19-00020

Sept 10, 2019

PROPOSED PROJECT

Legal Description of Property to be rezoned:

Lot 3-4-5-6-7 Block 56
Subdivision Name ORIGINAL Townsite of Weslaco
Street Address 710 S. Mission
Existing Zoning R-1 Existing Land Use Rental Homes
Proposed Zoning R-2 Proposed Land Use Duplexes

- ☐ \$300.00 non-refundable filing fee.
- ☐ Detailed dimensioned site plan/map must be submitted with this request.
- ☐ Survey and metes and bounds if the legal description is a portion of a lot.
- ☐ City and school tax receipts attached.
- ☐ I have received a copy of "The Intent of Zoning Application Instructions".

APPLICANT

Name Joe Oliver Phone 956-463-5656
Address 614 N. TX Fax: 968-7341
City Weslaco State TX Zip Code 75799 E-Mail: Joe@LNR Apts.com

OWNER

Name Joe Oliver Phone 956-463-5656
Address 614 N. TX Fax: 968-7341
City Weslaco State TX Zip Code 75799 E-Mail: Joe@LNR Apts.com

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable); or I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature [Signature] Date 9-10-19
Owner
Signature [Signature] Date _____
Applicant
Signature _____ Date _____
Authorized Agent

STAFF USE ONLY

Accepted By _____ Payment Received By _____ Date Paid _____

Notice of Public Hearing Sent to Property Owners within
200' of Proposed Site

Date _____

P & Z Notice of Public Hearing Published in Newspaper

Date _____

City Commission Notice of Public Hearing Published

Date _____

Presented to P & Z Commission
Approved _____ Disapproved _____ Tabled _____

Date _____

Presented to City Commission
Approved _____ Disapproved _____ Tabled _____

Date _____

Ordinance No. _____

CITY OF WESLACO

956-968-3181

REC#: 02548451 9/10/2019 12:01 PM

OPER: lbrio TERM: 003

REF#: 1397

PAID BY:

TRAN: 235.1000 PROCESSING FEE

JOE OLIVAREZ

101-400-3200

PROCESSING FEE-ONLI

5.00CR

TRAN: 204.0000 REZONING APPL FEE

JOE OLIVAREZ

101-400-1027

REZONING APPLICATIO

300.00CR

TENDERED: 305.00 CHECK

APPLIED: 305.00-

CHANGE: 0.00

City of Weslaco

"The City on the Grow"



David Suarez, Mayor
Greg Kerr, Mayor Pro-Tem, District 2
Leo Muñoz, Commissioner, District 1
Jose "J.P." Rodriguez, Commissioner, District 3
Adrian Farias, Commissioner, District 4
Letty Lopez, Commissioner, District 5
Josh Pedraza, Commissioner, District 6

Mike R. Perez, City Manager

PLANNING DEPARTMENT

September 20, 2019

Legal Notice

Dear Occupant:

The Weslaco Planning and Zoning Commission will hold a public hearing on Wednesday, October 2, 2019, for the Planning and Zoning Commission and on or before October 15, 2019 at 5:30 p.m. at the City Hall Legislative Chambers located at 255 South Kansas Avenue to consider the following request:

CONDITIONAL USE PERMIT REQUEST:

Joe Olivarez is requesting to rezone 710 S. Missouri. Also being Lot 3, 4, 5, 6, and 7, Weslaco Original Townsite, Weslaco, Hidalgo County, and Texas from R-1 One-family dwelling district to R-2 Duplex and apartment district.

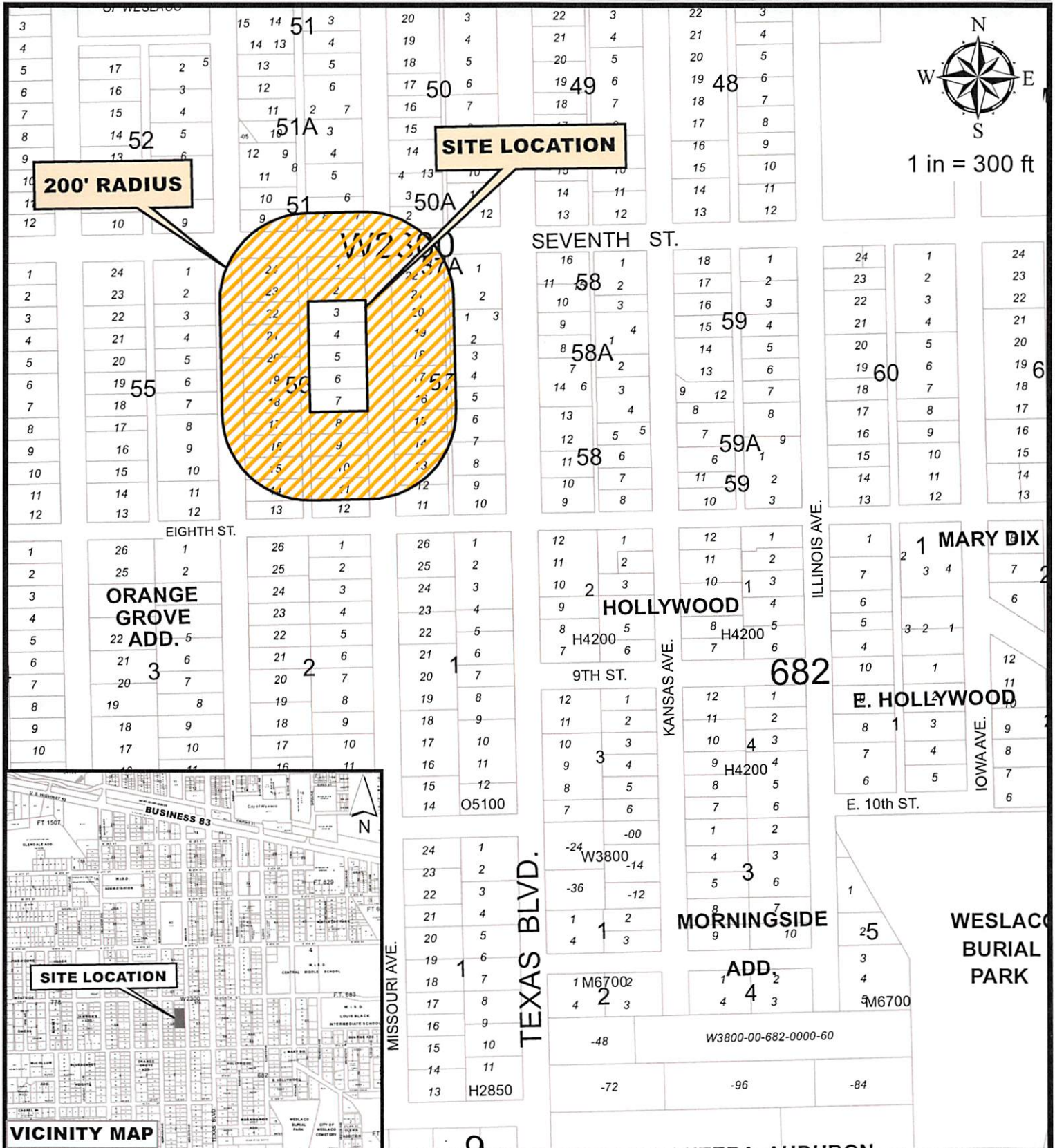
The public is hereby invited to attend and express their support or opposition to the request. You may also file a written notice supporting or protesting this action. For more information please call the Planning Department at (956) 447-3403.

Si desea información en español, por favor llame al departamento de Planeación de la ciudad de Weslaco, (956) 447-3403.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rebekah de la Fuente", with a long horizontal line extending to the right.

Rebekah de la Fuente, CFM
Assistant Planning Director



Joe Alvarez

716, 708, 710, 712 and 714 South Missouri Ave.

Weslaco Original Townsite

Lots 3, 4, 5, 6 and 7 Block 56

Purpose for the Rezoning request

Existing zoning: R-1
 Existing land use: Rental Homes
 Proposed zoning: R-2
 Proposed land use: Duplexes



SEP 17, 2019

CASTRO DANIEL 623 S MISSOURI AVE WESLACO TX 78596-6939	W2300-00-050-0011-01 WESLACO ORIGINAL TOWNSITE BLK 50 A-CANAL LT 2-CANAL 623 S MISSOURI AVE	L: 20100 B: 17329
HOLLEY STEVE N & THELMA 622 S MISSOURI AVE WESLACO TX 78596-6940	W2300-00-051-0008-01 WESLACO ORIGINAL TOWNSITE S 25-6 , ALL-7, S 75'-8 BLK 51, 51A CAN 622 S MISSOURI AVE	L: 32663 B: 51549
VELA LUISA V 623 S NEBRASKA AVE WESLACO TX 78596-6923	W2300-00-051-0009-00 WESLACO ORIGINAL TOWNSITE LOT 9 BLK 51 623 S NEBRASKA	L: 21775 B: 30443
HERNANDEZ JUAN R 700 S MISSOURI AVE WESLACO TX 78596-6942	W2300-00-056-0001-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 1 700 S MISSOURI AVE	L: 21775 B: 27004
RODRIGUEZ, ISAAC D & ROSALINDA 225 S TEXAS BLVD WESLACO TX 78596-610	W2300-00-056-0002-00 WESLACO ORIGINAL TOWNSITE LOT BLK 56 706 S MISSOURI AVE	L: 11375 B: 24008
CARDOZA SILVIO H & ANGELICA 2710 N WESTGATE DR WESLACO TX 78599-3875	W2300-00-056-0002-01 WESLACO ORIGINAL TOWNSITE - LOT 2 BLK 56 704 S MISSOURI AVE	L: 21775 B: 44301
RODRIGUEZ ISAAC D & ROSALINDA 225 S TEXAS BLVD WESLACO TX 78596-6105	W2300-00-056-0003-01 WESLACO ORIGINAL TOWNSITE - LOT 3 BLK 56 706 S MISSOURI AVE	L: 21775 B: 24222
RODRIGUEZ ISAAC D & JOE DANIEL 225 S TEXAS BLVD WESLACO, TX 78596-6105	W2300-00-056-0004-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 4 708 S MISSOURI AVE	L: 21775 B: 20885
OLIVAREZ JOE DANIEL PO BOX 1667 WESLACO TX 78599-1667	W2300-00-056-0005-00 WESLACO ORIGINAL TOWNSITE LOT 5 BLOCK 56 710 S MISSOURI AVE	L: 21775 B: 20846
OLIVAREZ JOE DANIEL PO BOX 1667 WESLACO TX 78599-1667	W2300-00-056-0006-00 WESLACO ORIGINAL TOWNSITE LOT 6 BLOCK 56 712 S MISSOURI AVE	L: 21775 B: 13168
OLIVAREZ, JOE DANIEL PO BOX 1667 WESLACO TX 78599-1667	W2300-00-056-0007-00 WESLACO ORIGINAL TOWNSITE LOT 7 BLOCK 56 714 S MISSOURI AVE	L: 21775 B: 16842
GONZALEZ, JUAN M & ROSA H 716 S MISSOURI AVE WESLACO TX 78596-6942	W2300-00-056-0008-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 8 716 S MISSOURI AVE	L: 21775 B: 57562

SEP 17, 2019

GONZALEZ JUAN M & ROSA HILDA 716 S MISSOURI AVE WESLACO TX 78596-6942	W2300-00-056-0009-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 9 718 S MISSOURI AVE	L: 21775 B: 28197
CARDENAS LAZARO JR & ALICIA 1011 W 4TH ST WESLACO TX 78596-5708	W2300-00-056-0010-00 WESLACO ORIGINAL TOWNSITE LOT 10 BLK 56 720 S MISSOURI AVE	L: 16750 B: 27862
MATHEWS BETTY S & JOSEPH 722 S MISSOURI AVE WESLACO TX 78596-6942	W2300-00-056-0011-00 WESLACO ORIGINAL TOWNSITE BK 56 LTS 11 & 12 722 S MISSOURI AVE	L: 43550 B: 74320
ORTIZ, JULIE ROBLES 723 S NEBRASKA AVE WESLACO TX 78596-6925	W2300-00-056-0013-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 13 123 S NEBRASKA	L: 21775 B: 40767
GONZALEZ PEDRO (DECEASED) 721 S NEBRASKA AVE WESLACO TX 78596-6925	W2300-00-056-0014-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 14 721 S NEBRASKA	L: 21775 B: 30861
FLORES, DANIEL & MARIA L 719 S NEBRASKA AVE WESLACO TX 78596-6925	W2300-00-056-0015-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 15 719 S NEBRASKA	L: 21775 B: 22785
DELGADO MOSES 717 S NEBRASKA AVE WESLACO TX 78596-6925	W2300-00-056-0016-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 16 717 S NEBRASKA	L: 21775 B: 21333
OLIVAREZ MARTIN PO BOX 22 WESLACO TX 78599-0022	W2300-00-056-0017-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 17 715 S NEBRASKA	L: 21775 B: 21159
OLIVAREZ MARTIN & YVONNE PO BOX 22 WESLACO TX 78599-0022	W2300-00-056-0018-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 18 713 S NEBRASKA	L: 21775 B: 28294
OLIVAREZ, JOE DANIEL PO BOX 1667 WESLACO TX 78599-1667	W2300-00-056-0019-00 WESLACO ORIGINAL TOWNSITE BLK 56 LTS 19,S 1/2-20 711 S NEBRASKA	L: 32663 B: 50440
ZAVALA GILBERTO & CELIA 707 S NEBRASKA AVE WESLACO TX 78596-6925	W2300-00-056-0020-00 WESLACO ORIGINAL TOWNSITE BLK 56 LTS N 1/2-20, ALL 21 707 S NEBRASKA	L: 32663 B: 52628
MONTANO, AURORA P 705 S NEBRASKA AVE WESLACO TX 78596-6925	W2300-00-056-0022-00 WESLACO ORIGINAL TOWNSITE BLK 56 LT 22 705 S NEBRASKA	L: 21775 B: 46163

SEP 17, 2019

SPANISH CENTRAL DISTRICT 207 W 7TH ST WESLACO TX 78596-6901	W2300-00-056-0023-00 WESLACO ORIGINAL TOWNSITE LOTS 2 3 & 24 BLK 56 207 W 7TH ST	L: 63050 B: 136420
BH GROUP LIMITED LIABILITY 2414 E GRIFFIN PKWY MISSION TX 78572-3302	W2300-00-057-0000-00 WESLACO ORIGINAL TOWNSITE N45' L OT 1 BLK 57 & ALL LOTS 1 & 2 BLK 702 S TEXAS BLVD	L: 91296 B: 122012
SHEPARD STEPHEN P 2022 E HARRISON AVE HARLINGEN TX 78550-7312	W2300-00-057-0001-00 WESLACO ORIGINAL TOWNSITE S50' L OT 1, N30.7' LOT 2 BLK 57 & ALL 704 S TEXAS BLVD	L: 58104 B: 52005
MOLINA JUAN R PO BOX 190 WESLACO TX 78599-0190	W2300-00-057-0003-00 WESLACO ORIGINAL TOWNSITE ALL LO T 3, S8.4' LOT 2 & ALL LOT 4 BLK 710 S TEXAS BLVD	L: 67248 B: 67219
CARDENAS WILBERT 714 S TEXAS BLVD WESLACO TX 78596-7052	W2300-00-057-0005-00 WESLACO ORIGINAL TOWNSITE BLK 57 LT 5 714 S TEXAS BLVD	L: 25740 B: 47531
SEPULVEDA ELOY 716 S TEXAS BLVD WESLACO TX 78596-7052	W2300-00-057-0006-00 WESLACO ORIGINAL TOWNSITE BLK 57 LTS 6, N 1/2-7 716 S TEXAS BLVD	L: 59400 B: 87691
ALDANA ALBERT & MARIA T 5832 N FM 88 WESLACO TX 78599-5537	W2300-00-057-0007-00 WESLACO ORIGINAL TOWNSITE BLK 57 LTS S 1/2 LOT 7 & ALL LOT 8 720 S TEXAS BLVD	L: 59400 B: 92473
B-S INVESTMENTS 614 N TEXAS BLVD WESLACO TX 78596-4804	W2300-00-057-0011-00 WESLACO ORIGINAL TOWNSITE LOT 11 & S 30' LOT 12 BLK 57 104 W 8TH ST	L: 40800 B: 40828
CUELLAR AMY 721 S MISSOURI AVE WESLACO TX 78596-6941	W2300-00-057-0011-01 WESLACO ORIGINAL TOWNSITE ALL LO T 13 & N 20' LOT 12 BLK 57 721 MISSOURI AVE	L: 28140 B: 54005
GONZALEZ LUIS M & ESPERANZA 802 S MISSOURI AVE WESLACO TX 78596-6944	W2300-00-057-0014-00 WESLACO ORIGINAL TOWNSITE BLK 57 LT 14 719	L: 20100 B: 14669
GONZALEZ LUIS M & ESPERANZA 802 S MISSOURI AVE WESLACO TX 78596-6944	W2300-00-057-0015-00 WESLACO ORIGINAL TOWNSITE BLK 57 LT 15 717 MISSOURI AVE	L: 20100 B: 17054
TRUSTEES OF THE DIOCESES OF 701 S MISSOURI AVE WESLACO TX 78596-6941	W2300-00-057-0018-00 WESLACO ORIGINAL TOWNSITE LOTS 1 8-22 BLK 57 & LOT 4 BLK 57A 0	L: 140940 B: 222555

SEP 17, 2019

TRUSTEES OF THE DIOCESE OF	W2300-00-057-0016-00	L: 58200
701 S MISSOURI AVE	WESLACO ORIGINAL TOWNSITE LOTS 1	B: 76325
WESLACO TX 78596-6941	6-17 BLK 57	
	0	

710 S Missouri

Rezone Request R-1 to R-2

Legend

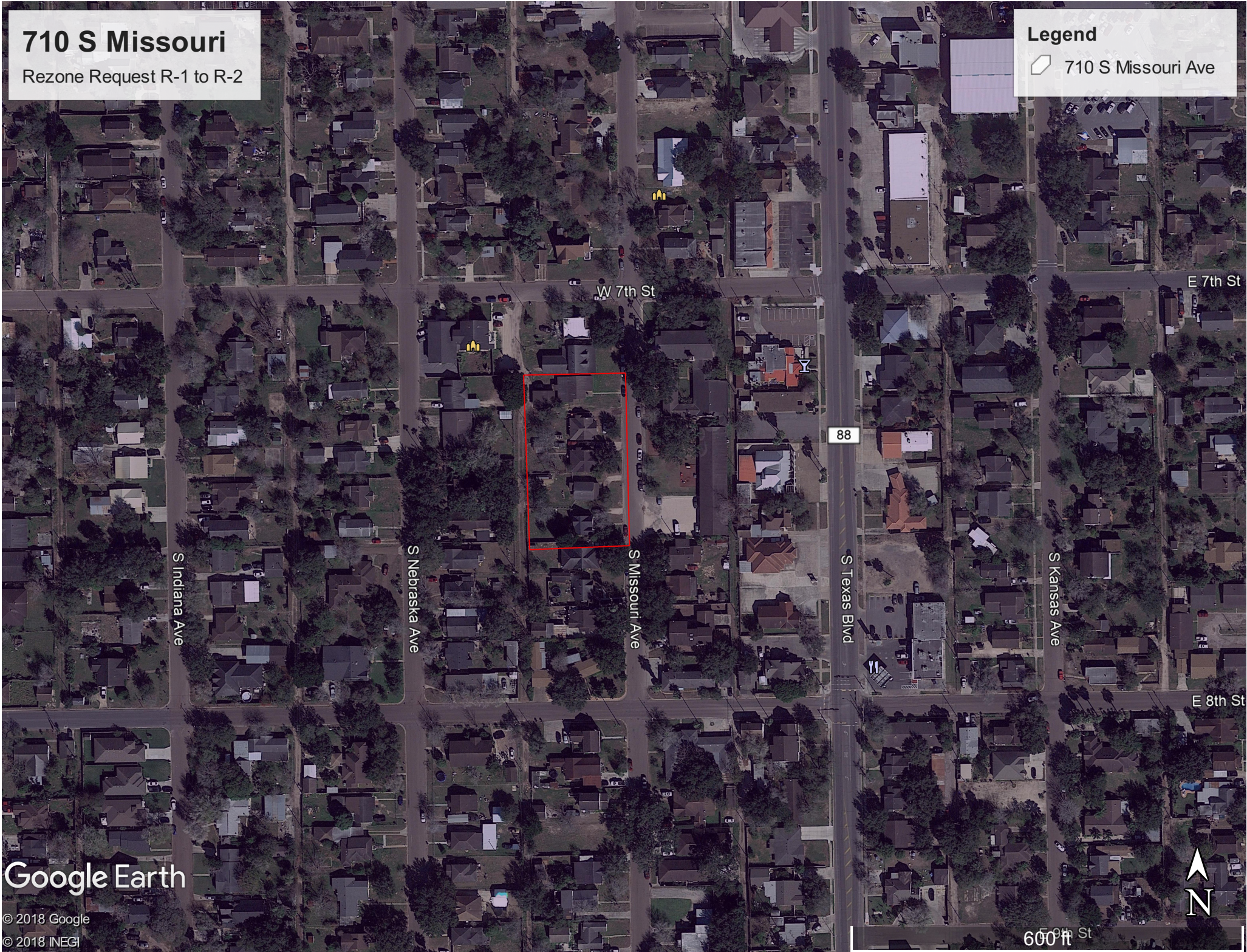
 710 S Missouri Ave

Google Earth

© 2018 Google
© 2018 INEGI



600 ft



ORDINANCE NO. 2019-43

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 320 AND AMENDING THE ZONING MAP OF THE CITY OF WESLACO TO CHANGE THE ZONING OF 710 S. MISSOURI ALSO BEING LOT 3, 4, 5, 6, AND 7, BLK 56, WESLACO ORIGINAL TOWNSITE, WESLACO, HIDALGO COUNTY, TEXAS, FROM R-1 ONE-FAMILY DWELLING DISTRICT TO R-2 DUPLEX AND APARTMENT DISTRICT BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS:

SECTION I: R-1 One-family dwelling district to R-2 Duplex and apartment district being 710 S. Missouri also being Lot 3, 4, 5, 6, and 7, blk 56, Weslaco Original Townsite, Weslaco, Hidalgo County, Texas.

SECTION II: That this ordinance shall become effective upon its passage.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 15th day of October, 2019.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this ____ day of _____, 2019.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Myra Ayala, **CITY SECRETARY**

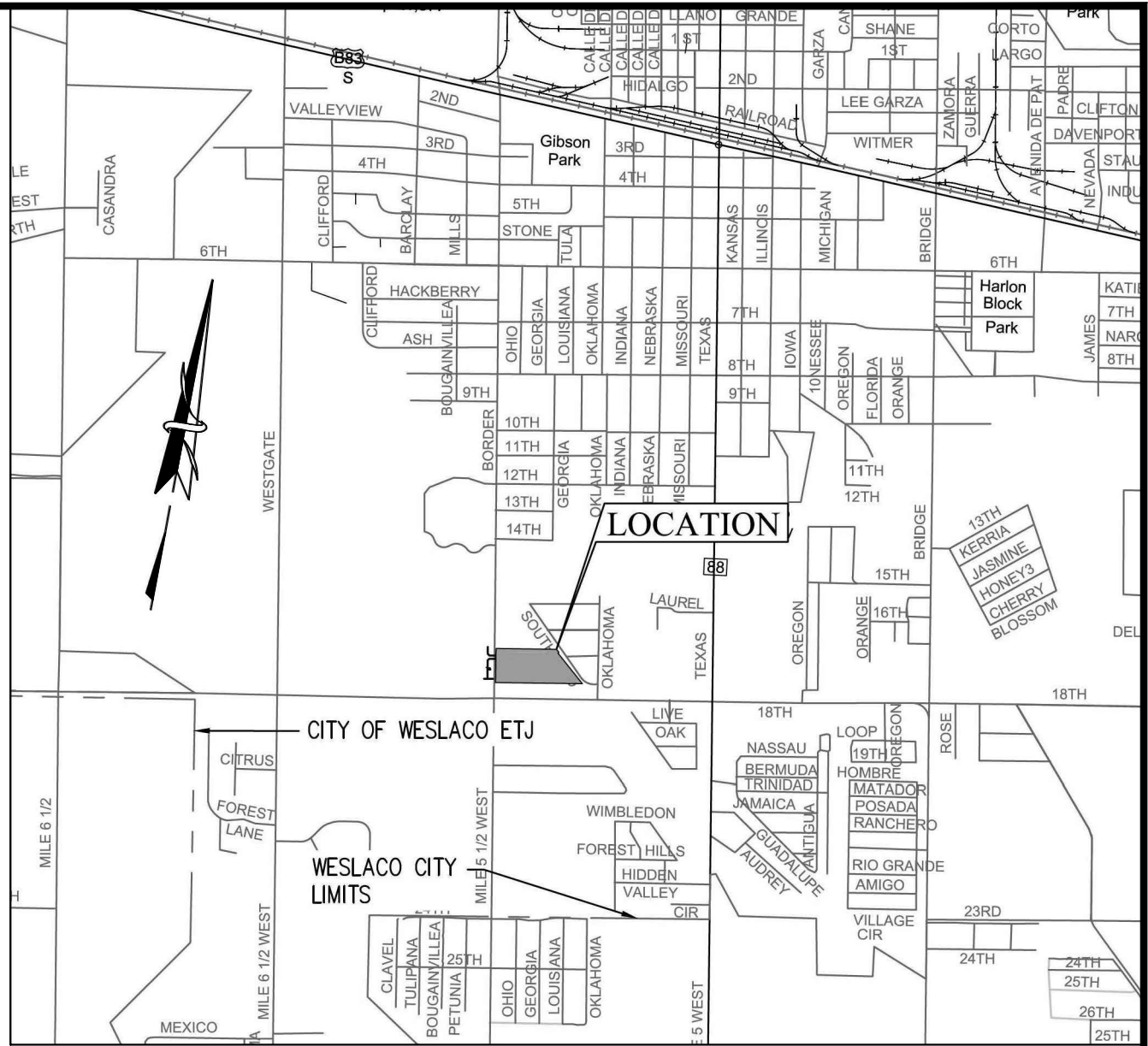
APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2852	
From: Rebekah De La Fuente			
Subject: Discussion and reconsideration for the Final Plat for Citrus 674 Subdivision– being a 8.46 acre tract being a portion of Farm Tract 674, Blk 164, West Adams Tract Subdivision, Weslaco, Hidalgo County, Texas located on the northeast corner of Border Ave. and 18th St., and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning & Code Enforcement Department.)			
Background:			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature			
If item previously considered, provide date and action by Commission: City Commission approved the final plat on May 7, 2019			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Rebekah De La Fuente		Created/Initiated	
Rebekah De La Fuente		Approved	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Staff recommends approval.			
Attachments, if any: Citrus 674- Revised Plat Sheet			
Responsibilities upon Approval: Staff will advise developer			



CITRUS 674 SUBDIVISION IS LOCATED WITHIN HIDALGO COUNTY PRECINCT No.1 IN THE EASTERN PART OF HIDALGO COUNTY AT THE NORTHEAST CORNER OF THE INTERSECTION OF SOUTH BORDER AVENUE AND EAST 18TH STREET, WITHIN THE CITY OF WESLACO. THE CITY OF WESLACO HAS A POPULATION OF 35,670 ACCORDING TO THE 2010 U.S. CENSUS.

BEGINNING AT THE SOUTHWEST CORNER OF FARM TRACT 674 AND THE INTERSECTION OF BORDER AVENUE (MILE 1/2 WEST) AND 18TH STREET (MILE 6 NORTH), FOR THE SOUTHWEST CORNER OF THIS TRACT AND THE POINT OF BEGINNING;

THENCE, NORTH ALONG THE WEST LINE OF SAID FARM TRACT 674 AND THE RIGHT-OF-WAY OF SAID BORDER AVENUE (MILE 5 1/2 WEST), A DISTANCE OF 415.00 FEET TO THE SOUTHWEST CORNER OF LOT 1, VILLARICO SUBDIVISION, RECORDED IN VOLUME 28, PAGE 1314, HIDALGO COUNTY MAP RECORDS, FOR THE NORTHEAST CORNER OF THIS TRACT;

THENCE, EAST ALONG THE SOUTH LINE OF SAID VILLARICO SUBDIVISION, AT A DISTANCE OF 30.00 FEET PASS THE EAST RIGHT-OF-WAY OF SAID CANAL RIGHT-OF-WAY, AT A DISTANCE OF 10.00 FEET TO THE SOUTHWEST CORNER OF SAID S56S, HIDALGO COUNTY DEED RECORDS, CONTINUING AT A DISTANCE OF 40.00 FEET PASS THE EAST LINE OF A 10.00 FOOT UTILITY EASEMENT, RECORDED IN VOLUME 1458, PAGE 526, HIDALGO COUNTY DEED RECORDS, CONTINUING A TOTAL DISTANCE OF 735.16 FEET TO A 1/2 INCH IRON ROD FOUND ON THE EAST LINE OF SAID FARM TRACT 674 AND THE WEST LINE OF HIDALGO AND CAMERON COUNTIES WATER CONTROL DISTRICT NO. 10 CANAL RIGHT-OF-WAY, RECORDED IN VOLUME 314, PAGE 62, HIDALGO COUNTY DEED RECORDS, FOR THE NORTHEAST CORNER OF THIS TRACT;

THENCE, SOUTH 39 DEGREES, 26 MINUTES, 00 SECONDS EAST, ALONG THE EAST LINE OF SAID FARM TRACT 674 AND THE WEST LINE OF SAID CANAL RIGHT-OF-WAY, A DISTANCE OF 47.91 FEET TO A 1/2 INCH IRON ROD WITH A CAP STAMPED "RIO DELTA SURVEYING" SET, FOR AN OUTSIDE CORNER OF THIS TRACT;

THENCE, SOUTH 50 DEGREES, 34 MINUTES, 00 SECONDS WEST, ALONG THE EAST LINE OF SAID FARM TRACT 674 AND THE WEST LINE OF SAID CANAL RIGHT-OF-WAY, A DISTANCE OF 15.00 FEET TO A 1/2 INCH IRON ROD WITH A CAP STAMPED "RIO DELTA SURVEYING" SET, FOR THIS CORNER OF THIS TRACT;

THENCE, SOUTH 39 DEGREES, 26 MINUTES, 00 SECONDS EAST, ALONG THE EAST LINE OF SAID FARM TRACT 674 AND THE WEST LINE OF SAID CANAL RIGHT-OF-WAY, AT A DISTANCE OF 431.75 FEET PASS THE NORTH LINE OF A 10.00 FOOT UTILITY EASEMENT, RECORDED IN VOLUME 1458, PAGE 526, HIDALGO COUNTY DEED RECORDS, AT A DISTANCE OF 44.00 FEET PASS A 1/2 INCH IRON ROD WITH A CAP STAMPED "RIO DELTA SURVEYING" SET AT THE NORTH LINE OF A 25.00 FOOT RIGHT-OF-WAY, RECORDED IN VOLUME 301, HIDALGO COUNTY DEED RECORDS, CONTINUING A TOTAL DISTANCE OF 477.07 FEET TO THE SOUTHEAST CORNER OF SAID FARM TRACT 674, FOR THE SOUTHEAST CORNER OF THIS TRACT;

THENCE, WEST, WITHIN THE RIGHT-OF-WAY OF SAID 18TH STREET (MILE 6 NORTH) AND WITH THE SOUTH LINE OF SAID FARM TRACT 674, A DISTANCE OF 1,057.03 FEET TO THE POINT OF BEGINNING, CONTAINING 8.46 ACRES OF LAND, MORE OR LESS.

LOT TABLE		PERMETER
LOT #	AREA	
21	6930.00	342.00
22	6930.00	342.00
23	6930.00	342.00
24	6930.00	342.00
25	6930.00	342.00
26	8616.95	333.20
27	8928.14	397.36
28	9240.00	412.00
29	9240.00	412.00
30	9240.00	412.00
31	9240.00	412.00
32	9240.00	412.00
33	9240.00	412.00
35	9240.00	412.00

BEING A TRACT OF LAND CONTAINING 8.46 ACRES SITUATED IN HIDALGO COUNTY, TEXAS AND ALSO BEING PART OR PORTION OF FARM TRACT 674, BLOCK 164, WEST & ADAMS TRACT SUBDIVISION ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 2, PAGES 34-37, MAP RECORDS IN THE OFFICE OF THE COUNTY CLERK OF HIDALGO COUNTY.



PRINCIPAL CONTACTS	ADDRESS	PHONE
OWNER: DREAMLAND ESTATES, LLC	JORGE GONZALEZ	(956) 447-1048
ENGINEER: URBAN INFRASTRUCTURE GROUP, INC.	CRAIG A. GONZALEZ	(956) 464-4070
SURVEYOR: RIO DELTA SURVEYING	JOSE MARIO GONZALEZ	(956) 380-5154



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2850	
From: Rebekah De La Fuente			
Subject: Discussion and consideration for a six month extension of the Final Plat for Rangila Subdivision– being a 1.878 acres out of Farm Tracts 29, West Tract Subdivision Vol. 2, Weslaco, Hidalgo County, Texas located, approximately 1900 ft. north of west frontage road and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.)			
Background: The proposed two (2) lot subdivision is inside city limits. This subdivision is being serviced with water by the City of Weslaco through a 20" waterline and sewer by the City of Weslaco services through an 8" sewer line. The property is within a Flood Zone "B".			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature			
If item previously considered, provide date and action by Commission: Final Plat was approved by City Commission on October 16, 2018			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation): The Planning & Zoning Commission recommended approval of the six month extension on October 2, 2019.			
Kayla Arevalo Rebekah De La Fuente Mike Perez		Created/Initiated Approved Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Staff recommends approval. City Commission approval expires Oct 16, 2019.			
Attachments, if any: Rangila Subdivision- Aerial, Extension Request			
Responsibilities upon Approval: Staff will notify applicant.			

Rangila Subdivision

Six Month Extension

Legend

 Rangila Subdivision

Google Earth

© 2018 Google
© 2018 INEGI



88

Delma St

N Missouri Ave

N Nebraska Ave

Frost Proof Dr

Martha St 700 ft





GUZMAN & MUÑOZ
ENGINEERING AND SURVEYING, INC.
Texas Registered Engineering Firm F-8017

2020 E. EXPRESSWAY 83
MERCEDES, TX 78570

PHONE: (956) 565-4637
FAX: (956) 565-4636

September 26, 2019

Rebekah de la Fuente, CFM
Assistant Planning & Code Enforcement Director
City of Weslaco
255 S. Kansas Avenue
Weslaco, TX 78596

Re: P891 - Rangila Subdivision Plat

Dear Ms. De la Fuente:

The purpose of this letter is to request a 6 months extension for the Rangila Subdivision project as per your email dated September 24, 2019. Thank you for your notice and concern. Please provide us with the new expiration date.

If you have any questions, or require additional information, please do not hesitate to contact us.

Sincerely,

Rodolfo Montero
Sr. Project Manager
Guzman & Muñoz Engineering and Surveying, Inc.



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2851	
From:			
Subject: Discussion and consideration to approve 2019-2020 Inter-local Agreement with County of Hidalgo for the implementation of the Community Development Block Grant (C.D.B.G.) under Grant No. B-19-U.C-48-0501 underlining the activities that will be taken and authorize the Mayor to execute any related documents. The City allotment for this fiscal year is \$285,782.00 Possible action. (Staffed by the Finance Department.)			
Background: The 2019-2020 Inter-local Agreement attached, including Exhibit A denoting our proposed activities and Exhibit A-1, Code of Conduct form that needs to be signed by each member of the City Commission.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners: Publication of notice of Public Hearing was done by the Urban County Program office on Wednesday, October 2, 2019.			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Vidal Roman		Created/Initiated	
Vidal Roman		Approved	
Mike Perez		Final Approval	
City Manager Comments: Approve.			
Staff Recommendation: Staff recommends approval.			
Attachments, if any: 2019 Interlocal Agreement Letter, Exhibit A Proposed Activities, Urban Co. 2019-20 Projects, 2019 Interlocal Agreement Weslaco			
Responsibilities upon Approval: Mayor is to execute the Inter-local Agreement and each member for the Commission need to sign the Code of Conduct form.			



URBAN COUNTY PROGRAM

1916 TESORO STREET • PHARR, TEXAS 78577 • (956) 787-8127 FAX (956) 318-2988 E-MAIL: UCP@CO.HIDALGO.TX.US

September 27, 2019

All City Managers,
Hidalgo County

Re: 2019-2020 Fiscal Year Interlocal Agreement

To All City Managers:

Attached is the Interlocal Agreement for the 2019 - 2020 fiscal year that must be approved by your city council. Please return Interlocal Agreement to the Urban County Program office no later than *Monday, October 28, 2019*. In addition, minutes reflecting city council's approval of the Interlocal Agreement are also required. The UCP will accept signed and stamped excerpts of minutes in lieu of official minutes not being ready before the due date. Please see guidelines below:

Codes of Conduct - In addition to various Exhibits in the Agreement, the Agreement contains Exhibit A-I, the Code of Conduct Certifications. The Code of Conduct must be signed by each city council member, the city secretary, and city manager. Note that there are only five (5) copies of the Code of Conduct included in your Agreement; make additional copies for signature as needed.

Signing the Codes of Conduct - In **blue ink**, the Codes of Conduct must be signed by each city council member, the city secretary, and the city manager.

Signing the Interlocal Agreement - In **blue ink**, the Agreement must be signed by the Mayor and the city secretary.

Failure to Submit the Interlocal Agreement - The Interlocal Agreement is due every fiscal year for cities participating in the Urban County Program. *Failure to submit approved Interlocal Agreement by October 28, 2019 will result in forfeiture of funds.*

Please have the city council approve the agreement. Once the agreement has been returned to UCP with approval and signatures, the agreements will then be submitted to Commissioner's Court to complete the required approval process. Once formally approved, a copy will be forwarded to each city for your administration files. Should you have any questions or concerns, please do not hesitate to contact your program coordinator or myself at 956-787-8127.

Respectfully,

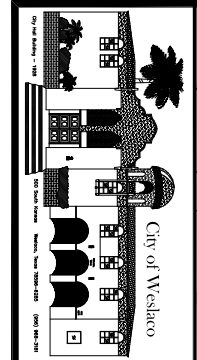
A handwritten signature in blue ink, appearing to read "Antonio Barco", is written over a blue horizontal line.

Antonio Barco
Assistant Director

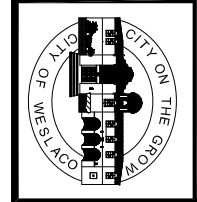
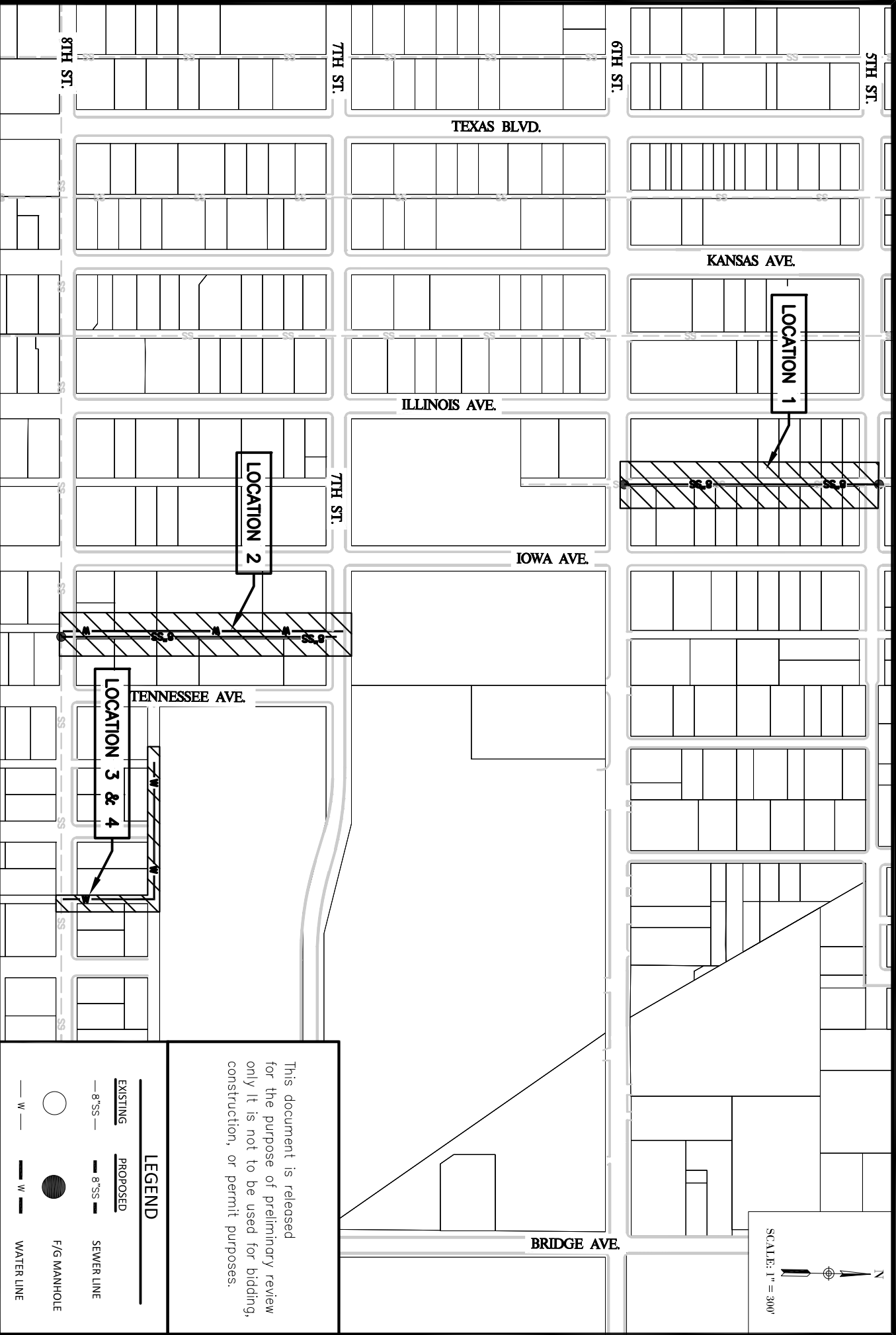
Exhibit A

2019 Proposed Activities

2019	WESLACO	\$285,782.00
21A Exempt 58.34(a)(3)	GENERAL PROGRAM ADMINISTRATION Funds shall be used for expenses related to compliance with CDBG requirements including but not limited to advertisements, postings and coordinating project activities and related eligible activities. Location: City Hall 255 S. Kansas Street, Weslaco, TX 78596	\$3,000.00
03J Cat. Excluded Not Subj. to 58.35 (b)(7)	WATER/SEWER IMPROVEMENTS Project consists of Phase 2 of a multi-year funded project for the replacement of sewer lines and related street resurfacing improvements at several alleys and streets. Project will also include but not limited to adjacent/abutting alleys/streets within the same general vicinity, and related appurtenances. Other expenditures will include professional engineering services, geotechnical and material testing fees, etc. Project environmentally cleared in FY 2015. Location: 1. Alley between S. Illinois Ave. and S. Iowa Ave. (from E. 5 th to E. 6 th) 2. Alley between S. Iowa Ave, and S. Tennessee Ave. (from 7 th to 8 th). 3. Alley between 7 th and 8 th Street (S. Tennessee Ave. S. Florida Ave.) 4. Alley between S. Oregon Ave. and S. Florida Ave. (from 7 th St to 8 th St.) Weslaco, Texas 78596. Census Data: 227.01 (01) National Objective: 53.89% LMA Goal Outcome Indicator: 900 Beneficiary Type: People	\$277,782.00
05A Exempt 58.34(a)(4)	SENIOR SERVICES – Amigos Del Valle Project expenditures include but are not limited to the reimbursement of expenses related to the delivery of meals to the elderly (62 years older) within the City of Weslaco. Location: Casa de Amigos V: 1201 W. 6 th St., Weslaco, TX 78596 National Objective: LMC Goal Outcome Indicator: 8 Beneficiary Type: People	\$5,000.00



URBAN COUNTY CDBG
CITY OF WESLACO
WATER AND WASTEWATER LINE IMPROVEMENTS



INTERLOCAL AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

This Interlocal Agreement, made and entered into by and between the County of Hidalgo, a political subdivision of the State of Texas, hereafter referred to as the "County" and the City of Weslaco, a municipal corporation under the laws of the State of Texas, hereafter referred to as "City".

WITNESSETH

WHEREAS, the Department of Housing and Urban Development made a Determination of Essential Powers on November 16, 1987 which depicts Hidalgo County as having the "essential powers" to carry out community renewal and lower income housing assistance in the County, and

WHEREAS, the Department of Housing and Urban Development formally allocated \$7,356,817.00 of Fiscal Year 2019 Community Development Block Grant (CDBG) Funds under Grant No. B-19-UC-48-0501 to County, and

WHEREAS, the City and County have entered into a Cooperation Agreement which allows the County to use the City's population as the basis for qualification as an Urban County, and

WHEREAS, both the County and the City need to set out basic administrative understandings for the proper expenditure of CDBG funds as set out in 24 CFR.570 and other related federal rules and regulations as they apply to Subrecipients.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That the County and the City do mutually agree as follows:

SECTION I Rules and Regulations

The City agrees to cooperate with the County in respect to the implementation of CDBG activities to be carried out in the City's jurisdiction as per 24 CFR 570 and other rules, regulations and decisions as may be made by the Department of Housing and Urban Development or any other federal or state agency that may legally exercise its jurisdiction over expenditures of CDBG funds. Both City and County agree and understand that the County is the grantee for the CDBG funds and the City is subject to all rules and regulations governing Subrecipients under 24 CFR 570.

SECTION II
Applicability of Uniform
Administrative Requirements

The County understands that it is responsible for the maintenance, retention, accessibility and public disclosure of all records, expenditures and files as may be promulgated for the administration of CDBG funds and as may be required by 24 CFR 570 and the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally Recognized Indian Tribal Governments." (24 CFR Part 85) or any variation as may be approved by HUD. The City agrees to work with the County to make available all data, information and records as may be necessary for the proper accounting of all CDBG expenditures and activities. A description of City and County responsibilities can be found in Exhibit B Matrix. City agrees to make all records available to the County and shall not be the custodian of any official records or information.

City agrees to comply with 2 CFR Part 200 and with the following sections of 24 CFR Part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Government":

- (1) Section 85.3, "Definitions";
- (2) Section 85.6, "Exceptions";
- (3) Section 85.12, Special grant or subgrant conditions for "high-risk "grantees";
- (4) Section 85.20, "Standards for financial management systems," except paragraph (a);
- (5) Section 85.21, "Payment," except as modified by SS570.513;
- (6) Section 85.22, "Allowable costs";
- (7) Section 85.26, "Non-federal audits"
- (8) Section 85.32, "Equipment," except in all cases in which the equipment is sold, the proceeds shall be program income;
- (9) Section 85.33, "Supplies";
- (10) Section 85.34, "Copyrights";
- (11) Section 85.35, "Sub-awards to debarred and suspended parties";
- (12) Section 85.36, "Procurement," except paragraph (a);
- (13) Section 85.37, "Subgrants";
- (14) Section 85.40, "Monitoring and reporting program performance," except paragraphs (b)-(d) and (f);
- (15) Section 85.41, "Financial Reporting." except paragraphs (a), (b), and (e);
- (16) Section 85.42, "Retention and access requirements for records";
- (17) Section 85.43, "Enforcement";
- (18) Section 85.44, "Termination for convenience";
- (19) Section 85.51, "Later disallowances and adjustments"; and
- (20) Section 85.52, "Collection of amounts due."

the City agrees to submit a yearly Certified City Financial Audit regardless of the dollar amount expended in that fiscal year in the time and manner prescribed by the County.

SECTION III

Other Program Requirements

The City agrees to comply with "Other Program Requirements" as listed in Exhibit D (24 CFR 570.600-611) except for the environmental responsibilities outlined at 24 CFR 570.604 and the review process under Executive Order 12372.

SECTION IV

Allocation

The City understands that the Urban County allocation has been set at **\$7,356,817.00** for **Fiscal Year 2019** and that City's allotment has been set at **\$285,782.00**. The City agrees to cooperate with the county in the expenditure of these funds for the activities so described in Exhibit A of this Agreement and that Exhibit A is an integral part of this Agreement.

The City further agrees to inform the County on any changes in scope, funding or location of the activities listed on Exhibit A prior to executing any change. Any changes proposed by City must be approved by the County in reference to eligibility, program compliance and citizen participation requirements.

City and County mutually agree that the City shall have four (4) fiscal years to properly expend or cause to be expended, according to all applicable rules and regulations, all funds allocated to it in **Fiscal Year 2019**. In consideration for the same, the City agrees not to have more than 1.5 times its annual allocation in its line of credit by **April 30, 2020**. Funds in excess of the 1.5 standards shall be subject to the Recapture Policy of the Urban County Program. The County shall recapture any and all unobligated funds that a City fails to expend or obligate by **June 30, 2020** and shall expend such unobligated funds as it may deem appropriate.

SECTION V

Access

The City and County both agree to give the Department of Housing and Urban Development, the Inspector General, the Comptroller General of the United States, or any of its authorized representatives, access to and the right to examine, excerpt and transcribe all books, accounts, records, reports, files and other papers, things, or property belonging to or in use by the City or County for a period as such records are legally required to be maintained by the City or County.

SECTION VI

Monitoring

The County reserves the right to carry out regular and periodic field inspections to ensure compliance with the requirements of this Agreement. City shall attend a compliance seminar after the award of funds and prior to the first draw. After each monitoring visit, County shall provide City with a written report of the monitor's inspection. If the monitoring report finds deficiencies in City's performance under the terms of this Agreement, the monitoring report shall include requirements for the timely correction of such deficiencies by City. Failure by City to take action as specified in the monitoring report may be cause for suspension or termination of this Agreement, as provided in Section XIV of this Agreement.

SECTION VII

Conflict of Interest

In compliance with 24 CFR 611, the City and County both covenant that no member of their respective governing bodies nor any staff member who exercises influence on the decision making process, presently has or will have any interest, direct or indirect, with any person, corporation, company or association that is hired to carry out any of the activities so listed on Exhibit A or will receive federal assistance from any activity.

The City and County both agree that no person who is an elected official, employee, consultant, or agent of the City or County shall gain any interest in any corporation, company, or association that is hired to carry out any of the activities so listed in Exhibit A during their tenure or for a period of one year thereafter.

No City or County employee, elected official, consultant and/or agent shall solicit nor accept gratuities, favors, or anything of monetary value from any person, corporation, company, or association that has been hired or expects to be hired to perform any of the activities so described on Exhibit A.

Code of Conduct Certification attached to this agreement must be signed by elected officials, employees, consultants, or agents to the City. (See attachment A-1)

SECTION VIII

Religious Activities

The City and County both agree that none of the funds expended or activities undertaken shall be used in support of any sectarian or religious activity, nor shall any building or structure funded under this program be used for sectarian or religious activities.

SECTION IX

Real and Property Assets

The City and County agree that any property, real or personal, duly acquired with CDBG funds allocated to City shall become property of the City and shall be afforded the same maintenance and protection as other City property. City and County further agree that any real or personal property acquired shall be done in accordance with 24 CFR 570.606, 24 CFR 85 and/or any other federal rules or regulations as may apply.

City agrees not to purchase any real or personal assets unless so permitted by the County and such procurement shall be done in accordance with 24 CFR 570.606, 24 CFR 85 and/or any other federal rules or regulations as may apply.

The City agrees to maintain any real or personal asset in a prudent manner so as to ensure its useful life and to protect the federal government's interest in such real or personal asset from the perils of fire, storm, flood or theft through insurance coverage in the amount as may be deemed prudent by County. Failure to secure such protection shall be cause for termination of this agreement.

Any asset acquired or improved in part or in whole with CDBG funds must be used in an activity that is eligible and meets one of the national objectives listed in 24 CFR 570.208. Any asset acquired or improved in part or in whole with CDBG funds in excess of \$ 25,000 must be used for the CDBG activity so planned including the beneficiaries of such use. Any change in use or

beneficiaries must be subject to the citizen participation requirements and approved by the County.

Should any use of an asset not qualify as meeting one of the national objectives or is not an eligible use under 24 CFR 570.200, the City shall reimburse the County the amount of the current fair market value of the asset less any portion thereof attributable to expenditures of non-CDBG funds in the acquisition or improvement of the asset.

The above requirements attributed to assets over \$25,000 shall remain in force for a period of five years after the final closeout of the County's participation in the Urban County Program. The disposition of any asset improved or acquired in part or in whole with CDBG funds by the City must be done with prior approval of the County and the County shall be reimbursed for the asset, if sold, in the full amount of the disposed value of the asset. The County may, at its option, request that such asset be transferred to the County if the asset is no longer being used to meet one of the national objectives or in any case where the City no longer uses the asset for its intended use.

SECTION X

Jurisdiction

The City and County agree to accept the jurisdiction of the Department of Housing and Urban Development in matters relating to the proper administration of programs and the proper expenditure of CDBG funds.

The City and County agree that the County is responsible for the proper administration of programs and the proper expenditure of CDBG funds and recognize that the County will be responsible for audit or programmatic findings or exceptions made by the HUD or any other agency that may exercise jurisdiction over HUD or any other agency that may exercise jurisdiction over HUD funds or programs.

In cases of an audit finding or exception based on action or inaction, representation or misrepresentation of the City, the City agrees to resolve such audit finding or exception for and on behalf of the County. Remedial actions that may be taken for the resolution of an audit finding or exception are defined in 24 CFR 570.910 and include the withholding of funds to the City for any outstanding finding(s) or exception(s). (See Exhibit-E)

The City understands and agrees this Interlocal Agreement shall remain in full force and effect until the Department of Housing and Urban Development has closed this Program Year **(B-19-UC-48-0501)** and accepted any resolutions to any and all audit or programmatic finding(s) or concern(s).

SECTION XI

Payment Requests and Program Income

The City agrees to follow administrative directions from the County in the areas of documenting and processing payment requests. The City further agrees to allow the County to make all payments and to account for all program income from any of its CDBG activities that may generate program income as outlined in this Section.

The City and County agree that program income generated from any approved CDBG project shall be retained by the City as long as such City provides the County by the 15th of each month, an accounting as may be required by the County of program income earned, retained, and

expended by the City. The City shall be allowed to use the program income for the same or similar activities as generated the program income. Failure of the City to report program income as required shall cause the County to require all program income to be recovered by the County.

SECTION XII

Section 108 Loan Guarantee

County and City both agree that they may implement certain eligible activities as outlined in 24 CFR 570.703 with loan funds from the Section 108 Loan Guarantee Program as described in 24 CFR 570.700-709 approved and adopted November 6, 1991 (Vol. 56, No. 215 Federal Register).

The County and City will be allowed to submit an application for such funds per funding year in an amount less than three times its current allocation. Should the City or County submit more than one application during any combination of years, the cumulative amount of loan funds requested shall not exceed the total amount of five years of the current allocation. The City agrees that it will bear the full expense of obtaining Section 108 financing for the period of the repayment of Section 108 funds.

The County and City agree that they will maintain a legal binding relationship with each other under the terms of this Agreement and all previously signed Cooperation Agreement if the City wishes to participate in the Section 108 Loan Guarantee Program for the full term of the Section 108 Loan Agreement. The City agrees to pledge its current and future CDBG allocation and other security consideration as may be required, depending on the project risk, as security for the Section 108 Loan and such security pledge shall not bind or affect other cities' allocation in the Urban County Program.

Such legal binding relationship and security pledge shall remain in full force and effect for the full term of the Section 108 Loan Guarantee agreement and this agreement shall survive for the term of the Section 108 Loan. Details of any current Section 108 loan are included herein as Exhibit C, if applicable.

SECTION XIII

Legal Action

The City agrees to notify the County when a problem arises that may lead to any legal action or claim against the City and/or County. The City agrees to furnish to the County any information with respect to such action or claim. The City agrees not to take any action with respect to any legal matter or claim sought against the City and/or County without advice and consent of the County.

SECTION XIV

Suspension and Termination

City understands that this agreement may be suspended or terminated in accordance with 24 CFR 85.43 if the City materially fails to comply with the provisions of this agreement or the provisions so listed on Exhibits A through E. Termination for convenience may be implemented in accordance to the provisions listed in 24 CFR 85.44.

SECTION XV
Changes or Amendments

The City agrees to notify the County on any changes or amendments that it may desire or need to carry out the CDBG program in its area. All changes or amendments must first obtain approval from the County prior to implementation. All changes or amendments must conform to all federal rules and regulations applicable to the CDBG program.

SECTION XVI
Essential Powers

The City agrees that the County has the essential powers to implement any aspect of those activities identified in the 2018 – 2022 Five-Year Consolidated Plan & Strategy inclusive of specific projects identified in the annual One-Year Action Plan and subsequent amendments. The City further agrees to allow the County the authority to initiate, undertake and implement said projects within its jurisdictional boundaries without further notice to City by County for all projects identified in the 2018 – 2022 Five-Year Consolidated Plan & Strategy, Annual Action Plan and subsequent amendments to the Plans herein incorporated by reference.

Approved and signed this _____ Day of _____, 2019.

ATTEST:

Arturo Guajardo, Jr.
County Clerk

Richard F. Cortez,
Hidalgo County Judge

ATTEST:

City Secretary

Mayor

Date

APPROVED AS TO FORM
Hidalgo County Criminal District Attorney's Office
Ricardo Rodriguez, Jr.

By: _____
Victor M. Garza, Asst. District Attorney

Date: _____

**The following Exhibits are incorporated into the
2019 Interlocal Agreement:**

Exhibit A	2019 Proposed Activities
Exhibit A-1	Code of Conduct Enforcement
Exhibit B	Urban County Program Matrix
Exhibit C	Section 108 Loan Guarantee Program
Exhibit D	CDBG Regulations and other Program Requirements
Exhibit E	Audit Finding or Exceptions

Exhibit A

2019 Proposed Activities

2019	WESLACO	\$285,782.00
21A Exempt 58.34(a)(3)	GENERAL PROGRAM ADMINISTRATION Funds shall be used for expenses related to compliance with CDBG requirements including but not limited to advertisements, postings and coordinating project activities and related eligible activities. Location: City Hall 255 S. Kansas Street, Weslaco, TX 78596	\$3,000.00
03J Cat. Excluded Not Subj. to 58.35 (b)(7)	WATER/SEWER IMPROVEMENTS Project consists of Phase 2 of a multi-year funded project for the replacement of sewer lines and related street resurfacing improvements at several alleys and streets. Project will also include but not limited to adjacent/abutting alleys/streets within the same general vicinity, and related appurtenances. Other expenditures will include professional engineering services, geotechnical and material testing fees, etc. Project environmentally cleared in FY 2015. Location: 1. Alley between S. Illinois Ave. and S. Iowa Ave. (from E. 5 th to E. 6 th) 2. Alley between S. Iowa Ave, and S. Tennessee Ave. (from 7 th to 8 th). 3. Alley between 7 th and 8 th Street (S. Tennessee Ave. S. Florida Ave.) 4. Alley between S. Oregon Ave. and S. Florida Ave. (from 7 th St to 8 th St.) Weslaco, Texas 78596. Census Data: 227.01 (01) National Objective: 53.89% LMA Goal Outcome Indicator: 900 Beneficiary Type: People	\$277,782.00
05A Exempt 58.34(a)(4)	SENIOR SERVICES – Amigos Del Valle Project expenditures include but are not limited to the reimbursement of expenses related to the delivery of meals to the elderly (62 years older) within the City of Weslaco. Location: Casa de Amigos V: 1201 W. 6 th St., Weslaco, TX 78596 National Objective: LMC Goal Outcome Indicator: 8 Beneficiary Type: People	\$5,000.00

Exhibit A-1

Code of Conduct Certifications

CODE OF CONDUCT

No employee, officer or agent of the *County of Hidalgo-Urban County Program, sub-grantee or subrecipient* shall participate in selection or in the award or administration of a contract or conduct business with a vendor if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- A. *the employee, officer or any agent*
- B. *any member of his immediate family*
- C. *his or her partner*
- D. *an organization which employs or is about to employ, any of the above, has a financial or other interest in the firm selected for award.*

The *Urban County Program's , sub-grantee or subrecipient, officers, employees or agents* shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, or vendors or potential vendors. Depending on gravity, violation of this Code of Conduct could result in dismissal, probation or suspension of officers, employees or agents involved or termination of contractual agreements with subrecipients.

Non-disclosure Policy

No disclosure of verbal or written price quotations shall be made by any *Urban County Program* employee, sub-grantee or subrecipient. Violation of the nondisclosure policy shall be subject to disciplinary action as provided by the *County of Hidalgo* or termination of contractual agreements when a subrecipient/sub-grantee employee is involved.

Personal Interest

No member of the *Hidalgo County Commissioners or any officer or employee of the Urban County Program, sub-grantee or subrecipient* shall have a financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any contract or in the sale to the *Urban County Program, sub-grantee or subrecipient* or to a contractor supplying the *Urban County Program, sub-grantee or subrecipient* of any land or rights or interest in any land, material, supplies, or services, or in any matter in which he acts for the *Urban County Program*. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the *Urban County Program, sub-grantee or subrecipient* found guilty shall thereby forfeit his or her office. Any violation of this section with the knowledge, express or implied, of the person or corporation contracting with the *Urban County Program, sub-grantee or subrecipient* shall render the contract voidable by the *Urban County Director or the board of Commissioners*.

Employee, Officer, or Agent Acknowledgment

Print or Type Name and Position/Title

Entity/Organization Name

Date

Exhibit B

Urban County Matrix

Pre-Bid Activities

Development of Annual Workplan

This activity is a city responsibility with the county involvement only as is necessary to assure that the individual activities meet one of the three national objectives.

Revisions or Amendments to Annual Workplan

Same as above (only two amendments allowed per fiscal year)

Eligibility Test on Activities

This is a county responsibility working with the cities to assure all activities meet one of the three national objectives. The County will assure that the 51 percent benefit to low and moderate income persons can be verified and that the activities are eligible for funding. The county may request an eligibility determination from HUD should a difference of opinion arise between the City and the County.

Public Hearings

This responsibility will be a shared responsibility between the Cities and the County. In accordance with the adopted Citizen Participation Plan, the Cities will conduct a public hearing in their respective Cities after public notice. The County will then have a second public hearing at the County level on the county-wide workplan, after public notice.

Environmental Assessment

This is a County responsibility with concurrence and assistance by the Cities. The County will determine what level of clearance is needed and will do noise, hazard, historical, floodplain, etc. assessments as may be needed with as much city input as possible. The County Judge will consider the “do nothing” alternative after consultation with the respective Mayors. The County Judge and or UCP Staff will direct all mitigation efforts if necessary. The County Judge will sign all environmental assessment reviews and findings. (A County Signatory may be appointed: UCP Director)

Advertise for Professional Services

This is a County responsibility whereby the County will advertise once a year for all professional services through a statement of qualifications process. The County will provide all data concerning proposed activities and type of services needed. This list will be sent to all Cities so that the Cities may decide on the professional services as they see the need for the services. Should a city need services not available from the list (UC-1 List) of Professional Services, the City shall advertise for the service after consulting with the Urban County Program staff.

Selection of Professional Services Provider

This is a City and County shared responsibility, based on the Texas Local Government code and other applicable laws and regulations. County will make sure that the provider is not a contractor's debarred list by consulting with the System for Award Management (SAM) website (www.sam.gov), prior to recommendation for awarding a contractor to Hidalgo County Commissioner's Court.

Execute Professional Contracts

The City will negotiate the Professional Service Contract, and submit a Best and Final Offer (BAFO) along with Scope of Services, Project Cost Estimate, Certificate of Debarment, CIQ Form and IRS W-9 Form. The County will prepare the Professional Contract Agreement documents and submit to Hidalgo County Commissioner's Court for approval of contract. Any modifications to the County contracts require prior approval of the County Legal Department. Once approved, the County will forward the contracts to the Professional Service Provider for proper signatures, they will return to the County for the County's execution and County will issue Notice to Proceed.

Review of Preliminary Drawings

This is a city responsibility.

Solicit Davis-Bacon Wage Rates

This is a County responsibility. The County will obtain wage rates from HUD for specific projects and will forward wage rates to the respective Cities and the Professional Service Provider to include in the bid specification packages.

Review and Approval of Final Plans and Specifications

This is a City responsibility where by the Mayor's signature will be required on all plans and specifications prior to bidding. Final plans should be forwarded to Urban County Program office prior to bid advertisement for compliance check.

Advertise for Construction Bid

This is a County responsibility. The County will advertise for all construction projects and will instruct bidders as to the availability of plans and specs, (to be picked up at Professional Service Provider's choice of location), and will advise bidders as to who will accept bids. (Hidalgo County Purchasing Department – any given Wednesday at 9:30am)

Pre-Bid Conference

This is a County responsibility. County will conduct a pre-bid conference if necessary at the Urban County program Conference Room, accompanied by the Professional Service Provider and the project's respective City.

Bid Activities

Ten Day Wage Rate Check

This is a County responsibility. Ten days prior to any bid opening, the County will ascertain as to the applicability of the wage rate in the bid documents. Should the wage rate change all appropriate engineers will be notified and instructed to change wage rates.

Accept Construction Bids

This is a County Purchasing Department responsibility. The Hidalgo County Purchasing Department will accept bids as per the conditions set forth in the specification handbook.

Accept and Tabulate Bids

This is a County Purchasing Department responsibility with an Urban County, City, and Professional Service Provider representative at bid opening. The respective Professional Service Provider will review the bids received and make their recommendation to the Urban County Program.

Research Apparent Low Bidder

This is a shared responsibility. The respective Professional Service Provider will research and review apparent low bidder's past performances and their bids. The Urban County program will research the list of Debarred Contractor's and make a finding in the regard.

Bid Recommendation

This is a City responsibility. The respective Professional Service Provider will recommend the lowest and most responsible bid to the City. The city will send a recommendation to the County. County will request approval by Hidalgo County Commissioner's Court for approval of contract.

Contract Award

The County upon approval by Hidalgo County Commissioner's Court will prepare the contract documents and forward them to the approved Contractor for execution.

Pre-Construction Activities

Construction Contract and Bonds

This is a shared responsibility. The Professional Service Provider will coordinate the execution of construction contracts to include Insurance, Payment and Performance Bonds. Once they receive four (4) original set of construction contracts they will submit to the County for execution. Any modifications to the construction contracts require prior review by Legal Department and approval by Hidalgo County Commissioner's Court.

Pre-Construction Conference

The Urban County Program will conduct a Pre-construction conference to inform the contractor of the various federal regulations such as Affirmative Action, Section 3 Compliance, and Davis-Bacon Wage Compliance. The Pre-construction conference will be held at the Urban County

Program Conference Room, with the city and professional service provider representatives present. Once contracts are signed, County will prepare and issue a Notice to Proceed.

Document Posting and Construction Signs

This is a shared responsibility. The city and Professional Service Provider will ensure itself that the appropriate documents are posted at the site and that the construction sign is erected.

Construction Activities

Davis-Bacon Compliance

This is a shared responsibility. The City may be asked to conduct wage rate employee interviews. The County will conduct wage rate interviews and review wage rates on payroll reports submitted with request for payments.

Periodic Project Inspections

This is a shared responsibility. The City, County, and Professional Service Providers will conduct periodic site inspections of the project site.

Payment Request Approval

This is a shared responsibility. The Professional Service Provider will review and sign off on request for payments and forward RFP to the City for signature and approval, and forward the final RFP to the County for review and approval of payment.

Change Orders

This is a shared responsibility. Professional Service Provider will recommend any change orders after negotiating said change order with the contractor. All change orders must have City's approval prior to submission to County for review and approval.

Contract Amendment

This is a shared responsibility. The City will recommend any contract amendments to the County. County will consider and take appropriate action to approve or deny the contract amendment if necessary.

Final Payment Approval

This is a shared responsibility. The City and Professional Service Provider will conduct final project site inspections to ensure that construction has been completed as per plans and specifications prior to submitting final request for payment recommendation to the County. County will ensure that all applicable laws and regulations have been complied with. County will review wage rate compliance, release of liens, certification of construction completion, warranty certification and other pertinent documents.

Exhibit C

Section 108 Loan Guarantee Program

Introduction

Section 108 is the loan guarantee provision of the Community Development Block Grant (CDBG) program. Section 108 provides communities with a source of financing for economic development, housing rehabilitation, public facilities, and large-scale physical development projects. This makes it one of the most potent and important public investment tools that HUD offers to local governments. It allows them to transform a small portion of their CDBG funds into federally guaranteed loans large enough to pursue physical and economic revitalization projects that can renew entire neighborhoods. Such public investment is often needed to inspire private economic activity, providing the initial resources or simply the confidence that private firms and individuals may need to invest in distressed areas. Section 108 loans are not risk-free, however; local governments borrowing funds guaranteed by Section 108 must pledge their current and future CDBG allocations to cover the loan amount as security for the loan.

Regulations governing the Section 108 program may be found at 24 CFR 570, Subpart M, Loan Guarantees.

Eligible Applicants

Eligible applicants include the following public entities:

- metropolitan cities and urban counties (i.e. CDBG entitlement recipients);
- nonentitlement communities that are assisted in the submission of applications by States that administer the CDBG program; and
- nonentitlement communities eligible to receive CDBG funds under the HUD-Administered Small Cities CDBG program (Hawaii). The public entity may be the borrower or it may designate a public agency as the borrower.

Eligible Activities

Activities eligible for Section 108 financing include:

- economic development activities eligible under CDBG;
- acquisition of real property;
- rehabilitation of publicly owned real property;
- housing rehabilitation eligible under CDBG;
- construction, reconstruction, or installation of public facilities (including street, sidewalk, and other site improvements);
- related relocation, clearance, and site improvements;
- payment of interest on the guaranteed loan and issuance costs of public offerings;
- debt service reserves;
- public works and site improvements in colonias; and
- in limited circumstances, housing construction as part of community economic development, Housing Development Grant, or Nehemiah Housing Opportunity Grant programs.

For purposes of determining eligibility, the CDBG rules and requirements apply. As with the CDBG program, all projects and activities must either principally benefit low- and moderate-income persons, aid in the elimination or prevention of slums and blight, or meet urgent needs of the community.

Maximum Commitment Amount

Commitments are limited as follows:

1. Entitlement public entities. An entitlement public entity may apply for up to five times the public entity's latest approved CDBG entitlement amount, minus any outstanding Section 108 commitments and/or principal balances of Section 108 loans.
2. State assisted public entities. A nonentitlement public entity may apply for up to five times the latest approved CDBG amount received by its State, minus any outstanding Section 108 commitments and/or principal balances on Section 108 loans for which the State has pledged its CDBG funds as security.
3. Nonentitlement public entities eligible under the HUD administered Small Cities Program. For a public entity in Hawaii, the maximum commitment amount is five times the public entity's latest grant under 24 CFR 570, Subpart F, minus any outstanding Section 108 commitments and/or principal balances on Section 108 loans.

Loan Details

Security: The principal security for the loan guarantee is a pledge by the applicant public entity or the State (in the case of a nonentitlement public entity) of its current and future CDBG funds. Additional security will also be required to assure repayment of guaranteed obligations. The additional security requirements will be determined on a case-by-case basis, but could include assets financed by the guaranteed loan.

Repayment: The maximum repayment period for a Section 108 loan is twenty years. HUD has the ability to structure the principal amortization to match the needs of the project and borrower. Each annual principal amount will have a separate interest rate associated with it.

Financing Source: Section 108 obligations are financed through underwritten public offerings. Financing between public offerings is provided through an interim lending facility established by HUD.

Interest Rates: Interest rates on interim borrowing are priced at the 3 month London Interbank Offered (LIBO) rate plus 20 basis points (0.2%). Permanent financing is pegged to yields on U.S. Treasury obligations of similar maturity to the principal amount. A small additional basis point spread, depending on maturity, will be added to the Treasury yield to determine the actual rate.

Default: To date, there has been no default under Section 108 resulting in a repayment by HUD. In the event of default requiring a payment, HUD would continue to make payments on the loan in accordance with its terms. The source of payments by HUD pursuant to its guarantee would almost always be pledged CDBG funds. However, HUD does have borrowing authority with the U.S. Treasury if the pledged funds are insufficient.

For More Information visit www.hud.gov

Source: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/108

Exhibit D

CDBG Regulations and Other Program Requirements

Subpart A—General Provisions

SOURCE: 53 FR 34437, Sept. 6, 1988, unless otherwise noted.

§ 570.1 Purpose and primary objective.

(a) This part describes policies and procedures applicable to the following programs authorized under title I of the Housing and Community Development Act of 1974, as amended:

- (1) Entitlement grants program (subpart D);
- (2) Nonentitlement Funds: HUD-administered Small Cities and Insular Area programs (subpart F);
- (3) State program: State-administered CDBG nonentitlement funds (subpart I);
- (4) Special Purpose Grants (subpart E);
- (5) Urban Development Action Grant program (subpart G); and
- (6) Loan Guarantees (subpart M).

(b) Subparts A, C, J, K, and O apply to all programs in paragraph (a) except as modified or limited under the provisions of these subparts or the applicable program regulations. In the application of the subparts to Special Purpose Grants or the Urban Development Action Grant program, the reference to funds in the form of grants in the term “*CDBG funds*”, as defined in § 570.3, shall mean the grant funds under those programs. The subparts do not apply to the State program (subpart I) except to the extent expressly referred to.

(c) The primary objective of the programs authorized under title I of the Housing and Community Development Act of 1974, as amended, is described in section 101(c) of the Act (42 U.S.C. 5301(c)).

[53 FR 34437, Sept. 6, 1988, as amended at 56 FR 56126, Oct. 31, 1991; 61 FR 11475, Mar. 20, 1996; 69 FR 32778, June 10, 2004]

§ 570.3 Definitions.

The terms *HUD* and *Secretary* are defined in 24 CFR part 5. All of the following definitions in this section that rely on data from the United States Bureau of the Census shall rely upon the data available from the latest decennial census.

Act means title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 *et seq.*).

Age of housing means the number of year-round housing units, as further defined in section 102(a)(11) of the Act.

Applicant means a State or unit of general local government that makes application pursuant to the provisions of subpart E, F, G or M.

Buildings for the general conduct of government shall have the meaning provided in section 102(a)(21) of the Act.

CDBG funds means Community Development Block Grant funds, including funds received in the form of grants under subpart D, F, or § 570.405 of this part, funds awarded under section 108(q) of the Housing and Community Development Act of 1974, loans guaranteed under subpart M of this part, urban renewal surplus grant funds, and program income as defined in § 570.500(a).

Chief executive officer of a State or unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the "chief executive officer" of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; and the official designated pursuant to law by the governing body of a unit of general local government.

City means the following:

(1) For purposes of Entitlement Community Development Block Grant and Urban Development Action Grant eligibility:

(i) Any unit of general local government that is classified as a municipality by the United States Bureau of the Census, or

(ii) Any other unit of general local government that is a town or township and that, in the determination of the Secretary:

(A) Possesses powers and performs functions comparable to those associated with municipalities;

(B) Is closely settled (except that the Secretary may reduce or waive this requirement on a case by case basis for the purposes of the Action Grant program); and

(C) Contains within its boundaries no incorporated places as defined by the United States Bureau of the Census that have not entered into cooperation agreements with the town or township for a period covering at least 3 years to undertake or assist in the undertaking of essential community development and housing assistance activities. The determination of eligibility of a town or township to qualify as a city will be based on information available from the United States Bureau of the Census and information provided by the town or township and its included units of general local government.

(2) For purposes of Urban Development Action Grant eligibility only, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the counties of Kauai, Maui, and Hawaii in the State of Hawaii, and Indian tribes that are eligible recipients under the State and Local Government Fiscal Assistance Act of 1972 and located on reservations in Oklahoma as determined by the Secretary of the Interior or in Alaskan Native Villages.

Community Development Financial Institution has the same meaning as used in the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 note).

Consolidated plan. The plan prepared in accordance with 24 CFR part 91, which describes needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs, including the CDBG program. An approved consolidated plan means a consolidated plan that has been approved by HUD in accordance with 24 CFR part 91.

Discretionary grant means a grant made from the various Special Purpose Grants in accordance with subpart E of this part.

Entitlement amount means the amount of funds which a metropolitan city is entitled to receive under the Entitlement grant program, as determined by formula set forth in section 106 of the Act.

Extent of growth lag shall have the meaning provided in section 102(a)(12) of the Act.

Extent of housing overcrowding shall have the meaning provided in section 102(a)(10) of the Act.

Extent of poverty means the number of persons whose incomes are below the poverty level based on data compiled and published by the United States Bureau of the Census available from the latest census referable to the same point or period in time and the latest reports from the Office of Management and Budget. For purposes of this part, the Secretary has determined that it is neither feasible nor appropriate to make adjustments at this time in the computations of "extent of poverty" for regional or area variations in income and cost of living.

Family refers to the definition of "family" in 24 CFR 5.403.

Household means all persons occupying a housing unit. The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.

Income. For the purpose of determining whether a family or household is low- and moderate-income under subpart C of this part, grantees may select any of the three definitions listed below for each activity, except that integrally related activities of the same type and qualifying under the same paragraph of § 570.208(a) shall use the same definition of income. The option to choose a definition does not apply to activities that qualify under § 570.208(a)(1) (Area benefit activities), except when the recipient carries out a survey under § 570.208(a)(1)(vi). Activities qualifying under § 570.208(a)(1) generally must use the area income data supplied to recipients by HUD. The three definitions are as follows:

(1)(i) "Annual income" as defined under the Section 8 Housing Assistance Payments program at 24 CFR 813.106 (except that if the CDBG assistance being provided is homeowner rehabilitation under § 570.202, the value of the homeowner's primary residence may be excluded from any calculation of Net Family Assets); or

(ii) Annual income as reported under the Census long-form for the most recent available decennial Census. This definition includes:

(A) Wages, salaries, tips, commissions, etc.;

(B) Self-employment income from own nonfarm business, including proprietorships and partnerships;

(C) Farm self-employment income;

(D) Interest, dividends, net rental income, or income from estates or trusts;

(E) Social Security or railroad retirement;

(F) Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance or public welfare programs;

(G) Retirement, survivor, or disability pensions; and

(H) Any other sources of income received regularly, including Veterans' (VA) payments, unemployment compensation, and alimony; or

(iii) Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 for individual Federal annual income tax purposes.

(2) Estimate the annual income of a family or household by projecting the prevailing rate of income of each person at the time assistance is provided for the individual, family, or household (as applicable). Estimated annual income shall include income from all family or household members, as applicable. Income or asset enhancement derived from the CDBG-assisted activity shall not be considered in calculating estimated annual income.

Insular area shall have the meaning provided in section 102(a)(24) of the Act.

Low- and moderate-income household means a household having an income equal to or less than the Section 8 low-income limit established by HUD.

Low- and moderate-income person means a member of a family having an income equal to or less than the Section 8 low-income limit established by HUD. Unrelated individuals will be considered as one-person families for this purpose.

Low-income household means a household having an income equal to or less than the Section 8 very low-income limit established by HUD.

Low-income person means a member of a family that has an income equal to or less than the Section 8 very low-income limit established by HUD. Unrelated individuals shall be considered as one-person families for this purpose.

Metropolitan area shall have the meaning provided in section 102(a)(3) of the Act.

Metropolitan city shall have the meaning provided in section 102(a)(4) of the Act except that the term "central city" is replaced by "principal city."

Microenterprise shall have the meaning provided in section 102(a)(22) of the Act.

Moderate-income household means a household having an income equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit, established by HUD.

Moderate-income person means a member of a family that has an income equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit, established by HUD. Unrelated individuals shall be considered as one-person families for this purpose.

Nonentitlement amount means the amount of funds which is allocated for use in a State's nonentitlement areas as determined by formula set forth in section 106 of the Act.

Nonentitlement area shall have the meaning provided in section 102(a)(7) of the Act.

Population means the total resident population based on data compiled and published by the United States Bureau of the Census available from the latest census or which has been upgraded by the Bureau to reflect the changes resulting from the Boundary and Annexation Survey, new incorporations and consolidations of governments pursuant to § 570.4, and which reflects, where applicable, changes resulting from the Bureau's latest population determination through its estimating technique using natural changes (birth and death) and net migration, and is referable to the same point or period in time.

Small business means a business that meets the criteria set forth in section 3(a) of the Small Business Act (15 U.S.C. 631, 636, 637).

State shall have the meaning provided in section 102(a)(2) of the Act.

Unit of general local government shall have the meaning provided in section 102(a)(1) of the Act.

Urban county shall have the meaning provided in section 102(a)(6) of the Act. For the purposes of this definition, HUD will determine whether the county's combined population contains the required percentage of low- and moderate-income persons by identifying the number of persons that resided in applicable areas and units of general local government based on data from the most recent decennial census, and using income limits that would have applied for the year in which that census was taken.

Urban Development Action Grant (UDAG) means a grant made by the Secretary pursuant to section 119 of the Act and subpart G of this part.

[53 FR 34437, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 56 FR 56126, Oct. 31, 1991; 60 FR 1915, 1943, Jan. 5, 1995; 60 FR 56909, Nov. 9, 1995; 61 FR 5209, Feb. 9, 1996; 61 FR 11475, Mar. 20, 1996; 61 FR 18674, Apr. 29, 1996; 68 FR 69582, Dec. 12, 2003; 69 FR 32778, June 10, 2004; 77 FR 5675, Feb. 3, 2012]

§ 570.4 Allocation of funds.

(a) The determination of eligibility of units of general local government to receive entitlement grants, the entitlement amounts, the allocation of appropriated funds to States for use in nonentitlement areas, the reallocation of funds, the allocation of appropriated funds to insular areas, and the allocation of appropriated funds for discretionary grants under the Secretary's Fund shall be governed by the policies and procedures described in sections 106 and 107 of the Act, as appropriate.

(b) The definitions in § 570.3 shall govern in applying the policies and procedures described in sections 106 and 107 of the Act.

(c) In determining eligibility for entitlement and in allocating funds under section 106 of the Act for any federal fiscal year, HUD will recognize corporate status and geographical boundaries and the status of metropolitan areas and principal cities effective as of July 1 preceding such federal fiscal year, subject to the following limitations:

(1) With respect to corporate status as certified by the applicable State and available for processing by the Census Bureau as of such date;

(2) With respect to boundary changes or annexations, as are used by the Census Bureau in preparing population estimates for all general purpose governmental units and are available for processing by the Census Bureau as of such date, except that any such boundary changes or annexations which result in the population of a unit of general local government reaching or exceeding 50,000 shall be recognized for this purpose whether or not such changes are used by the Census Bureau in preparing such population estimates; and

(3) With respect to the status of Metropolitan Statistical Areas and principal cities, as officially designated by the Office of Management and Budget as of such date.

(d) In determining whether a county qualifies as an urban county, and in computing entitlement amounts for urban counties, the demographic values of population, poverty, housing overcrowding, and age of housing of any Indian tribes located within the county shall be excluded. In allocating amounts to States for use in nonentitlement areas, the demographic values of population, poverty, housing overcrowding and age of housing of all Indian tribes located in all non-entitled areas shall be excluded. It is recognized that all

such data on Indian tribes are not generally available from the United States Bureau of the Census and that missing portions of data will have to be estimated. In accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the data's point or period of time and shall use the best judgement possible in adjusting such data to reflect the same point or period of time as the overall data from which the Indian tribes are being deducted, so that such deduction shall not create an imbalance with those overall data.

(e) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.509, Grant closeout procedures, shall be considered as funds available for reallocation unless the appropriation under which the funds were provided to the Department has lapsed.

[53 FR 34437, Sept. 6, 1988, as amended at 68 FR 69582, Dec. 12, 2003; 69 FR 32778, June 10, 2004]

§ 570.5 *Waivers.*

HUD's authority for the waiver of regulations and for the suspension of requirements to address damage in a Presidentially declared disaster area is described in 24 CFR part 5 and in section 122 of the Act, respectively.

[61 FR 11476, Mar. 20, 1996]

Subpart B [Reserved]

Subpart C—Eligible Activities

SOURCE: 53 FR 34439, Sept. 6, 1988, unless otherwise noted.

§ 570.200 *General policies.*

(a) *Determination of eligibility.* An activity may be assisted in whole or in part with CDBG funds only if all of the following requirements are met:

(1) *Compliance with section 105 of the Act.* Each activity must meet the eligibility requirements of section 105 of the Act as further defined in this subpart.

(2) *Compliance with national objectives.* Grant recipients under the Entitlement and HUD-administered Small Cities programs and recipients of insular area funds under section 106 of the Act must certify that their projected use of funds has been developed so as to give maximum feasible priority to activities which will carry out one of the national objectives of benefit to low- and moderate-income families or aid in the prevention or elimination of slums or blight. The projected use of funds may also include activities that the recipient certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. Consistent with the foregoing, each recipient under the Entitlement or HUD-administered Small Cities programs, and each recipient of insular area funds under section 106 of the Act must ensure and maintain evidence that each of its activities assisted with CDBG funds meets one of the three national objectives as contained in its certification. Criteria for determining whether an activity addresses one or more of these objectives are found in § 570.208.

(3) *Compliance with the primary objective.* The primary objective of the Act is described in section 101(c) of the Act. Consistent with this objective, entitlement recipients, non-entitlement CDBG grantees in Hawaii, and recipients of insular area funds under section 106 of the Act must ensure that, over a period of time specified in their certification not to exceed three years, not less than 70 percent of the aggregate of CDBG fund expenditures shall be for activities meeting the criteria under § 570.208(a) or under

§ 570.208(d)(5) or (6) for benefiting low- and moderate-income persons. For grants under section 107 of the Act, insular area recipients must meet this requirement for each separate grant. See § 570.420(d)(3) for additional discussion of the primary objective requirement for insular areas funded under section 106 of the Act. The requirements for the HUD-administered Small Cities program in New York are at § 570.420(d)(2). In determining the percentage of funds expended for such activities:

(i) Cost of administration and planning eligible under § 570.205 and § 570.206 will be assumed to benefit low and moderate income persons in the same proportion as the remainder of the CDBG funds and, accordingly shall be excluded from the calculation;

(ii) Funds deducted by HUD for repayment of urban renewal temporary loans pursuant to § 570.802(b) shall be excluded;

(iii) Funds expended for the repayment of loans guaranteed under the provisions of subpart M shall also be excluded;

(iv) Funds expended for the acquisition, new construction or rehabilitation of property for housing that qualifies under § 570.208(a)(3) shall be counted for this purpose but shall be limited to an amount determined by multiplying the total cost (including CDBG and non-CDBG costs) of the acquisition, construction or rehabilitation by the percent of units in such housing to be occupied by low and moderate income persons.

(v) Funds expended for any other activities qualifying under § 570.208(a) shall be counted for this purpose in their entirety.

(4) *Compliance with environmental review procedures.* The environmental review procedures set forth at 24 CFR part 58 must be completed for each activity (or project as defined in 24 CFR part 58), as applicable.

(5) *Cost principles.* Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with 24 CFR PART 200.¹ All items of cost listed in Attachment B of these Circulars that require prior Federal agency approval are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in Attachment A of such circulars and are otherwise eligible under this subpart C, except for the following:

¹ These circulars are available from the American Communities Center by calling the following toll-free numbers: (800) 998-9999 or (800) 483-2209 (TDD).

(i) Depreciation methods for fixed assets shall not be changed without HUD's specific approval or, if charged through a cost allocation plan, the Federal cognizant agency.

(ii) Fines and penalties (including punitive damages) are unallowable costs to the CDBG program.

(iii) Pre-award costs are limited to those authorized under paragraph (h) of this section.

(b) *Special policies governing facilities.* The following special policies apply to:

(1) *Facilities containing both eligible and ineligible uses.* A public facility otherwise eligible for assistance under the CDBG program may be provided with CDBG funds even if it is part of a multiple use building containing ineligible uses, if:

(i) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and

(ii) The recipient can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

Allowable costs are limited to those attributable to the eligible portion of the building or facility.

(2) *Fees for use of facilities.* Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges such as excessive membership fees, which will have the effect of precluding low and moderate income persons from using the facilities, are not permitted.

(c) *Special assessments under the CDBG program.* The following policies relate to special assessments under the CDBG program:

(1) *Definition of special assessment.* The term "special assessment" means the recovery of the capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement, or a one-time charge made as a condition of access to a public improvement. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes, and does not include periodic charges based on the use of a public improvement, such as water or sewer user charges, even if such charges include the recovery of all or some portion of the capital costs of the public improvement.

(2) *Special assessments to recover capital costs.* Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:

(i) Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate income. Such assessments constitute program income.

(ii) Special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to pay the special assessment in behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate income persons if the grant recipient certifies that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.

(3) *Public improvements not initially assisted with CDBG funds.* The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments provided:

(i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this part including environmental, citizen participation and Davis-Bacon requirements;

(ii) The installation of the public improvement meets a criterion for national objectives in § 570.208(a)(1), (b), or (c); and

(iii) The requirements of § 570.200(c)(2)(ii) are met.

(d) *Consultant activities.* Consulting services are eligible for assistance under this part for professional assistance in program planning, development of community development objectives, and other general professional guidance relating to program execution. The use of consultants is governed by the following:

(1) *Employer-employee type of relationship.* No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with CDBG funds. In no event, however, shall such compensation exceed the equivalent of

the daily rate paid for Level IV of the Executive Schedule. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation.

(2) *Independent contractor relationship.* Consultant services provided under an independent contractor relationship are governed by the procurement requirements in 24 CFR 85.36, and are not subject to the compensation limitation of Level IV of the Executive Schedule.

(e) *Recipient determinations required as a condition of eligibility.* In several instances under this subpart, the eligibility of an activity depends on a special local determination. Recipients shall maintain documentation of all such determinations. A written determination is required for any activity carried out under the authority of §§ 570.201(f), 570.201(i)(2), 570.201(p), 570.201(q), 570.202(b)(3), 570.206(f), 570.209, 570.210, and 570.309.

(f) *Means of carrying out eligible activities.* (1) Activities eligible under this subpart, other than those authorized under § 570.204(a), may be undertaken, subject to local law:

(i) By the recipient through:

(A) Its employees, or

(B) Procurement contracts governed by the requirements of 24 CFR 85.36; or

(ii) Through loans or grants under agreements with subrecipients, as defined at § 570.500(c); or

(iii) By one or more public agencies, including existing local public agencies, that are designated by the chief executive officer of the recipient.

(2) Activities made eligible under § 570.204(a) may only be undertaken by entities specified in that section.

(g) *Limitation on planning and administrative costs.* No more than 20 percent of the sum of any grant, plus program income, shall be expended for planning and program administrative costs, as defined in §§ 570.205 and 570.206, respectively. Recipients of entitlement grants under subpart D of this part shall conform with this requirement by limiting the amount of CDBG funds obligated for planning plus administration during each program year to an amount no greater than 20 percent of the sum of its entitlement grant made for that program year (if any) plus the program income received by the recipient and its subrecipients (if any) during that program year.

(h) *Reimbursement for pre-award costs.* The effective date of the grant agreement is the program year start date or the date that the consolidated plan is received by HUD, whichever is later. For a Section 108 loan guarantee, the effective date of the grant agreement is the date of HUD execution of the grant agreement amendment for the particular loan guarantee commitment.

(1) Prior to the effective date of the grant agreement, a recipient may incur costs or may authorize a subrecipient to incur costs, and then after the effective date of the grant agreement pay for those costs using its CDBG funds, provided that:

(i) The activity for which the costs are being incurred is included, prior to the costs being incurred, in a consolidated plan action plan, an amended consolidated plan action plan, or an application under subpart M of this part, except that a new entitlement grantee preparing to receive its first allocation of CDBG funds may incur costs necessary to develop its consolidated plan and undertake other administrative actions necessary to receive its first grant, prior to the costs being included in its consolidated plan;

(ii) Citizens are advised of the extent to which these pre-award costs will affect future grants;

(iii) The costs and activities funded are in compliance with the requirements of this part and with the Environmental Review Procedures stated in 24 CFR part 58;

(iv) The activity for which payment is being made complies with the statutory and regulatory provisions in effect at the time the costs are paid for with CDBG funds;

(v) CDBG payment will be made during a time no longer than the next two program years following the effective date of the grant agreement or amendment in which the activity is first included; and

(vi) The total amount of pre-award costs to be paid during any program year pursuant to this provision is no more than the greater of 25 percent of the amount of the grant made for that year or \$300,000.

(2) Upon the written request of the recipient, HUD may authorize payment of pre-award costs for activities that do not meet the criteria at paragraph (h)(1)(v) or (h)(1)(vi) of this section, if HUD determines, in writing, that there is good cause for granting an exception upon consideration of the following factors, as applicable:

(i) Whether granting the authority would result in a significant contribution to the goals and purposes of the CDBG program;

(ii) Whether failure to grant the authority would result in undue hardship to the recipient or beneficiaries of the activity;

(iii) Whether granting the authority would not result in a violation of a statutory provision or any other regulatory provision;

(iv) Whether circumstances are clearly beyond the recipient's control; or

(v) Any other relevant considerations.

(i) *Urban Development Action Grant.* Grant assistance may be provided with Urban Development Action Grant funds, subject to the provisions of subpart G, for:

(1) Activities eligible for assistance under this subpart; and

(2) Notwithstanding the provisions of § 570.207, such other activities as the Secretary may determine to be consistent with the purposes of the Urban Development Action Grant program.

(j) *Faith-based activities.* (1) Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.

(2) Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.

(3) A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded

religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

(5) CDBG funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in this part. Sanctuaries, chapels, or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (*see* 24 CFR parts 84 and 85).

(6) If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.

[53 FR 34439, Sept. 6, 1988, as amended at 54 FR 47031, Nov. 8, 1989; 57 FR 27119, June 17, 1992; 60 FR 1943, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 60 FR 56910, Nov. 9, 1995; 61 FR 11476, Mar. 20, 1996; 61 FR 18674, Apr. 29, 1996; 65 FR 70215, Nov. 21, 2000; 68 FR 56404, Sept. 30, 2003; 69 FR 32778, June 10, 2004; 70 FR 76369, Dec. 23, 2005; 72 FR 46370, Aug. 17, 2007]

§ 570.201 *Basic eligible activities.*

CDBG funds may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by the recipient, or other public or private nonprofit entity, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of § 570.207.

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.504.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in § 570.207(a), carried out by the recipient or other public or private nonprofit entities. (However, activities under this paragraph may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public facilities and improvements, including those provided for in § 570.207(a)(1).) In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and not subject to the prohibition of new housing construction described in § 570.207(b)(3). Such facilities include shelters for the homeless; convalescent homes; hospitals, nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group

homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in § 570.204 may acquire title to public facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in § 570.200(b).

(d) *Clearance and remediation activities.* Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites and remediation of known or suspected environmental contamination. Demolition of HUD-assisted or HUD-owned housing units may be undertaken only with the prior approval of HUD. Remediation may include project-specific environmental assessment costs not otherwise eligible under § 570.205.

(e) *Public services.* Provision of public services (including labor, supplies, and materials) including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare (but excluding the provision of income payments identified under § 570.207(b)(4)), homebuyer down payment assistance, or recreational needs. To be eligible for CDBG assistance, a public service must be either a new service or a quantifiable increase in the level of an existing service above that which has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the State in which it is located) in the 12 calendar months before the submission of the action plan. (An exception to this requirement may be made if HUD determines that any decrease in the level of a service was the result of events not within the control of the unit of general local government.) The amount of CDBG funds used for public services shall not exceed paragraphs (e) (1) or (2) of this section, as applicable:

(1) The amount of CDBG funds used for public services shall not exceed 15 percent of each grant, except that for entitlement grants made under subpart D of this part, the amount shall not exceed 15 percent of the grant plus 15 percent of program income, as defined in § 570.500(a). For entitlement grants under subpart D of this part, compliance is based on limiting the amount of CDBG funds obligated for public service activities in each program year to an amount no greater than 15 percent of the entitlement grant made for that program year plus 15 percent of the program income received during the grantee's immediately preceding program year.

(2) A recipient which obligated more CDBG funds for public services than 15 percent of its grant funded from Federal fiscal year 1982 or 1983 appropriations (excluding program income and any assistance received under Public Law 98-8), may obligate more CDBG funds than allowable under paragraph (e)(1) of this section, so long as the total amount obligated in any program year does not exceed:

(i) For an entitlement grantee, 15% of the program income it received during the preceding program year; plus

(ii) A portion of the grant received for the program year which is the highest of the following amounts:

(A) The amount determined by applying the percentage of the grant it obligated for public services in the 1982 program year against the grant for its current program year;

(B) The amount determined by applying the percentage of the grant it obligated for public services in the 1983 program year against the grant for its current program year;

(C) The amount of funds it obligated for public services in the 1982 program year; or,

(D) The amount of funds it obligated for public services in the 1983 program year.

(f) *Interim assistance.* (1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings;
and

(ii) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

(i) The activities specified in paragraph (f)(1) of this section, except for the repair of parks and playgrounds;

(ii) The clearance of streets, including snow removal and similar activities, and

(iii) The improvement of private properties.

(3) All activities authorized under paragraph (f)(2) of this section are limited to the extent necessary to alleviate emergency conditions.

(g) *Payment of non-Federal share.* Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible and in compliance with applicable requirements under this subpart.

(h) *Urban renewal completion.* Payment of the cost of completing an urban renewal project funded under title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.801.

(i) *Relocation.* Relocation payments and other assistance for permanently and temporarily relocated individuals families, businesses, nonprofit organizations, and farm operations where the assistance is (1) required under the provisions of § 570.606 (b) or (c); or (2) determined by the grantee to be appropriate under the provisions of § 570.606(d).

(j) *Loss of rental income.* Payments to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of individuals and families displaced by program activities assisted under this part.

(k) *Housing services.* Housing services, as provided in section 105(a)(21) of the Act (42 U.S.C. 5305(a)(21)).

(l) *Privately owned utilities.* CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

(m) *Construction of housing.* CDBG funds may be used for the construction of housing assisted under section 17 of the United States Housing Act of 1937.

(n) *Homeownership assistance.* CDBG funds may be used to provide direct homeownership assistance to low- or moderate-income households in accordance with section 105(a) of the Act.

(o)(1) The provision of assistance either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients) to facilitate economic development by:

(i) Providing credit, including, but not limited to, grants, loans, loan guarantees, and other forms of financial support, for the establishment, stabilization, and expansion of microenterprises;

(ii) Providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises; and

(iii) Providing general support, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, to owners of microenterprises and persons developing microenterprises.

(2) Services provided this paragraph (o) shall not be subject to the restrictions on public services contained in paragraph (e) of this section.

(3) For purposes of this paragraph (o), “persons developing microenterprises” means such persons who have expressed interest and who are, or after an initial screening process are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed.

(4) Assistance under this paragraph (o) may also include training, technical assistance, or other support services to increase the capacity of the recipient or subrecipient to carry out the activities under this paragraph (o).

(p) *Technical assistance.* Provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities. (The recipient must determine, prior to the provision of the assistance, that the activity for which it is attempting to build capacity would be eligible for assistance under this subpart C, and that the national objective claimed by the grantee for this assistance can reasonably be expected to be met once the entity has received the technical assistance and undertakes the activity.) Capacity building for private or public entities (including grantees) for other purposes may be eligible under § 570.205.

(q) *Assistance to institutions of higher education.* Provision of assistance by the recipient to institutions of higher education when the grantee determines that such an institution has demonstrated a capacity to carry out eligible activities under this subpart C.

[53 FR 34439, Sept. 6, 1988, as amended at 53 FR 31239, Aug. 17, 1988; 55 FR 29308, July 18, 1990; 57 FR 27119, June 17, 1992; 60 FR 1943, Jan. 5, 1995; 60 FR 56911, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996; 65 FR 70215, Nov. 21, 2000; 67 FR 47213, July 17, 2002; 71 FR 30034, May 24, 2006]

§ 570.202 *Eligible rehabilitation and preservation activities.*

(a) *Types of buildings and improvements eligible for rehabilitation assistance.* CDBG funds may be used to finance the rehabilitation of:

(1) Privately owned buildings and improvements for residential purposes; improvements to a single-family residential property which is also used as a place of business, which are required in order to operate the business, need not be considered to be rehabilitation of a commercial or industrial building, if the improvements also provide general benefit to the residential occupants of the building;

(2) Low-income public housing and other publicly owned residential buildings and improvements;

(3) Publicly or privately owned commercial or industrial buildings, except that the rehabilitation of such buildings owned by a private for-profit business is limited to improvement to the exterior of the building, abatement of asbestos hazards, lead-based paint hazard evaluation and reduction, and the correction of code violations;

- (4) Nonprofit-owned nonresidential buildings and improvements not eligible under § 570.201(c); and
- (5) Manufactured housing when such housing constitutes part of the community's permanent housing stock.
- (b) *Types of assistance.* CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section, except that rehabilitation of commercial or industrial buildings is limited as described in paragraph (a)(3) of this section.
- (1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes;
- (2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancement of existing structures and improvements, abatement of asbestos hazards (and other contaminants) in buildings and improvements that may be undertaken singly, or in combination;
- (3) Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds if such financing is determined by the recipient to be necessary or appropriate to achieve the locality's community development objectives;
- (4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;
- (5) Improvements to increase the efficient use of water through such means as water savings faucets and shower heads and repair of water leaks;
- (6) Connection of residential structures to water distribution lines or local sewer collection lines;
- (7) For rehabilitation carried out with CDBG funds, costs of:
- (i) Initial homeowner warranty premiums;
- (ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and
- (iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to § 570.605.
- (8) Costs of acquiring tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation;
- (9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, under section 810 of the Act, or under section 17 of the United States Housing Act of 1937;
- (10) Assistance for the rehabilitation of housing under section 17 of the United States Housing Act of 1937; and

(11) Improvements designed to remove material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to buildings and improvements eligible for assistance under paragraph (a) of this section.

(c) *Code enforcement.* Costs incurred for inspection for code violations and enforcement of codes (e.g., salaries and related expenses of code enforcement inspectors and legal proceedings, but not including the cost of correcting the violations) in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.

(d) *Historic preservation.* CDBG funds may be used for the rehabilitation, preservation or restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local inventory of historic places, or designated as a State or local landmark or historic district by appropriate law or ordinance. Historic preservation, however, is not authorized for buildings for the general conduct of government.

(e) *Renovation of closed buildings.* CDBG funds may be used to renovate closed buildings, such as closed school buildings, for use as an eligible public facility or to rehabilitate such buildings for housing.

(f) *Lead-based paint activities.* Lead-based paint activities pursuant to § 570.608.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1944, Jan. 5, 1995; 60 FR 56911, Nov. 9, 1995; 64 FR 50225, Sept. 15, 1999; 71 FR 30035, May 24, 2006]

§ 570.203 *Special economic development activities.*

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart that may be carried out as part of an economic development project. Guidelines for selecting activities to assist under this paragraph are provided at § 570.209. The recipient must ensure that the appropriate level of public benefit will be derived pursuant to those guidelines before obligating funds under this authority. Special activities authorized under this section do not include assistance for the construction of new housing. Activities eligible under this section may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination. Special economic development activities include:

(a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.

(b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible in § 570.207(a). In selecting businesses to assist under this authority, the recipient shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods.

(c) Economic development services in connection with activities eligible under this section, including, but not limited to, outreach efforts to market available forms of assistance; screening of applicants; reviewing and underwriting applications for assistance; preparation of all necessary agreements; management of assisted activities; and the screening, referral, and placement of applicants for employment opportunities generated by CDBG-eligible economic development activities, including the costs of providing necessary training for persons filling those positions.

[53 FR 34439, Sept. 6, 1988, as amended at 60 FR 1944, Jan. 5, 1995; 71 FR 30035, May 24, 2006]

§ 570.204 Special activities by Community-Based Development Organizations (CBDOs).

(a) *Eligible activities.* The recipient may provide CDBG funds as grants or loans to any CBDO qualified under this section to carry out a neighborhood revitalization, community economic development, or energy conservation project. The funded project activities may include those listed as eligible under this subpart, and, except as described in paragraph (b) of this section, activities not otherwise listed as eligible under this subpart. For purposes of qualifying as a project under paragraphs (a)(1), (a)(2), and (a)(3) of this section, the funded activity or activities may be considered either alone or in concert with other project activities either being carried out or for which funding has been committed. For purposes of this section:

(1) Neighborhood revitalization project includes activities of sufficient size and scope to have an impact on the decline of a geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or the entire jurisdiction of a unit of general local government which is under 25,000 population;

(2) Community economic development project includes activities that increase economic opportunity, principally for persons of low- and moderate-income, or that stimulate or retain businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address a lack of affordable housing accessible to existing or planned jobs and those activities specified at 24 CFR 91.1(a)(1)(iii); activities under this paragraph may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination;

(3) Energy conservation project includes activities that address energy conservation, principally for the benefit of the residents of the recipient's jurisdiction; and

(4) To carry out a project means that the CBDO undertakes the funded activities directly or through contract with an entity other than the grantee, or through the provision of financial assistance for activities in which it retains a direct and controlling involvement and responsibilities.

(b) *Ineligible activities.* Notwithstanding that CBDOs may carry out activities that are not otherwise eligible under this subpart, this section does not authorize:

(1) Carrying out an activity described as ineligible in § 570.207(a);

(2) Carrying out public services that do not meet the requirements of § 570.201(e), except that:

(i) Services carried out under this section that are specifically designed to increase economic opportunities through job training and placement and other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services; and

(ii) Services of any type carried out under this section pursuant to a strategy approved by HUD under the provisions of 24 CFR 91.215(e) shall not be subject to the limitations in § 570.201(e)(1) or (2), as applicable;

(3) Providing assistance to activities that would otherwise be eligible under § 570.203 that do not meet the requirements of § 570.209; or

(4) Carrying out an activity that would otherwise be eligible under § 570.205 or § 570.206, but that would result in the recipient's exceeding the spending limitation in § 570.200(g).

(c) *Eligible CBDOs.* (1) A CBDO qualifying under this section is an organization which has the following characteristics:

(i) Is an association or corporation organized under State or local law to engage in community development activities (which may include housing and economic development activities) primarily within an identified geographic area of operation within the jurisdiction of the recipient, or in the case of an urban county, the jurisdiction of the county; and

(ii) Has as its primary purpose the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of persons of low and moderate income; and

(iii) May be either non-profit or for-profit, provided any monetary profits to its shareholders or members must be only incidental to its operations; and

(iv) Maintains at least 51 percent of its governing body's membership for low- and moderate-income residents of its geographic area of operation, owners or senior officers of private establishments and other institutions located in and serving its geographic area of operation, or representatives of low- and moderate-income neighborhood organizations located in its geographic area of operation; and

(v) Is not an agency or instrumentality of the recipient and does not permit more than one-third of the membership of its governing body to be appointed by, or to consist of, elected or other public officials or employees or officials of an ineligible entity (even though such persons may be otherwise qualified under paragraph (c)(1)(iv) of this section); and

(vi) Except as otherwise authorized in paragraph (c)(1)(v) of this section, requires the members of its governing body to be nominated and approved by the general membership of the organization, or by its permanent governing body; and

(vii) Is not subject to requirements under which its assets revert to the recipient upon dissolution; and

(viii) Is free to contract for goods and services from vendors of its own choosing.

(2) A CBDO that does not meet the criteria in paragraph (c)(1) of this section may also qualify as an eligible entity under this section if it meets one of the following requirements:

(i) Is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making; or

(ii) Is an SBA approved Section 501 State Development Company or Section 502 Local Development Company, or an SBA Certified Section 503 Company under the Small Business Investment Act of 1958, as amended; or

(iii) Is a Community Housing Development Organization (CHDO) under 24 CFR 92.2, designated as a CHDO by the HOME Investment Partnerships program participating jurisdiction, with a geographic area of operation of no more than one neighborhood, and has received HOME funds under 24 CFR 92.300 or is expected to receive HOME funds as described in and documented in accordance with 24 CFR 92.300(e).

(3) A CBDO that does not qualify under paragraph (c)(1) or (2) of this section may also be determined to qualify as an eligible entity under this section if the recipient demonstrates to the satisfaction of HUD, through the provision of information regarding the organization's charter and by-laws, that the organization is sufficiently similar in purpose, function, and scope to those entities qualifying under paragraph (c)(1) or (2) of this section.

[60 FR 1944, Jan. 5, 1995, as amended at 71 FR 30035, May 24, 2006]

§ 570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.

(a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including, but not limited to:

(1) Comprehensive plans;

(2) Community development plans;

(3) Functional plans, in areas such as:

(i) Housing, including the development of a consolidated plan;

(ii) Land use and urban environmental design;

(iii) Economic development;

(iv) Open space and recreation;

(v) Energy use and conservation;

(vi) Floodplain and wetlands management in accordance with the requirements of Executive Orders 11988 and 11990;

(vii) Transportation;

(viii) Utilities; and

(ix) Historic preservation.

(4) Other plans and studies such as:

(i) Small area and neighborhood plans;

(ii) Capital improvements programs;

(iii) Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under §§ 570.201-570.204);

(iv) The reasonable costs of general environmental, urban environmental design and historic preservation studies; and general environmental assessment- and remediation-oriented planning related to properties with known or suspected environmental contamination. However, costs necessary to comply with 24 CFR part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part, are eligible as part of the cost of such activities under §§ 570.201-570.204. Costs for such specific assessments and clearances may also be incurred under this paragraph but would then be considered planning costs for the purposes of § 570.200(g);

(v) Strategies and action programs to implement plans, including the development of codes, ordinances and regulations;

- (vi) Support of clearinghouse functions, such as those specified in Executive Order 12372; and
- (vii) Analysis of impediments to fair housing choice.
- (viii) Developing an inventory of properties with known or suspected environmental contamination.
- (5) [Reserved]
- (6) Policy—planning—management—capacity building activities which will enable the recipient to:
 - (1) Determine its needs;
 - (2) Set long-term goals and short-term objectives, including those related to urban environmental design;
 - (3) Devise programs and activities to meet these goals and objectives;
 - (4) Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and
 - (5) Carry out management, coordination and monitoring of activities necessary for effective planning implementation, but excluding the costs necessary to implement such plans.

[53 FR 34439, Sept. 6, 1988, as amended at 56 FR 56127, Oct. 31, 1991; 60 FR 1915, Jan. 5, 1995; 71 FR 30035, May 24, 2006]

§ 570.206 *Program administrative costs.*

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities assisted in whole or in part with funds provided under this part and, where applicable, housing activities (described in paragraph (g) of this section) covered in the recipient's housing assistance plan. This does not include staff and overhead costs directly related to carrying out activities eligible under § 570.201 through § 570.204, since those costs are eligible as part of such activities.

(a) *General management, oversight and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation. Such costs include, but are not necessarily limited to, necessary expenditures for the following:

(1) Salaries, wages, and related costs of the recipient's staff, the staff of local public agencies, or other staff engaged in program administration. In charging costs to this category the recipient may either include the entire salary, wages, and related costs allocable to the program of each person whose *primary* responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes *any* program administration assignments. The recipient may use only one of these methods during the program year (or the grant period for grants under subpart F). Program administration includes the following types of assignments:

- (i) Providing local officials and citizens with information about the program;
- (ii) Preparing program budgets and schedules, and amendments thereto;
- (iii) Developing systems for assuring compliance with program requirements;
- (iv) Developing interagency agreements and agreements with subrecipients and contractors to carry out program activities;

- (v) Monitoring program activities for progress and compliance with program requirements;
 - (vi) Preparing reports and other documents related to the program for submission to HUD;
 - (vii) Coordinating the resolution of audit and monitoring findings;
 - (viii) Evaluating program results against stated objectives; and
 - (ix) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraph (a)(1)(i) through (viii) of this section.
- (2) Travel costs incurred for official business in carrying out the program;
 - (3) Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services; and
 - (4) Other costs for goods and services required for administration of the program, including such goods and services as rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space.
- (b) *Public information.* The provisions of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of activities being assisted with CDBG funds.
- (c) *Fair housing activities.* Provision of fair housing services designed to further the fair housing objectives of the Fair Housing Act (42 U.S.C. 3601-20) by making all persons, without regard to race, color, religion, sex, national origin, familial status or handicap, aware of the range of housing opportunities available to them; other fair housing enforcement, education, and outreach activities; and other activities designed to further the housing objective of avoiding undue concentrations of assisted persons in areas containing a high proportion of low and moderate income persons.
- (d) [Reserved]
- (e) *Indirect costs.* Indirect costs may be charged to the CDBG program under a cost allocation plan prepared in accordance with 2 CFR PART 200 as applicable.
- (f) *Submission of applications for federal programs.* Preparation of documents required for submission to HUD to receive funds under the CDBG and UDAG programs. In addition, CDBG funds may be used to prepare applications for other Federal programs where the recipient determines that such activities are necessary or appropriate to achieve its community development objectives.
- (g) *Administrative expenses to facilitate housing.* CDBG funds may be used for necessary administrative expenses in planning or obtaining financing for housing as follows: for entitlement recipients, assistance authorized by this paragraph is limited to units which are identified in the recipient's HUD approved housing assistance plan; for HUD-administered small cities recipients, assistance authorized by the paragraph is limited to facilitating the purchase or occupancy of existing units which are to be occupied by low and moderate income households, or the construction of rental or owner units where at least 20 percent of the units in each project will be occupied at affordable rents/costs by low and moderate income persons. Examples of eligible actions are as follows:
- (1) The cost of conducting preliminary surveys and analysis of market needs;
 - (2) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation, and "sketch drawings," but excluding architectural, engineering, and other

details ordinarily required for construction purposes, such as structural, electrical, plumbing, and mechanical details;

(3) Reasonable costs associated with development of applications for mortgage and insured loan commitments, including commitment fees, and of applications and proposals under the Section 8 Housing Assistance Payments Program pursuant to 24 CFR parts 880-883;

(4) Fees associated with processing of applications for mortgage or insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA);

(5) The cost of issuance and administration of mortgage revenue bonds used to finance the acquisition, rehabilitation or construction of housing, but excluding costs associated with the payment or guarantee of the principal or interest on such bonds; and

(6) Special outreach activities which result in greater landlord participation in Section 8 Housing Assistance Payments Program-Existing Housing or similar programs for low and moderate income persons.

(h) *Section 17 of the United States Housing Act of 1937.* Reasonable costs equivalent to those described in paragraphs (a), (b), (c) and (f) of this section for overall program management of the Rental Rehabilitation and Housing Development programs authorized under section 17 of the United States Housing Act of 1937, whether or not such activities are otherwise assisted with funds provided under this part.

(i) Whether or not such activities are otherwise assisted by funds provided under this part, reasonable costs equivalent to those described in paragraphs (a), (b), (c), and (f) of this section for overall program management of:

(1) A Federally designated Empowerment Zone or Enterprise Community; and

(2) The HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 note).

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 54 FR 37411, Sept. 8, 1989; 60 FR 56912, Nov. 9, 1995; 69 FR 32778, June 10, 2004]

§ 570.207 Ineligible activities.

The general rule is that any activity that is not authorized under the provisions of §§ 570.201-570.206 is ineligible to be assisted with CDBG funds. This section identifies specific activities that are ineligible and provides guidance in determining the eligibility of other activities frequently associated with housing and community development.

(a) The following activities may not be assisted with CDBG funds:

(1) *Buildings or portions thereof, used for the general conduct of government* as defined at § 570.3(d) cannot be assisted with CDBG funds. This does not include, however, the removal of architectural barriers under § 570.201(c) involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective described in § 570.208.

(2) *General government expenses.* Except as otherwise specifically authorized in this subpart or under 2 CFR PART 200—expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

(3) *Political activities.* CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

(b) The following activities may not be assisted with CDBG funds unless authorized under provisions of § 570.203 or as otherwise specifically noted herein or when carried out by an entity under the provisions of § 570.204.

(1) *Purchase of equipment.* The purchase of equipment with CDBG funds is generally ineligible.

(i) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to 2 CFR PART 200 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible under § 570.201(c).

(ii) *Fire protection equipment.* Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible under § 570.201(c).

(iii) *Furnishings and personal property.* The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with 2 CFR PART 200 as applicable) for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service pursuant to § 570.201(e).

(2) *Operating and maintenance expenses.* The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of operating and maintaining a facility used in providing a public service would be eligible under § 570.201(e), even if no other costs of providing such a service are assisted with such funds. Examples of ineligible operating and maintenance expenses are:

(i) Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with a disabilities, parking and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and

(ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

(3) *New housing construction.* For the purpose of this paragraph, activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing pre-construction costs set forth in § 570.206(g), are not considered as activities to subsidize or assist new residential construction. CDBG funds may not be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction, except:

(i) As provided under the last resort housing provisions set forth in 24 CFR part 42;

(ii) As authorized under § 570.201(m) or (n);

(iii) When carried out by an entity pursuant to § 570.204(a);

(4) *Income payments.* The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, "income payments" means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 56912, Nov. 9, 1995; 65 FR 70215, Nov. 21, 2000]

§ 570.208 *Criteria for national objectives.*

The following criteria shall be used to determine whether a CDBG-assisted activity complies with one or more of the national objectives as required under § 570.200(a)(2):

(a) *Activities benefiting low- and moderate-income persons.* Activities meeting the criteria in paragraph (a) (1), (2), (3), or (4) of this section as applicable, will be considered to benefit low and moderate income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. (The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate income persons to the exclusion of low income persons.)

(1) *Area benefit activities.* (i) An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.

(ii) For metropolitan cities and urban counties, an activity that would otherwise qualify under § 570.208(a)(1)(i), except that the area served contains less than 51 percent low- and moderate-income residents, will also be considered to meet the objective of benefiting low- and moderate-income persons where the proportion of such persons in the area is within the highest quartile of all areas in the recipient's jurisdiction in terms of the degree of concentration of such persons. This exception is inapplicable to non-entitlement CDBG grants in Hawaii. In applying this exception, HUD will determine the lowest proportion a recipient may use to qualify an area for this purpose, as follows:

(A) All census block groups in the recipient's jurisdiction shall be rank ordered from the block group of highest proportion of low and moderate income persons to the block group with the lowest. For urban counties, the rank ordering shall cover the entire area constituting the urban county and shall not be done separately for each participating unit of general local government.

(B) In any case where the total number of a recipient's block groups does not divide evenly by four, the block group which would be fractionally divided between the highest and second quartiles shall be considered to be part of the highest quartile.

(C) The proportion of low and moderate income persons in the last census block group in the highest quartile shall be identified. Any service area located within the recipient's jurisdiction and having a proportion of low and moderate income persons at or above this level shall be considered to be within the highest quartile.

(D) If block group data are not available for the entire jurisdiction, other data acceptable to the Secretary may be used in the above calculations.

(iii) An activity to develop, establish, and operate for up to two years after the establishment of, a uniform emergency telephone number system serving an area having less than the percentage of low- and moderate-income residents required under paragraph (a)(1)(i) of this section or (as applicable) paragraph (a)(1)(ii) of this section, provided the recipient obtains prior HUD approval. To obtain such approval, the recipient must:

(A) Demonstrate that the system will contribute significantly to the safety of the residents of the area. The request for approval must include a list of the emergency services that will participate in the emergency telephone number system;

(B) Submit information that serves as a basis for HUD to determine whether at least 51 percent of the use of the system will be by low- and moderate-income persons. As available, the recipient must provide information that identifies the total number of calls actually received over the preceding 12-month period for each of the emergency services to be covered by the emergency telephone number system and relates those calls to the geographic segment (expressed as nearly as possible in terms of census tracts, block numbering areas, block groups, or combinations thereof that are contained within the segment) of the service area from which the calls were generated. In analyzing this data to meet the requirements of this section, HUD will assume that the distribution of income among the callers generally reflects the income characteristics of the general population residing in the same geographic area where the callers reside. If HUD can conclude that the users have primarily consisted of low- and moderate-income persons, no further submission is needed by the recipient. If a recipient plans to make other submissions for this purpose, it may request that HUD review its planned methodology before expending the effort to acquire the information it expects to use to make its case;

(C) Demonstrate that other Federal funds received by the recipient are insufficient or unavailable for a uniform emergency telephone number system. For this purpose, the recipient must submit a statement explaining whether the lack of funds is due to the insufficiency of the amount of the available funds, restrictions on the use of such funds, or the prior commitment of funds by the recipient for other purposes; and

(D) Demonstrate that the percentage of the total costs of the system paid for by CDBG funds does not exceed the percentage of low- and moderate-income persons in the service area of the system. For this purpose, the recipient must include a description of the boundaries of the service area of the emergency telephone number system, the census divisions that fall within the boundaries of the service area (census tracts or block numbering areas), the total number of persons and the total number of low- and moderate-income persons within each census division, the percentage of low- and moderate-income persons within the service area, and the total cost of the system.

(iv) An activity for which the assistance to a public improvement that provides benefits to all the residents of an area is limited to paying special assessments (as defined in § 570.200(c)) levied against residential properties owned and occupied by persons of low and moderate income.

(v) For purposes of determining qualification under this criterion, activities of the same type that serve different areas will be considered separately on the basis of their individual service area.

(vi) In determining whether there is a sufficiently large percentage of low- and moderate-income persons residing in the area served by an activity to qualify under paragraph (a)(1) (i), (ii), or (vii) of this section, the most recently available decennial census information must be used to the fullest extent feasible, together with the section 8 income limits that would have applied at the time the income information was collected by the Census Bureau. Recipients that believe that the census data does not reflect current relative income levels in an area, or where census boundaries do not coincide sufficiently well with the service area of an activity, may conduct (or have conducted) a current survey of the residents of the area to determine the percent of such persons that are low and moderate income. HUD will accept information obtained through such surveys, to be used in lieu of the decennial census data, where it determines that the survey was conducted in such a manner that the results meet standards of statistical reliability that are comparable to that of the decennial census data for areas of similar size. Where there is substantial evidence that provides a clear basis to believe that the use of the decennial census data would substantially overstate the

proportion of persons residing there that are low and moderate income, HUD may require that the recipient rebut such evidence in order to demonstrate compliance with section 105(c)(2) of the Act.

(vii) Activities meeting the requirements of paragraph (d)(5)(i) of this section may be considered to qualify under this paragraph, provided that the area covered by the strategy is either a Federally-designated Empowerment Zone or Enterprise Community or primarily residential and contains a percentage of low- and moderate-income residents that is no less than the percentage computed by HUD pursuant to paragraph (a)(1)(ii) of this section or 70 percent, whichever is less, but in no event less than 51 percent. Activities meeting the requirements of paragraph (d)(6)(i) of this section may also be considered to qualify under paragraph (a)(1) of this section.

(2) *Limited clientele activities.* (i) An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. (The following kinds of activities may not qualify under paragraph (a)(2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low- and moderate-income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2)(iv) of this section.) To qualify under paragraph (a)(2) of this section, the activity must meet one of the following tests:

(A) Benefit a clientele who are generally presumed to be principally low and moderate income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

(B) Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit; or

(C) Have income eligibility requirements which limit the activity exclusively to low and moderate income persons; or

(D) Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low and moderate income persons.

(ii) An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled" will be presumed to qualify under this criterion if it is restricted, to the extent practicable, to the removal of such barriers by assisting:

(A) The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under paragraph (a)(1) of this section;

(B) The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under paragraph (a)(1) or (4) of this section; or

(C) The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under paragraph (a)(3) of this section.

(iii) A microenterprise assistance activity carried out in accordance with the provisions of § 570.201(o) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are low- and moderate-income persons. For purposes of this paragraph, persons determined to be low and moderate income may be presumed to continue to qualify as such for up to a three-year period.

(iv) An activity designed to provide job training and placement and/or other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, in which the percentage of low- and moderate-income persons assisted is less than 51 percent may qualify under this paragraph in the following limited circumstance:

(A) In such cases where such training or provision of supportive services assists business(es), the only use of CDBG assistance for the project is to provide the job training and/or supportive services; and

(B) The proportion of the total cost of the project borne by CDBG funds is no greater than the proportion of the total number of persons assisted who are low or moderate income.

(3) *Housing activities.* An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the recipient, a subrecipient, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. Where housing activities being assisted meet the requirements of paragraph § 570.208 (d)(5)(ii) or (d)(6)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The recipient shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

(i) When less than 51 percent of the units in a structure will be occupied by low and moderate income households, CDBG assistance may be provided in the following limited circumstances:

(A) The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project;

(B) Not less than 20 percent of the units will be occupied by low and moderate income households at affordable rents; and

(C) The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will be occupied by low and moderate income households.

(ii) When CDBG funds are used to assist rehabilitation eligible under § 570.202(b)(9) or (10) in direct support of the recipient's Rental Rehabilitation program authorized under 24 CFR part 511, such funds shall be considered to benefit low and moderate income persons where not less than 51 percent of the units assisted, or to be assisted, by the recipient's Rental Rehabilitation program overall are for low and moderate income persons.

(iii) When CDBG funds are used for housing services eligible under § 570.201(k), such funds shall be considered to benefit low- and moderate-income persons if the housing units for which the services are provided are HOME-assisted and the requirements at 24 CFR 92.252 or 92.254 are met.

(4) *Job creation or retention activities.* An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate-income persons. To qualify under this paragraph, the activity must meet the following criteria:

(i) For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low- and moderate-income persons.

(ii) For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided:

(A) The job is known to be held by a low- or moderate-income person; or

(B) The job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low- or moderate-income person upon turnover.

(iii) Jobs that are not held or filled by a low- or moderate-income person may be considered to be available to low- and moderate-income persons for these purposes only if:

(A) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

(B) The recipient and the assisted business take actions to ensure that low- and moderate-income persons receive first consideration for filling such jobs.

(iv) For purposes of determining whether a job is held by or made available to a low- or moderate-income person, the person may be presumed to be a low- or moderate-income person if:

(A) He/she resides within a census tract (or block numbering area) that either:

(1) Meets the requirements of paragraph (a)(4)(v) of this section; or

(2) Has at least 70 percent of its residents who are low- and moderate-income persons; or

(B) The assisted business is located within a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within that census tract.

(v) A census tract (or block numbering area) qualifies for the presumptions permitted under paragraphs (a)(4)(iv)(A)(1) and (B) of this section if it is either part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following criteria:

(A) It has a poverty rate of at least 20 percent as determined by the most recently available decennial census information;

(B) It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and

(C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:

(1) All block groups in the census tract have poverty rates of at least 20 percent;

(2) The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or

(3) Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

(vi) As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except:

(A) In certain cases such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses which locate on the property, provided such businesses are not otherwise assisted by CDBG funds.

(B) Where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses exclusively from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during each program year.

(C) Where CDBG funds are used by a recipient or subrecipient to provide technical assistance to businesses, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving technical assistance during each program year.

(D) Where CDBG funds are used for activities meeting the criteria listed at § 570.209(b)(2)(v), this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

(E) Where CDBG funds are used by a Community Development Financial Institution to carry out activities for the purpose of creating or retaining jobs, this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

(F) Where CDBG funds are used for public facilities or improvements which will result in the creation or retention of jobs by more than one business, this requirement may be met by aggregating the jobs created or retained by all such businesses as a result of the public facility or improvement.

(1) Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other businesses might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDBG funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.

(2) In any case where the cost per job to be created or retained (as determined under paragraph (a)(4)(vi)(F)(1) of this section) is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. This aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the facility/improvement between the date the recipient identifies the activity in its action plan under part 91 of this title and the date one year after the physical completion of the facility/improvement. In addition, the assisted activity must comply with the public benefit standards at § 570.209(b).

(b) *Activities which aid in the prevention or elimination of slums or blight.* Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(1) *Activities to address slums or blight on an area basis.* An activity will be considered to address prevention or elimination of slums or blight in an area if:

(i) The area, delineated by the recipient, meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;

(ii) The area also meets the conditions in either paragraph (A) or (B):

(A) At least 25 percent of properties throughout the area experience one or more of the following conditions:

(1) Physical deterioration of buildings or improvements;

(2) Abandonment of properties;

(3) Chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings;

(4) Significant declines in property values or abnormally low property values relative to other areas in the community; or

(5) Known or suspected environmental contamination.

(B) The public improvements throughout the area are in a general state of deterioration.

(iii) Documentation is to be maintained by the recipient on the boundaries of the area and the conditions and standards used that qualified the area at the time of its designation. The recipient shall establish definitions of the conditions listed at § 570.208(b)(1)(ii)(A), and maintain records to substantiate how the area met the slums or blighted criteria. The designation of an area as slum or blighted under this section is required to be re-determined every 10 years for continued qualification. Documentation must be retained pursuant to the recordkeeping requirements contained at § 570.506 (b)(8)(ii).

(iv) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area. Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard under local definition before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is undertaken. At a minimum, the local definition for this purpose must be such that buildings that it would render substandard would also fail to meet the housing quality standards for the Section 8 Housing Assistance Payments Program-Existing Housing (24 CFR 882.109).

(2) *Activities to address slums or blight on a spot basis.* The following activities may be undertaken on a spot basis to eliminate specific conditions of blight, physical decay, or environmental contamination that are not located in a slum or blighted area: acquisition; clearance; relocation; historic preservation; remediation of environmentally contaminated properties; or rehabilitation of buildings or improvements. However, rehabilitation must be limited to eliminating those conditions that are detrimental to public health and safety. If acquisition or relocation is undertaken, it must be a precursor to another eligible activity (funded with CDBG or other resources) that directly eliminates the specific conditions of blight or physical decay, or environmental contamination.

(3) *Activities to address slums or blight in an urban renewal area.* An activity will be considered to address prevention or elimination of slums or blight in an urban renewal area if the activity is:

(i) Located within an urban renewal project area or Neighborhood Development Program (NDP) action area; i.e., an area in which funded activities were authorized under an urban renewal Loan and Grant Agreement or an annual NDP Funding Agreement, pursuant to title I of the Housing Act of 1949; and

(ii) Necessary to complete the urban renewal plan, as then in effect, including *initial* land redevelopment permitted by the plan.

NOTE: Despite the restrictions in (b) (1) and (2) of this section, any rehabilitation activity which benefits low and moderate income persons pursuant to paragraph (a)(3) of this section can be undertaken without regard to the area in which it is located or the extent or nature of rehabilitation assisted.

(c) *Activities designed to meet community development needs having a particular urgency.* In the absence of substantial evidence to the contrary, an activity will be considered to address this objective if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the recipient.

(d) *Additional criteria.* (1) Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses a national objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance which will eliminate specific conditions of blight or physical decay, the clearance activity shall be considered the actual use of the property. However, any subsequent use or disposition of the cleared property shall be treated as a "change of use" under § 570.505.

(2) Where the assisted activity is relocation assistance that the recipient is required to provide, such relocation assistance shall be considered to address the same national objective as is addressed by the displacing activity. Where the relocation assistance is voluntary on the part of the grantee the recipient may qualify the assistance either on the basis of the national objective addressed by the displacing activity or on the basis that the recipients of the relocation assistance are low and moderate income persons.

(3) In any case where the activity undertaken for the purpose of creating or retaining jobs is a public improvement and the area served is primarily residential, the activity must meet the requirements of paragraph (a)(1) of this section as well as those of paragraph (a)(4) of this section in order to qualify as benefiting low and moderate income persons.

(4) CDBG funds expended for planning and administrative costs under § 570.205 and § 570.206 will be considered to address the national objectives.

(5) Where the grantee has elected to prepare an area revitalization strategy pursuant to the authority of § 91.215(e) of this title and HUD has approved the strategy, the grantee may also elect the following options:

(i) Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and

(ii) All housing activities in the area for which, pursuant to the strategy, CDBG assistance is obligated during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

(6) Where CDBG-assisted activities are carried out by a Community Development Financial Institution whose charter limits its investment area to a primarily residential area consisting of at least 51 percent low- and moderate-income persons, the grantee may also elect the following options:

(i) Activities carried out by the Community Development Financial Institution for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and

(ii) All housing activities for which the Community Development Financial Institution obligates CDBG assistance during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

(7) Where an activity meeting the criteria at § 570.209(b)(2)(v) may also meet the requirements of either paragraph (d)(5)(i) or (d)(6)(i) of this section, the grantee may elect to qualify the activity under either the area benefit criteria at paragraph (a)(1)(vii) of this section or the job aggregation criteria at paragraph (a)(4)(vi)(D) of this section, but not both. Where an activity may meet the job aggregation criteria at both paragraphs (a)(4)(vi)(D) and (E) of this section, the grantee may elect to qualify the activity under either criterion, but not both.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 60 FR 56912, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996; 71 FR 30035, May 24, 2006; 72 FR 46370, Aug. 17, 2007]

§ 570.209 Guidelines for evaluating and selecting economic development projects.

The following guidelines are provided to assist the recipient to evaluate and select activities to be carried out for economic development purposes. Specifically, these guidelines are applicable to activities that are eligible for CDBG assistance under § 570.203. These guidelines also apply to activities carried out under the authority of § 570.204 that would otherwise be eligible under § 570.203, were it not for the involvement of a Community-Based Development Organization (CBDO). (This would include activities where a CBDO makes loans to for-profit businesses.) These guidelines are composed of two components: guidelines for evaluating project costs and financial requirements; and standards for evaluating public benefit. The standards for evaluating public benefit are *mandatory*, but the guidelines for evaluating projects costs and financial requirements are not.

(a) *Guidelines and objectives for evaluating project costs and financial requirements.* HUD has developed guidelines that are designed to provide the recipient with a framework for financially underwriting and selecting CDBG-assisted economic development projects which are financially viable and will make the most effective use of the CDBG funds. These guidelines, also referred to as the underwriting guidelines, are published as appendix A to this part. The use of the underwriting guidelines published by HUD is not mandatory. However, grantees electing not to use these guidelines would be expected to conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business. Where appropriate, HUD's underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project, and in the case of a microenterprise or other small business to take into account the differences in the capacity and level of sophistication among businesses of differing sizes. Recipients are encouraged, when they develop their own programs and underwriting criteria, to also take these factors into account. The objectives of the underwriting guidelines are to ensure:

- (1) That project costs are reasonable;
- (2) That all sources of project financing are committed;
- (3) That to the extent practicable, CDBG funds are not substituted for non-Federal financial support;
- (4) That the project is financially feasible;
- (5) That to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and
- (6) That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

(b) *Standards for evaluating public benefit.* The grantee is responsible for making sure that at least a minimum level of public benefit is obtained from the expenditure of CDBG funds under the categories of eligibility governed by these guidelines. The standards set forth below identify the types of public benefit that will be recognized for this purpose and the minimum level of each that must be obtained for the amount of CDBG funds used. Unlike the guidelines for project costs and financial requirements covered under paragraph (a) of this section, the use of the standards for public benefit is mandatory. Certain public facilities and improvements eligible under § 570.201(c) of the regulations, which are undertaken for economic development purposes, are also subject to these standards, as specified in § 570.208(a)(4)(vi)(F)(2).

(1) *Standards for activities in the aggregate.* Activities covered by these guidelines must, in the aggregate, either:

(i) Create or retain at least one full-time equivalent, permanent job per \$35,000 of CDBG funds used; or

(ii) Provide goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the areas served by the assisted businesses amounts to at least one low- and moderate-income person per \$350 of CDBG funds used.

(2) *Applying the aggregate standards.* (i) A metropolitan city, an urban county, a non-entitlement CDBG grantee in Hawaii, or an Insular Area shall apply the aggregate standards under paragraph (b)(1) of this section to all applicable activities for which CDBG funds are first obligated within each single CDBG program year, without regard to the source year of the funds used for the activities. For Insular Areas, the preceding sentence applies to grants received in program years after Fiscal Year 2004. A grantee under the HUD-administered Small Cities Program, or Insular Areas CDBG grants prior to Fiscal Year 2005, shall apply the aggregate standards under paragraph (b)(1) of this section to all funds obligated for applicable activities from a given grant; program income obligated for applicable activities will, for these purposes, be aggregated with the most recent open grant. For any time period in which a community has no open HUD-administered or Insular Areas grants, the aggregate standards shall be applied to all applicable activities for which program income is obligated during that period.

(ii) The grantee shall apply the aggregate standards to the number of jobs to be created/retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, the grantee may elect to count the activity under either the jobs standard or the area residents standard, but not both.

(iv) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the aggregate standards.

(v) Any activity subject to these guidelines which meets one or more of the following criteria may, at the grantee's option, be excluded from the aggregate standards described in paragraph (b)(1) of this section:

(A) Provides jobs exclusively for unemployed persons or participants in one or more of the following programs:

(1) Jobs Training Partnership Act (JTPA);

(2) Jobs Opportunities for Basic Skills (JOBS); or

(3) Aid to Families with Dependent Children (AFDC);

- (B) Provides jobs predominantly for residents of Public and Indian Housing units;
 - (C) Provides jobs predominantly for homeless persons;
 - (D) Provides jobs predominantly for low-skilled, low- and moderate-income persons, where the business agrees to provide clear opportunities for promotion and economic advancement, such as through the provision of training;
 - (E) Provides jobs predominantly for persons residing within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;
 - (F) Provides assistance to business(es) that operate(s) within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;
 - (G) Stabilizes or revitalizes a neighborhood that has at least 70 percent of its residents who are low- and moderate-income;
 - (H) Provides assistance to a Community Development Financial Institution that serve an area that is predominantly low- and moderate-income persons;
 - (I) Provides assistance to a Community-Based Development Organization serving a neighborhood that has at least 70 percent of its residents who are low- and moderate-income;
 - (J) Provides employment opportunities that are an integral component of a project designed to promote spatial deconcentration of low- and moderate-income and minority persons;
 - (K) With prior HUD approval, provides substantial benefit to low-income persons through other innovative approaches;
 - (L) Provides services to the residents of an area pursuant to a strategy approved by HUD under the provisions of § 91.215(e) of this title;
 - (M) Creates or retains jobs through businesses assisted in an area pursuant to a strategy approved by HUD under the provisions of § 91.215(e) of this title.
 - (N) Directly involves the economic development or redevelopment of environmentally contaminated properties.
- (3) *Standards for individual activities.* Any activity subject to these guidelines which falls into one or more of the following categories will be considered by HUD to provide insufficient public benefit, and therefore may under no circumstances be assisted with CDBG funds:
- (i) The amount of CDBG assistance exceeds either of the following, as applicable:
 - (A) \$50,000 per full-time equivalent, permanent job created or retained; or
 - (B) \$1,000 per low- and moderate-income person to which goods or services are provided by the activity.
 - (ii) The activity consists of or includes any of the following:
 - (A) General promotion of the community as a whole (as opposed to the promotion of specific areas and programs);
 - (B) Assistance to professional sports teams;

(C) Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons;

(D) Acquisition of land for which the specific proposed use has not yet been identified; and

(E) Assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient.

(4) *Applying the individual activity standards.* (i) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, it will be disqualified only if the amount of CDBG assistance exceeds both of the amounts in paragraph (b)(3)(i) of this section.

(ii) The individual activity standards in paragraph (b)(3)(i) of this section shall be applied to the number of jobs to be created or retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the individual activity standards in paragraph (b)(3)(i) of this section.

(c) *Amendments to economic development projects after review determinations.* If, after the grantee enters into a contract to provide assistance to a project, the scope or financial elements of the project change to the extent that a significant contract amendment is appropriate, the project should be reevaluated under these and the recipient's guidelines. (This would include, for example, situations where the business requests a change in the amount or terms of assistance being provided, or an extension to the loan payment period required in the contract.) If a reevaluation of the project indicates that the financial elements and public benefit to be derived have also substantially changed, then the recipient should make appropriate adjustments in the amount, type, terms or conditions of CDBG assistance which has been offered, to reflect the impact of the substantial change. (For example, if a change in the project elements results in a substantial reduction of the total project costs, it may be appropriate for the recipient to reduce the amount of total CDBG assistance.) If the amount of CDBG assistance provided to the project is increased, the amended project must still comply with the public benefit standards under paragraph (b) of this section.

(d) *Documentation.* The grantee must maintain sufficient records to demonstrate the level of public benefit, based on the above standards, that is actually achieved upon completion of the CDBG-assisted economic development activity(ies) and how that compares to the level of such benefit anticipated when the CDBG assistance was obligated. If the grantee's actual results show a pattern of substantial variation from anticipated results, the grantee is expected to take all actions reasonably within its control to improve the accuracy of its projections. If the actual results demonstrate that the recipient has failed the public benefit standards, HUD may require the recipient to meet more stringent standards in future years as appropriate.

[60 FR 1947, Jan. 5, 1995, as amended at 60 FR 17445, Apr. 6, 1995; 71 FR 30035, May 24, 2006; 72 FR 12535, Mar. 15, 2007; 72 FR 46370, Aug. 17, 2007]

§ 570.210 Prohibition on use of assistance for employment relocation activities.

(a) *Prohibition.* CDBG funds may not be used to directly assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one LMA to another LMA if the relocation is likely to result in a significant loss of jobs in the LMA from which the relocation occurs.

(b) *Definitions.* The following definitions apply to this section:

(1) *Directly assist.* Directly assist means the provision of CDBG funds for activities pursuant to:

(i) § 570.203(b); or

(ii) §§ 570.201(a)-(d), 570.201(l), 570.203(a), or § 570.204 when the grantee, subrecipient, or, in the case of an activity carried out pursuant to § 570.204, a Community Based Development Organization (CDBO) enters into an agreement with a business to undertake one or more of these activities as a condition of the business relocating a facility, plant, or operation to the grantee's LMA. Provision of public facilities and indirect assistance that will provide benefit to multiple businesses does not fall under the definition of "directly assist," unless it includes the provision of infrastructure to aid a specific business that is the subject of an agreement with the specific assisted business.

(2) *Labor market area (LMA).* For metropolitan areas, an LMA is an area defined as such by the BLS. An LMA is an economically integrated geographic area within which individuals can live and find employment within a reasonable distance or can readily change employment without changing their place of residence. In addition, LMAs are non-overlapping and geographically exhaustive. For metropolitan areas, grantees must use employment data, as defined by the BLS, for the LMA in which the affected business is currently located and from which current jobs may be lost. For non-metropolitan areas, an LMA is either an area defined by the BLS as an LMA, or a state may choose to combine non-metropolitan LMAs. States are required to define or reaffirm prior definitions of their LMAs on an annual basis and retain records to substantiate such areas prior to any business relocation that would be impacted by this rule. Metropolitan LMAs cannot be combined, nor can a non-metropolitan LMA be combined with a metropolitan LMA. For the HUD-administered Small Cities Program, each of the three participating counties in Hawaii will be considered to be its own LMA. Recipients of Fiscal Year 1999 Small Cities Program funding in New York will follow the requirements for State CDBG recipients.

(3) *Operation.* A business operation includes, but is not limited to, any equipment, employment opportunity, production capacity or product line of the business.

(4) *Significant loss of jobs.* (i) A loss of jobs is significant if: The number of jobs to be lost in the LMA in which the affected business is currently located is equal to or greater than one-tenth of one percent of the total number of persons in the labor force of that LMA; or in all cases, a loss of 500 or more jobs. Notwithstanding the aforementioned, a loss of 25 jobs or fewer does not constitute a significant loss of jobs.

(ii) A job is considered to be lost due to the provision of CDBG assistance if the job is relocated within three years of the provision of assistance to the business; or the time period within which jobs are to be created as specified by the agreement between the business and the recipient if it is longer than three years.

(c) *Written agreement.* Before directly assisting a business with CDBG funds, the recipient, subrecipient, or a CDBO (in the case of an activity carried out pursuant to § 570.204) shall sign a written agreement with the assisted business. The written agreement shall include:

(1) *Statement.* A statement from the assisted business as to whether the assisted activity will result in the relocation of any industrial or commercial plant, facility, or operation from one LMA to another, and, if so, the number of jobs that will be relocated from each LMA;

(2) *Required information.* If the assistance will not result in a relocation covered by this section, a certification from the assisted business that neither it, nor any of its subsidiaries, has plans to relocate jobs at the time the agreement is signed that would result in a significant job loss as defined in this rule; and

(3) *Reimbursement of assistance.* The agreement shall provide for reimbursement of any assistance provided to, or expended on behalf of, the business in the event that assistance results in a relocation prohibited under this section.

(d) *Assistance not covered by this section.* This section does not apply to:

(1) *Relocation assistance.* Relocation assistance required by the Uniform Assistance and Real Property Acquisition Policies Act of 1970, (URA) (42 U.S.C. 4601-4655);

(2) *Microenterprises.* Assistance to microenterprises as defined by Section 102(a)(22) of the Housing and Community Development Act of 1974; and

(3) *Arms-length transactions.* Assistance to a business that purchases business equipment, inventory, or other physical assets in an arms-length transaction, including the assets of an existing business, provided that the purchase does not result in the relocation of the sellers' business operation (including customer base or list, goodwill, product lines, or trade names) from one LMA to another LMA and does not produce a significant loss of jobs in the LMA from which the relocation occurs.

[70 FR 76369, Dec. 23, 2005]

Subpart K—Other Program Requirements

SOURCE: 53 FR 34456, Sept. 6, 1988, unless otherwise noted.

§ 570.600 General.

(a) This subpart K enumerates laws that the Secretary will treat as applicable to grants made under section 106 of the Act, other than grants to states made pursuant to section 106(d) of the Act, for purposes of the Secretary's determinations under section 104(e)(1) of the Act, including statutes expressly made applicable by the Act and certain other statutes and Executive Orders for which the Secretary has enforcement responsibility. This subpart K applies to grants made under the Insular Areas Program in § 570.405 and § 570.440 with the exception of § 570.612. The absence of mention herein of any other statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. For laws that the Secretary will treat as applicable to grants made to states under section 106(d) of the Act for purposes of the determination required to be made by the Secretary pursuant to section 104(e)(2) of the Act, see § 570.487.

(b) This subpart also sets forth certain additional program requirements which the Secretary has determined to be applicable to grants provided under the Act as a matter of administrative discretion.

(c) In addition to grants made pursuant to section 106(b) and 106(d)(2)(B) of the Act (subparts D and F, respectively), the requirements of this subpart K are applicable to grants made pursuant to sections 107 and 119 of the Act (subparts E and G, respectively), and to loans guaranteed pursuant to subpart M.

[53 FR 34456, Sept. 6, 1988, as amended at 61 FR 11477, Mar. 20, 1996; 72 FR 12536, Mar. 15, 2007]

§ 570.601 Public Law 88-352 and Public Law 90-284; affirmatively furthering fair housing; Executive Order 11063.

(a) The following requirements apply according to sections 104(b) and 107 of the Act:

(1) Public Law 88-352, which is title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), and implementing regulations in 24 CFR part 1.

(2) Public Law 90-284, which is the Fair Housing Act (42 U.S.C. 3601-3620). In accordance with the Fair Housing Act, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further the policies of the Fair Housing Act. Furthermore, in accordance with section 104(b)(2) of the Act, for each community receiving a grant under subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to assume the responsibility of fair housing planning by conducting an

analysis to identify impediments to fair housing choice within its jurisdiction, taking appropriate actions to overcome the effects of any impediments identified through that analysis, and maintaining records reflecting the analysis and actions in this regard.

(b) Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652; 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing), and implementing regulations in 24 CFR part 107, also apply.

[61 FR 11477, Mar. 20, 1996]

§ 570.602 Section 109 of the Act.

Section 109 of the Act requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs. The policies and procedures necessary to ensure enforcement of section 109 are codified in 24 CFR part 6.

[64 FR 3802, Jan. 25, 1999]

§ 570.603 Labor standards.

(a) Section 110(a) of the Act contains labor standards that apply to non-volunteer labor financed in whole or in part with assistance received under the Act. In accordance with section 110(a) of the Act, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) also applies. However, these requirements apply to the rehabilitation of residential property only if such property contains not less than 8 units.

(b) The regulations in 24 CFR part 70 apply to the use of volunteers.

[61 FR 11477, Mar. 20, 1996]

§ 570.604 Environmental standards.

For purposes of section 104(g) of the Act, the regulations in 24 CFR part 58 specify the other provisions of law which further the purposes of the National Environmental Policy Act of 1969, and the procedures by which grantees must fulfill their environmental responsibilities. In certain cases, grantees assume these environmental review, decision making, and action responsibilities by execution of grant agreements with the Secretary.

[61 FR 11477, Mar. 20, 1996]

§ 570.605 National Flood Insurance Program.

Notwithstanding the date of HUD approval of the recipient's application (or, in the case of grants made under subpart D of this part or HUD-administered small cities recipients in Hawaii, the date of submission of the grantee's consolidated plan, in accordance with 24 CFR part 91), section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106) and the regulations in 44 CFR parts 59 through 79 apply to funds provided under this part 570.

[61 FR 11477, Mar. 20, 1996]

§ 570.606 Displacement, relocation, acquisition, and replacement of housing.

(a) *General policy for minimizing displacement.* Consistent with the other goals and objectives of this part, grantees (or States or state recipients, as applicable) shall assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of activities assisted under this part.

(b) *Relocation assistance for displaced persons at URA levels.* (1) A displaced person shall be provided with relocation assistance at the levels described in, and in accordance with the requirements of 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).

(2) *Displaced person.* (i) For purposes of paragraph (b) of this section, the term “ *displaced person* ” means any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently and involuntarily, as a direct result of rehabilitation, demolition, or acquisition for an activity assisted under this part. A permanent, involuntary move for an assisted activity includes a permanent move from real property that is made:

(A) After notice by the grantee (or the state recipient, if applicable) to move permanently from the property, if the move occurs after the initial official submission to HUD (or the State, as applicable) for grant, loan, or loan guarantee funds under this part that are later provided or granted.

(B) After notice by the property owner to move permanently from the property, if the move occurs after the date of the submission of a request for financial assistance by the property owner (or person in control of the site) that is later approved for the requested activity.

(C) Before the date described in paragraph (b)(2)(i)(A) or (B) of this section, if either HUD or the grantee (or State, as applicable) determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity.

(D) After the “initiation of negotiations” if the person is the tenant-occupant of a dwelling unit and any one of the following three situations occurs:

(1) The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable decent, safe, and sanitary dwelling in the same building/complex upon the completion of the project, including a monthly rent that does not exceed the greater of the tenant's monthly rent and estimated average utility costs before the initiation of negotiations or 30 percent of the household's average monthly gross income; or

(2) The tenant is required to relocate temporarily for the activity but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary location and any increased housing costs, or other conditions of the temporary relocation are not reasonable; and the tenant does not return to the building/complex; or

(3) The tenant is required to move to another unit in the building/complex, but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

(ii) Notwithstanding the provisions of paragraph (b)(2)(i) of this section, the term “ *displaced person* -” does not include:

(A) A person who is evicted for cause based upon serious or repeated violations of material terms of the lease or occupancy agreement. To exclude a person on this basis, the grantee (or State or state recipient, as applicable) must determine that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance under this section;

(B) A person who moves into the property after the date of the notice described in paragraph (b)(2)(i)(A) or (B) of this section, but who received a written notice of the expected displacement before occupancy.

(C) A person who is not displaced as described in 49 CFR 24.2(g)(2).

(D) A person who the grantee (or State, as applicable) determines is not displaced as a direct result of the acquisition, rehabilitation, or demolition for an assisted activity. To exclude a person on this basis, HUD must concur in that determination.

(iii) A grantee (or State or state recipient, as applicable) may, at any time, request HUD to determine whether a person is a displaced person under this section.

(3) *Initiation of negotiations.* For purposes of determining the type of replacement housing assistance to be provided under paragraph (b) of this section, if the displacement is the direct result of privately undertaken rehabilitation, demolition, or acquisition of real property, the term “ *initiation of negotiations* ” means the execution of the grant or loan agreement between the grantee (or State or state recipient, as applicable) and the person owning or controlling the real property.

(c) *Residential anti-displacement and relocation assistance plan.* The grantee shall comply with the requirements of 24 CFR part 42, subpart B.

(d) *Optional relocation assistance.* Under section 105(a)(11) of the Act, the grantee may provide (or the State may permit the state recipient to provide, as applicable) relocation payments and other relocation assistance to persons displaced by activities that are not subject to paragraph (b) or (c) of this section. The grantee may also provide (or the State may also permit the state recipient to provide, as applicable) relocation assistance to persons receiving assistance under paragraphs (b) or (c) of this section at levels in excess of those required by these paragraphs. Unless such assistance is provided under State or local law, the grantee (or state recipient, as applicable) shall provide such assistance only upon the basis of a written determination that the assistance is appropriate (see, e.g., 24 CFR 570.201(i), as applicable). The grantee (or state recipient, as applicable) must adopt a written policy available to the public that describes the relocation assistance that the grantee (or state recipient, as applicable) has elected to provide and that provides for equal relocation assistance within each class of displaced persons.

(e) *Acquisition of real property.* The acquisition of real property for an assisted activity is subject to 49 CFR part 24, subpart B.

(f) *Appeals.* If a person disagrees with the determination of the grantee (or the state recipient, as applicable) concerning the person's eligibility for, or the amount of, a relocation payment under this section, the person may file a written appeal of that determination with the grantee (or state recipient, as applicable). The appeal procedures to be followed are described in 49 CFR 24.10. In addition, a low- or moderate-income household that has been displaced from a dwelling may file a written request for review of the grantee's decision to the HUD Field Office. For purposes of the State CDBG program, a low- or moderate-income household may file a written request for review of the state recipient's decision with the State.

(g) *Responsibility of grantee or State.* (1) The grantee (or State, if applicable) is responsible for ensuring compliance with the requirements of this section, notwithstanding any third party's contractual obligation to the grantee to comply with the provisions of this section. For purposes of the State CDBG program, the State shall require state recipients to certify that they will comply with the requirements of this section.

(2) The cost of assistance required under this section may be paid from local public funds, funds provided under this part, or funds available from other sources.

(3) The grantee (or State and state recipient, as applicable) must maintain records in sufficient detail to demonstrate compliance with the provisions of this section.

(Approved by the Office of Management and Budget under OMB control number 2506-0102)

[61 FR 11477, Mar. 20, 1996, as amended at 61 FR 51760, Oct. 3, 1996]

§ 570.607 Employment and contracting opportunities.

To the extent that they are otherwise applicable, grantees shall comply with:

(a) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964-1965 Comp. p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and

(b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135.

[68 FR 56405, Sept. 30, 2003]

§ 570.608 Lead-based paint.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this part apply to activities under this program.

[64 FR 50226, Sept. 15, 1999]

§ 570.609 Use of debarred, suspended or ineligible contractors or subrecipients.

The requirements set forth in 24 CFR part 5 apply to this program.

[61 FR 5209, Feb. 9, 1996]

§ 570.610 Uniform administrative requirements and cost principles.

The recipient, its agencies or instrumentalities, and subrecipients shall comply with the policies, guidelines, and requirements of 24 CFR part 85 and 2 CFR PART 200 as applicable, as they relate to the acceptance and use of Federal funds under this part. The applicable sections of 24 CFR parts 84 and 85 are set forth at § 570.502.

² See footnote 1 at § 570.200(a)(5).

[60 FR 56916, Nov. 9, 1995]

§ 570.611 Conflict of interest.

(a) *Applicability.* (1) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, shall apply.

(2) In all cases not governed by 24 CFR 85.36 and 84.42, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient or by its subrecipients to individuals, businesses, and other private entities under eligible activities

that authorize such assistance (e.g., rehabilitation, preservation, and other improvements of private properties or facilities pursuant to § 570.202; or grants, loans, and other assistance to businesses, individuals, and other private entities pursuant to § 570.203, 570.204, 570.455, or 570.703(i)).

(b) *Conflicts prohibited.* The general rule is that no persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such financial interest or benefit during, or at any time after, such person's tenure.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds under this part.

(d) *Exceptions.* Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it has satisfactorily met the threshold requirements of (d)(1) of this section, taking into account the cumulative effects of paragraph (d)(2) of this section.

(1) *Threshold requirements.* HUD will consider an exception only after the recipient has provided the following documentation:

(i) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(ii) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(2) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d)(1) of this section, HUD shall conclude that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project, taking into account the cumulative effect of the following factors, as applicable:

(i) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

(ii) Whether an opportunity was provided for open competitive bidding or negotiation;

(iii) Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(iv) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process with respect to the specific assisted activity in question;

(v) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(vi) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(vii) Any other relevant considerations.

[60 FR 56916, Nov. 9, 1995]

§ 570.612 Executive Order 12372.

(a) *General.* Executive Order 12372, Intergovernmental Review of Federal Programs, and the Department's implementing regulations at 24 CFR part 52, allow each State to establish its own process for review and comment on proposed Federal financial assistance programs.

(b) *Applicability.* Executive Order 12372 applies to the CDBG Entitlement program and the UDAG program. The Executive Order applies to all activities proposed to be assisted under UDAG, but it applies to the Entitlement program only where a grantee proposes to use funds for the planning or construction (reconstruction or installation) of water or sewer facilities. Such facilities include storm sewers as well as all sanitary sewers, but do not include water and sewer lines connecting a structure to the lines in the public right-of-way or easement. It is the responsibility of the grantee to initiate the Executive Order review process if it proposes to use its CDBG or UDAG funds for activities subject to review.

§ 570.613 Eligibility restrictions for certain resident aliens.

(a) *Restriction.* Certain newly legalized aliens, as described in 24 CFR part 49, are not eligible to apply for benefits under covered activities funded by the programs listed in paragraph (e) of this section. "Benefits" under this section means financial assistance, public services, jobs and access to new or rehabilitated housing and other facilities made available under covered activities funded by programs listed in paragraph (e) of this section. "Benefits" do not include relocation services and payments to which displacees are entitled by law.

(b) *Covered activities.* "Covered activities" under this section means activities meeting the requirements of § 570.208(a) that either:

(1) Have income eligibility requirements limiting the benefits exclusively to low and moderate income persons; or

(2) Are targeted geographically or otherwise to primarily benefit low and moderate income persons (excluding activities serving the public at large, such as sewers, roads, sidewalks, and parks), and that provide benefits to persons on the basis of an application.

(c) *Limitation on coverage.* The restrictions under this section apply only to applicants for new benefits not being received by covered resident aliens as of the effective date of this section.

(d) *Compliance.* Compliance can be accomplished by obtaining certification as provided in 24 CFR 49.20.

(e) *Programs affected.* (1) The Community Development Block Grant program for small cities, administered under subpart F of part 570 of this title until closeout of the recipient's grant.

(2) The Community Development Block Grant program for entitlement grants, administered under subpart D of part 570 of this title.

(3) The Community Development Block Grant program for States, administered under subpart I of part 570 of this title until closeout of the unit of general local government's grant by the State.

(4) The Urban Development Action Grants program, administered under subpart G of part 570 of this title until closeout of the recipient's grant.

[55 FR 18494, May 2, 1990]

§ 570.614 Architectural Barriers Act and the Americans with Disabilities Act.

(a) The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

(b) The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

[60 FR 56917, Nov. 9, 1995]

UPDATE: Effective March 2015

2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance supersedes, consolidates and streamlines requirements from 8 OMB Circulars referenced in Exhibit D - CDBG Regulations and Other Program Requirements:

A - 21	A - 110
A - 87	A - 122
A - 89	A - 133
A - 102	A - 50

To view Notice SD-2015-01 Issued by the U.S. Department of Housing and Urban Development, please visit the following link:

www.hudexchange.info/resources/documents/Notice-DC-2015-01-Transition-to-2-CFR-Part-200-Guidance.pdf

Exhibit E

Audit Findings or Exceptions

(N/A - No audit findings or exceptions)



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2854	
From:			
Subject: Discussion and consideration to approve Ordinance 2019-44 amending Section 12 of Ordinance 397, to fix residential, commercial, and industrial garbage rates; providing an effective date; and ordaining other matters with respect to the subject matter hereof and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-44. Possible action. (Staffed by Finance Department.)			
Background: Republic Services submitted their annual CPI adjustment in the amount of 3.71% increase to all residential and commercial rates for garbage and brush. I reviewed their propose rate increases and the end result will be that the City will not realizing any net income. I am proposing for the City to increase their proposed rates by 5% in all categories in order to offset the cost and also to have a net income positive result. The last time that the city made overall rate increase was in 2011.			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature Ordinance - First Reading			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Vidal Roman		Created/Initiated	
Vidal Roman		Approved	
Mike Perez		New	
City Manager Comments: Approve.			
Staff Recommendation: Staff recommends approval.			
Attachments, if any: Republic Letter on increase, CPI rate increase Revenue, Proposed Rate, O2019-44 amend Commercial rates incr			
Responsibilities upon Approval: A budget amendment will be done to recognize the additional revenue anticipated with rate change.			



PO Drawer 1217 La Feria, TX 78559
o 956.423.7316 f 956.428.2045 republicservices.com

August 1, 2019

Mike Perez, City Manager
City of Weslaco
Weslaco, TX 78596

Reference 2019 Consumer Price Index (CPI)

Valid new rates for Republic trash for Friday Nov

Dear Mr. Perez,

In accordance with the solid waste agreement between the City of Weslaco and Allied Waste Services, we hereby submit our comparative statement justifying this notice for September 1, 2019.

2019-2020 CPI Calculation

Description	Water Sewer Trash
June-18	231.341
June-19	239.928
Index Change	8.587
Net %Change	3.71%
Effective Change @ 100%	3.71%
Rate % Increase	3.71%
CPI Cap 5.0%	5.00%

←
←

Residential Rates 2019-2020

Item	Description	Rates
1	Residential Service twice/week	\$ 9.80
2	Twice/month residential brush/bulky item service	\$ 6.12
3	Overfilled Front Load Container per yard fee	\$ 37.50

Commercial Rates 2019-2020

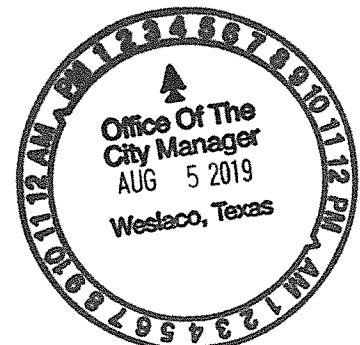
Container Size	1 x wk	2 x wk	3 x wk	4 x wk	5 x wk	6 x wk
2 cubic yard	\$ 75.14	\$ 137.74	\$ 200.34	\$ 262.99	\$ 325.57	\$ 386.80
3 cubic yard	\$ 86.84	\$ 159.21	\$ 231.59	\$ 303.97	\$ 376.32	\$ 448.69
4 cubic yard	\$ 98.44	\$ 180.57	\$ 262.70	\$ 344.85	\$ 425.46	\$ 509.14
6 cubic yard	\$ 124.06	\$ 225.71	\$ 327.38	\$ 429.07	\$ 530.72	\$ 632.38
8 cubic yard	\$ 145.47	\$ 266.64	\$ 387.89	\$ 509.08	\$ 630.27	\$ 751.49
30 cubic yard	Haul Rate	\$ 213.79	Tonnage Rate	\$ 45.91	Rental Rate	\$ 6.16

If you have any questions please contact me at 800-423-7316.

We Truly Appreciate Your Business!

Omar Rodriguez

Omar Rodriguez
Municipal Services Manager
Republic Services, Inc.



City of Weslaco's
Commercial Revenue
compared to Republics CPI increase

RATE COMPARISON - PROPOSED RATES COMPARED WITH REPUBLIC INCLUDING CIP INCREASE OCT --2019

SANITATION REVENUES		Ordinance City Rate	Republic Proposed Rate	Republic Incr (Decr)	Net to City's	CITY	REPUBLIC	NET
			3.71% CPI					
Commercial Rates								
Routes								
2 CY Bin	1	73.18	75.14	2.69	(1.96)	3,585.82	3,681.86	(96.04)
	2	133.06	137.74	4.93	(4.68)	798.36	826.44	(28.08)
	3	195.00	200.34	7.17	(5.34)	-	-	-
	4	254.28	262.99	9.41	(8.71)	-	-	-
	5	314.88	325.57	11.65	(10.69)	-	-	-
	6	375.47	386.80	13.84	(11.33)	-	-	-
3 CY Bin	1	84.57	86.84	3.11	(2.27)	10,486.68	10,768.16	(281.48)
	2	155.05	159.21	5.70	(4.16)	8,372.70	8,597.34	(224.64)
	3	225.54	231.59	8.28	(6.05)	18,268.74	18,758.79	(490.05)
	4	296.03	303.97	10.87	(7.94)	592.06	607.94	(15.88)
	5	366.49	376.32	13.46	(9.83)	1,099.47	1,128.96	(29.49)
	6	436.97	448.69	16.05	(11.72)	873.94	897.38	(23.44)
4 CY Bin	1	95.87	98.44	3.52	(2.57)	9,395.26	9,647.12	(251.86)
	2	175.85	180.57	6.46	(4.72)	8,616.65	8,847.93	(231.28)
	3	255.60	262.70	9.40	(7.10)	8,690.40	8,931.80	(241.40)
	4	336.28	344.85	12.34	(8.57)	1,008.84	1,034.55	(25.71)
	5	418.96	425.46	15.22	(6.50)	1,675.84	1,701.84	(26.00)
	6	501.63	509.14	18.21	(7.51)	2,006.52	2,036.56	(30.04)
6 CY Bin	1	131.87	124.06	4.44	7.81	6,197.89	5,830.82	367.07
	2	240.57	225.71	8.07	14.86	7,217.10	6,771.30	445.80
	3	316.20	327.38	11.71	(11.18)	5,375.40	5,565.46	(190.06)
	4	415.01	429.07	15.35	(14.06)	1,245.03	1,287.21	(42.18)
	5	513.81	530.72	18.99	(16.91)	3,596.67	3,715.04	(118.37)
	6	611.31	632.38	22.62	(21.07)	-	-	-
8 CY Bin	1	155.08	145.47	5.20	9.61	7,909.08	7,418.97	490.11
	2	284.03	266.64	9.54	17.39	12,213.29	11,465.52	747.77
	3	377.75	387.89	13.88	(10.14)	17,754.25	18,230.83	(476.58)
	4	492.73	509.08	18.21	(16.35)	3,449.11	3,563.56	(114.45)
	5	610.01	630.27	22.55	(20.26)	6,100.10	6,302.70	(202.60)
	6	731.86	751.49	26.88	(19.63)	3,659.30	3,757.45	(98.15)
30CY	Haul Rate	213.79						
	Tonnage	45.91						
	Rental Rate	6.16						

City of Weslaco's
Commercial Proposed Rate
compared to Republic's CPI increase

RATE COMPARISON - PROPOSED RATE INCREASE (5%) COMPARED WITH REPUBLIC INCLUDING CIP INCREASE OCT --2019

SANITATION REVENUES			Proposed City Rate 5%	Republic Proposed Rate 3.71% CPI	City's Impact	Current Net - City	CITY	REPUBLIC	NET
Commercial									
	Routes								
2 CY Bin	49	1	76.84	75.14	1.70	1.70	3,765.11	3,681.86	83.25
	6	2	139.71	137.74	1.97	1.97	838.28	826.44	11.84
		3	204.75	200.34	4.41	4.41	-	-	-
		4	266.99	262.99	4.00	4.00	-	-	-
		5	330.62	325.57	5.05	5.05	-	-	-
		6	394.24	386.80	7.44	7.44	-	-	-
3 CY Bin	124	1	88.80	86.84	1.96	1.96	11,011.01	10,768.16	242.85
	54	2	162.80	159.21	3.59	3.59	8,791.34	8,597.34	194.00
	81	3	236.82	231.59	5.23	5.23	19,182.18	18,758.79	423.39
	2	4	310.83	303.97	6.86	6.86	621.66	607.94	13.72
	3	5	384.81	376.32	8.49	8.49	1,154.44	1,128.96	25.48
	2	6	458.82	448.69	10.13	10.13	917.64	897.38	20.26
4 CY Bin	98	1	100.66	98.44	2.22	2.22	9,865.02	9,647.12	217.90
	49	2	184.64	180.57	4.07	4.07	9,047.48	8,847.93	199.55
	34	3	268.38	262.70	5.68	5.68	9,124.92	8,931.80	193.12
	3	4	353.09	344.85	8.24	8.24	1,059.28	1,034.55	24.73
	4	5	439.91	425.46	14.45	14.45	1,759.63	1,701.84	57.79
	4	6	526.71	509.14	17.57	17.57	2,106.85	2,036.56	70.29
6 CY Bin	47	1	138.46	124.06	14.40	14.40	6,507.78	5,830.82	676.96
	30	2	252.60	225.71	26.89	26.89	7,577.96	6,771.30	806.66
	17	3	332.01	327.38	4.63	4.63	5,644.17	5,565.46	78.71
	3	4	435.76	429.07	6.69	6.69	1,307.28	1,287.21	20.07
	7	5	539.50	530.72	8.78	8.78	3,776.50	3,715.04	61.46
	0	6	641.88	632.38	9.50	9.50	-	-	-
8 CY Bin	51	1	162.83	145.47	17.36	17.36	8,304.53	7,418.97	885.56
	43	2	298.23	266.64	31.59	31.59	12,823.95	11,465.52	1,358.43
	47	3	396.64	387.89	8.75	8.75	18,641.96	18,230.83	411.13
	7	4	517.37	509.08	8.29	8.29	3,621.57	3,563.56	58.01
	10	5	640.51	630.27	10.24	10.24	6,405.11	6,302.70	102.41
	5	6	768.45	751.49	16.96	16.96	3,842.27	3,757.45	84.82
30CY	Haul Rate		213.79						
	Tonnage Rate		45.91						
	Rental Rate		6.16						

ORDINANCE 2019-44

AN ORDINANCE AMENDING SECTION 12 OF ORDINANCE NUMBER 397, TO FIX RESIDENTIAL, COMMERCIAL AND INDUSTRIAL GARBAGE RATES; PROVIDING AN EFFECTIVE DATE, AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT:

SECTION 1. Section 12 of Ordinance No. 397, passed and approved the 7th day of September 1965, and as subsequently amended, is amended to establish new rates for garbage collection within the City of Weslaco. So that after second and final reading of Section 12 of Ordinance No. 397 shall read as follows:

ARTICLE II. CHARGES FOR COLLECTION*

Sec. 15-34. Charge for removal.

It is the express intent and purpose of this chapter to fairly, reasonably, and equitably apportion the costs of the collection and removal of garbage and trash within the city limits. In computing the charge made to any residence, duplex, triplex, apartment house, tenement house, or trailer court as unit, all apartments, tenements or trailers therein shall be deemed to be occupied unless the water meter serving the building is disconnected. In all cases, if a water meter is in service the house and all apartments or units serviced by that meter shall be deemed to be occupied.

RESIDENTIAL

The rate for residential garbage collection shall be fifteen dollars and five cents (\$15.05) per container, per month. The rate for apartments, where all apartments are on one (1) water meter shall be the same as the applicable residence rate, plus an additional charge of fifteen dollars and five cents (\$15.05) per each additional container, per month, whether or not all of such units are rented. Where apartments have separate water meters, the rate shall be the same as the applicable residence rate, plus an additional charge of fifteen dollars and five cents (\$15.05) per each additional container, per month, whether or not all of such units are rented. The minimum charge for trailers or mobile home units shall be the same as the applicable residence rate.

BUSINESS, COMMERCIAL AND INDUSTRIAL

(a) No business, commercial or industrial account shall be permitted to utilize more than six (6) containers, as defined in Section 15-6, regardless of the number of garbage pickups per week. Should six (6) standard containers be insufficient to accommodate the volume of trash

generated by such account, such account shall be required to utilize a commercial container for garbage collection, such commercial container to be supplied by the city, the size of such container being dependent upon the volume of garbage generated, and the rates for commercial container pickups to be as hereinafter provided.

(b) For those commercial, industrial and business accounts whose volume of garbage can be accommodated by not more than six (6) standard containers, the rate shall be fifteen dollars and five cents (\$15.05) per container per month with 2 pickups per week, or as follows:

<i>Number of Pickups Per Week</i>	<i>Monthly Rate</i>
2	\$ 15.05
3	\$ 45.14
4	\$ 75.24
5	\$105.34
6	\$150.48

(c) For those business, commercial or industrial accounts required hereby to utilize a commercial container, the following rate schedule shall apply.

Volume of Container (Cubic yards)	Number of Pickups Per Week					
	1	2	3	4	5	6
2	76.84	139.71	204.75	266.99	330.62	394.24
3	88.80	162.80	236.82	310.83	384.81	458.82
4	100.66	184.64	268.38	353.09	439.91	526.71
6	138.46	252.60	332.01	435.76	539.50	641.88
8	162.83	298.23	396.64	517.37	640.51	768.45

30 Cubic yard will be charged \$213.79 per haul plus \$45.91 per ton for disposal plus \$6.16 per day rental. The daily rental fee will be waived if hauled at least twice per month.

The monthly charge or rate for the collection and removal of garbage, trash and rubbish, and recyclables by the City of Weslaco from school districts shall be based on the business, commercial and industrial rates as prescribed.

SECTION 2. Except as heretofore and herein amended, the remaining provisions of Section 12 of Ordinance No. 397 shall apply with full force and effect.

SECTION 3. EFFECTIVE DATE. This Ordinance shall take effect upon final reading.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 15th day of October 2019.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission
this ____ day of ____ 2019.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Myra L. Ayala, **CITY SECRETARY**

APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2861
From:		
Subject: Discussion and consideration to approve Ordinance 2019-45 a budget amendment in the amount of \$360,000 in revenue and appropriations in the amount of \$387,435 in relation to the Hotel/Motel Tax fund and having a projected ending fund balance of \$597,685 and authorize the Mayor to execute any related documents. First reading of Ordinance 2019-45. Possible action. (Staffed by Finance Department.)		
Background: The City held a public hearing for the adoption of the budget on September 03, 2019 and presented the budget for approval with first reading of Ordinance held on September 10 and second on September 25, 2019. The budget for the Hotel/Motel Tax fund was not formally approved on said adoption. Whereas the commission is now prepared to adopt the budget , we come now before the commission to formally approve the Hotel/Motel Fund. We request to amend the original budget.		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted: Budget Amendment Ordinance - First Reading		
If item previously considered, provide date and action by Commission:		
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:		
Advisory Review, if any (name of board/committee, date of action, recommendation):		
Aida Vega Vidal Roman Mike Perez	Created/Initiated Approved New	
City Manager Comments: Approve.		
Staff Recommendation: Staff recommends approval.		
Attachments, if any: 221-HOTEL MOTEL TAX FUND-10.15.19, O2019-45 HOT budget amendment		
Responsibilities upon Approval:		

EXHIBIT A

HOTEL/MOTEL TAX FUND	History		Current			PROPOSED
	2016-2017	2017-2018	2018-2019	2018-2019	2018-2019	Fiscal Year
Financial Summary	Actual	Actual	Budget	Amended	Estimated	2019-2020
221-4000-413300 ROOM OCCUPANCY TAX	444,151	365,473	410,000	410,000	289,834	360,000
Non property taxes Total:	444,151	365,473	410,000	410,000	289,834	360,000
221-4000-478910 MISCELLANEOUS REVENUE	54	-	-	-	-	-
Miscellaneous Total:	54	-	-	-	-	-
REVENUE Total:	444,205	365,473	410,000	410,000	289,834	360,000
EXPENDITURE SUMMARY						
ADMINISTRATIVE SERVICES	30,326	43,988	51,000	51,000	40,144	51,000
MUSEUM & CULTURE	-	-	-	-	-	-
MISCELLANEOUS DEVELOP	246,113	257,978	283,225	283,225	262,277	336,435
TOTAL EXPENDITURES	276,439	301,966	334,225	334,225	302,421	387,435
REVENUES OVER(UNDER) EXPENDITURES:	167,766	63,507	75,775	75,775	(12,587)	(27,435)
Beginning Fund Balance:	406,433	574,199	637,706		637,706	625,120
Ending Fund Balance:	574,199	637,706	713,481		625,120	597,685

EXHIBIT A

4 YEAR PLAN			
Fiscal Year 2020-2021	Fiscal Year 2021-2022	Fiscal Year 2022-2023	Fiscal Year 2023-2024
364,000	370,000	374,000	375,000
364,000	370,000	374,000	375,000
-	-	-	-
-	-	-	-
364,000	370,000	374,000	375,000
51,000	51,000	51,000	51,000
-	-	-	-
336,435	336,435	336,435	336,435
387,435	387,435	387,435	387,435
(23,435)	(17,435)	(13,435)	(12,435)
597,685	574,250	556,815	543,380
574,250	556,815	543,380	530,945

	History		Current			PROPOSED
	2016-2017 Actual	2017-2018 Actual	2018-2019 Budget	2018-2019 Amended	2018-2019 Estimated	Fiscal Year 2019-2020
Administrative Services						
221-5102-522380 UTILITIES	27,926	34,514	40,000	40,000	30,200	40,000
221-5102-522626 MAINT-BUILDING	-	-	-	-	136	-
Other charges Total:	27,926	34,514	40,000	40,000	30,336	40,000
221-5102-533010 PROFESSIONAL SERVICES	2,400	9,474	11,000	11,000	9,808	11,000
Contractual services Total:	2,400	9,474	11,000	11,000	9,808	11,000
ADMINISTRATIVE SERVICES Total:	30,326	43,988	51,000	51,000	40,144	51,000

	History		Current			PROPOSED
	2016-2017	2017-2018	2018-2019	2018-2019	2018-2019	Fiscal Year
Miscellaneous Development	Actual	Actual	Budget	Amended	Estimated	2019-2020
221-5504-522242 COMMUNITY PROMOTION	-	438	24,960	24,960	1,512	15,000
221-5504-528479 CONTRIB-VALLEY NATURE CTR	32,500	32,500	39,100	39,100	39,100	40,800
221-5504-528493 WESLACO CHAMBER OF COMM	178,613	191,740	183,665	183,665	183,665	236,635
221-5504-528497 CONTRIB-FRONTERA AUDUBON	32,500	30,800	33,000	33,000	33,000	39,000
221-5504-528499 CONTRIB-VALLEY CHAMB COMM	2,500	2,500	2,500	2,500	5,000	5,000
Other charges Total:	246,113	257,978	283,225	283,225	262,277	336,435
MISCELLANEOUS DEVELOP Total:	246,113	257,978	283,225	283,225	262,277	336,435

ORDINANCE 2019-45

AN ORDINANCE AMENDING ORDINANCE NUMBER 2019-39, APPROVING AND ADOPTING A BUDGET FOR THE CITY OF WESLACO, TEXAS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020, FINDING NEED TO AMEND THE 2019-2020 MUNICIPAL BUDGET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE, AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.

WHEREAS, the City Commission of the City of Weslaco utilized diligent thought and attention to the preparation of the 2019-2020 budget; and

WHEREAS, unusual and unforeseen conditions have arisen during the fiscal year which have, or will require, the expenditure of additional funds constituting an emergency expenditure; and

WHEREAS, Section 102.009 of the Texas Local Government Code authorizes the City to amend its budget in such a manner as to provide for emergency expenditures as an amendment to the original budget in a case of grave public necessity to meet an unusual and unforeseen condition; and

WHEREAS, the City Commission finds the amendments in the line items identified in the attached Exhibit A are reasonable, necessary, and for municipal purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS THAT:

SECTION 1. FINDINGS. The City Commission finds the statements made in the preamble above are true.

SECTION 2. BUDGET LINE ITEMS. The City Commission approves the budget amendments in the attached Exhibit A as such change is necessary to meet an unusual and unforeseen condition as the result of an emergency.

SECTION 3. BUDGET TOTAL. The City Commission further finds the amended budget identified in such Exhibit A will not cause the total expenditures in the budget to exceed the total amount of estimated revenue.

SECTION 4. APPROVAL. The 2019-2020 Official Budget, adopted by Ordinance 2019-39, is hereby reallocated, revised, amended and approved as set forth in the attached Exhibit A.

SECTION 5. AUTHORIZATION. The City Manager is authorized to undertake action to execute such transfers in accordance with state law, and file, or cause to be filed, a true and correct copy of this Ordinance, with the attached budget amendment, with the City Secretary.

SECTION 6. SEVERABILITY CLAUSE. It is the intent of the City Commission that each sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be deemed severable and, should any such sentence, paragraph, subdivision, clause, phrase or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of the Ordinance left standing.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect upon first reading.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 15th day of October 2019.

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this ____ day of _____ 2019.

CITY OF WESLACO

David Suarez, **MAYOR**

ATTEST:

Myra L. Ayala, **CITY SECRETARY**

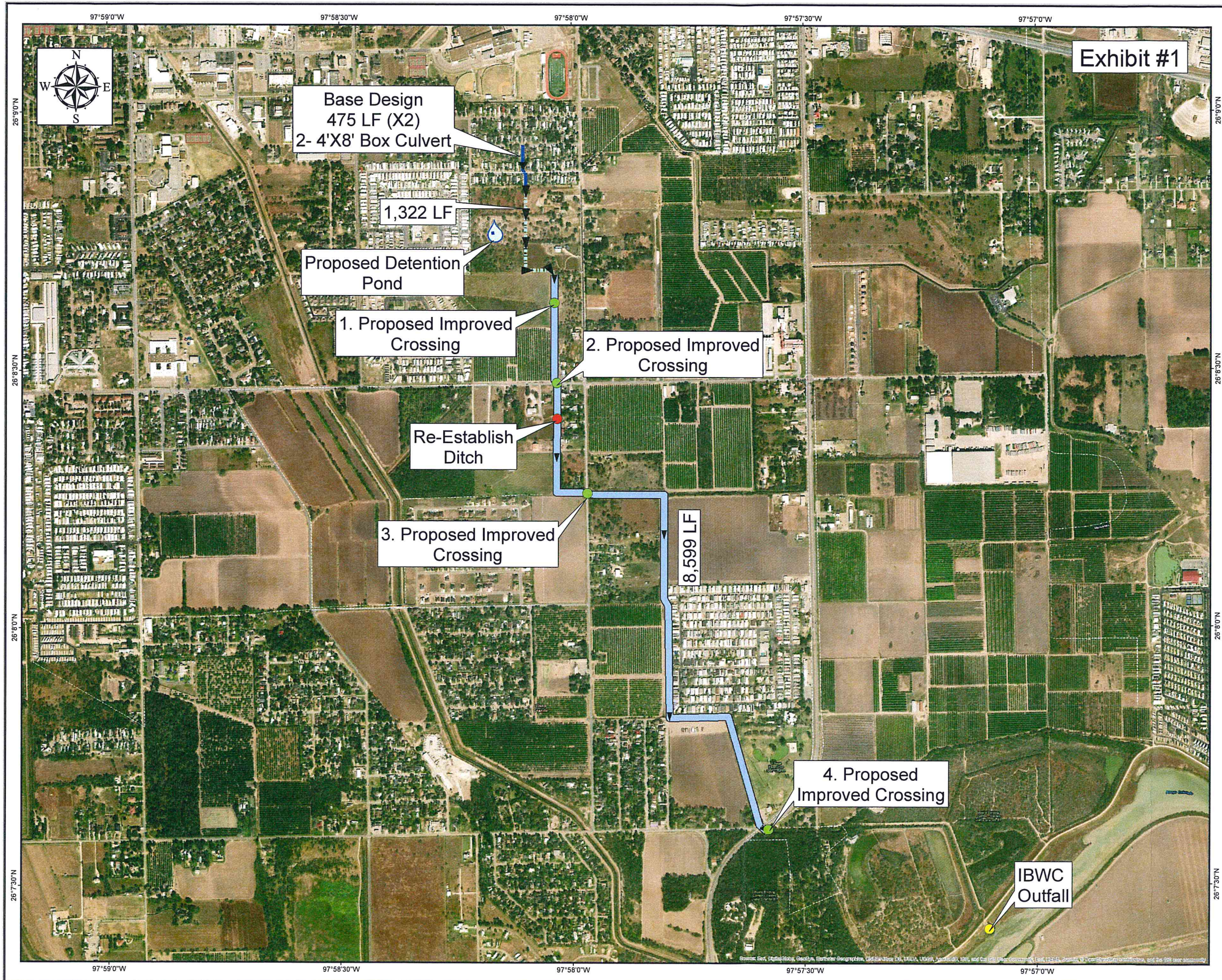
APPROVED AS TO FORM:

Juan E. Gonzalez, **CITY ATTORNEY**

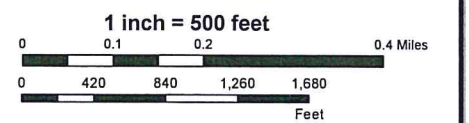


Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2859
From:		
Subject: Discussion and consideration to approve a Professional Services Agreement with Sigler, Winston and Greenwood & Associates (SWG) for Engineering Services for the Pleasantview and 11th Street Drainage Project as negotiated and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Manager's Office.)		
Background:		
Funding Source (budget code, if applicable):		
Amount:	Term of Impact:	Identified in Current Budget:
Additional Action Prompted:		
If item previously considered, provide date and action by Commission:		
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:		
Advisory Review, if any (name of board/committee, date of action, recommendation):		
Aida Vega Rebekah De La Fuente Mike Perez		Created/Initiated Approved Final Approval
City Manager Comments: Approve.		
Staff Recommendation:		
Attachments, if any: Exhibit 1 map, SWG Agreement, SWG-Proposal		
Responsibilities upon Approval:		

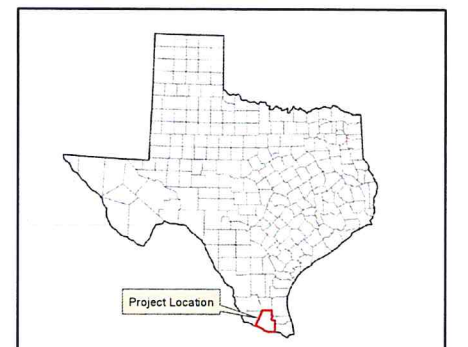


Weslaco Hidalgo County, Texas



LEGEND

- SWG's Proposed Drainage Route
- Existing Drainage Ditch
- SWG's Proposed Drainage Ditch
- Proposed Detention Pond
- Proposed Improved Crossing
- Re-Establish Ditch
- IBWC Outfall



Hidalgo County, Texas



Hidalgo County

SIGLER,
WINSTON,
GREENWOOD,
& ASSOCIATES

SWG

TEXAS FIRM REGISTRATION NO F-592
WESLACO, TEXAS
SINCE 1945

SWG Engineering, LLC.
611 Bill Summers Int'l Blvd Weslaco Texas, TX 78596
Phone (956) 968-2194 Fax (956) 968-8300

Randy C. Winston, P.E., President
Jose Reyes, P.E. Associate
Sergio Gonzalez, BSCE, Associate

SIGLER, WINSTON, GREENWOOD
& ASSOC.
SWG ENGINEERING, LLC
611 Bill Summers Intl Blvd
Weslaco, TX 78596
O 956.968.2194 F 956.968.8300
Firm Registration No. F-592

Joe B. Winston, Jr., P.E., Exec. VP
Isaac Huacuja, EIT, Associate

October 4, 2019

Re: City of Weslaco – Propose Pleasantview and
11th St. Drainage Project No. 2018-19-16

Mr. Mike Perez
City Manager
City of Weslaco
255 S. Kansas Ave.
Weslaco, Texas 78596

Via Email (mrperez@weslacotx.gov)

Dear Mr. Perez:

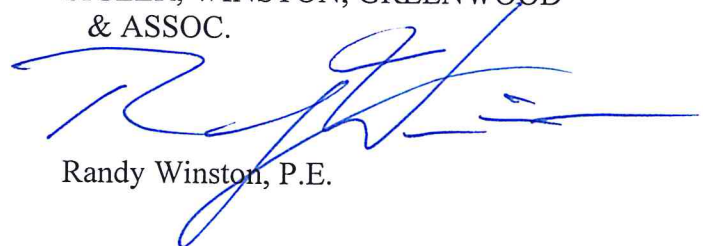
On behalf of our firm, we would like to thank the City of Weslaco for selecting our firm for the above referenced project. Your business is very much appreciated, and we will do our very best to meet and exceed the City's needs.

As per our meeting yesterday afternoon, we have revised our engineering fee to 9.5%, which includes engineering, PS&E, survey/topo, and survey of metes and bounds of five anticipated parcels for right of way access. We have attached our Agreement between Owner and Engineer for Professional Services and the Engineer's Opinion of Cost Estimate for the city's review and consideration. It is important to note that through value engineering and analysis, we were able to substantially reduce the cost of the initial plan as proposed in the drainage plan. Our firm was able to reduce the 30% contingencies, address the primary objection, and still have funds remaining to address important drainage issues downstream, without exceeding the proposed budget of \$4.7 million. Attached for the city's review is our proposed project exhibit detailing the expanded scope of work.

We look forward to working the City on this very important project. If you need additional information or would like to meet to discuss the contract, please feel free to contact me at (956) 968-2194.

Sincerely,

SIGLER, WINSTON, GREENWOOD
& ASSOC.



Randy Winston, P.E.

RW:cm
Encl.

AGREEMENT

THIS IS AN AGREEMENT effective as of _____ (“Effective Date”) between
CITY OF WESLACO _____ (“Owner”) and
SWG ENGINEERING, LLC _____ (“Engineer”).

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:
PROPOSED PLEASANTVIEW AND 11TH STREET DRAINAGE PROJECT as per Attachment No. 1 – Scope of Services.
("Project").

Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows:

PROPOSED PLEASANTVIEW AND 11TH STREET DRAINAGE PROJECT # 2018-19-16 as per Attachment No. 1 – Scope of Services.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 Scope

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 General

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:

1. any development that affects the scope or time of performance of Engineer's services;
2. the presence at the Site of any Constituent of Concern; or
3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

- A. Engineer is authorized to begin rendering services as of the Effective Date.

3.02 *Time for Completion*

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.

- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
 2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- D. *Sales or Use Taxes:* If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F to this Agreement.

5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations;
 - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of

conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or elsewhere in this Agreement.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.
- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.05. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other

obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A.

6.03 *Use of Documents*

- A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.
- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital

format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.

- B. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- B. Owner shall procure and maintain insurance as set forth in Exhibit G. Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies carried by Owner, which are applicable to the Project.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary

insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.

- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.06 *Suspension and Termination*

A. *Suspension:*

1. *By Owner:* Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
2. *By Engineer:* Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.D.

B. *Termination:* The obligation to provide further services under this Agreement may be terminated:

1. For cause,
 - a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. by Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.D.
 - 3) Engineer shall have no liability to Owner on account of such termination.
- c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.06.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be

reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of notice from Owner.
- C. *Effective Date of Termination:* The terminating party under Paragraph 6.06.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. *Payments Upon Termination:*
1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.
 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.D.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the

contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

B. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
3. Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in the Construction Contract Documents.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.10 *Environmental Condition of Site*

- A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.

- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.11 *Indemnification and Mutual Waiver*

- A. **INDEMNIFICATION BY ENGINEER: INDEMNIFICATION BY ENGINEER: TO THE FULLEST EXTENT PERMITTED BY LAW, ENGINEER SHALL INDEMNIFY AND HOLD HARMLESS OWNER, AND OWNER'S OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS, CONSULTANTS, AND EMPLOYEES FROM REASONABLE CLAIMS, COSTS, LOSSES, AND DAMAGES ARISING OUT OF OR RELATING TO THE PROJECT, PROVIDED THAT ANY SUCH CLAIM, COST, LOSS, OR DAMAGE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE, OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), INCLUDING THE LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED BY ANY NEGLIGENT ACT OR OMISSION OF ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS, EMPLOYEES, OR CONSULTANTS.**
- 1. **ENGINEER'S LIABILITY LIMITED TO AMOUNT OF ENGINEER'S COMPENSATION: TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL LIABILITY, IN THE AGGREGATE, OF ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS, EMPLOYEES, AND CONSULTANTS, TO OWNER AND ANYONE CLAIMING BY, THROUGH, OR UNDER OWNER FOR ANY AND ALL CLAIMS, LOSSES, COSTS, OR DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO THE PROJECT OR THE AGREEMENT FROM ANY CAUSE OR CAUSES, INCLUDING BUT NOT LIMITED TO THE NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, INDEMNITY OBLIGATIONS, OR WARRANTY (EXPRESS OR IMPLIED) OF ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS, EMPLOYEES, OR CONSULTANTS SHALL NOT EXCEED THE TOTAL COMPENSATION RECEIVED BY ENGINEER UNDER THIS AGREEMENT.**
- 2. **EXCLUSION OF SPECIAL, INCIDENTAL, INDIRECT, AND CONSEQUENTIAL DAMAGES: TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISION IN THE AGREEMENT, CONSISTENT WITH THE TERMS OF THIS PARAGRAPH 6.10, ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS, CONSULTANTS, AND EMPLOYEES SHALL NOT BE LIABLE TO OWNER OR ANYONE CLAIMING BY, THROUGH, OR UNDER OWNER FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO THE PROJECT OR THE AGREEMENT FROM ANY CAUSE OR CAUSES, INCLUDING BUT NOT LIMITED TO ANY SUCH DAMAGES CAUSED BY THE NEGLIGENCE, PROFESSIONAL**

ERRORS OR OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, INDEMNITY OBLIGATIONS, OR WARRANTY (EXPRESS OR IMPLIED) OF ENGINEER OR ENGINEER'S OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS, EMPLOYEES, OR CONSULTANTS.

- 3. AGREEMENT NOT TO CLAIM FOR COST OF CERTAIN CHANGE ORDERS:** OWNER RECOGNIZES AND EXPECTS THAT CERTAIN CHANGE ORDERS MAY BE REQUIRED TO BE ISSUED AS THE RESULT IN WHOLE OR PART OF IMPRECISION, INCOMPLETENESS, ERRORS, OMISSIONS, AMBIGUITIES, OR INCONSISTENCIES IN THE DRAWINGS, SPECIFICATIONS, AND OTHER DESIGN DOCUMENTATION FURNISHED BY ENGINEER OR IN THE PROFESSIONAL SERVICES PERFORMED OR FURNISHED BY ENGINEER UNDER THIS AGREEMENT (THE "COVERED CHANGE ORDERS). ACCORDINGLY, OWNER AGREES NOT TO SUE OR TO MAKE ANY CLAIM DIRECTLY OR INDIRECTLY AGAINST ENGINEER ON THE BASIS OF PROFESSIONAL NEGLIGENCE, BREACH OF CONTRACT, OR OTHERWISE WITH RESPECT TO THE COSTS OF APPROVED COVERED CHANGE ORDERS UNLESS THE COSTS OF SUCH APPROVED COVERED CHANGE ORDERS EXCEED 25% OF CONSTRUCTION COST, AND THEN ONLY FOR AN AMOUNT IN EXCESS OF SUCH PERCENTAGE. ANY RESPONSIBILITY OF ENGINEER FOR THE COSTS OF COVERED CHANGE ORDERS IN EXCESS OF SUCH PERCENTAGE WILL BE DETERMINED ON THE BASIS OF APPLICABLE CONTRACTUAL OBLIGATIONS AND PROFESSIONAL LIABILITY STANDARDS. FOR PURPOSES OF THIS PARAGRAPH, THE COST OF COVERED CHANGE ORDERS WILL NOT INCLUDE ANY COSTS THAT OWNER WOULD HAVE INCURRED IF THE COVERED CHANGE ORDER WORK HAD BEEN INCLUDED ORIGINALLY WITHOUT ANY IMPRECISION, INCOMPLETENESS, ERROR, OMISSION, AMBIGUITY, OR INCONSISTENCY IN THE CONTRACT DOCUMENTS AND WITHOUT ANY OTHER ERROR OR OMISSION OF ENGINEER RELATED THERETO. NOTHING IN THIS PROVISION CREATES A PRESUMPTION THAT, OR CHANGES THE PROFESSIONAL LIABILITY STANDARD FOR DETERMINING IF, ENGINEER IS LIABLE FOR THE COST OF COVERED CHANGE ORDERS IN EXCESS OF THE PERCENTAGE OF CONSTRUCTION COST STATED ABOVE OR FOR ANY OTHER CHANGE ORDER. WHEREVER USED IN THIS PARAGRAPH, THE TERM ENGINEER INCLUDES ENGINEER'S OFFICER'S, DIRECTORS, MEMBERS, PARTNERS, AGENTS, EMPLOYEES, AND CONSULTANTS.
- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations and to the extent (if any) required in Exhibit I, "Limitations of Liability."
- C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

- D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- E. *Percentage Share of Negligence:* To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- F. *Mutual Waiver:* To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes.

6.12 *Records Retention*

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.13 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims:* To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
 5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
 6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
 7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
 8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance,

resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
10. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer’s independent professional associates and consultants; subcontractors; or vendors.
16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.

19. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. *Engineer*—The individual or entity named as such in this Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
23. *Owner*—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.
27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.

30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.
36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. *Day*:

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

- A. Exhibit A, Engineer’s Services.
- B. Exhibit B, Owner’s Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.
- E. Exhibit E, Notice of Acceptability of Work. NA
- F. Exhibit F, Construction Cost Limit. NA
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution.
- I. Exhibit I, Limitations of Liability. NA
- J. Exhibit J, Special Provisions. NA
- K. Exhibit K, Amendment to Owner-Engineer Agreement. NA

8.02 *Total Agreement*

- A. This Agreement, (together with the exhibits included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer’s and Owner’s representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: CITY OF WESLACO

By: _____
Print name: _____
Title: _____
Date Signed: _____

Engineer: SWG ENGINEERING, LLC

By: 
Print name: RANDY WINSTON, P.E.
Title: PRESIDENT
Date Signed: 10/3/2019

Engineer License or Firm's Certificate No. (if required):

70417

State of: TEXAS

Address for Owner's receipt of notices:

Designated Representative (Paragraph 8.03.A):

Title: _____
Phone Number: _____
E-Mail Address: _____

Address for Engineer's receipt of notices:

SWG ENGINEERING, LLC
611 BILL SUMMERS INTL BLVD
WESLACO, TX 78596

Designated Representative (Paragraph 8.03.A):

Title: Randy Winston, P.E., President
Phone Number: (956) 968-2194
E-Mail Address: randy@siglerwinstongreenwood.com

This is **EXHIBIT A**, consisting of 16 pages,
referred to in and part of the **Agreement
between Owner and Engineer for Professional
Services** dated _____.

Engineer's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

A1.01 Study and Report Phase

A. Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.
 - a. If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of such potential solutions:
 - b. If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.
 - c. If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify two alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.
2. Identify potential solution(s) to meet Owner's Project requirements, as needed.
3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.
4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.
5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies,
and American Society of Civil Engineers. All rights reserved.**

10/2/19

6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.
7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.
8. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs.
9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.
10. When mutually agreed, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."
11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.
12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.
13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.
14. Perform or provide the following other Study and Report Phase tasks or deliverables:
None included
15. Furnish 5 review copies of the Report and any other Study and Report Phase deliverables to Owner within 60 days of the Effective Date and review it with Owner. Within 30 days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies,
and American Society of Civil Engineers. All rights reserved.**

10/2/19

16. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish 5 copies of the revised Report and any other Study and Report Phase deliverables to the Owner within 21 days of receipt of Owner's comments.
- B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.

A1.02 *Preliminary Design Phase*

- A. After acceptance by Owner of the Report and any other Study and Report Phase deliverables; selection by Owner of a recommended solution; issuance by Owner of any instructions of for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design; and indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, (1) Engineer and Owner shall discuss and resolve any necessary revisions to Engineer's compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design instructions, or specific modifications to the Project, and (2) upon written authorization from Owner, Engineer shall:
 1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.
 2. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.
 3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.
 4. Visit the Site as needed to prepare the Preliminary Design Phase documents.
 5. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
 6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

10/2/19

7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.
 8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.
 9. Perform or provide the following other Preliminary Design Phase tasks or deliverables:
None
 10. Furnish 5 review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner within 90 days of authorization to proceed with this phase, and review them with Owner. Within 30 days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.
 11. Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner 5 copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within 21 days after receipt of Owner's comments.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

A1.03 *Final Design Phase*

- A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other Preliminary Design Phase deliverables, subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:
 1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

10/2/19

2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.
4. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.
5. After consultation with Owner, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Owner, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between Owner and Engineer.
6. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.
8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.
9. Perform or provide the following other Final Design Phase tasks or deliverables: Record Drawings
10. Furnish for review by Owner, its legal counsel, and other advisors, 3 copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, within 21 days of authorization to proceed with the Final Design Phase, and review them with Owner. Within 30 days of receipt, Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

10/2/19

11. Revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the Owner, as appropriate, and submit 3 final copies of such documents to Owner within 14 days after receipt of Owner's comments and instructions.
- B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.
- C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.
- D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Bidding or Negotiating Phase*

- A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:
 1. Assist Owner in advertising for and obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.
 2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.
 3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

10/2/19

4. Consult with Owner as to the qualifications of prospective contractors.
 5. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
 6. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.
 7. Attend the bid opening, prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals, assembling final contracts for the Work for execution by Owner and Contractor, and in issuing notices of award of such contracts.
 8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
 9. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables: None
- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).

A1.05 Construction Phase

- A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:
1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, or other construction general conditions specified in this Agreement. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

10/2/19

2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.
3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.
4. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.
5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
6. *Original Documents:* If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
8. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
9. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
 - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

10/2/19

judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.

- b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
10. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.
11. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
12. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

13. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
14. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
15. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
16. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.
17. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.
18. *Substitutes and "Or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.
19. *Inspections and Tests:*
 - a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
 - b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.

- c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
20. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.
21. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
- a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).
 - b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies,
and American Society of Civil Engineers. All rights reserved.

10/2/19

title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.

22. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.17. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.
 23. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
 24. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables: None
 25. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of the Notice and Paragraph A1.05.A.21.b) to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.
 26. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves

more than one prime contract as indicated in Paragraph A1.03.D, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

A1.06 *Post-Construction Phase*

- A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:
 - 1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.
 - 2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
 - 3. Perform or provide the following other Post-Construction Phase tasks or deliverables:
None included
- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

- A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit C.
 - 1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 - 2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.

3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Paragraph A1.01.A.1 and 2.
5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
6. Providing renderings or models for Owner's use, including services in support of building information modeling or civil integrated management.
7. Undertaking investigations and studies including, but not limited to:
 - a. detailed consideration of operations, maintenance, and overhead expenses;
 - b. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - c. preparation of appraisals;
 - d. evaluating processes available for licensing, and assisting Owner in obtaining process licensing;
 - e. detailed quantity surveys of materials, equipment, and labor; and
 - f. audits or inventories required in connection with construction performed or furnished by Owner.
8. Furnishing services of Consultants for other than Basic Services.
9. Providing data or services of the types described in Exhibit B, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
10. Providing the following services:
 - a. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.

- b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
11. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Part 1 of Exhibit A).
12. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
13. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by Owner for the Work or a portion thereof.
14. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Paragraph 5.02.A and Exhibit F.
15. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all Addenda and any amendments negotiated by Owner and Contractor.
16. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
17. Preparing Record Drawings, and furnishing such Record Drawings to Owner.
18. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.
19. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
20. Preparation of operation, maintenance, and staffing manuals.
21. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies,
and American Society of Civil Engineers. All rights reserved.

10/2/19

23. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
24. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.
25. Overtime work requiring higher than regular rates.
26. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.8; any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
27. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
28. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
29. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 Additional Services Not Requiring Owner's Written Authorization

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner.
 1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.
 2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.
 3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
 4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or

Exhibit A – Engineer's Services

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

**Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies,
and American Society of Civil Engineers. All rights reserved.**

10/2/19

acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.

5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
6. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
7. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
8. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

This is **EXHIBIT B**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____.

Owner's Responsibilities

Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
- B. Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- D. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.

Exhibit B – Owner's Responsibilities

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

8/10/18

2. Zoning, deed, and other land use restrictions.
 3. Utility and topographic mapping and surveys.
 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
 7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- E. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- F. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
1. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
- G. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews,

approvals, and consents from others as may be necessary for completion of each phase of the Project.

- I. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.
- J. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- K. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- L. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- M. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- N. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
- O. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- P. Place and pay for advertisement for Bids in appropriate publications.
- Q. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- R. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.

Exhibit B – Owner's Responsibilities

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies,
and American Society of Civil Engineers. All rights reserved.

10/2/19

This is **EXHIBIT C**, consisting of _____ pages,
referred to in and part of the Agreement between
Owner and Engineer for Professional Services dated
_____, _____.

Payments to Engineer for Services and Reimbursable Expenses
COMPENSATION PACKET BC-1: Basic Services – Lump Sum

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation for Basic Services (other than Resident Project Representative) – Lump Sum Method of Payment

- A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, (fee also includes PS&E, survey/topo, and survey metes and bounds of five (5) anticipated parcels for right-of-way) except for services of Engineer’s Resident Project Representative, if any, as follows:
1. A Lump Sum amount of **\$392,500.00** based on the attached Engineer’s Opinion of Cost Estimate (Attachment No. 2) and the following estimated distribution of compensation:
 - a. Study and Report Phase NA
 - b. Preliminary Design Phase \$ 98,125.00
 - c. Final Design Phase \$196,250.00
 - d. Bidding and Negotiating Phase \$ 58,875.00
 - e. Construction Phase \$ 39,250.00
 2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the Owner.
 3. The Lump Sum includes compensation for Engineer’s services and services of Engineer’s Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
 4. The portion of the Lump Sum amount billed for Engineer’s services will be based upon Engineer’s estimate of the percentage of the total services actually completed during the billing period.

B. *Period of Service:* The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding 12 months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.

C. *Estimated Compensation Amounts:*

1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
- D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

**COMPENSATION PACKET RPR-1:
Resident Project Representative – Lump Sum**

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

C2.04 Compensation for Resident Project Representative Basic Services – Lump Sum Method of Payment

A. Owner shall pay Engineer for Resident Project Representative Basic Services as follows:

1. *Resident Project Representative Services:* For services of Engineer's Resident Project Representative, if any, under Paragraph A1.05 of Exhibit A, the Lump Sum amount of \$42,000.00. The Lump Sum includes compensation for the Resident Project Representative's services, and for the services of any direct assistants to the Resident Project Representative. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses related to the Resident Project Representative's Services.
2. *Resident Project Representative Schedule:* The Lump Sum amount set forth in Paragraph C2.04.A.1 above is based on RPR services to be for four (4) months, five (5) days a week, eight (8) hours a day. Modifications to the schedule shall entitle Engineer to an equitable adjustment of compensation for RPR services.

This is **EXHIBIT D**, consisting of 5 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____.

Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

Article 1 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 *Resident Project Representative*

- A. Engineer shall furnish a Resident Project Representative ("RPR") to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
- B. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.
- C. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.

Exhibit D - Resident Project Representative.

EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.

Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved.

Page 1

10/2/19

3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.
4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor. ,
7. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.

9. *Review of Work; Defective Work:*

- a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.
- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work. ; and
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

11. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to

questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.
- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

12. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

D. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

This is **EXHIBIT G**, consisting of 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____.

Insurance

Paragraph 6.04 of the Agreement is supplemented to include the following agreement of the parties.

G6.04 Insurance

A. The limits of liability for the insurance required by Paragraph 6.04.A and 6.04.B of the Agreement are as follows:

1. By Engineer:

- | | |
|--|------------------------|
| a. Workers' Compensation: | Statutory |
| b. Employer's Liability -- | |
| 1) Each Accident: | \$ <u>NA</u> |
| 2) Disease, Policy Limit: | \$ <u>NA</u> |
| 3) Disease, Each Employee: | \$ <u>NA</u> |
| c. General Liability -- | |
| 1) Each Occurrence (Bodily Injury and Property Damage): | \$ <u>2,000,000.00</u> |
| 2) General Aggregate: | \$ <u>2,000,000.00</u> |
| d. Excess or Umbrella Liability -- | |
| 1) Each Occurrence: | \$ <u>NA</u> |
| 2) General Aggregate: | \$ <u>NA</u> |
| e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage): | |
| Each Accident | \$ |
| <u>1,000,000.00</u> | |
| f. Professional Liability -- | |
| 1) Each Claim Made | \$ <u>1,000,000.00</u> |
| 2) Annual Aggregate | \$ <u>1,000,000.00</u> |

- g. Other (specify): \$ NA
2. By Owner:
- a. Workers' Compensation: Statutory
- b. Employer's Liability --
- 1) Each Accident \$ NA
- 2) Disease, Policy Limit \$ NA
- 3) Disease, Each Employee \$ NA
- c. General Liability --
- 1) General Aggregate: \$2,000,000.00
- 2) Each Occurrence (Bodily Injury and Property Damage): \$2,000,000.00
- d. Excess Umbrella Liability --
- 1) Each Occurrence: \$ NA
- 2) General Aggregate: \$ NA
- e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage):
- Each Accident: \$ 1,000,000.00
- f. Other (specify): \$ NA

B. Additional Insureds:

1. The following persons or entities are to be listed on Owner's general liability policies of insurance as additional insureds, and on any applicable property insurance policy as loss payees, as provided in Paragraph 6.04.B:

- a. SWG Engineering, LLC
Engineer
 - b. _____
Engineer's Consultant
 - c. _____
Engineer's Consultant
2. During the term of this Agreement the Engineer shall notify Owner of any other Consultant to be listed as an additional insured on Owner's general liability and property policies of insurance.
3. The Owner shall be listed on Engineer's general liability policy as provided in Paragraph 6.04.A.

This is **EXHIBIT H**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____

Dispute Resolution

Paragraph 6.09 of the Agreement is supplemented to include the following agreement of the parties:

H6.08 *Dispute Resolution*

- A. *Mediation:* Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by a mutually approved mediator. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

Exhibit H - Dispute Resolution.

**EJCDC® E-500, Agreement Between Owner and Engineer for Professional Services.
Copyright © 2014 National Society of Professional Engineers, American Council of Engineering Companies,
and American Society of Civil Engineers. All rights reserved.**

Page 1

10/2/19

ATTACHMENT NO. 1

**Engineering and Surveying Services in connection with Storm Water Improvements for
Pleasantview & 11TH Street Drainage Project No. 6.
Scope of Work**

Scope of services shall consist of the following:

Base Design of the 11th & Pleasantview Outfall as depicted in Exhibit No. 1.

The following Items 1-4 shall be designed as funding allows for them within this Project No. 6.

1. Design of proposed crossing as identified as Item No. 1 in Exhibit No. 1.
2. Design of the proposed improved crossing for 18th St. as identified as Item No. 1 in Exhibit No. 1.
3. Design of proposed improved crossing at Pleasantview and Mile 5-3/4 show in Exhibit No. 1.
4. Design of proposed improved crossing at Mile 5 North and FM 1015 as shown in Exhibit No. 1.

PRELIMINARY
ENGINEER'S Opinion of COST ESTIMATE

Project: City of Weslaco - Pleasantview Dr. and 11th St Drainage

Description: Alternative Drainage Route

Date: October 2, 2019

Item	Description	Quantity	Unit	Unit Price	Item Total
1.	MOBILIZATION/SITE PREP	1	L.S.	\$75,000.00	\$75,000.00
2.	UTILITY ADJUSTMENT - ASSUMED AT EVERY STREET CROSSING	1	EA	\$25,000.00	\$25,000.00
3.	CHANNEL WIDENING/EXCAVATION (1,400 LF)	9,815	C.Y.	\$12.00	\$117,780.00
4.	DETENTION POND EXCAVATION (PRELIM: SA=3.5 AC; DEPTH = 10')	56,465	C.Y.	\$12.50	\$705,812.50
5.	8' X 4' RCB STORM DRAIN (500 LF X2)	1,000	L.F.	\$400.00	\$400,000.00
6.	ROADWAY REMOVE AND REPLACE (500 LF x 18' WIDE)	1,000	S.Y.	\$50.00	\$50,000.00
7.	TYPE C-C INLET	10	EA	\$4,500.00	\$45,000.00
8.	TYPE A INLET	2	EA	\$4,500.00	\$9,000.00
9.	24" ADS HP STORM SEWER LINE	3,200	L.F.	\$60.00	\$192,000.00
10.	ROADWAY REMOVE AND REPLACE (3200 LF x 5' WIDE)	1,775	S.Y.	\$50.00	\$88,750.00
11.	RE-ESTABLISH DITCH (1,050 LF x 20' WIDE)	3,900	C.Y.	\$12.00	\$46,800.00
12.	IMPROVE DOWNSTREAM DRAINAGE CROSSINGS	4	EA	\$500,000.00	\$2,000,000.00
SUBTOTAL OF CONSTRUCTION COSTS					\$3,755,142.50
CONTINGENCIES @ 10%					\$375,515.00
ESTIMATED CONSTRUCTION COST					\$4,130,657.50
TOTAL ENGINEERING SERVICES, 9.5%					\$392,500.00
RESIDENT PROJECT REPRESENTATIVE					4 MO \$10,500.00 \$42,000.00
PROPERTY ACQUISITION, RDF					3.5 AC \$25,000.00 \$87,500.00
PROPERTY ACQUISITION, DRAINAGE EASEMENT (1,300 LF x 50' WIDE)					1.5 AC \$25,000.00 \$37,250.00
GEOTECHNICAL ENGINEERING (ESTIMATED)					1 LS \$15,000.00 \$15,000.00
CONSTRUCTION TESTING					1 LS \$50,000.00 \$50,000.00
TOTAL ESTIMATED PROJECT COST					\$4,754,907.50

Randy C. Winston, P.E., President
Jose Reyes, P.E., Associate
Sergio Gonzalez, BSCE, Associate

**SIGLER, WINSTON, GREENWOOD
& ASSOC.
SWG ENGINEERING, LLC**
611 Bill Summers Intl Blvd
Weslaco, TX 78596
O 956.968.2194 F 956.968.8300
Firm Registration No. F-592

Joe B. Winston, Jr., P.E., Exec. VP
Isaac Huacuja, EIT, Associate

October 4, 2019

Re: Proposed IBWC Levee
Improvements; SWG 18-056

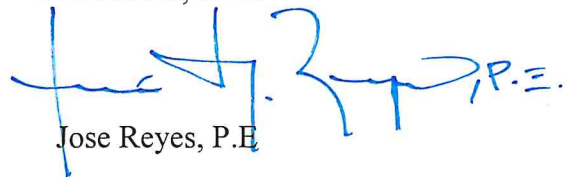
Mr. Mike Perez
City Manager
City of Weslaco
Weslaco, Texas 78550

Dear Mr. Perez:

Enclosed for your use is the Engineer's Opinion of Probable Construction Cost & signed and sealed plans & specifications for IBWC Levee Improvements project.

Please feel free to call me at (956)968-2194 with any questions you may have.

Sincerely,
SIGLER, WINSTON, GREENWOOD
& ASSOC., LLC.



Jose Reyes, P.E.

JR:cz

CITY OF WESLACO

SWG Engineering, LLC
611 Bill Summers International Blvd, Weslaco, TX 78596

Engineer's Opinion of Probable Construction Cost

Entity: City of Weslaco
Date: 10/01/19
Descr: City o Weslaco - Proposed IBWC Levees Improvements
Eng.: Sigler, Winston, Greenwood & Associates
Jose G. Reyes, P.E.

Item No.	Description	Quantity	Unit	Unit Price	Total Cost
	Proposed 6" Topsoil	303	CY	\$ 18.00	\$ 5,454.00
	Levee Embankment (Compacted)	612	CY	\$ 35.00	\$ 21,420.00
	6" Caliche Flexible Base	53	CY	\$ 20.00	\$ 1,060.00
	Levee Bench Excavation	515	CY	\$ 25.00	\$ 12,875.00
	6" Topsoil Removal	240	CY	\$ 18.00	\$ 4,320.00
	Mobilization/Demobilization	1	LS	\$ 3,500.00	\$ 3,500.00
Subtotal of Construction Costs					\$ 48,629.00
Contingency 10.%					\$ 4,862.90
Estimated Construction Cost					\$ 53,491.90

NOTES:

This estimate was prepared with the information available at the time.
The unit prices above include labor, materials, equipment, and
incidentals for complete in place installation. This estimate excludes
fees in connection to Municipal, State, or Federal permit(s), row. acquisition,
utility(ies) relocation, and construction inspection services

Total Estimated Project Cost: \$53,491.90



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2862	
From:			
Subject: Discussion and consideration to approve a Professional Services Agreement with the Lower Rio Grande Valley Economic Development District for certain project management, reporting and support services in connection with the Economic Development Administration (EDA Project Number 08-79-05334) grant for the construction of Airport Hangars as negotiated and authorize the Mayor to execute any related documents. Possible action. (Staffed by Airport.)			
Background: In February 2019, Airport staff began working with the Lower Rio Grande Valley Economic Development District staff in writing and submitting an Economic Development Administration grant for the construction of Corporate Airport Hangars and related infrastructure. If funded, a 3% administration fee could be added for project management, reporting and support service under the grant. Airport staff is utilizing a \$566,667 local contribution match from the EDC of Weslaco as local match. The EDC had previously approved these funds for the construction of a hangar as an incentive for potential tenant locating to the Mid Valley Airport. On September 23, 2019, the Economic Development Administration released notice the City had been awarded a grant in the amount of \$850,000 for the proposed project. Total project cost is estimated at \$1,416,667.00.			
Funding Source (budget code, if applicable):			
Amount: \$556,000.00		Term of Impact: Two Years	Identified in Current Budget: No
Additional Action Prompted: Mayor's Signature			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation): The Airport Advisory Committee is in support of the project and recommends approval.			
Aida Vega Andrew Muñoz Mike Perez		Created/Initiated Approved Final Approval	
City Manager Comments: Approve.			

Staff Recommendation:

Staff recommends approval.

Attachments, if any:

Weslaco Airport LRGVEDD Contract Sept. 2019_DRAFT

Responsibilities upon Approval:

Submit signed agreement to RGVEDD for approval and signature.

PROFESSIONAL SERVICES ~~CONTRACT~~ AGREEMENT

PART I - AGREEMENT

THIS AGREEMENT, entered into this ~~23rd~~ 30th -day of ~~September~~October, 2019, by and between the Lower Rio Grande Valley Economic Development District, hereinafter called the "**District**," acting herein by Ron Garza, Executive Director of the District, hereunto duly authorized, and the City of Weslaco, hereinafter called the "**City**," acting herein by David Suarez, Mayor for the City of Weslaco.

WITNESSETH THAT:

WHEREAS, the **City** desire to implement EDA Project Number 08-79-05334, an Economic Adjustment Assistance project funded by the U. S. Department of Commerce and administered by the Southwest Regional Office of the Economic Development Administration;

WHEREAS, the **City** is and will act with authority as the Fiscal Agent for the EDA funded project identified above, and

WHEREAS, the **City** desire to engage the District to render certain project management, reporting and support services in connection with the oversight of the EDA project.

NOW THEREFORE, the parties do mutually agree as follows:

1. **Scope of Services**
Part II, Scope of Services, is hereby incorporated by reference into this Agreement.
2. **Time of Performance** - The services of the District shall commence on ~~September~~October 2330, 2019, contingent upon approval of this ~~Contract~~Agreement by the LRGVEDD Board of Directors at their meeting scheduled for Wednesday, _____, 2019. All of the services required and performed hereunder shall be completed within the grant period as agreed by both parties.
3. **Access to Information** - It is agreed that all information, data, reports and records and/or other information as is existing, available and necessary for the carrying out of the work outlined above shall be furnished to the District by the **City** and its agents. No charge will be made to the District for such information and the **City** and its agents will cooperate with the District in every way possible to facilitate the performance of the work described in the contract.
4. **Compensation and Method of Payment** - The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed **forty-one thousand, three hundred fifty-nine dollars (\$41,359.00)**. Payment to the District shall be based on satisfactory completion of identified milestones in Part III - Payment Schedule of this ~~Contract~~Agreement. Should the Project be completed in its entirety prior to the period allowed for its completion, all of the District's responsibilities and services required under this agreement be fully completed, and all obligations to the EDA are met, full compensation to the District in the amount of **forty-one thousand, three hundred fifty-nine dollars (\$41,359.00)** shall be completed at that time. Interim payment to the District shall be upon percentage completion of the scope of work.
5. **Indemnification** - The District shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the **City** and its agents from

Comment [AM1]: This is not the amount within the grant budget. Please verify.

and against them, and shall assume full responsibility for administering the project identified above.

6. **Miscellaneous Provisions**

- a) This Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in ~~Cameron~~Hidalgo County, Texas.
 - b) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.
 - c) In any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof, and this Agreement shall not be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
 - d) If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
 - e) This Agreement may be amended by mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.
7. **Warranties and Representations** – District affirms that is familiar with the terms of EDA award number **08-79-05334**, and that it has the organizational, technical, financial and logistical capability and necessary authority for carrying out its responsibilities under this ~~Contract~~Agreement.
8. **Terms and Conditions** — This Agreement is subject to the provisions titled, “Part IV Terms and Conditions” and attached hereto and incorporated by reference herein.

IN WITNESSETH HEREOF, the parties have hereunto set their hands and seals as of the date first affixed above.

(Grantee)

City of Weslaco
David Suarez
Mayor of Weslaco

(District)

Lower Rio Grande Valley Economic
Development District
Ron Garza
Executive Director

ATTEST:

ATTEST:

DATE:

DATE:

PROFESSIONAL SERVICES ~~CONTRACT~~ AGREEMENT

PART II - SCOPE OF SERVICES

The District shall provide the following scope of services:

1. **Project Management**

- a) Provide assistance ~~to~~ the **City** on preparing application, required forms, documents, attachments, and other required EDA requests prior to project award.
- b) Provide general advice and technical assistance to the **City** on preliminary and final budget, environmental narrative and preliminary engineering report.
- c) Provide the **City** with technical assistance and support on an as needed basis throughout the duration of the EDA project agreement. (*application phase, agreement/plan development phase, bidding phase, construction phase and close-out phase*)
- d) Develop and establish a record keeping and filing system consistent with program guidelines.
- e) Maintenance of filing system.
- f) Provide general advice and technical assistance to the **City** personnel on implementation of the EDA project and regulatory matters pertaining thereto.
- g) Furnish the **City** with necessary forms and procedures required for implementation of the EDA project.
- h) Assist the **City** in meeting all special condition requirements that may be stipulated in the ~~contract~~ Agreement between the **City** and U. S. Department of Commerce, Economic Development Administration, Southwest Regional Office.
- i) Prepare and submit all project reporting required by EDA regarding Project Number 08-79-05334, including but not limited to progress reporting, quarterly reporting, and other reporting included in the EDA Project Agreement between the **City** and the U.S. Department of Commerce, Economic Development Administration, Southwest Regional Office.

- j) Establish internal system to document expenditures associated with local administration of the project.
- k) Serve as liaison for the **City** during the implementation and completion of the EDA project with any monitoring visit by staff representatives from EDA or its Southwest Regional Office.

2. **Financial Management**

- a) Assist the **City** by improving its ability to manage and report progress and use of funds from federal sources through the Southwest Regional Office of the EDA for the project identified above.
- b) Assist the **City** in compliance with all EDA rules, regulations, specifications, or other directives pertinent to the identified project.
- c) Prepare and submit all required forms for project fund drawdowns on behalf of the **City**, in order to ensure orderly, timely allocation and disbursement of funds within the period of the project agreement.
- d) Review invoices received for payment and file back-up documentation.
- e) Provide general advice and technical assistance to the **City** personnel on implementation of the EDA project and regulatory matters pertaining thereto.
- f) Assist the **City** in interpreting and complying with established procedures for the EDA project and reporting to the Southwest Regional Office.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

PROFESSIONAL SERVICES ~~CONTRACT~~ AGREEMENT

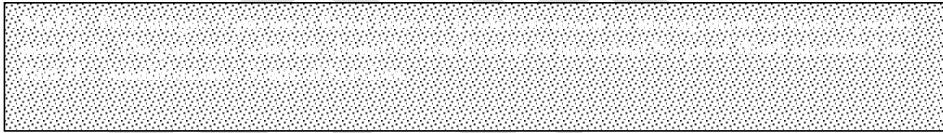
PART III - PAYMENT SCHEDULE

Locality shall reimburse the District for invoiced grant administration services provided for completion of the following project milestones per the following percentages of the maximum contract amount:

Comment [AM2]: Locality is not defined.

<u>Milestone</u>	<u>% of Contract Fee</u>
• Establishment of recordkeeping system	10%
• Completion of environmental/other Special Conditions	10%
• Completion of all acquisition activities	10%
• Completion of the bid/contract award process	20%
• Financial and progress reporting requirements	10%
• Labor Standards compliance/construction completion	30%
• Filing of all required closeout information	10%
Total	100%

Payment for grant administration services is an eligible expense and was initially included in the *City's* grant application when submitted to EDA for funding.



Conditions for Payment.

Payment is subject to the satisfaction of the following conditions precedent:

- (a) **Representations and Warranties.** The representations and warranties made by the District and any representations and warranties made by the District which are contained in any certificate, document or other statement furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects as of the date of any payment.
- (b) **Compliance with Covenants.** District shall be in full compliance with all covenants and agreements imposed upon District under this ~~contract~~ agreement.

PROFESSIONAL SERVICES ~~CONTRACT~~AGREEMENT

PART IV - TERMS AND CONDITIONS

1. **Termination of ~~Contract~~Agreement.** If, through any cause, the District shall fail to fulfill in a timely and proper manner its obligation under this ~~Contract~~Agreement, or if the District shall violate any of the covenants, agreements, or stipulations of this ~~Contract~~Agreement, the **City** shall thereupon have the right to terminate this ~~Contract~~Agreement by giving written notice to the District of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. If the ~~Contract~~Agreement is terminated by the **City** as provided herein, the District will be paid for the time provided and expenses incurred up to the termination date.

If the ~~contract~~Agreement is terminated by the **City** as provided herein, all finished or unfinished documents, information or reports prepared by the District under this ~~Contract~~Agreement shall, at the option of the **City**, become its property and the District shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the District shall not be relieved of liability to the **City** for damages sustained by the **City** by virtue of any breach of the ~~Contract~~Agreement by the District, and the **City** may withhold any payments to the District for the purpose of set-off until such time as the exact amount of damages due the **City** from the District is determined.

2. **Termination for Convenience.** The **City** may terminate this ~~Contract~~Agreement at any time by giving at least ten (10) day notice in writing to the District. If the ~~Contract~~Agreement is terminated by the **City** as provided herein, the District will be paid for the time provided and expenses incurred up to the termination date. If this ~~Contract~~Agreement is terminated due to the fault of the District, Paragraph 1 hereof relative to termination shall apply.

Comment [AM3]: Dates are not the same under the Termination of Agreement; 1st paragraph

3. **Changes.** The **City** may request changes in the scope of the services of the District to be performed hereunder. Such changes, including any increase or decrease in the amount of the District's compensation which are mutually agreed upon by and between the **City** and the District shall be incorporated in written amendments to this ~~Contract~~Agreement.

4. **Personnel.**

- a) The District represents that it has, or will secure at its own expense, all personnel required in performing the services under this ~~Contract~~Agreement. Such personnel shall not be employees of or have any contractual relationship with the **City**.
- b) All services required hereunder will be performed by the District or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- c) None of the work or services covered by this ~~Contract~~Agreement shall be subcontracted without the prior written approval of the **City**. Any work or services subcontracted hereunder shall be specified by written ~~contract~~-or agreement and shall be subject to each provision of this ~~Contract~~Agreement.

5. **Assignment of ~~Contract~~Agreement.** The District shall not assign any interest in this

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

Comment [AM4]: Is this a normal practice?

6. **Reports and Information.** The District, at such times and in such forms as the **City** may require, shall furnish the **City** such periodic reports as it may request pertaining to the work or services undertaken pursuant to this ~~Contract Agreement~~, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this ~~Contract Agreement~~.
7. **Findings Confidential.** All of the reports, information, data, etc., prepared or assembled by the District under this ~~contract Agreement~~ are confidential, and the District agrees that they shall not be made —available to any individual or organization without the prior written approval of the **City**.
8. **Compliance with Local Laws.** The District shall comply with applicable laws, ordinances and codes of the State of Texas and its local governments.
9. **Equal Employment Opportunity.** During the performance of this ~~Contract Agreement~~, the District agrees as follows:
 - a) The District will not discriminate against any employee or applicant for employment because of race, creed, sex, color, handicap, or national origin. The District will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, handicap or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The District agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the **City** setting forth the provisions of this non-discrimination clause.
 - b) The District will, in all solicitation or advertisements for employees placed by or on behalf of the District, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, handicap or national origin.
 - c) The District will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
 - d) The District will include the provisions **9.1, 9.2, and 9.3** in every subcontract or purchase order unless exempted.
10. **Civil Rights Act of 1964.** Under Title VI of the Civil Rights Act of 1964, no person shall, 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.

Comment [AM5]: Where are these sections?

11. **Section 109 of the Housing and Community Development Act of 1974.** No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
12. **Public Works and Economic Development Act of 1965, as amended:** The work to be performed under this ~~contract~~Agreement is on a project assisted under a program providing direct Federal financial assistance from the U. S. Department of Commerce, Economic Development Administration. For Public Works and Development Facilities under the Public Works and Economic Development Act of 1965, as amended, the award to the **City**, Award Number **08-79-05334**, supports the project and effort described herein, which is incorporated into this agreement by reference. Where terms of this agreement differ, the terms of the award shall prevail.
13. **Government Performance and Results Act of 1993 (GPRA) Reporting Requirements – Performance Measures.** The District agrees to report to the **City** on program performance measures and program outcomes in such form and at such intervals as may be prescribed by the EDA, Award Number **08-79-05334**, in compliance with the Government Performance and Results Act of 1993. Performance measures and reporting requirements that apply to program activities funded by the Award to the **City** will be provided in a separate GPRA information collection document. EDA will advise the **City** in writing within a reasonable period prior to the time of submission of the reports and in the event that there are any modifications in the performance measures.
14. **Interest of Members of the District.** No member of the governing body of the District and no other officer, employee, or agent of the District who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this ~~Contract~~Agreement and the **City** shall take appropriate steps to assure compliance.
15. **Interest of Other Local Public Officials.** No member of the governing body of the District and no other public official of the District, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this ~~Contract~~Agreement; and the **City** shall take appropriate steps to assure compliance.
16. **Interest of Firm and Employees.** The District covenants that it presently has no interest and shall not acquire interest, direct or indirect, in the project area, study area, site, or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The District further covenants that in the performance of this ~~Contract~~Agreement, no person having any such interest shall be employed.
17. **Ability to carry out contractual responsibilities:** The District affirms that it is familiar with the terms of EDA award number **08-79-05334**, and that it has the technical, financial and logistical capability of carrying out its responsibilities under this ~~Contract~~Agreement.
18. **Right of Inspection.** District will permit the **City** to examine, audit and make and take away copies or reproductions of its books and records at reasonable times and limited in scope to records relevant to or bearing on the Project.

19. **Conditions Precedent.** This ~~contract~~**Agreement** and all obligations hereunder are subject to the conditions that the EDA fully fund the expenditures associated with the Project sufficiently to allow the *City* to meet its obligations to the District hereunder.

DRAFT

PROFESSIONAL SERVICES ~~CONTRACT~~AGREEMENT

PART V – DESIGNATED REPRESENTATIVES

The following are hereby designated as representatives for the Administrator and Project Parties for purposes of this ~~Contract~~Agreement, and any notice required by its terms or made necessary pursuant to the performance of the ~~Contract~~Agreement should be made to the attention of these designated representatives:

City of Weslaco

David Suarez
Mayor of Weslaco
City of Weslaco
255 South Kansas Avenue
Weslaco, TX 78596
(956) 968-3181
DAVID.SUAREZ@WESLACOTX.GOV

City of Weslaco

Juan Gonzalez
City Attorney
255 South Kansas Avenue
Weslaco, TX 78596

Lower Rio Grande Valley Development Council

Ron Garza
Executive Director
Blanca Davila
Community & Economic Development, Assistant Director
Lower Rio Grande Valley Development Council
301 W. Railroad Street
Weslaco, Texas 78596
(956) 682-3481
rongarza@lrgvdc.org
bdavila@lrgvdc.org

Notices

~~Except in the case of notices and other communications expressly permitted to be given by telephone, a~~All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail, ~~or~~

~~sent by fax or electronic communication as follows:~~

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received. ~~; notices sent by fax shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications shall be effective when received.~~

DRAFT



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2864	
From:			
Subject: Discussion and consideration between Economic Development Corporation of Weslaco and City on financial support for the WEDC Lighting Project (underpass of Texas Blvd.) and authorize the Mayor to execute any related documents. Possible action. (Staffed by Weslaco Economic Development Corporation.)			
Background:			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted:			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega Mike Perez		Created	
City Manager Comments: Approve.			
Staff Recommendation:			
Attachments, if any: Underpass Lighting-1			
Responsibilities upon Approval:			



THE ECONOMIC DEVELOPMENT CORPORATION
OF WESLACO

MEMORANDUM

To: Mike Perez, City Manager – Weslaco
From: Marie McDermott
Date: October 11, 2019
Subject: Underpass Lighting

The EDC Board of Directors has approved funding for improvements to the underpass at Texas Blvd. & Expressway 83 to include the installation of LED color changing lights. The estimated cost of the lighting project is approximately \$150,000.

The City Commission of Weslaco has approved a \$100,000 amount included in the approved EDC 2019-20 Budget, but after researching the project and including the services of an MEP engineer, the EDC has added an additional \$50,000 to be considered by City of Weslaco and its Mayor and Commission.

The cost of materials from the lowest bidder, including LED light fixtures, controllers, data enablers, and leader cables are, \$88,000. The cost of engineered plans are \$7,800 and an estimated cost for installation and training are expected to be between \$30,000 & \$54,200. Total cost of project should be between \$125,800 and \$150,000.

Completion of the project is expected to be on or before the City's 100 Centennial Celebration, December 6, 2019. The EDC has already received the approval from TXDOT based on the stamped engineered plans and is asking the City to approve the additional amount of funding required to complete the project within its projected timeline.



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2866	
From:			
Subject: Discussion and consideration on Resolution 2019-72 for the Multiple Use Agreement between Texas Department of Transportation and the City of Weslaco authorizing participation for the WEDC Lighting Project (underpass at Texas Blvd.) and authorize the Mayor to execute any related documents. Possible action (Staffed by Weslaco Economic Development Corporation.)			
Background:			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Resolution			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Aida Vega Aida Vega Mike Perez		Created	
City Manager Comments: Approve.			
Staff Recommendation:			
Attachments, if any: Multiple Use Agreement - R2019-72, R2019-72 EDC lighting project underpass			
Responsibilities upon Approval:			



MULTIPLE USE AGREEMENT

STATE OF TEXAS §

COUNTY OF TRAVIS §

THIS AGREEMENT made by the State of Texas by and between the Texas Department of Transportation, hereinafter referred to as "State", party of the first part, and City of Weslaco, hereinafter called WEDC Lighting Project, party of the second part, is to become effective when fully executed by both parties.

WITNESSETH

WHEREAS, on the 15 day of October, 20 19, the governing body for the WEDC Lighting Project, entered into Resolution/Ordinance No. R2019-72 hereinafter identified by reference, authorizing the WEDC Lighting Project's participation in this agreement with the State; and

WHEREAS, the WEDC Lighting Project has requested the State to permit the construction, maintenance and operation of a public Underpass LED colored lighting on the highway right of way, (ROADWAY IH 2/US 83 & FM 88 CONTROL SECTION NO. WO39-18). (General description of area including either the control number or GPS coordinates.)
Underpass at IH 2/US 83 & FM 88 - Texas Blvd.
shown graphically by the preliminary conceptual site plan in Exhibit "A" and being more specifically described by metes and bounds of Exhibit "B", which are attached and made a part hereof; and

WHEREAS, the State has indicated its willingness to approve the establishment of such facilities and other uses conditioned that the WEDC Lighting Project will enter into agreements with the State for the purpose of determining the respective responsibilities of the WEDC Lighting Project and the State with reference thereto, and conditioned that such uses are in the public interest and will not damage the highway facilities, impair safety, impede maintenance or in any way restrict the operation of the highway facility, all as determined from engineering and traffic investigations conducted by the State.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

1. DESIGN AND CONSTRUCTION

WEDC Lighting Project will prepare or provide for the construction plans for the facility, and will provide for the construction work as required by said plans at no cost to the State. Said plans shall include the design of the access control, necessary horizontal and vertical clearances for highway structures, adequate landscape treatment, adequate detail to ensure compliance with applicable structural design standards, sufficient traffic control provisions, and general layout. They shall also delineate and define the construction responsibilities of both parties hereto. Completed plans will be submitted to State for review and approval and when approved shall be attached to the agreement and made a part thereof in all respects. Construction shall not commence until plans have been approved by the State. Any future revisions or additions shall be made after prior written approval of the State. Any sidewalks, curb ramps and other pedestrian elements to be constructed, either on site or off site, by the WEDC Lighting Project shall be in accordance with the requirements of Title II of the Americans With Disabilities Act (ADA) and with the Texas Accessibility Standards (TAS). Elements constructed by the WEDC Lighting Project and found not to comply with ADA or TAS shall be corrected at the entire expense of the WEDC Lighting Project.

2. INSPECTION

Ingress and egress shall be allowed at all times to such facility for Federal Highway Administration personnel and State Forces and equipment when highway maintenance operations are necessary, and for inspection purposes; and upon request, all parking or other activities for periods required for such operations will be prohibited.

3. PARKING REGULATIONS

Parking regulations shall be established limiting parking to single unit motor vehicles of size and capacity no greater than prescribed for 1¹/₂ ton trucks, such vehicles to conform in size and use to governing laws. Parking shall be permitted only in marked spaces.

Parking shall be prohibited when a security threat, as determined by TxDOT, exists.

4. PROHIBITION/SIGNS

Regulations shall be established prohibiting the parking of vehicles transporting flammable or explosive loads and prohibiting use of the area in any manner for peddling, advertising or other purposes not in keeping with the objective of a public facility. The erection of signs other than those required for proper use of the area will be prohibited. All signs shall be approved by the State prior to the actual erection.

5. RESPONSIBILITIES

Timely maintenance, repair and operation of the facility shall be entirely the responsibility of the WEDC Lighting Project. Such responsibility shall not be transferred, assigned or conveyed to a third party without the advanced written approval of the State. These responsibilities expressly include the timely maintenance and repair of any portion of the facility necessary to comply with the Americans with Disabilities Act. Further, such responsibility shall include picking up trash, mowing and otherwise keeping the facility in a clean and sanitary condition, and surveillance by police patrol to eliminate the possible creation of a nuisance or hazard to the public. Hazardous or unreasonably objectionable smoke, fumes, vapor or odors shall not be permitted to rise above the grade line of the highway, nor shall the facility subject the highway to hazardous or unreasonably objectionable dripping, droppings or discharge of any kind, including rain or snow.

If the State determines that WEDC Lighting Project has failed to comply with these responsibilities, it will perform the necessary work and charge WEDC Lighting Project the actual cost of the work.

6. FEES

Any fees levied for use of the facilities in the area shall be nominal and no more than are sufficient to defray the cost of construction, maintenance and operations thereof, and shall be subject to State approval.

A. Retention Period. The WEDC Lighting Project shall maintain all books, documents, papers, accounting records and other evidence pertaining to fees collected and costs (hereinafter called the Records). The WEDC Lighting Project shall make the records available during the term of the Agreement and for four years from the date the Agreement is terminated, until completion of all audits, or until pending litigation has been completely and fully resolved, whichever occurs last.

B. Audit Report. If fees are collected by the WEDC Lighting Project for the use of the facility under this agreement, the WEDC Lighting Project will provide the State an annual audit report detailing the fees collected for the use of the facility and the costs associated with constructing, maintaining, and operating the facility within the same period. If the report shows more fees collected than expenses for the construction, operation, or maintenance of the facility the WEDC Lighting Project must provide a multiple year plan detailing how the additional revenue will be used for construction, operation, or maintenance of the facility.

C. Availability. The State or any of its duly authorized representatives, the Federal Highway Administration, the United States Department of Transportation, Office of Inspector General, and the Comptroller General shall have access to the WEDC Lighting Project 's records that are directly pertinent to this Agreement for the purpose of making audits and examinations.

7. TERMINATION UPON NOTICE

This provision is expressly made subject to the rights herein granted to both parties to terminate this agreement upon notice, and upon the exercise of any such right by either party, all obligations herein to make improvements to said facility shall immediately cease and terminate and WEDC Lighting Project shall be responsible for the facility's timely removal at no cost to the State. If the State determines that WEDC Lighting Project has failed to timely remove the facility, it will perform the necessary work and charge WEDC Lighting Project the actual cost of the work.

8. MODIFICATION/TERMINATION OF AGREEMENT

If in the sole judgment of the State it is found at any future time that traffic conditions have so changed that the existence or use of the facility is impeding maintenance, damaging the highway facility, impairing safety or that the facility is not being properly operated, that it constitutes a nuisance, is abandoned, or if for any other reason it is the State's judgment that such facility is not in the public interest, this agreement under which the facility was constructed may be: (1) modified if corrective measures acceptable to both parties can be applied to eliminate the objectionable features of the facility; or (2) terminated and the use of the area as proposed herein discontinued.

9. PROHIBITION OF STORAGE OF FLAMMABLE MATERIALS

All structures located or constructed within the area covered by the agreement shall be fire resistant. The storage of flammable, explosive or hazardous materials is prohibited. Operations deemed to be a potential fire hazard shall be subject to regulation by the State.

10. RESTORATION OF AREA

The WEDC Lighting Project shall provide written notification to the State that such facility will be discontinued for the purpose defined herein. The WEDC Lighting Project shall, within thirty (30) days from the date of said notification, clear the area of all facilities that were its construction responsibility under this agreement and restore the area to a condition satisfactory to the State.

11. PREVIOUS AGREEMENTS

It is understood that this agreement in no way modifies or supersedes the terms and provisions of any existing agreements between the parties hereto.

12. INDEMNIFICATION

WEDC Lighting Project AGREES TO HOLD AND SAVE THE STATE OF TEXAS FREE FROM DAMAGES THAT MAY RESULT FROM CONSTRUCTION OF THE PROJECT DESCRIBED HEREIN. THE INDEMNIFICATION OF THE STATE SHALL EXTEND FOR A PERIOD OF TWO (2) YEARS BEYOND THE DATE OF TERMINATION OF THIS AGREEMENT.

DURING EACH YEAR WHILE THERE IS ANY LIABILITY BY REASON OF THE AGREEMENT CONTAINED IN THIS SUBSECTION OF THIS RESOLUTION, INCLUDING THE CALENDAR YEAR 2019, THE WESLACO (CITY) SHALL COMPUTE AND ASCERTAIN THE RATE AND AMOUNT OF AD VALOREM TAX, BASED ON THE LATEST APPROVED TAX ROLLS OF SAID ENTITY, WITH FULL ALLOWANCES BEING MADE FOR TAX DELINQUENCIES AND COSTS OF TAX COLLECTION, WHICH WILL BE SUFFICIENT TO RAISE AND PRODUCE THE MONEY REQUIRED TO PAY ANY SUMS WHICH MAY BE OR BECOME DUE DURING ANY SUCH YEAR, IN NO INSTANCE TO BE LESS THAN TWO (2%) PER CENT OF SUCH OBLIGATION, TOGETHER WITH INTEREST THEREON, BECAUSE OF THE OBLIGATION HEREIN ASSUMED.

SAID RATE AND AMOUNT OF AD VALOREM TAX IS HEREBY ORDERED TO BE LEVIED AND IS HEREBY LEVIED AGAINST ALL TAXABLE PROPERTY IN SAID ENTITY FOR EACH YEAR WHILE ANY LIABILITY EXISTS BY REASON OF THE OBLIGATION UNDERTAKEN BY THIS SUBSECTION OF THIS RESOLUTION, AND SAID AD VALOREM TAX SHALL BE ASSESSED AND COLLECTED EACH SUCH YEAR UNTIL ALL OF THE OBLIGATIONS HEREIN INCURRED SHALL HAVE BEEN DISCHARGED AND ALL LIABILITY HEREUNDER DISCHARGED.

No party to this agreement intends to waive, relinquish, limit or condition its general governmental immunity from liability in any way.

Each party agrees and acknowledges that it is not an agent, servant, or employee of the other party and that under this provision each party is responsible only for its own acts and for those of its agents, servants, independent contractors or employees. Such responsibility includes, but is not limited to any claims or amounts arising or recovered under the "Workers Compensation Law," the Texas Tort Claims Act, Chapter 101, Texas Civil Practice and Remedies Code; or any other applicable laws or regulations, all as time to time may be amended.

Nothing in this agreement shall be construed as creating any liability in favor of any third party against the State and the WEDC Lighting Project. Additionally, this agreement shall not ever be construed as relieving any third party from any liability against the State. Furthermore, the WEDC Lighting Project shall become fully subrogated to the State's rights of recovery and shall be entitled to maintain any action over and against any third party who may be liable for damages. The State agrees to execute and deliver instruments and papers and to otherwise do that which is necessary to secure such rights.

13. INSURANCE

The WEDC Lighting Project, shall provide necessary safeguards to protect the public on State maintained highways including adequate insurance for payment of any damages which might result during the construction, maintenance, repair and operation of the facility. WEDC Lighting Project shall include TxDOT as an additional insured by endorsement in WEDC Lighting Project's commercial general liability insurance policy. Prior to beginning work on the State's right of way, the WEDC Lighting Project's construction contractor shall submit to the State a completed insurance form (TxDOT Form No. 1560) or appropriate certificate of self-insurance and shall maintain the required coverage during the construction of the facility.

14. USE OF RIGHT OF WAY

It is understood that the State by execution of this agreement does not impair or relinquish the State's right to use such land for highway purposes when it is required for the construction or re-construction of the traffic facility for which it was acquired, nor shall use of the land under such agreement ever be construed as abandonment by the State of such land acquired for highway purposes, and the State does not purport to grant any interest in the land described herein but merely consents to such use to the extent its authority and title permits.

15. ADDITIONAL CONSENT REQUIRED

The State asserts only that it has sufficient title for highway purposes. The WEDC Lighting Project shall be responsible for obtaining such additional consent, permits or agreement as may be necessary due to this agreement. This includes, but is not limited to, appropriate permits and clearances for environmental, ADA and public utilities.

16. FHWA ADDITIONAL REQUIREMENTS

If the Facility is located on the Federal-Aid Highway System, "ATTACHMENT A", which states additional requirements as set forth in the Federal Highway Administration's Title 23, Code of Federal Regulations, § 710, shall be attached to and become a part of this agreement.

17. CIVIL RIGHTS ASSURANCES

The WEDC Lighting Project, for itself, its personal representatives, successors and interests and

assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no persons, on the grounds of race, color, sex, age, national origin, religion or disabling condition, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facility; (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, age, national origin, religion or disabling condition, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; (3) that the WEDC Lighting Project shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

That if in the event of any breach of the above non-discrimination covenants, the State shall have the right to terminate the agreement and reenter and repossess said land and the facilities thereon, and hold the same as if said agreement had never been made or issued.

18. AMENDMENTS

Any changes in the time frame, character or responsibilities of the parties hereto shall be enacted by a written amendment executed by both parties hereto.

19. LEGAL CONSTRUCTION

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

20. AUDIT

The State may conduct an audit or investigation of any aspect of this agreement. The WEDC Lighting Project must provide the State with access to any information the State considers relevant to the investigation or audit. The audit can include, but is not limited to, any contract for construction or maintenance of any facility or structure authorized by this agreement or any contract to provide a service to the WEDC Lighting Project if that service is authorized by this agreement.

21. AUTHORITY OF STATE AUDITOR

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract 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. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

22. NOTICES

All notices required under this agreement shall be mailed or hand delivered to the following respective addresses:

STATE (Mailing Address)	(Name of other party) (Mailing Address)
Texas Department of Transportation	City of Weslaco
Maintenance Division	255 S. Kansas Ave.
125 East 11th Street	
Austin, Texas 78701-2483	Weslaco, Texas 78596

23. TIMELY PAYMENT

When required by any provision of this agreement requires a payment to be made to the State, the other party hereto shall within thirty (30) days from receipt of the State's written notification pay the State for the full cost of repairing any damages to the highway facility which may result from the other party's construction, maintenance, repair or operation of the facility.

24. WARRANTS

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

List of Attached Exhibits:

- Exhibit A - General Layout
- Exhibit B - Metes and Bounds Description
- Exhibit C - Approved Construction Plans
- Exhibit D - Certificate of Insurance (TxDOT Form 1560)
- Exhibit E - Attachment A (FHWA Additional Requirements)

IN WITNESS WHEREOF, the parties have hereunto affixed their signature, the

City of Weslaco on the 15th day of October, 2019, and the
State on the _____ day of _____, 20_____.

STATE OF TEXAS

City of Weslaco
(Name of other party)

By: _____
Signature

David Suarez
Printed Name

MAYOR
Title

City of Weslaco
Agency

City Hall, 956-968-3181
Contact Office and Telephone No.

Executed and approved for the Texas
Transportation Commission for the purpose and
effect of activating and/or carrying out the orders,
and established policies or work programs
heretofore approved and authorized by the Texas
Transportation Commission.

By: _____
Director, Maintenance Division

Printed Name

Date

APPROVAL RECOMMENDED:

District Engineer

Printed Name

Date

ATTACHMENT A

Inasmuch as this project is on the Federal-Aid highway system, the following additional requirements as applicable with the Federal Highway Administration's Title 23, Code of Federal Regulations, § 710.105.

1. Any significant revision in the design or construction of the facility shall receive prior approval by the Texas Department of Transportation subject to concurrency by the FHWA.
2. Any change in the authorized use of real property interest shall receive prior approval by the Texas Department of Transportation subject to concurrence by the FHWA.
3. Real property interest shall not be transferred, assigned or conveyed to another party without prior Texas Department of Transportation approval subject to concurrence by the FHWA.
4. This agreement will be revocable in the event that the real property interest facility ceases to be used or is abandoned.

EXHIBIT E

RESOLUTION 2019-72

A RESOLUTION OF THE CITY OF WESLACO, TEXAS AUTHORIZING A MULTIPLE USE AGREEMENT BETWEEN THE STATE OF TEXAS, TEXAS DEPARTMENT OF TRANSPORTATION AND THE CITY OF WESLACO FOR THE INSTALLATION OF COLOR CHANGING LED LIGHTING TO BE INSTALLED UNDER THE OVERPASS AT TEXAS BLVD & U.S. HIGHWAY 83, AND OTHER RELATED IMPROVEMENTS ON STATE HIGHWAY RIGHT-OF-WAYS

WHEREAS, the City Commission of Weslaco, Texas, through the Economic Development Corporation of Weslaco will fund in its entirety, the installation of color changing LED lighting; and

WHEREAS, the City Commission of Weslaco, Texas; through the Economic Development Corporation of Weslaco will acquire engineered plans, submit to TXDOT for review and approval and secure an installation company with appropriate insurances and bonding's to work on the state highway right-of-way; and

WHEREAS, the City Commission of Weslaco Texas agrees to hold and save the State of Texas free from damage that may result from the construction of the project described herein. The indemnification of the State shall extend for a period of two (2) years beyond the date of termination of this agreement; and

WHEREAS, the use of the state highway right-of-way under the control and operation of the State of Texas, acting by and Through the Texas Department of Transportation, requires the City of Weslaco to modify a Multiple Use Agreement, in the event of any changes to said agreement that specifies the responsibilities of the City and of the State for the use of state highway right-of-way. and;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS, THAT:

The City of Weslaco shall agree to terms and conditions set out in the Multiple Use Agreement with the State of Texas, acting by and Through the Texas Department of Transportation, to allow the City and The EDC of Weslaco install LED lighting approved by TXDOT.

BE IT FURTHER RESOLVED THAT this resolution shall take effect immediately after its passage.

READ, CONSIDERED, PASSED, AND APPROVED at a regular meeting of the City Commission of the City of Weslaco, Texas, at which a quorum was present and which was held in accordance with V.T.C.A., Government Code, Section 551.041, on the 15th day of October 2019.

CITY OF WESLACO

David Suarez, Mayor

ATTEST:

Myra L. Ayala, City Secretary

APPROVED AS TO FORM:

Juan E. Gonzalez, City Attorney



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2867	
From:			
Subject: Discussion and consideration to void price agreement for Caliche with Green Dream International due to unresponsiveness and award the second lowest bid to Frontera Materials Inc. in the amount of \$13.00/Ton and authorize the Mayor to execute any related documents. Possible action. (Staffed by Public Works Department.)			
Background:			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted: Mayor's Signature			
If item previously considered, provide date and action by Commission:			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Olga Garza		Created/Initiated	
Pete Garcia		New	
Mike Perez			
City Manager Comments: Approve.			
Staff Recommendation: Staff recommends approval.			
Attachments, if any: STREET MATERIAL BID TAB LGC252.043			
Responsibilities upon Approval:			



CITY OF WESLACO
STREET MATERIAL - RFB NO.: 2018-19-15 TABULATION
Bid Opening held on: 5/31/2019 @ 3:00 PM

FRONTERA MATERIALS, INC.
 Barry M Ehlinger
 P.O. Box 1449
 Elsa, Texas 78543
 Phone No.: 956.607.5965
 barry@fmitex.com

CAPA / Upper Valley Materials
 Steve Boyd
 3609 W. Palma Vista Drive
 Palmview, Texas 78572
 Phone No.: 956.369.5250
 sboyd@capatexas.com

Green Dream International
 Varand Vartanian
 32 W. 8th St.
 Erie, PA 16501
 Phone No.: 814-616-7800
 info@gdicompany.com

Terra Firma Materials, LLC
 Samantha Gonzalez
 9312 E. Curve Rd.
 Edinburg, Texas 78542
 Phone No.: 956.348.8212
 estimating@terrafirmamaterials.com

Asphalt Oil Express
 Edwardo Garza
 P.O. Box 3217
 Edinburg, Texas
 Phone No.: 956.270.8929
 eg2377@yhoo.com

Item	Description	Estimated Qty	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Hot Mix - Tons Delivered	15,000	\$67.50	\$1,012,500.00	\$69.50	\$1,042,500.00	NO BID	NO BID	\$63.78	\$956,700.000	NO BID	NO BID
2	Hot Mix - Tons at Location	3,000	\$59.25 *	\$177,750.00	\$64.50	\$193,500.00	NO BID	NO BID	\$57.28	\$171,840.000	NO BID	NO BID
3	Cold Mix - Tons Delivered	700	\$93.50	\$65,450.00	\$90.00	\$63,000.00	NO BID	NO BID	\$95.95	\$67,165.000	NO BID	NO BID
4	Cold Mix - Tons at Location	700	\$83.00	\$58,100.00	\$85.00	\$59,500.00	NO BID	NO BID	\$89.45	\$62,615.000	NO BID	NO BID
5	Caliche - Tons Delivered	21,000	\$13.00	\$273,000.00	NO BID	NO BID	\$11.88	\$249,480.00	\$13.95	\$292,950.000	NO BID	NO BID
6	Caliche - Tons at Location	5,000	\$4.00	\$20,000.00	NO BID	NO BID	\$4.620	\$23,100.00	\$5.25	\$26,250.000	NO BID	NO BID
7	MC30 Oil - Gallon Delivered	20,000	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	\$7.45	\$149,000.000	\$5.75	\$115,000.00
8	MC30 Oil - Gallon at Location	20,000	NO BID	NO BID	NO BID	NO BID	NO BID	NO BID	\$6.24	\$124,800.000	\$5.25	\$105,000.00

FRONTERA

CAPA

Green Dream

Terra Firma

Asphalt Oil Express

Tabulation created by: Homer Rhodes

DATE: 6/5/2019

*** Item 2 Best value for municipality based on Texas Local Govt. Code 252.043

Texas Local Government Code - LOC GOV'T § 252.043. Award of Contract

Search Texas Statutes

Search by Keyword or Citation

Enter Keyword or Citation

 Search

« Prev

Next »

(a) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

(b) In determining the best value for the municipality, the municipality may consider:

- (1) the purchase price;
- (2) the reputation of the bidder and of the bidder's goods or services;
- (3) the quality of the bidder's goods or services;
- (4) the extent to which the goods or services meet the municipality's needs;
- (5) the bidder's past relationship with the municipality;
- (6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- (7) the total long-term cost to the municipality to acquire the bidder's goods or services; and
- (8) any relevant criteria specifically listed in the request for bids or proposals.

(b-1) In addition to the considerations provided by Subsection (b), a joint board described by [Section 22.074\(d\), Transportation Code](#), that awards contracts in the manner provided by this chapter may consider, in determining the best value for the board, the impact on the ability of the board to comply with laws, rules, and programs relating to contracting with small businesses, as defined by [13 C.F.R. Section 121.201](#).

(c) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.



Standardized Agenda Request Form

Date of Meeting: October 15, 2019		Agenda Item No. (to be assigned by CSO): 2019-2868	
From:			
Subject: Discussion and consideration to approve an interlocal agreement with Weslaco Independent School District for eight (8) law enforcement officers to serve as school resource security officers (SRO), to be reimbursed in the amount of \$385,000 and authorize the Mayor to execute any related documents. Possible action. (Staffed by Police Department.)			
Background:			
Funding Source (budget code, if applicable):			
Amount:	Term of Impact:	Identified in Current Budget:	
Additional Action Prompted:			
If item previously considered, provide date and action by Commission: At the Regular Meeting of September 18, 2018 the City Commission approved the Interlocal agreement with Weslaco ISD for six law enforcement officers to serve as School Resource Officers (SRO).			
If item requires Publication Notice, provide date and periodical of publication; indicate if comments received from letters mailed to property owners:			
Advisory Review, if any (name of board/committee, date of action, recommendation):			
Roxanne Saavedra		Created/Initiated	
Robert Lopez		New	
Mike Perez			
City Manager Comments: Approve.			
Staff Recommendation:			
Attachments, if any: SRO revised updated City Secretary			
Responsibilities upon Approval:			

**SCHOOL RESOURCE OFFICER PROGRAM
MEMORANDUM OF UNDERSTANDING (MOU)
And
INTERLOCAL AGREEMENT**

This Agreement, in accordance with the State of Texas Inter-local Cooperation Act (Chapter 791-Texas Government Code), is made and entered into between the following parties with an effective date of September 23, 2019:

- Weslaco Independent School District
Dr. Priscilla Canales PhD., Superintendent of Schools
607 E. 6th Street
Weslaco, Texas 78596
- City of Weslaco
Mike Perez, City Manager
255 S. Kansas Avenue
Weslaco, Texas 78596

Article I. Purpose of MOU

1.01 The MOU formalizes the relationship between the participating entities in order to foster an efficient and cohesive program that will build a positive relationship between law enforcement officers and the youth of our community, with the goal of reducing crime committed by juveniles and young adults. This MOU delineates the mission, organizational structure, and procedures of the School Resource Officer Program (hereinafter the "SRO Program") as a joint cooperative effort between WISD (hereinafter the "Contracting Agency," "WISD" or the "District") and the City of Weslaco by and through its Police Department (hereinafter the "Providing Agency" or "City of Weslaco").

1.02 The success of this program relies upon the effective communication between the Agencies' employees, the principal of each individual WISD school, and other key staff members of each organization.

Article 2. Term

2.01 The term of this MOU shall begin on the date this Agreement has been approved by the Parties hereto and end on last day of school for the 2019-2020 school year, unless terminated earlier as provided herein. The parties may renew this MOU only by separate written agreement or addendum hereto, which must be executed by both parties

Article 3. Mission, Goals and Objectives

3.01 The mission of the SRO Program is the reduction and prevention of school-related violence and crime committed by juveniles and young adults. As in other Districts across the State, the Board of Trustees of WISD wishes to prevent acts of violence and vandalism occurring on school campuses which threaten the safety of the students, faculty and administrative personnel and the security of public property.

3.02 The Board of Trustees of the WISD find it that it in the best interest of the WISD it enter this agreement so the City of Weslaco may provide police protection services by assigning the number of police officers agreed to by the Chief of Police and WISD to act as School Resource Officers (also referred to herein as "SROs") as authorized under Texas Education Code §37.081(c).

3.03 The formation of the SRO Program aims to create and maintain safe, secure and orderly learning environments for students, teachers and staff. This is accomplished by assigning Law Enforcement Officers (hereinafter referred to as "SROs") employed by Participating Agencies to WISD school facilities for a term agreed upon.

3.04 Goals and objectives are designed to develop and enhance rapport between youth, police officers, school administrators and parents. Goals of the SRO Program include:

1. Reduce incidents of school violence;
2. Reduce criminal offenses committed by juveniles and young adults;
3. Establish rapport between the SROs and the student population;
4. Establish rapport between the SROs and parents, faculty, staff, and administrators. Furthermore, SROs will establish a trusting channel of communication with students, parents and teachers.
5. SROs will serve as a positive role model to instill in students good moral standards, good judgment and discretion, respect for other students, and a sincere concern for the school community.
6. SROs will promote citizen awareness of the law to enable students to become better-informed and effective citizens, while empowering students with the knowledge of law enforcement efforts and obligations regarding enforcement as well as consequences for violations of the law.
7. In collaboration with WISD campus administration and counselors, SROs may serve as a confidential source of counseling for students and

parents concerning problems they face as well as providing information on community resources available to them.

Article 4. Organizational Structure

4.01. Composition

The Providing Agency shall assign full time law enforcement officers to serve as SROs in the SRO Program. The SROs will be certified by the State of Texas and meet all requirements as set forth¹ by the Texas Commission on Law Enforcement related to work standards and training requirements. WISD authorizes the officers to carry the department's assigned weapons in the officers' jurisdiction. The school resource officers' jurisdiction includes all territory in the boundaries of the WISD or within 300 feet of school property, and all property outside the boundaries of the WISD that is owned, leased or rented or otherwise under the control of WISD and its Board of Trustees.

4.02. Supervision

The day-to-day operation and administrative control of the SRO Program will be the responsibility of both Agencies. SROs are to conduct themselves in a manner consistent with the rules and regulations governing the Weslaco Police Department, City of Weslaco, Civil Service Rules and WISD School District Policy as applicable. Responsibility for the conduct of SROs, both personally and professionally, shall remain with the City of Weslaco. WISD shall refer any disciplinary concerns involving the conduct of the SROs during duty hours to the City's Chief of Police or his designee. The City of Weslaco shall immediately replace an SRO if the WISD advises the City of a request for change of an SRO in writing. School Resource Officers are employed and retained by the Providing Agency, and in no event shall any employee of the Providing Agency be considered an employee of WISD.

4.03. Hold Harmless Agreement

To the extent permitted by applicable law, but without waiver or expansion of any limits established by the Texas Tort Claims Act, each party to this Agreement will indemnify and hold harmless the other parties and their officers, employees and agents, from and against any and all claims proximately caused by negligence, breach, or other act or omission by the indemnifying party or its officers, employees or agents.

Article 5. Procedures

5.01. Selection

Available SRO positions will be selected through a process developed by the Police Chief and WISD Superintendent or designee. The selection of the officers will be mutually agreed upon and these officers shall adhere to the school policies and department directives incorporating the principles of community policing.

SROs 1, 2, 3, & 4 shall be assigned to the two comprehensive high schools.
SROs 5, 6, 7, & 8 shall be assigned to the four middle schools.

5.02. SROs Duty Hours

5.02.01. The hours of SRO Duty shall be subject to the limitations contained in Chapter 142, Texas Government Code and may consist of the following hours:

- | | | |
|-----------------------|-------------------------------------|---------------------------|
| a. SRO #1 & #3 | Arrival Time: 7:30 a.m. | Departure Time: 3:30 p.m. |
| b. SRO #2 & #4 | Arrival Time: 8:30 a.m. | Departure Time: 4:30 p.m. |
| c. SRO #5, #6, #7, #8 | Arrival Time: 7:30 a.m. | Departure Time: 3:30 p.m. |
| d. SRO Sergeant | As assigned by the Providing Agency | |

5.02.02 In most cases, (2) two SROs will be assigned respectively to the Comprehensive High School Campuses.

5.02.03 If (2) two SROs are assigned to the same campus, their working hours will overlap as indicated above.

5.02.04 SROs assigned to Middle Schools will rotate at their discretion or as requested by WISD designee.

5.02.05 WISD has the right to place more than two SROs at a campus as they see fit.

5.02.06 After-hour duties may be performed with the approval of the parties.

5.02.07 Time spent in court, time spent in inter-agency meetings and investigating school-related crimes within the scope of the SROs duties are compensable based on the department's policy on total hours worked for the week.

5.03. COMPENSATION

5.03.01 The City of Weslaco shall provide and the WISD agrees to receive eight (8) SROs and one sergeant. WISD shall appropriate from current revenues and pay to the City the salary of the school resource officers for up to 186 school work days as per the City's salary schedule to defray the expense of the school resource officers' salaries and benefits, including but not limited to sick leave and vacation leave accrued during the term of this Agreement. Reimbursement for six SROs shall be commensurate with amounts indicated in Attachment A and shall not exceed \$385,000 per school year.

5.03.02 The City of Weslaco shall incur the cost of the sergeant (supervisor).

5.03.03 The SROs shall adhere to the WISD Board of Trustees approved 2019 – 2020 school calendar and perform the prescribed duties for up to 186 days to cover for required officer training, and District staff development when applicable.

5.03.04 In addition to the compensation to be paid, WISD shall appropriate from current revenues and pay to the City an amount equal to any overtime pay for which the City becomes liable to the school resource officers as a result of the officers' being required to work overtime in furtherance of the officers' duties as the school resource officer. No overtime work shall be assigned to the officers without the specific approval of the Chief of Police or designee and the Superintendent or designee.

5.03.05 The District shall provide two (2) vehicles designed for SROs.. The District will incur all maintenance and fuel costs. The City shall equip the vehicles with decals, lights, and other emergency equipment.

5.03.06 The District may choose to hire off-duty officer(s) at a rate of \$30 per hour and based on availability. These officers will be hired on an hourly basis and based on needs and times identified by the Chief of Police and Superintendent or designee.

5.03.06 In the event an SRO is absent for two consecutive days, the City of Weslaco shall immediately appoint a temporary replacement for the SRO so as to prevent a third consecutive day of absence. The District further reserves the right to request a change of an SRO that exhibits a pattern of absenteeism.

5.03.07 The terms and conditions of duties performed by the SROs must comply with the existing Collective Bargaining Agreement between the Weslaco Municipal Police Union ("CBA") and the City of Weslaco and chapter

143 of the Texas Local Government Code. The Weslaco ISD will be notified by the City in the event that a task or duty requested conflicts with the CBA. The Weslaco ISD is not a party to the CBA by virtue of entering this Interlocal Agreement.

5.04. SRO Program Structure

5.04.01 Under this framework, SROs are first and foremost law enforcement officers for the Providing Agency. SROs shall be responsible for carrying out all duties and responsibilities of a law enforcement officer and shall remain at all times under the control, through the chain of command, of the Providing Agency.

5.04.02 All acts of commission or omission shall conform to the guidelines of the Providing Agency's directives. WISD should ensure that non-criminal student disciplinary matters remain the responsibility of school staff and not the SRO.

5.04.03 SROs will not be asked to respond to or held responsible for requests to resolve routine discipline problems involving students. Enforcement of the code of student conduct and non-criminal student misbehavior is the responsibility of WISD. The SRO shall refrain from being involved in the enforcement of disciplinary rules that do not constitute violations of law, except to support staff in maintaining a safe school environment.

5.04.04 SROs are not formal counselors or educators, and will not act as such. However, SROs may be used as a resource to assist students, faculty, staff, and all persons involved with the school. SROs can be utilized to help instruct students and staff on a variety of subjects, ranging from alcohol and drug education to formalized academic classes.

5.04.05 SROs may use these opportunities to build rapport between the students and the staff. The Providing Agency recognizes, however, that WISD shall maintain full, final, and plenary authority over curriculum and instruction in the WISD, including the instruction of individual students. The parties recognize and agree that classroom instruction is the responsibility of the classroom teacher, not the Providing Agency or its employees, and the Providing Agency and its employees shall not attempt to control, influence, or interfere with any aspect of the school curriculum or classroom instruction except in emergency situations.

5.05. Information Sharing

5.05.01 As stated, the success of this program relies upon the effective communication between the members of each organization.

5.05.02 To enhance the objective of providing a safe educational setting, the dissemination of information among the parties involved must be effortlessly distributed. However, as it is as important to obtain information contained in records systems (education and law enforcement records) maintained by the school, it cannot be done indiscriminately as federal laws restrict the release of information contained in a student's education record.

5.05.03 WISD will allow SROs to obtain student directory information. The information obtained will be closely monitored by school staff.

5.05.04 WISD may also exercise the following exceptions as they relate to the disclosure of information from an education record:

- a. WISD shall disclose information from a student's education record in compliance with a lawfully issued subpoena or court order. WISD must make a reasonable attempt to notify the parent before complying with a subpoena or court order; unless the court or issuing agency stipulates no disclosure.
- b. WISD may disclose information from a student's education record to appropriate authorities in connection with an emergency in order to protect the health or safety of a student or other individual.
- c. Nothing in FERPA prevents a school official from disclosing to local law enforcement authorities information that is based on that official's personal knowledge or observation and not from an education record.

5.06 Notification to Schools

1. The SROs will work closely with the Weslaco Police Department's Criminal Investigation Division in providing the required school notification when the SROs or members of the Weslaco Police Department make an arrest and/or refers a student to the office or official designated by the juvenile board when the student is believed to engaged in one of the following offenses and enrolled as a student in the WISD:

- i. Any felony offense

- ii. An offense under Penal Code (PC) Sections 20.02 (Unlawful Restraint), 21.08 (Indecent Exposure), 22.01 (Assault), 22.05

(Deadly Conduct), 22.07 (Terroristic Threat), or 71.02 (Engaging in Organized Criminal Activity).

iii. The unlawful use, sale or possession of a controlled substance, drug paraphernalia or marijuana as defined by Chapter 481; Health & Safety Code.

iv. The unlawful possession of any of the weapons or devices listed in Sections 46.01 (1-14 or 16) of the Penal Code or a weapon listed as a prohibited weapon under PC 46.05.

2. The SRO will orally notify the superintendent of WISD or his/her designee within 24 hours after the arrest or referral is made or before the next school day; whichever is earlier.

3. Within seven (7) days after the oral notice is given, the head of the law enforcement agency or the designee (SRO) shall mail written notification marked "Personal and Confidential" to the superintendent or designee. The written notification must include the facts contained in the oral notification; the name of the person who was orally notified, the date and time the person was notified and sufficient details of the arrest or referral.

4. A person may substitute electronic notification for oral notification as allowed the Texas Code of Criminal Procedure 15.27 sub section (i). If electronic notification is substituted for oral notification, any written notification required by this article is not required.

Article 6. Duties and Responsibilities

6.01. The responsibilities of the SROs include, but are not limited to:

1. Handle requests for calls for service; investigate crimes committed in and around the school campus and complete required reports.

2. Respond to unauthorized persons on school property.

3. Enforce criminal law and protect the students, staff, and public at large against criminal activity. The SROs shall follow the chain of command as set forth in the policies and procedures manual of the participating law enforcement agency. School authorities and the parents of any child involved shall be notified as quickly as possible when the SROs take any direct law enforcement action involving a student, on-campus or off-campus, during school hours.

4. Coordinate, whenever practical, investigative procedures between law

enforcement and WISD school administrators. The SROs shall abide by all applicable legal requirements concerning interviews or searches should it become necessary to conduct formal law enforcement interviews or searches with students or staff on property or at school functions under the jurisdiction of the WISD. The SROs will not be involved in searches conducted by school personnel unless a criminal act is involved or unless school personnel require the assistance of the SROs because of exigent circumstances, such as the need for safety or to prevent flight. Formal investigations and arrests by law enforcement officials will be conducted in accordance with applicable legal requirements.

5. Take appropriate enforcement action on criminal matters as necessary. The SROs shall, whenever practical, advise the principal before requesting additional enforcement assistance on campus and inform the principal of any additional law enforcement responsibilities that may need to be undertaken.

6. Wear law enforcement agency issued uniform at all times or other apparel approved by the Providing Agency.

7. Be highly visible throughout the campus, but to be unpredictable in their movements. For Officer Safety, SROs shall not establish any set routine, which allows predictability in their movements and their locations.

8 Confer with the principal to develop safety plans and / or strategies to prevent and/or minimize dangerous situations on or near the campus or involving students at school-related activities.

9. Comply with all laws, regulations, and school board policies including but not limited to laws, regulations and policies regarding the detention, investigation, and searching of students on school premises, provided that SROs shall under no circumstances be required or expected to act or in a manner inconsistent with their duties as law enforcement officers. The use of confidential school records by the SRO shall be done only with the principal's approval and as allowed under the Family Educational Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPPA) and other applicable laws. Any existing rights or benefits of personnel assigned under this agreement shall not be abridged and remain in full effect.

10. The SROs may serve as a liaison between the school and other police agencies, investigative units, or juvenile justice authorities when necessary and consistent with applicable civil rights and privacy laws.

11. The SROs shall notify the school principal or his/her designee if it is necessary for the SROs to be off campus during regular school hours non-emergency situations.

12. Attend school special events as needed (for example, PTSA meetings). Off duty assignments are not included.

13. Attend law enforcement agency in-service training as required. Providing Agency will schedule suitable replacements of regular SROs to permit regular SROs to attend training.

14. Attend meetings of parent and faculty groups to solicit their support and understanding of the SRO Program and to promote awareness of law enforcement functions.

6.02. Responsibilities of the SRO supervisor (Sergeant) will include but will not be limited to:

1. Coordinate work assignments of the SROs between various campuses.
2. Ensure SROs compliance with Providing Agency's directives.
3. Coordinate scheduling and work hours of the SROs (Vacation requests, sick leave, etc.).

6.03. WISD shall provide the SROs of each campus the following materials, facilities, and access, which are deemed necessary to the performance of the SROs duties:

1. Private office space that can be secured and acceptable to the participating law enforcement agency so that the SROs can conduct interviews and maintain confidential records. The office shall contain a telephone, desk, chair, computer and filing cabinet.
2. Reasonable opportunity to address students, teachers, school administrators, and parents about the SRO Program, goals and objectives. Administrators shall seek input from the SROs regarding criminal justice problems relating to students and site security issues.
3. The school administrator shall ensure that staff cooperates with police investigations and any subsequent actions related to crime or criminal activity on school campus.

6.04. Enforcement

Although SROs have been placed in a formal educational environment, they are not relieved of the official duties as a law enforcement officer. The SRO shall intervene when it is necessary to prevent any criminal act or maintain a safe school environment. Citations shall be issued and arrests made when appropriate and in accordance with Texas state law and department policy. The SRO or the Providing Agency will have the final decision on whether criminal charges shall be filed. The Providing Agency will reserve the right to temporarily remove the SROs in the event that additional officers are needed during a critical incident or natural disaster.

Article 7. NOTICE, TERMINATION & RENEWAL

7.01. This Agreement will be taken to the governing bodies of the Parties for renewal consideration no later than August 31, 2020.

7.02 Nothing in this MOU should be construed as limiting or impeding the basic spirit of cooperation, which exists between the participating entities, listed above.

7.03 Any notice, consent or other communication in connection with this Agreement, other than what is stipulated in 7.01, shall be in writing and may be delivered in person, by mail or by facsimile transmission (provided sender confirms notice by written copy). If hand-delivered, the notice shall be effective upon delivery. If by facsimile copy, the notice shall be effective when sent. If served by mail, the notice shall be effective three (3) business days after being deposited in the United States Postal Service by certified mail, return receipt requested, addressed appropriately to the intended recipients follows:

If to WISD:

Dr. Priscilla Canales PhD., Superintendent
Weslaco Independent School District
319 W. 4th Street
Weslaco, Texas 78596

If to Providing Agency:

Joel Rivera, Chief of Police
Weslaco Police Department
901 Airport Drive
Weslaco, Texas 78596

7.04 Should this agreement be terminated at any time for any purpose advance notice of the termination must be provided to the City of Weslaco no less than six (6) months before termination.

This has been agreed to in cooperation with the Weslaco Independent School Board of Education and the City of Weslaco.

As agreed to and in partnership with:

City of Weslaco

David Suarez
City Mayor

Date: _____

Attest:

Myra L. Ayala
City Secretary

APPROVED AS TO FORM:

Juan E. Gonzalez
City Attorney

Weslaco Independent School District

School Board President

Date: _____

Attest:

Board Secretary